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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2002 VAC Supplement includes final regulations published through *Virginia Register* Volume 18, Issue 11, dated February 11, 2002). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 5-400-10	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-20	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-30	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-50	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-80	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-90	Added	18:21 VA.R. 2768	8/1/02
2 VAC 5-610-10 through 2 VAC 5-610-80	Amended	18:21 VA.R. 2768	8/1/02
Title 3. Alcoholic Beverages			
3 VAC 5-20-10	Amended	18:23 VA.R. 3094	8/28/02
3 VAC 5-20-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-30-60	Amended	18:23 VA.R. 3095	8/28/02
3 VAC 5-50-170	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-60-80	Amended	18:23 VA.R. 3096	8/28/02
3 VAC 5-70-20	Amended	18:23 VA.R. 3097	8/28/02
3 VAC 5-70-90	Amended	18:23 VA.R. 3097	8/28/02
Title 4. Conservation and Natural Resources			
4 VAC 5-35-10 through 4 VAC 5-35-50	Repealed	18:14 VA.R. 1800	4/25/02
4 VAC 5-36-10 through 4 VAC 5-36-210	Added	18:14 VA.R. 1800-1827	4/25/02
4 VAC 15-380-60 emer	Repealed	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 15-380-120 emer	Added	18:23 VA.R. 3102	7/1/02-6/30/03
4 VAC 20-252-150	Amended	18:21 VA.R. 2836	5/29/02-6/27/02
4 VAC 20-252-150	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-270-30	Amended	18:14 VA.R. 1827	3/5/02
4 VAC 20-270-40	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-55	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-56	Added	18:14 VA.R. 1828	3/5/02
4 VAC 20-430-50	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-430-60	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-560-20	Erratum	18:14 VA.R. 1911	--
4 VAC 20-560-20 emer	Amended	18:14 VA.R. 1904	3/4/02-3/31/02
4 VAC 20-560-20	Amended	18:16 VA.R. 2054	4/1/02
4 VAC 20-560-50 emer	Amended	18:14 VA.R. 1905	3/4/02-3/31/02
4 VAC 20-560-50	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 20-562-10 through 4 VAC 20-562-50 emer	Added	18:25 VA.R. 3570	8/16/02-8/30/02
4 VAC 20-610-60	Amended	18:25 VA.R. 3548	8/1/02
4 VAC 20-620-20	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-40	Amended	18:12 VA.R. 1646	1/31/02
4 VAC 20-620-50	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-50	Amended	18:21 VA.R. 2836	6/1/02-6/30/02
4 VAC 20-620-50	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-620-60	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-60	Erratum	18:21 VA.R. 2846	--
4 VAC 20-620-60	Amended	18:21 VA.R. 2836	6/1/02-6/30/02
4 VAC 20-620-60	Amended	18:22 VA.R. 2928	6/19/02

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4 VAC 20-620-70	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-70	Amended	18:21 VA.R. 2837	6/1/02-6/30/02
4 VAC 20-620-70	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-670-30 emer	Amended	18:22 VA.R. 2935	6/20/02-7/20/02
4 VAC 20-670-30	Amended	18:25 VA.R. 3550	8/1/02
4 VAC 20-720-47 emer	Added	18:12 VA.R. 1697	2/1/02-2/28/02
4 VAC 20-752-10	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20 emer	Amended	18:24 VA.R. 3300	7/15/02-8/14/02
4 VAC 20-752-30	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Erratum	18:21 VA.R. 2846	--
4 VAC 20-950-30	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-40	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-45	Amended	18:12 VA.R. 1647	1/31/02
4 VAC 20-950-45	Amended	18:14 VA.R. 1830	3/4/02
4 VAC 20-950-45	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 50-20-30	Amended	18:14 VA.R. 1831	7/1/02
4 VAC 50-20-50	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-50	Erratum	18:17 VA.R. 2183	--
4 VAC 50-20-70	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-120	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-220	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-320	Amended	18:14 VA.R. 1835	7/1/02
Title 6. Criminal Justice and Corrections			
6 VAC 15-40-10	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-40	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-90 through 6 VAC 15-40-130	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-150	Amended	18:20 VA.R. 2584	7/17/02
6 VAC 15-40-155	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-160	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-280	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-290	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-360 through 6 VAC 15-40-390	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-393	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-395	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-400	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-410	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-450	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-460	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-470	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-490	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-520	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-540 through 6 VAC 15-40-580	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-620	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-640 through 6 VAC 15-40-670	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-690	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-740	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-800 through 6 VAC 15-40-830	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-833	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-835	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-840	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-870	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-900	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-910	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-920	Amended	18:20 VA.R. 2583	7/17/02

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6 VAC 15-40-940 through 6 VAC 15-40-970	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1020	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1030	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1040	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1070	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1080	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1100	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1110	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1130	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1190	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1193	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1195	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1200	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1330	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1350	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 20-171-10	Amended	18:15 VA.R. 1955	5/10/02
6 VAC 20-171-50	Amended	18:15 VA.R. 1957	5/10/02
6 VAC 20-171-120	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-200	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-220	Amended	18:15 VA.R. 1959	5/10/02
6 VAC 20-171-230	Amended	18:15 VA.R. 1960	5/10/02
6 VAC 20-171-240	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-250	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-260	Amended	18:15 VA.R. 1962	5/10/02
6 VAC 20-171-280	Amended	18:15 VA.R. 1963	5/10/02
6 VAC 20-171-310	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-320	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-330	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-340	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-350	Amended	18:15 VA.R. 1966	5/10/02
6 VAC 20-171-350	Erratum	18:20 VA.R. 2680	--
6 VAC 20-171-445	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-450	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-480	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-520	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-530	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-540	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 35-60-10	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-20	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-30	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-40	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-170	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-215	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-225	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-236	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-237	Added	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-280	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-290	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-320	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-330	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-390	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-400	Repealed	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-410	Amended	18:25 VA.R. 3551	11/1/02
6 VAC 35-60-415	Added	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-440	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-450	Amended	18:25 VA.R. 3552	11/1/02

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6 VAC 35-60-460	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-480	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-490	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-495	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-500	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-575	Added	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-580	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-600	Amended	18:25 VA.R. 3552	11/1/02
6 VAC 35-60-605	Repealed	18:25 VA.R. 3552	11/1/02
6 VAC 35-150-10	Amended	18:24 VA.R. 3284	10/1/02
6 VAC 35-150-35	Added	18:24 VA.R. 3285	10/1/02
6 VAC 35-150-55	Amended	18:24 VA.R. 3285	10/1/02
6 VAC 35-150-70 through 6 VAC 35-150-165	Amended	18:24 VA.R. 3285-3286	10/1/02
6 VAC 35-150-170	Repealed	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-175	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-180	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-190	Amended	18:24 VA.R. 3286	10/1/02
6 VAC 35-150-200 through 6 VAC 35-150-350	Amended	18:24 VA.R. 3286-3288	10/1/02
6 VAC 35-150-360	Repealed	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-370 through 6 VAC 35-150-420	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-427	Added	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-430	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-435	Amended	18:24 VA.R. 3288	10/1/02
6 VAC 35-150-440	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-450	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-460	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-490 through 6 VAC 35-150-540	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-620 through 6 VAC 35-150-650	Amended	18:24 VA.R. 3289	10/1/02
6 VAC 35-150-670 through 6 VAC 35-150-720	Amended	18:24 VA.R. 3289	10/1/02
Title 8. Education			
8 VAC 20-21-10	Amended	18:12 VA.R. 1648	3/28/02
8 VAC 20-21-40	Amended	18:12 VA.R. 1649	3/28/02
8 VAC 20-21-50	Amended	18:12 VA.R. 1650	3/28/02
8 VAC 20-21-90	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-100	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-120	Amended	18:12 VA.R. 1652	3/28/02
8 VAC 20-21-170	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-590	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-660	Amended	18:12 VA.R. 1655	3/28/02
8 VAC 20-21-680	Amended	18:12 VA.R. 1656	3/28/02
8 VAC 20-80-30	Amended	18:12 VA.R. 1657	3/27/02
8 VAC 20-80-40	Amended	18:12 VA.R. 1660	3/27/02
8 VAC 20-80-54	Amended	18:12 VA.R. 1661	3/27/02
8 VAC 20-80-56	Amended	18:12 VA.R. 1664	3/27/02
8 VAC 20-80-60	Amended	18:12 VA.R. 1666	3/27/02
8 VAC 20-80-66	Amended	18:12 VA.R. 1668	3/27/02
8 VAC 20-80-70	Amended	18:12 VA.R. 1671	3/27/02
8 VAC 20-80-76	Amended	18:12 VA.R. 1676	3/27/02
8 VAC 20-630-10 through 8 VAC 20-630-70	Added	18:12 VA.R. 1683-1684	3/28/02
8 VAC 40-70-10 through 8 VAC 40-70-50	Amended	18:21 VA.R. 2770-2773	7/1/02
8 VAC 40-120-10 through 8 VAC 40-120-50	Amended	18:21 VA.R. 2774-2778	7/31/02
8 VAC 40-120-55	Added	18:21 VA.R. 2778	7/31/02
8 VAC 40-120-60 through 8 VAC 40-120-140	Amended	18:21 VA.R. 2778-2787	7/31/02
8 VAC 40-120-190	Amended	18:21 VA.R. 2787	7/31/02
8 VAC 40-120-210 through 8 VAC 40-120-230	Amended	18:21 VA.R. 2787-2788	7/31/02
8 VAC 40-120-250	Amended	18:21 VA.R. 2788	7/31/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 40-120-270	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-280	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-130-10	Amended	18:21 VA.R. 2789	7/1/02
8 VAC 40-130-25	Added	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-30	Amended	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-50	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-70	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-90	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-100	Repealed	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-120	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-130	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-140	Repealed	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-150 through 8 VAC 40-130-180	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-200	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-220	Amended	18:21 VA.R. 2793	7/1/02
Title 9. Environment			
9 VAC 5-10-10	Amended	18:21 VA.R. 2793	8/1/02
9 VAC 5-10-20	Amended	18:21 VA.R. 2794	8/1/02
9 VAC 5-20-180	Amended	18:21 VA.R. 2800	8/1/02
9 VAC 5-40-10	Amended	18:21 VA.R. 2802	8/1/02
9 VAC 5-40-20	Amended	18:21 VA.R. 2803	8/1/02
9 VAC 5-40-30	Amended	18:21 VA.R. 2807	8/1/02
9 VAC 5-40-40	Amended	18:21 VA.R. 2808	8/1/02
9 VAC 5-40-50	Amended	18:21 VA.R. 2809	8/1/02
9 VAC 5-40-160 through 9 VAC 5-40-230	Repealed	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-50-10	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-20	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-30	Amended	18:21 VA.R. 2813	8/1/02
9 VAC 5-50-40	Amended	18:21 VA.R. 2814	8/1/02
9 VAC 5-50-50	Amended	18:21 VA.R. 2815	8/1/02
9 VAC 5-50-160 through 9 VAC 5-50-230	Repealed	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-50-240	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-250	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-260	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-320	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-390	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-60-10	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-20	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-30	Amended	18:21 VA.R. 2817	8/1/02
9 VAC 5-60-200 through 9 VAC 5-60-270	Added	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-60-200	Erratum	18:17 VA.R. 2183	--
9 VAC 5-60-300 through 9 VAC 5-60-370	Added	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-300	Erratum	18:17 VA.R. 2183	--
9 VAC 5-80-10	Repealed	18:20 VA.R. 2587	9/1/02
9 VAC 5-80-11	Repealed	18:20 VA.R. 2608	9/1/02
9 VAC 5-80-1100 through 9 VAC 5-80-1320	Added	18:20 VA.R. 2587-2612	9/1/02
9 VAC 5-80-1250	Erratum	18:23 VA.R. 3136	--
9 VAC 5-80-2000 through 9 VAC 5-80-2090	Amended	18:14 VA.R. 1845-1852	5/1/02
9 VAC 5-80-2100	Repealed	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2110	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2120	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2150	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2160	Repealed	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2180	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2190	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2200	Added	18:14 VA.R. 1853	5/1/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-2210	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2220	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2230	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2240	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-91-20	Amended	18:20 VA.R. 2613	10/1/02
9 VAC 5-91-30	Amended	18:20 VA.R. 2619	10/1/02
9 VAC 5-91-41	Repealed	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-50	Amended	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-70	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-120	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-160 through 9 VAC 5-91-230	Amended	18:20 VA.R. 2622-2623	10/1/02
9 VAC 5-91-260	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-270	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-290 through 9 VAC 5-91-340	Amended	18:20 VA.R. 2623-2625	10/1/02
9 VAC 5-91-360	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-370	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-380	Amended	18:20 VA.R. 2626	10/1/02
9 VAC 5-91-410 through 9 VAC 5-91-450	Amended	18:20 VA.R. 2626-2636	10/1/02
9 VAC 5-91-460	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-470	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-480 through 9 VAC 5-91-620	Amended	18:20 VA.R. 2636-2639	10/1/02
9 VAC 5-91-650 through 9 VAC 5-91-720	Amended	18:20 VA.R. 2639-2641	10/1/02
9 VAC 5-91-680	Erratum	18:23 VA.R. 3136	--
9 VAC 5-91-740	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-750	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-770	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-780	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-790	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-800	Amended	18:20 VA.R. 2642	10/1/02
9 VAC 5-140-10 through 9 VAC 5-140-940	Added	18:20 VA.R. 2654-2657	7/17/02
9 VAC 5-140-20	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-60	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-430	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-860	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-870	Erratum	18:22 VA.R. 2953	--
9 VAC 10-20-40	Erratum	18:13 VA.R. 1763	--
9 VAC 10-20-130	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-181	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-191	Erratum	18:13 VA.R. 1764	--
9 VAC 20-60	Erratum	18:12 VA.R. 1714	--
9 VAC 20-60-1285 emer	Amended	18:21 VA.R. 2837	7/1/02-6/30/03
9 VAC 20-60-1285	Erratum	18:25 VA.R. 3607	--
Appendix 3.1 of 9 VAC 20-90 emer	Amended	18:21 VA.R. 2838	7/1/02-6/30/03
9 VAC 20-120-10	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-20	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-40 through 9 VAC 20-120-100	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-120	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-130	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-150 through 9 VAC 20-120-180	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-200 through 9 VAC 20-120-310	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-330	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-340	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-360	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-370	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-380	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-390	Amended	18:18 VA.R. 2287	6/19/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-120-410 through 9 VAC 20-120-480	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-500	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-530	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-540	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-560	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-590	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-640	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-680 through 9 VAC 20-120-760	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-770 through 9 VAC 20-120-800	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-810	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-835	Added	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-840	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-880	Amended	18:18 VA.R. 2287	6/19/02
Appendix 10.1	Repealed	18:18 VA.R. 2287	6/19/02
Appendix 10.4	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-160-10 through 9 VAC 20-160-40	Amended	18:18 VA.R. 2288-2290	7/1/02
9 VAC 20-160-50	Repealed	18:18 VA.R. 2290	7/1/02
9 VAC 20-160-60 through 9 VAC 20-160-120	Amended	18:18 VA.R. 2290-2292	7/1/02
9 VAC 20-160-130	Repealed	18:18 VA.R. 2292	7/1/02
9 VAC 25-20-110 emer	Amended	18:21 VA.R. 2839	7/1/02-6/30/03
9 VAC 25-20-120 emer	Amended	18:21 VA.R. 2840	7/1/02-6/30/03
9 VAC 25-20-130 emer	Amended	18:21 VA.R. 2841	7/1/02-6/30/03
9 VAC 25-31-50	Amended	18:25 VA.R. 3552	9/25/02
9 VAC 25-31-100	Amended	18:25 VA.R. 3553	9/25/02
9 VAC 25-60	Repealed	18:20 VA.R. 2657	7/17/02
9 VAC 25-194-10	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-40 through 9 VAC 25-194-70	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-80	Repealed	18:19 VA.R. 2452	10/15/02
9 VAC 25-260-5	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-55	Added	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-140	Amended	18:24 VA.R. 3289	*
9 VAC 25-260-140	Erratum	18:25 VA.R. 3607	--
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	*
9 VAC 25-260-160	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-170	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	*
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	*
9 VAC 25-420	Repealed	18:26 VA.R. 3808	***
9 VAC 25-430	Repealed	18:26 VA.R. 3808	***
9 VAC 25-440	Repealed	18:26 VA.R. 3808	***
9 VAC 25-450	Repealed	18:26 VA.R. 3808	***
9 VAC 25-452	Repealed	18:26 VA.R. 3808	***
9 VAC 25-460	Repealed	18:26 VA.R. 3808	***
9 VAC 25-470	Repealed	18:26 VA.R. 3808	***
9 VAC 25-480	Repealed	18:26 VA.R. 3808	***
9 VAC 25-490	Repealed	18:26 VA.R. 3808	***
9 VAC 25-500	Repealed	18:26 VA.R. 3808	***
9 VAC 25-510	Repealed	18:26 VA.R. 3808	***
9 VAC 25-520	Repealed	18:26 VA.R. 3808	***
9 VAC 25-530	Repealed	18:26 VA.R. 3808	***

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

** Notice of effective date published in 18:17 VA.R. 2174.

*** Effective date suspended at publication for further public comment.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-540	Repealed	18:26 VA.R. 3808	***
9 VAC 25-550	Repealed	18:26 VA.R. 3808	***
9 VAC 25-560	Repealed	18:26 VA.R. 3808	***
9 VAC 25-570	Repealed	18:26 VA.R. 3808	***
9 VAC 25-572	Repealed	18:26 VA.R. 3808	***
9 VAC 25-720-10 through 9 VAC 25-720-140	Added	18:26 VA.R. 3809-3852	***
Title 10. Finance and Financial Institutions			
10 VAC 5-160-50	Added	18:19 VA.R. 2453	5/15/02
10 VAC 5-200-10 through 10 VAC 5-200-80	Added	18:24 VA.R. 3296-3299	7/22/02
Title 11. Gaming			
11 VAC 10-20-260 through 11 VAC 10-20-310	Amended	18:20 VA.R. 2661-2664	5/22/02
11 VAC 10-20-330	Amended	18:20 VA.R. 2664	5/22/02
11 VAC 10-20-340	Amended	18:20 VA.R. 2671	5/22/02
11 VAC 10-100-80	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-100	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-110	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-140	Repealed	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-150	Erratum	18:23 VA.R. 3136	--
11 VAC 10-100-151	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-152	Added	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-170	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-100-190	Amended	18:23 VA.R. 3097	7/1/02
11 VAC 10-110-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-90	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-150	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-110-180	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-20	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-50	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-80	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-90	Repealed	18:23 VA.R. 3098	7/1/02
11 VAC 10-120-100	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-130-10	Amended	18:20 VA.R. 2672	5/22/02
11 VAC 10-130-20	Amended	18:20 VA.R. 2673	5/22/02
11 VAC 10-130-51	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-52	Added	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-60	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-140-10	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-30	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-40	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-60	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-130	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-140	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-170	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-180	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-140-310	Amended	18:23 VA.R. 3098	7/1/02
11 VAC 10-150-130	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-130	Erratum	18:23 VA.R. 3136	--

*** Effective date suspended at publication for further public comment.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-150-140	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-190	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-150-200	Added	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-10	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-20	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-90	Repealed	18:23 VA.R. 3099	7/1/02
11 VAC 10-160-120 through 11 VAC 10-160-150	Amended	18:23 VA.R. 3099	7/1/02
11 VAC 10-180-10	Amended	18:19 VA.R. 2453	5/10/02
11 VAC 10-180-20	Amended	18:19 VA.R. 2454	5/10/02
11 VAC 10-180-40 through 11 VAC 10-180-90	Amended	18:19 VA.R. 2455-2462	5/10/02
11 VAC 10-180-60	Erratum	18:20 VA.R. 2681	--
Title 12. Health			
12 VAC 5-65	Repealed	18:12 VA.R. 1685	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Added	18:12 VA.R. 1685-1688	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Erratum	18:13 VA.R. 1764	--
12 VAC 5-120-10 through 12 VAC 5-120-90	Added	18:16 VA.R. 2057-2058	5/22/02
12 VAC 5-475-10 through 12 VAC 5-475-90	Added	18:12 VA.R. 1691	3/27/02
12 VAC 5-520-10	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-20	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Erratum	18:18 VA.R. 2369	--
12 VAC 5-520-40 through 12 VAC 5-520-70	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-80	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-90 through 12 VAC 5-520-120	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-130 through 12 VAC 5-520-210	Added	18:15 VA.R. 1969	5/8/02
12 VAC 5-590-10	Amended	18:19 VA.R. 2462	7/3/02
12 VAC 5-590-370	Amended	18:19 VA.R. 2468	7/3/02
12 VAC 5-590-370	Erratum	18:22 VA.R. 2953	--
12 VAC 5-590-410	Amended	18:19 VA.R. 2474	7/3/02
12 VAC 5-590-420	Amended	18:19 VA.R. 2477	7/3/02
12 VAC 5-590-420	Erratum	18:22 VA.R. 2954	--
12 VAC 5-590-440	Amended	18:19 VA.R. 2490	7/3/02
12 VAC 5-590-500	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-530	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-540	Amended	18:19 VA.R. 2502	7/3/02
12 VAC 5-590-550	Amended	18:19 VA.R. 2504	7/3/02
12 VAC 5-590 Appendix B	Amended	18:19 VA.R. 2505	7/3/02
12 VAC 5-590 Appendix F	Amended	18:19 VA.R. 2506	7/3/02
12 VAC 5-615-10 through 12 VAC 5-615-470	Added	18:18 VA.R. 2293-2300	7/1/02
12 VAC 30-40-220	Amended	18:18 VA.R. 2304	7/1/02
12 VAC 30-40-280	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-280	Amended	18:23 VA.R. 3099	9/1/02
12 VAC 30-40-290	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-345	Amended	18:18 VA.R. 2308	7/1/02
12 VAC 30-50-190	Amended	18:18 VA.R. 2309	7/1/02
12 VAC 30-50-210	Amended	18:18 VA.R. 2310	7/1/02
12 VAC 30-60-300	Amended	18:18 VA.R. 2312	6/20/02
12 VAC 30-60-303	Added	18:18 VA.R. 2313	6/20/02
12 VAC 30-60-307	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-312	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-316	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-60-318	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-70-201 emer	Amended	18:26 VA.R. 3906	9/1/02-8/31/03
12 VAC 30-70-221 emer	Amended	18:22 VA.R. 2936	7/1/02-6/30/03
12 VAC 30-70-281 emer	Amended	18:22 VA.R. 2938	7/1/02-6/30/03
12 VAC 30-70-351 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-425 emer	Added	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-70-426 emer	Added	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-80-20	Amended	18:21 VA.R. 2818	8/1/02
12 VAC 30-80-20 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-20 emer	Amended	18:25 VA.R. 3571	8/1/02-7/31/03
12 VAC 30-80-25	Added	18:21 VA.R. 2820	8/1/02
12 VAC 30-80-30 emer	Amended	18:25 VA.R. 3573	8/1/02-7/31/03
12 VAC 30-80-30 emer	Amended	18:25 VA.R. 3576	8/1/02-7/31/03
12 VAC 30-80-40 emer	Amended	18:22 VA.R. 2941	7/1/02-6/30/03
12 VAC 30-90-10	Amended	18:18 VA.R. 2319	7/1/02
12 VAC 30-90-18 emer	Added	18:25 VA.R. 3575	8/1/02-7/31/03
12 VAC 30-90-19 emer	Amended	18:25 VA.R. 3575	8/1/02-7/31/03
12 VAC 30-90-20	Amended	18:18 VA.R. 2320	7/1/02
12 VAC 30-90-38	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-40	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41.1 emer	Added	18:23 VA.R. 3103	7/1/02-6/30/03
12 VAC 30-90-60	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-271	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-272	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-280	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-300	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-301	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-302	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-303	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-304	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-305	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Erratum	18:20 VA.R. 2681	--
12 VAC 30-90-307	Added	18:18 VA.R. 2328	7/1/02
12 VAC 30-110-720	Amended	18:21 VA.R. 2821	8/1/02
12 VAC 30-110-741	Amended	18:21 VA.R. 2823	8/1/02
12 VAC 30-110-831	Added	18:21 VA.R. 2823	8/1/02
12 VAC 30-120-10 emer	Amended	18:12 VA.R. 1698	2/1/02-1/31/03
12 VAC 30-120-40 emer	Amended	18:12 VA.R. 1699	2/1/02-1/31/03
12 VAC 30-120-50 emer	Amended	18:12 VA.R. 1701	2/1/02-1/31/03
12 VAC 30-120-55 emer	Added	18:12 VA.R. 1702	2/1/02-1/31/03
12 VAC 30-120-60 emer	Amended	18:12 VA.R. 1704	2/1/02-1/31/03
12 VAC 30-120-210	Repealed	18:26 VA.R. 3853	10/16/02
12 VAC 30-120-211 through 12 VAC 30-120-219	Added	18:26 VA.R. 3855-3865	10/16/02
12 VAC 30-120-220	Repealed	18:26 VA.R. 3865	10/16/02
12 VAC 30-120-221 through 12 VAC 30-120-229	Added	18:26 VA.R. 3867-3875	10/16/02
12 VAC 30-120-230	Repealed	18:26 VA.R. 3875	10/16/02
12 VAC 30-120-231 through 12 VAC 30-120-237	Added	18:26 VA.R. 3878-3883	10/16/02
12 VAC 30-120-240	Repealed	18:26 VA.R. 3883	10/16/02
12 VAC 30-120-241 through 12 VAC 30-120-249	Added	18:26 VA.R. 3885-3893	10/16/02
12 VAC 30-120-250	Repealed	18:26 VA.R. 3893	10/16/02
12 VAC 30-135-10 through 12 VAC 30-135-80 emer	Added	18:25 VA.R. 3579-3580	10/1/02-9/30/03
12 VAC 30-141-90	Erratum	18:18 VA.R. 2369	--
12 VAC 30-141-10 through 12 VAC 30-141-650 emer	Added	18:25 VA.R. 3580-3590	8/1/02-7/31/03
12 VAC 30-150-10 through 12 VAC 30-150-100	Added	18:17 VA.R. 2174	6/6/02
12 VAC 30-150	Erratum	18:18 VA.R. 2370	--
12 VAC 35-20	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-102	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-105-10 through 12 VAC 35-105-1410	Added	18:18 VA.R. 2331-2365	9/19/02
12 VAC 35-105-20 emer	Amended	18:25 VA.R. 3591	9/19/02-9/18/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 35-105-30 emer	Amended	18:25 VA.R. 3597	9/19/02-9/18/03
12 VAC 35-105-280 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-590 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-660 emer	Amended	18:25 VA.R. 3598	9/19/02-9/18/03
12 VAC 35-105-800 emer	Amended	18:25 VA.R. 3599	9/19/02-9/18/03
12 VAC 35-140	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-150	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-160	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-170	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-200-10	Amended	18:16 VA.R. 2059	5/22/02
12 VAC 35-200-20	Amended	18:16 VA.R. 2060	5/22/02
12 VAC 35-200-30	Amended	18:16 VA.R. 2061	5/22/02
Title 13. Housing			
13 VAC 5-51-11	Amended	18:22 VA.R. 2928	8/15/02
13 VAC 5-51-180	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-181	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-182	Amended	18:22 VA.R. 2930	8/15/02
Title 14. Insurance			
14 VAC 5-70-10 through 14 VAC 5-70-40	Amended	18:22 VA.R. 2931-2932	7/1/02
14 VAC 5-70-80	Amended	18:22 VA.R. 2932	7/1/02
14 VAC 5-70-130	Amended	18:22 VA.R. 2933	7/1/02
14 VAC 5-80-160 through 14 VAC 5-80-190	Repealed	18:14 VA.R. 1896	3/31/02
14 VAC 5-140-20 through 14 VAC 5-140-90	Amended	18:21 VA.R. 2824	7/1/02
14 VAC 5-210-70	Amended	18:26 VA.R. 3896	9/1/02
14 VAC 5-210-90	Amended	18:26 VA.R. 3896	9/1/02
14 VAC 5-390-20	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-30	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-40	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-395-20	Amended	18:21 VA.R. 2825	6/3/02
14 VAC 5-395-30 through 14 VAC 5-395-60	Amended	18:21 VA.R. 2825	6/3/02
Title 16. Labor and Employment			
16 VAC 5-10-10	Amended	18:26 VA.R. 3897	11/3/02
16 VAC 5-10-20	Amended	18:26 VA.R. 3897	11/3/02
16 VAC 5-10-21	Added	18:26 VA.R. 3898	11/3/02
16 VAC 5-10-22	Added	18:26 VA.R. 3898	11/3/02
16 VAC 5-10-30	Amended	18:26 VA.R. 3898	11/3/02
16 VAC 5-20-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-20-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-32-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-32-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-60-10	Amended	18:26 VA.R. 3898	11/3/02
16 VAC 5-60-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-60-40	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-70-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-70-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-10	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-20	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-30	Amended	18:26 VA.R. 3900	11/3/02
16 VAC 5-80-40	Amended	18:26 VA.R. 3900	11/3/02
Title 18. Professional and Occupational Licensing			
18 VAC 41-20-10 through 18 VAC 41-20-280 emer	Added	18:23 VA.R. 3103-3113	7/2/02-7/1/03
18 VAC 45-10-10	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-20	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-30	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-50	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-90	Amended	18:19 VA.R. 2508	7/8/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-10 emer	Amended	18:24 VA.R. 3301	7/19/02-7/18/03
18 VAC 60-20-90 emer	Amended	18:24 VA.R. 3303	7/19/02-7/18/03
18 VAC 60-20-106 emer	Added	18:24 VA.R. 3303	7/19/02-7/18/03
18 VAC 60-20-200 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 60-20-210 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 60-20-220 emer	Amended	18:24 VA.R. 3302	7/19/02-7/18/03
18 VAC 85-20-225 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-20-280 emer	Amended	18:22 VA.R. 2943	6/19/02-6/18/03
18 VAC 85-20-285 emer	Added	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-290 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-300 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-40-55 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-50-10 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-35	Added	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-40 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-56	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-59 emer	Added	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-101 emer	Amended	18:24 VA.R. 3309	7/19/02-7/18/03
18 VAC 85-50-110 emer	Amended	18:24 VA.R. 3310	7/19/02-7/18/03
18 VAC 85-50-115	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-115 emer	Amended	18:24 VA.R. 3310	7/19/02-7/18/03
18 VAC 85-50-170	Repealed	18:21 VA.R. 2826	7/31/02
18 VAC 85-80-65 emer	Added	18:24 VA.R. 3307	7/19/02-7/18/03
18 VAC 85-101-145 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 85-110-145 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 85-120-85 emer	Added	18:24 VA.R. 3308	7/19/02-7/18/03
18 VAC 90-20-200	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-210	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-271 emer	Added	18:24 VA.R. 3311	7/19/02-7/18/03
18 VAC 90-30-20	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-100	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-105	Added	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-220	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-40-20	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-50	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-55	Added	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-60	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-130	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 105-20-75 emer	Added	18:24 VA.R. 3311	7/19/02-7/18/03
18 VAC 110-20-20	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-75 emer	Added	18:24 VA.R. 3312	7/19/02-7/18/03
18 VAC 110-20-240 emer	Amended	18:24 VA.R. 3314	7/19/02-7/18/03
18 VAC 110-20-255 emer	Added	18:24 VA.R. 3315	7/19/02-7/18/03
18 VAC 110-20-270	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-275 emer	Added	18:24 VA.R. 3315	7/19/02-7/18/03
18 VAC 110-20-280	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-285	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-320 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-400 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-430	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-430 emer	Repealed	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-530 emer	Amended	18:24 VA.R. 3316	7/19/02-7/18/03
18 VAC 110-20-730 emer	Added	18:24 VA.R. 3317	7/19/02-7/18/03
18 VAC 125-10-10	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-20	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-30	Amended	18:12 VA.R. 1695	3/27/02

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18 VAC 125-10-40	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-60	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-70	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-80	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-100	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-30 (Forms)	Amended	18:15 VA.R. 1985	--
18 VAC 125-30-10 through 18 VAC 125-30-50	Amended	18:13 VA.R. 1753-1754	4/10/02
18 VAC 125-30-60	Repealed	18:13 VA.R. 1754	4/10/02
18 VAC 125-30-80	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 125-30-90	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 150-20-135 emer	Added	18:24 VA.R. 3320	7/19/02-7/18/03
Title 20. Public Utilities and Telecommunications			
20 VAC 5-300-90	Amended	18:21 VA.R. 2832	6/7/02
20 VAC 5-312-90	Erratum	18:23 VA.R. 3136	--
20 VAC 5-312-100	Amended	18:26 VA.R. 3904	1/1/03
20 VAC 5-312-120	Added	18:26 VA.R. 3905	1/1/03
20 VAC 5-423-10 through 20 VAC 5-423-90	Added	18:14 VA.R. 1899-1902	3/6/02
Title 22. Social Services			
22 VAC 15-10-10	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-30	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-40	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-50	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-60	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-70	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 40-41-10	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-20	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-40	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-50	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-55	Added	18:12 VA.R. 1696	4/1/02
22 VAC 40-685-10 emer	Added	18:24 VA.R. 3320	9/1/02-8/31/03
22 VAC 40-685-20 emer	Added	18:24 VA.R. 3321	9/1/02-8/31/03
22 VAC 40-685-30 emer	Added	18:24 VA.R. 3321	9/1/02-8/31/03
22 VAC 40-690 (Forms)	Amended	18:22 VA.R. 2945	--
22 VAC 40-880-10	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-30	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-60	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-80	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-110	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-120	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-130	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-170	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-190	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-200 through 22 VAC 40-880-300	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-270	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-290	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-320	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-330	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-340	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-360	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-380	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-385	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-410	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-430	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-440	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-480 through 22 VAC 40-880-520	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-550	Amended	18:14 VA.R. 1903	4/24/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-880-560	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-650	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-670	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-680	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-700	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-720	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-910-10 through 22 VAC 40-910-100 emer	Added	18:24 VA.R. 3322-3325	9/1/02-8/31/03
Title 24. Transportation and Motor Vehicles			
24 VAC 15-100	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-110	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-120	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-130	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-140	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-150	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-160	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-170	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-180	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-190	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-200	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-210	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 30-550-10	Amended	18:23 VA.R. 3100	7/2/02

PETITIONS FOR RULEMAKING

BOARD OF PSYCHOLOGY

Initial Agency Notice

Title of Regulation: 18 VAC 125-20. Regulations Governing the Practice of Psychology.

Statutory Authority: § 54.1-3605 of the Code of Virginia.

Name of Petitioner: Cathleen A. Rea, Ph.D., for the Virginia Academy of Clinical Psychologists

Nature of Request: The petitioner is requesting the board to consider the issuance of a full-time license to practice clinical psychology to applicants immediately upon successful completion of their doctoral degree, clinical internship, and passing of the Examination for Professional Practice.

Agency's Plan for Disposition of Request: The Regulatory Committee of the board will meet at 10 a.m. on September 10, 2002, in Conference Room 2 at 6606 West Broad Street, Richmond, VA, to consider whether to recommend amendments to the licensure requirements.

Public comments may be submitted until October 14, 2002.

Agency contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6606 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-7250, or e-mail evelyn.brown@dhp.state.va.us.

VA.R. Doc. No. R03-20; Filed September 4, 2002, 11:40 a.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

PESTICIDE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-30. Rules and Regulations Governing the Pesticide Fees Charged By the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amendments relating to pesticide fees charged. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: §§ 3.1-249.30, 3.1-249.35, 3.1-249.36, 3.1-249.47, and 3.1-249.55 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-298; Filed July 23, 2002, 1:28 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-40. Rules and Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Department of Agriculture and Consumer Services Operating Under the Authority of the Virginia Pesticide Control Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including making the regulation up to date and consistent with statute. The agency invites comment on whether there should be an advisor.

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

Statutory Authority: §§ 3.1-249.30, 3.1-249.46, 3.1-249.49, and 3.1-249.50 of the Code of Virginia.

Public comments may be submitted until October 14, 2002.

Contact: Marvin A. Lawson, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, or e-mail mlawson@vdacs.state.va.us.

VA.R. Doc. No. R02-299; Filed July 23, 2002, 1:28 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-91. Facility and Aboveground Storage Tank (AST) Regulations.** The purpose of this regulation is to: (i) establish requirements for registration of facilities and individual petroleum aboveground storage tanks (AST) located within the Commonwealth; (ii) develop standards and procedures to prevent pollution from new and existing ASTs; and (iii) provide requirements for the development of facility oil discharge contingency plans for facilities with an aggregate capacity of 25,000 gallons or greater of oil. (See 18:25 VA.R. 3393-3394 August 26, 2002, for more detailed information.)

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

Statutory Authority: §§ 62.1-44.15, 62.1-44.34:15, 62.1-44.35:15.1, 62.1-44.34:19.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Sam Lillard, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4276, FAX (804) 698-4266, or e-mail slillard@deq.state.va.us.

VA.R. Doc. No. R02-307; Filed July 30, 2002, 8:29 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-580. Underground Storage Tanks: Technical Standards and Corrective Action Requirements.** The purpose of the proposed action is to amend the regulation in response to a periodic review. At a minimum the amendments will incorporate changes in the law and clarify that UST systems that missed the deadline for upgrade must be closed in accordance with the requirements of the regulation. (See 18:25 VA.R. 3394-3395 August 26, 2002, for more detailed information.)

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

Notices of Intended Regulatory Action

Statutory Authority: §§ 62.1-44.15 and 62.1-44.34:8-9 of the Code of Virginia and 40 CFR Parts 280 and 281.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Fred Cunningham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4285, FAX (804) 698-4266 or e-mail fkcunningh@deq.state.va.us.

VA.R. Doc. No. R02-308; Filed July 30, 2002, 8:28 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-590. Petroleum Underground Storage Tank Financial Responsibility Requirements.** The purpose of the proposed action is to propose administrative changes, to incorporate ways to reduce the cost of compliance with the existing requirements and such other amendments necessary in response to public comment. (See 18:25 VA.R. 3395-3396 August 26, 2002, for more detailed information.)

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

Statutory Authority: § 62.1-44.15 and 62.1-44.34:12 of the Code of Virginia and 40 CFR Part 280.

Public comments may be submitted until 5 p.m., October 9, 2002.

Contact: Cara L. Kail, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4053, FAX (804) 698-4327 or e-mail: clkail@deq.state.va.us.

VA.R. Doc. No. R02-309; Filed July 30, 2002, 8:27 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care.** The purpose of the proposed action is to comply with the 2002 legislative mandate to reduce reimbursements to inpatient hospitals across the Commonwealth.

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

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

Public comments may be submitted until October 9, 2002.

Contact: N. Stanley Fields, Director, Division of Cost Settlement and Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-5590, FAX (804) 786-1680 or e-mail sfields@dmas.state.va.us.

VA.R. Doc. No. R02-332; Filed August 8, 2002, 10:40 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care; 12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care; and 12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care.** The purpose of the proposed action is to conform to changes in the appropriation act. Items 325 CC, 325 DD and 325 RR of the 2002 Acts of Assembly (Chapter 899) authorized the Department of Medical Assistance Services to increase reimbursement for government-owned public nursing homes, hospital and clinics consistent with the maximum amount allowed under federal laws and regulations. Federal regulations (42 CFR 447.272 and 42 CFR 477.321) allow aggregate payments for government-owned or operated hospitals, nursing homes, intermediate care facilities for the mentally retarded (ICFs-MR) or clinics up to 100% of a reasonable estimate of the amount that would be paid by Medicare. For periods prior to May 16, 2002, federal regulations allow aggregate payments for nonstate-owned or operated hospitals up to 150% of a reasonable estimate of the amount that would be paid by Medicare.

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

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

Public comments may be submitted until September 25, 2002.

Contact: William Lessard, Reimbursement Analyst, Division of Reimbursement and Cost Settlement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4593 or FAX (804) 786-1680.

VA.R. Doc. No. R02-317; Filed July 30, 2002, 12:26 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this action is to revise the estimated acquisition cost used by the agency (the Average Wholesale Price) to discount it by 10.25% and to redefine the Virginia Maximum Allowable Cost. Both of these changes respond to legislative mandates contained in the appropriation act.

Notices of Intended Regulatory Action

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

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Chapter 899 of the 2002 Acts of Assembly.

Public comments may be submitted until September 25, 2002.

Contact: William Lessard, Reimbursement Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4593 or FAX (804) 786-1680.

VA.R. Doc. No. R02-230; Filed June 26, 2002, 2:48 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of the proposed action is to comply with Chapter 899 of the 2002 Acts of Assembly, Item 325 EE to reimburse state academic health systems and academic health systems that operate under a state authority for services provided by affiliated physician groups based on the lesser of billed charges or the Medicare fee schedule.

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

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

Public comments may be submitted until September 25, 2002.

Contact: William Lessard, Reimbursement Analyst, Division of Reimbursement and Cost Settlement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-4593 or FAX (804) 786-1680.

VA.R. Doc. No. R02-318; Filed July 30, 2002, 12:21 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-141. Family Access to Medical Insurance Security Plan.** The purpose of the proposed action is to promulgate permanent regulations for the FAMIS program. While all areas of the FAMIS program and the existing emergency regulations will be subject to review, the department will focus its review on covered services, copayment policies, and policies for quality assurance reimbursement. Further, the department will focus on developing permanent regulations following its review, as well as regulations that would increase access to the FAMIS program for citizens of the Commonwealth, improve outreach and simplify the application process. This action is taken as a result of the need to adopt permanent regulations to replace the emergency regulations currently in place.

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

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

Public comments may be submitted until September 25, 2002.

Contact: Cynthia B. Jones, Deputy Director, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-4626 or FAX (804) 376-1680.

VA.R. Doc. No. R02-319; Filed July 30, 2002, 12:30 p.m.

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

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to consider amending regulations entitled: **12 VAC 35-105. Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services.** The purpose of the proposed action is to incorporate licensing provisions for licensed day support, crisis stabilization, and in-home support services funded through the Individual and Family Developmental Disabilities (IFDDS) Waiver.

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

Statutory Authority: §§ 37.1-10, 37.1-179 and 51.5-14.1 of the Code of Virginia.

Public comments may be submitted until September 26, 2002.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885 or FAX (804) 692-0066.

VA.R. Doc. No. R02-322; Filed August 2, 2002, 10 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Workers' Compensation Commission intends to consider amending regulations entitled: **16 VAC 30-50. Rules of the Virginia Workers' Compensation Commission.** The purpose of the proposed action is to comply with the General Assembly's mandate (Chapter 538 of the 2002 Acts of Assembly), directing that the commission promulgate rules and regulations by July 1, 2003,

Notices of Intended Regulatory Action

"instituting an expedited calendar for the administration of claims under the Virginia Workers' Compensation Act in which the employer's denial of benefits satisfies criteria establishing that delays will cause an injured employee to incur severe economic hardship."

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

Statutory Authority: § 65.2-201 (A) of the Code of Virginia; Chapter 538 of the 2002 Acts of Assembly.

Public comments may be submitted until 5 p.m. on October 9, 2002.

Contact: Mary Ann Link, Chief Deputy Commissioner, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-8664, FAX (804) 367-9740, or e-mail maryann.link@wvc.state.va.us.

VA.R. Doc. No. R02-333; Filed August 19, 2002, 3:19 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the Board for Barbers and Cosmetology intends to consider promulgating regulations entitled: **18 VAC 41-40. Wax Technician Regulations.** The purpose of the proposed action is to promulgate regulations governing the licensure and practice of waxing as directed by 2002 Acts of Assembly, Chapter 797.

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

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

Public comments may be submitted until September 25, 2002.

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

VA.R. Doc. No. R02-326; Filed August 7, 2002, 11:25 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the Board for Barbers and Cosmetology intends to consider promulgating regulations entitled: **18 VAC 41-50. Tattooing and Body-Piercing Regulations.** The purpose of the proposed action is to promulgate regulations governing the licensure and practice of tattooing and body-piercing as directed by 2002 Acts of Assembly, Chapter 869.

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

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

Public comments may be submitted until September 25, 2002.

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

VA.R. Doc. No. R02-327; Filed August 7, 2002, 11:25 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

† 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 **22 VAC 40-190, Regulation for Criminal Record Checks for Child Welfare Agencies**, which was published in 15:19 VA.R. 2442 June 7, 1999.

Contact: L. Richard Martin, Jr., Regulatory Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1825.

VA.R. Doc. No. R99-176; Filed September 3, 2002, 2:55 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF GAME AND INLAND FISHERIES

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

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 22, 2002, and remains open until October 24, 2002. 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 VAC number, regulation title and regulatory action desired, and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and need to be received no later than October 17, 2002, in order to ensure 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 24, 2002, at which time any interested citizen present

shall be heard. If the board is satisfied that the proposed regulations, or any parts thereof, is 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 24 meeting. The regulations or regulation's amendments adopted may be either more liberal or more restrictive than that proposed.

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

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

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding this regulation)

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

Summary:

The proposed amendment adds the family of snakehead fish (Channidae) to the list of those nonnative (exotic) species for which importation, possession, cultivation, and sale in the Commonwealth is prohibited unless otherwise authorized by special permit.

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

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

AMPHIBIANS:

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

Proposed Regulations

BIRDS:				
Order	Family	Genus/Species	Common Name	
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*	
FISH:				
Order	Family	Genus/Species	Common Name	
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*	
		I. cyprinellus	Bigmouth buffalo*	
		I. niger	Black buffalo*	
	Characidae	Pygopristis spp. Pygocentrus spp. Rooseveltiella spp. Serrasalmo spp. Serrasalmus spp. Taddyella spp.		Piranhas
		Cyprinidae	Aristichyhs nobilis	Bighead carp*
			Ctenopharyngodon idella	Grass carp or white amur
			Cyprinella lutrensis	Red shiner
			Hypophthalmichthys molitrix	Silver carp*
			Mylopharyngodon piceus	Black carp
	Scardinius erythrophthalmus		Rudd	
	Tinca tinca		Tench*	
	Gobiesociformes	Gobiidae	Proterorhinus marmoratus	Tube-nose goby
			Neogobius melanostomus	Round goby
Perciformes	Channidae	Channa spp. Parachanna spp.	Snakeheads	
	Cichlidae	Tilapia spp.	Tilapia	
		Gymnocephalus cernuum	Ruffe*	
Siluriformes	Clariidae	All Species	Air-breathing catfish	
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel	
MAMMALS:				
Order	Family	Genus/Species	Common Name	
Artiodactyla	Suidae	All Species	Pigs or Hogs*	
	Cervidae	All Species	Deer*	
Carnivora	Canidae	All Species	Wild Dogs,* Wolves, Coyotes or Coyote hybrids, Jackals and Foxes	
	Ursidae	All Species	Bears*	
	Procyonidae	All Species	Raccoons and* Relatives	
	Mustelidae	All Species	Weasels, Badgers,* Skunks and Otters	
		(except Mustela putorius furo)	Ferret	
	Viverridae	All Species	Civets, Genets, Lingsangs, Mongooses, and Fossas	
	Herpestidae	All Species	Mongoose*	
	Hyaenidae	All Species	Hyenas*	
Protelidae	Proteles cristatus	Aardwolf*		
Felidae	All Species	Cats*		

Proposed Regulations

Chiroptera		All Species	Bats*
Lagomorpha	Leporidae	Lepus europeaeus	European hare
		Oryctolagus cuniculus	European rabbit
Rodentia	Sciuridae	Cynomys spp.	Prairie dogs
MOLLUSKS:			
Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	Dreissena polymorpha	Zebra mussel
REPTILES:			
Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, Caimans*
	Colubridae	Boiga irregularis	Brown tree snake*
	Crocodylidae	All Species	Crocodiles*
	Gavialidae	All Species	Gavials*

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

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

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

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A that are imported or possessed by dealers, exhibitors, transporters, and

researchers who are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act (7 USC §§ 2131 et seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license or licenses or registration or registrations from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

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

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

VA.R. Doc. No. R03-10; Filed September 4, 2002, 11:12 a.m.

Title of Regulation: 4 VAC 15-320. Fish: Fishing Generally (amending 4 VAC 15-320-40 and 4 VAC 15-320-50; adding 4 VAC 15-320-25; repealing 4 VAC 15-320-20 and 4 VAC 15-320-30).

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

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-30)

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

Summary:

The proposed amendments (i) combine fishing creel limits and length (size) limits into one combined regulation section in a table format; (ii) establish a 14- to 20-inch bass slot limit (no bass 14 to 20 inches may be possessed), and that only one bass greater than 20 inches per day may be taken on the New River from Claytor Dam downstream to the Virginia-West Virginia state line; (iii) reduce the statewide daily creel limit for white bass from 25 fish per day to five fish per day; (iv) reduce the statewide daily creel limit for walleye from eight fish per day to five fish per day; (v) establish an 18-inch minimum length limit for walleye (no walleye less than 18 inches) in Flannagan and South Holston reservoirs; (vi) establish a 20-inch minimum length limit on walleye (no walleye less than 20 inches) in Claytor Lake and the New River upstream of Claytor Lake Dam; (vii) reduce the statewide daily creel limit for sauger from eight fish per day to two fish per day; (viii) reduce the statewide daily creel limit for chain pickerel from eight fish per day to five fish per day; and (ix) establish a 10-inch minimum length limit for crappie (no crappie less than 10 inches) in South Holston Reservoir.

The proposed amendments further add the yellow perch to the list of species that may be sold from privately owned facilities and add Laurel Creek in Tazewell and Bland counties to the list of those waters in which the use of fish as bait is prohibited.

4 VAC 15-320-20. Creel limits. (Repealed.)

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 15-320-25. Creel and length limits.

The creel limits (including live possession) and the length limits for the various species of fish shall be as follows, unless otherwise excepted by posted rules at department-owned or department-controlled waters (see 4 VAC 15-320-100 D).

Type of fish	Subtype or location	Creel and length limits	Geographic exceptions	Creel or length limits for exceptions
largemouth bass, smallmouth bass, spotted bass		5 per day in the aggregate; No statewide length limits	Lakes	

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			<i>Lake Anna</i>	<i>No bass 12 to 15 inches</i>
			<i>Beaverdam Creek Reservoir (Loudoun County)</i>	<i>No bass 12 to 15 inches</i>
			<i>Briery Creek Lake</i>	<i>No bass 14 to 24 inches, only 1 per day longer than 24 inches</i>
			<i>Buggs Island (Kerr)</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			<i>Chesdin Reservoir</i>	<i>No bass 12 to 15 inches</i>
			<i>Claytor Lake</i>	<i>No bass less than 12 inches</i>
			<i>Flannagan Reservoir</i>	<i>No bass less than 12 inches</i>
			<i>Lake Gaston</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			<i>Leesville Reservoir</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			<i>Lake Moomaw</i>	<i>No bass less than 12 inches</i>
			<i>Occoquan Reservoir from the reservoir dam upstream to the Lake Jackson Dam on Occoquan Creek and upstream to the Yates Ford Bridge (Rt. 612) on Bull Run Creek</i>	<i>No bass less than 14 inches</i>
			<i>Philpott Reservoir</i>	<i>No bass less than 12 inches</i>
			<i>Quantico Marine Base waters</i>	<i>No bass 12 to 15 inches</i>
			<i>Smith Mt. Lake and its tributaries below Niagara Dam</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			Rivers	
			<i>Appomattox River – Brasfield Dam to Bevel’s Bridge on Rt. 602, Chesterfield Co.</i>	<i>No bass 12 to 15 inches</i>
			<i>Clinch River – within the boundaries of Scott, Wise, Russell, or Tazewell counties</i>	<i>No bass 11 to 14 inches</i>
			<i>Dan River and tributaries down stream from the Brantley Steam Plant, Danville</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			<i>James River –</i>	
			<i>Confluence of the Jackson and Cowpasture rivers downstream to Rt. 220 bridge near Lick Run, Botetourt Co.</i>	<i>No bass 11 to 14 inches</i>
			<i>Rt. 220 bridge near Lick Run downstream, to Rt. 614 bridge, Botetourt Co.</i>	<i>No bass 14 to 22 inches, only 1 per day longer than 22 inches</i>
			<i>Rt. 614 bridge downstream to the Interstate 95 bridge, Richmond</i>	<i>No bass 11 to 14 inches</i>

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			<i>New River – Claytor Dam downstream to the VA – WV state line and its tributary Little River downstream from Little River Dam, Montgomery County</i>	<i>No bass 14 to 20 inches, only 1 per day longer than 20 inches</i>
			<i>North Fork Holston - Rt. 634 bridge near Saltville, VA – TN state line</i>	<i>No bass less than 20 inches, only 1 per day longer than 20 inches</i>
			<i>North Fork Shenandoah – Rt. 42 bridge, Rockingham Co. downstream to the confluence with S. Fork Shenandoah at Front Royal</i>	<i>No bass 11 to 14 inches</i>
			<i>Potomac River - Virginia tidal tributaries above Rt. 301 bridge</i>	<i>No bass less than 15 inches from March 1 through June 15</i>
			<i>Roanoke (Staunton) River - and its tributaries below Difficult Creek, Charlotte Co.</i>	<i>Only 2 of 5 bass less than 14 inches</i>
			<i>Shenandoah River – Confluence of South Fork and North Fork rivers, Front Royal, downstream, to the Warren Dam, near Front Royal Base of Warren Dam, near Front Royal downstream to Rt. 17/50 bridge Rt. 17/50 bridge downstream to VA - WV state line</i>	<i>No bass 11 to 14 inches No bass 14 to 20 inches, only 1 per day longer than 20 inches No bass 11 to 14 inches</i>
			<i>South Fork Shenandoah River - Confluence of North and South rivers, below Port Republic, downstream to Shenandoah Dam, near Town of Shenandoah Base of Shenandoah Dam, near Town of Shenandoah, downstream to Luray Dam, near Luray Base of Luray Dam, near Luray, downstream to the confluence with North Fork of Shenandoah, Front Royal</i>	<i>No bass 11 to 14 inches No bass 14 to 20 inches, only 1 per day longer than 20 inches No bass 11 to 14 inches</i>
<i>striped bass</i>	<i>landlocked striped bass and landlocked striped bass x white bass hybrids</i>	<i>4 per day in the aggregate; No fish less than 20 inches</i>	<i>Smith Mountain Lake and its tributaries, including the Roanoke River upstream to Niagara Dam</i>	<i>2 per day in the aggregate</i>
	<i>anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay</i>	<i>Creel and length limits shall be set by the Virginia Marine Resources Commission for recreational fishing in tidal waters</i>		

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	<i>anadromous (coastal) in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay</i>	<i>4 per day; No length limits</i>		
<i>white bass</i>		<i>5 per day; No statewide length limits</i>		
<i>walleye</i>		<i>5 per day; No statewide length limits</i>	<i>Flannagan and South Holston reservoirs</i>	<i>No walleye less than 18 inches</i>
			<i>Claytor Lake and New River upstream of Claytor Lake Dam</i>	<i>No walleye less than 20 inches</i>
<i>sauger</i>		<i>2 per day; No statewide length limits</i>		
<i>chain pickerel</i>		<i>5 per day; No statewide length limits</i>	<i>Gaston and Buggs Island (Kerr) reservoirs</i>	<i>No daily limit</i>
<i>northern pike</i>		<i>2 per day; No pike less than 20 inches</i>		
<i>muskellunge</i>		<i>2 per day; No muskellunge less than 30 inches</i>		
<i>bluegill (bream) and other sunfish excluding crappie, rock bass (redeye) and Roanoke bass</i>		<i>50 per day in the aggregate; No statewide length limits</i>	<i>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</i>	<i>No daily limit</i>
<i>crappie (black or white)</i>		<i>25 per day in the aggregate; No statewide length limits</i>	<i>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</i>	<i>No daily limit</i>
			<i>Flannagan and South Holston reservoirs</i>	<i>No crappie less than 10 inches</i>

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rock bass (redeye)		25 per day; No statewide length limits	Gaston and Buggs Island (Kerr) reservoirs and that portion of the New River from the VA - NC state line downstream to the confluence of the New and Little Rivers in Grayson County.	No daily limit
			Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with Roanoke bass; No rock bass less than 8 inches
Roanoke bass		No statewide daily limit; No statewide length limits	Nottoway and Meherrin rivers and their tributaries	5 per day in the aggregate with rock bass; No Roanoke bass less than 8 inches
trout	See Chapter 330. Fish: Trout Fishing.			
catfish	channel, blue, and flathead catfish	20 per day; No length limits	All rivers below the fall line	No daily limit
	yellow, brown, and black bullheads	No daily limit; No length limits		
American shad and hickory shad	in the James River above the fall line (14 th Street Bridge), in the Meherrin River above Emporia Dam, in the Chickahominy River above Walkers Dam, in the Appomattox River and Pamunkey River above the Rt. 360 bridge, and in the Rappahannock River above the Rt. 1 bridge	No possession: (catch and release only)		
	(below the fall line) in tidal waters	Creel and length limits shall be those set by the Virginia Marine Resources Commission		

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<p><i>anadromous (coastal) alewife and blueback herring</i></p>	<p><i>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. Rt. 1 bridge, and in the Rappahannock River above Embrey Dam</i></p>	<p><i>No possession: (catch and release only)</i></p>		
	<p><i>below the fall line</i></p>	<p><i>Creel and length limits shall be those set by the Virginia Marine Resources Commission</i></p>		
<p><i>other nongame fish</i></p>	<p><i>See Chapter 360. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish.</i></p>			

4 VAC 15-320-30. Size limit. (Repealed.)

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 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; or on the Clinch River within the boundaries of Scott, Wise, Russell or Tazewell counties; except on the James River (Botetourt County) from Route 220 bridge near Lick Run downstream to Route 614 bridge no bass 14 to 22 inches in length, both inclusive, may be in one's possession;

however, only one bass longer than 22 inches may be kept; and on South Fork Shenandoah River from the base of Shenandoah Dam (near Town of Shenandoah) downstream to Luray Dam (near Town of Luray) and on Shenandoah River from the base of Warren Dam (near Town of Front Royal) downstream to Route 17/50 bridge no bass 14 to 20 inches, both inclusive, may be in one's possession; however, only one bass longer than 20 inches may be kept.

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 304 Bridge. There shall be no size limit for largemouth, smallmouth or spotted bass from June 16 through the last day of February in these tributaries.

8. It shall be unlawful to have any rock bass (red-eye) 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 on Flanagan Reservoir.

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

11. It shall be unlawful to possess any largemouth, smallmouth, or spotted bass from 14 to 24 inches in length, both inclusive, on Briery Creek Lake (Prince Edward County). It shall be unlawful to keep more than one bass longer than 24 inches.

4 VAC 15-320-40. Sale of game fish, yellow perch and catfish.

Game fish and catfish raised in a privately owned facility by the holder of a Permit to Propagate and Sell Certain Wildlife or Permit to Hold and Sell Certain Wildlife may be sold as follows: (i) game fish for stocking private waters; (ii) game fish for stocking public waters only with approval from the department pursuant to 4 VAC 15-320-60; (iii) trout pursuant to 4 VAC 15-330-180 and 4 VAC 15-330-190; and (iv) yellow perch and catfish for stocking private waters, public waters pursuant to 4 VAC 15-330-60 4 VAC 15-320-60, or for human consumption. Catfish taken from tidewater may also be sold in accordance with Virginia Marine Resources Commission regulations.

4 VAC 15-320-50. Fish used as bait prohibited in certain waters.

It shall be unlawful to use any species of fish as bait in the waters and tributaries of Lick Creek in Smyth and Bland counties and, Bear Creek in Smyth County, and Laurel Creek in Tazewell and Bland counties.

VA.R. Doc. No. R03-7; Filed September 4, 2002, 11:12 a.m.

Title of Regulation: 4 VAC 15-330. Fish: Trout Fishing (amending 4 VAC 15-330-10, 4 VAC 15-330-100, 4 VAC 15-330-120, 4 VAC 15-330-160, and 4 VAC 15-330-190).

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

Public Hearing Date: October 24, 2002 - 9 a.m.
Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-30)

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

Summary:

The proposed amendments (i) close Trout Heritage Day waters to fishing on the Friday prior to the first Saturday in April, with trout fishing reopening at 9 a.m. on the first Saturday in April; (ii) clarify that "artificial lure" does not include artificially produced organic baits intended to be ingested by fish, and "artificial lures with single hook" means any single point lure; (iii) remove Sinking Creek from the list of special regulation trout waters on which the minimum size for trout that may be taken is 16 inches and the creel limit is two trout per day; (iv) remove the reference to single hook to be consistent with the artificial lure guidance for all other designated stocked trout waters in 4 VAC 15-330-60; (v) add a 2.6-mile section of the Hardware River (in the Hardware Wildlife Management Area, Fluvanna County), a 1.2-mile section of Holmes Run (Fairfax County), and a 2.2-mile section of Roanoke River (City of Salem) to delayed harvest trout waters in which trout may be creeled from June 1 through September 30, but are "catch and release" from October 1 through May 31; and (vi) include the James River and New River as waters where commercially raised rainbow trout can be sold and used as bait.

4 VAC 15-330-10. Season; general open season.

Except as otherwise specifically provided in the sections appearing in this chapter, there shall be a year-round season for taking trout. However, angling in designated stocked trout waters shall only be permitted from 5 a.m. until one hour after sunset, except for waters designated by the director as Trout Heritage Waters and listed in the annual trout stocking plan (as referenced in 4 VAC 15-20-190). Trout Heritage Waters will be closed to fishing on the Friday prior to the first Saturday in April and will reopen to fishing at 9 a.m. on the first Saturday in April.

4 VAC 15-330-100. "Artificial lure with single hook" defined.

For the purposes of this chapter "artificial lure with single hook" shall mean any single point hook lure (with no multiple point hooks) and shall include manufactured or handmade flies, spinners, plugs, spoons and facsimiles of live animals, but shall not be construed to include artificial artificially produced organic baits and fish eggs that are intended to be

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ingested. Artificial lures with single hook shall mean any single point lure (with no multiple point hooks).

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 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 downstream to the State Route 666 (Trent Hill Road) bridge, 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 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 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.~~

~~C. B.~~ 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 15-330-160. Special provisions applicable to certain portions of Accotink Creek, Back Creek, Chestnut Creek, Hardware River, Holliday Creek, Holmes Run, North River, Passage Creek, Pedlar River, North Fork of Pound and Pound rivers, Roanoke River, 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 Chestnut Creek (Carroll County) from the State Route 793 bridge downstream 2.3 miles to the confluence with New River, *in the*

Hardware River (Fluvanna County) from the Route 646 bridge upstream 2.6 miles to Muleshoe Bend as posted, 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 Holmes Run (Fairfax County) from the Lake Barcroft Dam downstream 1.2 miles to a sign posted at the Alexandria City line, 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, in the Roanoke River (Roanoke County) from the Route 760 bridge (Diuguids Lane) upstream 1.0 miles to a sign posted at the upper end of Green Hill Park (Roanoke County), in the Roanoke River (City of Salem) from the Route 419 bridge upstream 2.2 miles to the Colorado Street bridge, 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.

4 VAC 15-330-190. Trout artificially raised for sale.

A. Permit required. It shall be lawful to sell artificially raised brown trout, brook trout or rainbow trout. Commercial aquaculture operations in Virginia that artificially raise and sell brown, brook, and rainbow trout must obtain a permit from the department.

B. Records. Any person who shall artificially raise brown trout, brook trout or rainbow trout for sale shall keep a record of the number and species, the number raised or, if imported, from whom purchased.

C. Inspection of premises or establishments. Any establishment raising trout or ordering, importing or possessing trout, as provided for in subsection A of this section, shall be open to inspection at all reasonable hours to any representative of the department.

D. Trout as bait. Artificially raised rainbow trout may be sold as bait for use *in the James River and the New River, and in* impoundments (ponds, lakes, and reservoirs), except impoundments listed as designated stocked trout waters, Lake Moomaw, and Philpott Reservoir. Persons possessing purchased rainbow trout for bait must have a valid invoice or bill of sale, specifying date of purchase, the number of trout purchased, and name of an individual or business permitted to sell trout.

VA.R. Doc. No. R03-8; Filed September 4, 2002, 11:13 a.m.

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

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

Public Hearing Date: October 24, 2002 - 9 a.m.
Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-30)

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

Summary:

The proposed amendment adds Laurel Creek in Tazewell and Bland counties to the list of waters in which the use of seines, nets and traps for the taking of fish is prohibited.

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 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, and Laurel Creek in Tazewell and Bland Counties, 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. R03-9; Filed September 4, 2002, 11:13 a.m.

Title of Regulation: 4 VAC 15-350. Fish: Gigs, Grab Hooks, Trotlines, Snares, etc. (amending 4 VAC 15-350-30).

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

Public Hearing Date: October 24, 2002 - 9 a.m.
Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-30)

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

Summary:

The proposed amendment removes the North Fork Holston River from the list of waters where nongame fish may be taken by snagging, grabbing, snaring, gigging and with a striking iron.

4 VAC 15-350-30. Gigs, grab hooks, etc.; certain counties west of the Blue Ridge Mountains.

Except as otherwise provided by local legislation, it shall be lawful to take nongame fish in the daytime by snagging, grabbing, snaring, gigging, and with a striking iron from April 1 through May 15, both dates inclusive, and October 1 through November 30, both dates inclusive, in the following waters: Buchanan County, all waters except Dismal River; Grayson County, New River; Lee County, ~~Powells~~ Powell River; Russell County, Clinch River; Scott County, Clinch River and Holston River and their its tributaries; Tazewell County, Dry Run Creek; Washington County, ~~three~~ Middle and South Forks of the Holston River; Wise County, Clinch River. The bag limit for taking suckers or red horse provided for in this section shall be 20 a per day.

VA.R. Doc. No. R03-11; Filed September 4, 2002, 11:14 a.m.

Title of Regulation: 4 VAC 15-360. 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.

Public Hearing Date: October 24, 2002 - 9 a.m.
Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-30)

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

Summary:

The proposed amendment adds the snail bullhead (Ameiurus brunneus) to the list of species that may be taken in unlimited numbers in the waters of the Commonwealth.

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, yellow bullhead, brown bullhead, black bullhead, flat bullhead, snail bullhead, white sucker, northern hogsucker, gizzard shad, threadfin shad, blueback herring, white perch, yellow perch, alewife, stoneroller (hornyhead), fathead minnow, golden shiner, and goldfish.

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* * * * *

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, and 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, 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 (*Lo fluvialis*) 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. R03-12; Filed September 4, 2002, 11:14 a.m.

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to § 29.1-701 E of the Code of Virginia, which provides that proposal and adoption of regulations implementing Chapter 7 of Title 29.1 shall take place as described in Article 1 (§ 29.1-500 et seq.) of Chapter 5 of Title 29.1 of the Code of Virginia. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final regulations.

NOTICE TO THE PUBLIC: The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501, 29.1-502, and 29.1-701 of the Code of Virginia, the following proposed new regulations or regulation amendments. A public comment period on the proposed regulations opened August 22, 2002, and remains open until October 24, 2002. 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 VAC number, regulation title and the regulatory action desired; and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and need to be received no later than October 17, 2002, 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 24, 2002, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulations, or any parts thereof, is 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 24 meeting. The regulations or regulations amendments adopted may be either more liberal or more restrictive than that proposed and being advertised under this notice.

Title of Regulation: **4 VAC 15-370. Watercraft: In General (amending 4 VAC 15-370-50; adding 4 VAC 15-370-51, 4 VAC 15-370-70, and 4 VAC 15-370-80; repealing 4 VAC 15-370-10 and 4 VAC 15-370-30).**

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, 29.1-735, and 29.1-744 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding this regulation)

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

Summary:

The amendments establish rules and procedures for authorizing or canceling waterway regulatory markers, set standards for the appearance and construction of the markers, require watercraft operators to obey the markers, and prohibit activities and actions that may damage or alter approved markers.

Three new sections are added to the regulation to: (i) require those authorized to place markers to maintain the visibility and readability of the marker or remove them and also authorizes the department to remove them or require they be removed at the owner's expense; (ii) authorize the department to issue hull identification numbers and motor serial numbers or their replacements, and make it unlawful to destroy or alter those numbers unless authorized in writing; and (iii) define the penalty for a violation of the regulation. In future regulatory action, the department will adopt new watercraft safety equipment and operating requirements and is currently repealing the section that adopted federal regulations and laws related to those issues. The department is repealing the section requiring at least one white light for motorboats anchored or drifting.

4 VAC 15-370-10. Adoption of federal regulations and statutes concerning boating safety equipment and lights to apply to vessels in Virginia. (Repealed.)

A. The following federal rules and regulations are hereby adopted by the board as its regulations. These rules and regulations shall apply by their own terms to all vessels within the Commonwealth. As used in 33 CFR 175.3, the word "engaged" shall mean "hired for use."

1. 33 USC §§ 2001, 2002, 2003, 2020 through 2030 (1986 and supplement 1996).
2. 33 CFR 175 (1995).
3. 46 CFR, Subparts 25.25, 25.30, 25.35, 25.40-1 (1995).

B. These regulations are adopted under the authority of § 29.1-735 of the Code of Virginia.

4 VAC 15-370-30. Light exhibited by certain occupied motorboats. (Repealed.)

Occupied motorboats drifting or at anchor between sunset and sunrise shall exhibit at least one white light that can be seen all around the horizon for a distance of at least one mile. This provision shall not be applicable in areas where boats are regularly moored or in sheltered coves not normally used by motorboats under power for through passage.

4 VAC 15-370-50. Regulatory markers and aids to navigation.

A. Under the provisions of Chapter 7 of Title 29.1 of the Code of Virginia a system of regulatory markers and a lateral buoyage marking system of aids to navigation are hereby adopted on all public waters of the Commonwealth not marked by an agency of the United States. Regulatory markers will be a combination of white with international orange and white, bands. A vertical open-faced diamond shape with a white center denoting shall denote danger. A vertical open-faced diamond shape with an inside cross

denoting shall denote a prohibition of all vessels. A circle circular shape with a white center denoting shall denote a control or restriction, and. A rectangular shape denoting shall denote information other than a danger, control or restriction. Explanatory words may be added to all regulatory markers and the operation of all vessels shall be governed by any such regulatory marker authorized by the department. No regulatory marker, aid to navigation or other waterway marker affecting the safety, health or well-being of a boat operator, excepting those placed by an agency of the United States or a political subdivision of this Commonwealth as authorized in § 29.1-744 D of the Code of Virginia, shall be placed in, on or near the water unless authorized by the department and such authorized regulatory markers and aids to navigation shall be designed, placed and maintained according to rules prescribed by the board.

B. When buoys are used as regulatory markers, they shall be white with horizontal bands of international orange, having a minimum width of three inches, placed completely around the buoy circumference. One band shall be at the top of the buoy, with a second band placed just above the waterline so that both bands are clearly visible to approaching watercraft. The area of the buoy body visible between the two bands shall be white and not less than 12 inches in height. No buoy shall be less than 24 inches in overall height from the waterline.

C. Where a regulatory marker consists of a sign displayed from a marine structure, post or piling, the sign shall be white, with an international orange border having a minimum width of three inches. The geometric shape associated with the meaning of the marker shall be centered on the signboard.

D. The size of the display area shall be as required by circumstances, except that no display area shall be smaller than one foot in height. The outside width of the diamond, the inner diameter of the circle, and the average of the inside and outside widths of a square shall be two-thirds of the display area. The side of the diamond shall slope at a 35° angle from the vertical on the plane surface. Approximate adjustments for curvature may be made when applied to a cylindrical surface.

E. Explanatory words may be added outside the diamond with a center cross, the open diamond and the no wake circle on fixed markers only, and shall be added to the inside of the circle, square and rectangle. The letters of such words shall be black, in block characters of good proportion, spaced in a manner that will provide maximum legibility, and of a size that will provide the necessary degree of visibility. Applicable words include, but are not limited to:

1. Open faced diamond: rock, snag, cable, dam, dredge, shoal, reef, wreck.
2. Diamond with cross: dam, swim area, rapids, no boats .
3. Circle: no skiing, no wake, no anchoring, no fishing, no scuba, no boats, ski only, fishing only, for wording inside the circle; and entering no wake zone, leaving no wake zone, for wording outside the circle.
4. Square or rectangle: information other than a danger, control or restriction, which may contribute to health, safety, or well-being of boaters, such as place names, arrows

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indicating availability of gas, oil, groceries, marine repairs, limits of controlled areas, or approaching controlled area.

F. Waterway markers shall be made of materials that will retain the characteristics essential to their basic significance, such as color, shape, legibility and position, despite weather or other exposures.

G. Regulatory markers shall be placed where they are reasonably visible from boats approaching the marker and the visibility of the marker shall be maintained.

H. Written approval of the department must be obtained before relocation of any marker.

I. The person responsible for the marker shall immediately notify the department when any approved marker is removed or destroyed. Such marker shall be replaced without unnecessary delay.

J. After notification to the person responsible for the marker, the department may cancel for reasonable cause any marker authorization. Such marker shall be removed by the person responsible for the marker without unnecessary delay. Should the marker not be removed within a reasonable amount of time, the department may remove the marker or have it removed at the expense of the person responsible for the marker.

K. The political subdivision or agency making application shall certify that the markers to be installed conform to the above provisions.

L. It shall be unlawful to enter, use, or occupy public waters for a purpose contrary to the use indicated on markers authorized by the department, or placed by an agency of the United States or a political subdivision of this Commonwealth.

M. It shall be unlawful to moor or attach a vessel to a marker other than an approved mooring buoy, or move, remove, displace, tamper with, damage or destroy a marker authorized by the department, placed by an agency of the United States or placed by a political subdivision of this Commonwealth.

4 VAC 15-370-51. Regulatory markers and aids to navigation maintenance.

The person responsible for a regulatory marker or aid to navigation shall maintain such marker or aid to ensure visibility, readability and proper placement of the marker or aid to navigation. The department may remove, have removed or require removal of any marker not maintained or repaired. All costs of removal shall be borne by the person responsible for the marker.

4 VAC 15-370-70. Watercraft and motor identification numbers.

A. If a watercraft contains a permanent hull identification number placed on it by the manufacturer, the manufacturer's number must be used as the hull identification number. If there is no manufacturer's hull identification number on a watercraft manufactured after November 1, 1972, if the number has been removed or obliterated, or if the watercraft is homemade, the department, upon proper application, may assign a permanent identification number, which must be used as the hull identification number. This assigned number

must be affixed permanently to or imprinted upon the watercraft at the place and manner designated by the department.

B. If a motor for a watercraft contains a permanent serial number placed on it by the manufacturer, the manufacturer's number must be used as the motor serial number. If there is no manufacturer's serial number, if the number has been removed or obliterated, or if the motor is homemade, the department, upon proper application, may assign a permanent identification number, which must be used as the motor serial number. This assigned number must be affixed permanently to or imprinted upon the motor at the place and manner designated by the department.

C. It shall be unlawful to destroy, remove, alter, cover, conceal, deface or otherwise obscure the hull identification number, the motor serial number or an identification number issued by the department, any part of it or the plate bearing it, with intent to render it or other property unidentifiable unless authorized in writing by the department and the U.S. Coast Guard.

D. It shall be unlawful to possess a watercraft manufactured on or after November 1, 1972, or a watercraft motor that has the hull identification number, the motor serial number or an identification number issued by the department destroyed, removed, altered, covered, concealed, defaced, or otherwise obscured. Any such watercraft or watercraft motor shall be subject to seizure by any law-enforcement officer and held as evidence.

4 VAC 15-370-80. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-13; Filed September 4, 2002, 11:14 a.m.

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Title of Regulation: 4 VAC 15-380. Watercraft: Motorboat Numbering (amending 4 VAC 15-380-30, 4 VAC 15-380-40, 4 VAC 15-380-50, and 4 VAC 15-380-70; adding 4 VAC 15-380-80 through 4 VAC 15-380-130; repealing 4 VAC 15-380-10, 4 VAC 15-380-20, and 4 VAC 15-380-60).

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia and Item 392 of the 2002 Appropriation Act.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The amendments:

1. Eliminate specific requirements for what information must be on an application for a certificate of number and title;
2. Provide a better numbering example in the regulation section that specifies the format of the registration numbers that must be affixed to watercraft;
3. Authorize the use of a backing plate for the display of numbers when the hull is made of materials such as rubber or vinyl that will not hold a painted or decal number;
4. Remove a requirement that notifications of a change in status of a registered or titled vessel or owner must be made on a form provided by the department: notification in writing, including electronic media and facsimile, will be acceptable;
5. Eliminate the requirement for application for a duplicate certificate of number to be on a form provided by the department, the fee for the duplicate, and a restriction that not more than one certificate of number may be in existence at any one time: the fee for duplicate certificates will be established in 4 VAC 15-380-120;
6. Authorize the department to cancel and recall watercraft titles when necessary, and require the owners to surrender recalled titles upon demand;
7. Establish that the effective date of cancellations of registrations or titles is the day the request was processed or up to 15 days prior to that day provided sufficient evidence is provided that the owner lost interest in the watercraft within those 15 days;
8. Authorize game wardens to inspect watercraft for which an application for certificate of registration or title has been received by the department;
9. Clarify that the reduced registration rates when an owner registers 10 or more watercraft apply only when 10 watercraft are actively registered;
10. Clarify that lifeboats exempted from registration requirements differ from tenders in that they are used exclusively as lifesaving devices during times of emergency;
11. Establish fees for certificates of registration; and
12. Define the penalty for violation of this regulation.

4 VAC 15-380-10. Application for certificate of number. (Repealed.)

~~An application or renewal application for a certificate of number for a motorboat, as required by Chapter 7 (§ 29.1-700 et seq.) of Title 29.1 of the Code of Virginia, shall contain the following information: The name and address of owner, the county or city where such boat is principally used, normally garaged, docked, or parked, present number on boat (if any), hull material (wood, fiberglass, metal, inflatable, other), type of propulsion (outboard, inboard and inboard/outboard, auxiliary sail outboard, inboard), type of fuel (gas, diesel, electric), make and year built (if known), length overall, statement as to use (pleasure, livery, dealer, manufacturer, commercial passenger, commercial fishing, commercial other), a statement by applicant of current military status, a statement of ownership by applicant and signature of owner.~~

4 VAC 15-380-20. Information shown on certificate. (Repealed.)

~~The certificate of number for a motorboat shall show the following: the name and address of owner, number issued, make, hull material, type of propulsion, length overall, use, and expiration date.~~

4 VAC 15-380-30. Numbering pattern.

The motorboat number assigned shall consist of the symbol "VA" identifying the Commonwealth followed by not more than four arabic numerals and two capital letters, in sequence, separated by a hyphen or equivalent space in accordance with the serial numerically and alphabetically; e.g., "~~VA-1-A~~" "~~VA 1234 BB~~" or "~~VA-1234-BB~~." Since the letters "I," "O" and "Q" may be mistaken for arabic numbers, all letter sequences using "I," "O" and "Q" shall be omitted.

4 VAC 15-380-40. Display of numbers.

The numbers assigned for a motorboat shall be painted on or attached to each side of the forward half of the vessel to which issued in such a position as to provide clear legibility for identification; provided, that on vessels so configured that a number on the hull or superstructure would not be easily visible *or the numbers would not remain securely attached*, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel. The numbers shall read from left to right and shall be in block characters of good proportion not less than three inches in height. The numbers shall be a color which will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark numbers on a light background or light numbers on a dark background.

4 VAC 15-380-50. Report of transfer of ownership change of status of motorboat; notification of theft or recovery of vessel, or loss or destruction of certificate; and notification of change in military status watercraft or owner.

Whenever a motorboat for which there exists a certificate of number changes ownership, the seller shall report such transfer to the department ~~on a form provided within 15 days in writing and in a format approved by the department.~~ The holder of a certificate of number shall notify the department within 15 days of the theft or recovery of a vessel, the loss or destruction of a valid certificate of number, or when there has been a change in military status.

4 VAC 15-380-60. Application for duplicate certificate of number. (Repealed.)

~~In the event of loss, a duplicate certificate of number may be applied for on a form to be provided by the department, accompanied by a fee of \$50. Not more than one certificate for a motorboat number may be in existence at any time.~~

4 VAC 15-380-70. When certificate invalid; removal of numbers and surrender of certificate of number and certificate of title.

A. Certificate of number shall be invalid:

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1. When the ~~vessel~~ watercraft is documented, or required to be documented;
2. Sixty days after the ~~vessel~~ watercraft is no longer principally used in the Commonwealth ~~by when the certificate was issued~~;
3. The owner loses his interest in the vessel through legal process; or
4. The certificate of number is cancelled and recalled by the department pursuant to § 29.1-702 A D of the Code of Virginia.

When a certificate of number becomes invalid for any reason the person whose name appears on the certificate as owner shall remove the numbers from the vessel, and, within 15 days, surrender the invalid certificate to the department.

B. Certificate of title shall be invalid when:

1. A duplicate title is issued;
2. A new title is issued;
3. The watercraft is documented or required to be documented;
4. The watercraft is registered or titled in another state or country;
5. The title is altered to the point of significant information on the title being unreadable;
6. It appears proper payment has not been made for the certificate of title; or
7. The department ascertains the title has been issued improperly or erroneously.

When a certificate of title becomes invalid for any reason, the department is authorized to cancel and recall the certificate. If recalled by the department, the person whose name appears on the certificate as owner shall within 15 days surrender the invalid certificate to the department. Upon demand of any officer whose duty it is to enforce the game and inland fish laws, the person whose name appears on the certificate as owner shall present any recalled certificate immediately to the officer.

4 VAC 15-380-80. Effective date of cancellation.

The effective date of cancellation of a certificate of number or certificate of title shall be the date the cancellation request was processed by the department, or up to 15 days prior to the receipt of the cancellation request, provided the owner furnishes evidence satisfactory to the department that the certificate of number or certificate of title became invalid pursuant to 4 VAC 15-380-70 within those 15 days.

4 VAC 15-380-90. Inspection of watercraft.

Any officer whose duty it is to enforce the game and inland fish laws may, when requested by the department, inspect watercraft for which an application for certificate of number or certificate of title has been received by the department.

4 VAC 15-380-100. Fees for more than 10 watercraft registrations.

The uniform registration rate for the first 10 and reduced rate for each additional watercraft as authorized in § 29.1-702 of the Code of Virginia for an individual owner apply only when the owner maintains a minimum of 10 watercraft with active registrations.

4 VAC 15-380-110. Lifeboats defined.

The term "lifeboat" as used in § 29.1-710 shall mean a boat used exclusively as a lifesaving device during times of emergency.

4 VAC 15-380-120. Certificate of registration fees.

The following fees shall be paid by applicants for certificates of registration:

For a motorboat under 16 feet	\$27
For a motorboat 16 feet to less than 20 feet	\$31
For a motorboat 20 feet to less than 40 feet	\$37
For a motorboat 40 feet and over	\$45
For first 10 actively registered motorboats by the same owner	\$27
For more than 10 actively registered motorboats by the same owner	\$21
For a duplicate certificate of registration and/or decal	\$9

4 VAC 15-380-130. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-14; Filed September 4, 2002, 11:15 a.m.

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Title of Regulation: **4 VAC 15-390. Watercraft: Safe and Reasonable Operation of Vessels (amending 4 VAC 15-390-10, 4 VAC 15-390-20, 4 VAC 15-390-30, 4 VAC 15-390-50, 4 VAC 15-390-70, 4 VAC 15-390-90, 4 VAC 15-390-100, 4 VAC 15-390-110, and 4 VAC 15-390-130; adding 4 VAC 15-390-11, 4 VAC 15-390-140, 4 VAC 15-390-150, and 4 VAC 15-390-160).**

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The proposed amendments (i) apply boating safety operation requirements currently applied to public waters to the private waters, and consolidate the "operation in narrow channels" portion of this regulation; (ii) establish uniform definitions for words and terms used in this chapter and define the terms "right" and "left" as substitutes for the terms "starboard" and "port"; (iii) direct motorboat operators approaching another vessel head-on to alter course to the right so the boats pass on the left side of each vessel unless sufficient separation exists that the boats may safely pass on the right side of each vessel; (iv) provide direction to motorboat operators approaching another vessel in a crossing situation; (v) conform the regulation dealing with right-of-way of various vessels to Inland Navigation Rules 12 and 18 of the U.S. Coast Guard; (vi) require the operators of all vessels to maintain a proper lookout by sight, sound and all other available means; (vii) require (a) watercraft operators to maintain a safe speed when their vision is obscured, (b) the avoidance of certain course alterations when another vessel is detected by radar alone, and (c) safe speed operation when a fog signal is heard; (viii) direct watercraft operators when navigating in narrow channels to keep to the right to the extent practicable, and if in the channel, to not interfere with larger vessels that can safely navigate only in the channel; (ix) authorize the operator of the stand-on vessel to take actions necessary to avoid immediate danger of a collision without relieving the operator of the give-way vessel of his obligations to keep out of the way of the stand-on vessel; (x) provide the meanings of standard horn and whistle signals for communications between vessels and require use of only these standard horn and whistle signals should the vessel operators choose this method of communication; (xi) clarify in regulation the reckless operation associated with allowing passengers to ride or sit on the gunwales, bow, or transom of a watercraft while it is under power; (xii) make it unlawful to operate a watercraft in excess of a speed that would allow the operator to take proper and effective action to avoid a collision or stop as needed; and (xiii) clearly define the penalty for violation of any provision of this chapter.

4 VAC 15-390-10. Applicability; ~~operation in narrow channels.~~

The following sections in this chapter apply to the operation of ~~"motorboats" and other "vessels" under way as defined in § 29.1-700 of the Code of Virginia on "all waters of within the Commonwealth," as defined in § 29.1-700 of the Code of Virginia; provided that notwithstanding the provisions of any other section of this chapter, motorboats under 65 feet in length operating in narrow channels shall not interfere with the passage of large, deep draft vessels which can safely navigate only inside such channels both public and private. Vessels complying with the international rules of navigation as established by the U.S. Coast Guard are considered to be in compliance with the requirements of this chapter.~~

4 VAC 15-390-11. Definitions.

For the purpose of this chapter, except where the context otherwise requires, the following words and terms mean:

"Inland waters" means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States on the United States side of the International Boundary.

"Left" means port, or the left side of the vessel when facing the bow (the forward part of the vessel) from within the vessel.

"Length" and "breadth" of a vessel mean her length overall and greatest breadth.

"Power-driven vessel" means any vessel propelled by machinery.

"Restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

"Right" means starboard, or the right side of the vessel when facing the bow (the forward part of the vessel) from within the vessel.

"Sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

"Seaplane" includes any aircraft designed to maneuver on the water.

"Secretary" means the secretary of the department in which the U.S. Coast Guard is operating.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include surfboards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids.

"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus that restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus that does not restrict maneuverability.

"Vessel not under command" means a vessel that through some exceptional circumstance is unable to maneuver as required and is therefore unable to keep out of the way of another vessel.

"Vessel restricted in its ability to maneuver" means a vessel that from the nature of its work is restricted in its ability to maneuver as required and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

1. A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;
2. A vessel engaged in dredging, surveying, or underwater operations;
3. A vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;
4. A vessel engaged in the launching or recovery of aircraft;

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5. A vessel engaged in mineclearance operations; and

6. A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

"Vessels in sight of one another" shall be deemed so only when one can be observed visually from the other.

4 VAC 15-390-20. Motorboats approaching head and head.

When motorboats are approaching each other head and head, that is, end on, or nearly so, it shall be the duty of each operator to maneuver to ~~starboard~~ the right and pass on the ~~port~~ left side of the other motorboat. This does not apply if the courses of such motorboats are so far on the ~~starboard~~ right side of each other that they may pass ~~starboard~~ right side to ~~starboard~~ right side without risk of collision. When the operator of any motorboat is in any doubt as to whether a head-on situation exists, the assumption shall be made that it does exist and the operator shall take all actions necessary to avoid a collision with the approaching motorboat.

4 VAC 15-390-30. Motorboats crossing.

When two motorboats are crossing, so as to involve risk of collision, the operator of the motorboat which has the other on ~~her own starboard~~ the right side shall keep out of the way of the other, and shall if the circumstances of the situation admit, avoid crossing ahead of the other vessel. When the operator of any motorboat is in any doubt as to whether a crossing situation exists, the assumption shall be made that it does exist and the operator shall act accordingly.

4 VAC 15-390-50. Right of way of ~~sailing vessels~~; exceptions.

~~Sailing vessels have the right of way over motorboats. Motorboats shall keep out of their way, except when a sailing vessel is an overtaking vessel as described in 4 VAC 15-390-40 B of this chapter, in which case the overtaken vessel shall have the right of way; provided that in narrow channels sailing vessels shall not have the right to interfere with the passage of large, deep-draft, less maneuverable vessels which can safely navigate only inside such channels.~~

A. The operator of a motorboat underway shall keep his vessel out of the way of:

1. A vessel not under command;
2. A vessel restricted in its ability to maneuver;
3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability; and
4. A sailing vessel.

B. The operator of a sailing vessel underway shall keep his vessel out of the way of:

1. A vessel not under command;
2. A vessel restricted in its ability to maneuver; and
3. A vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability.

C. The operator of a vessel engaged in fishing with nets or other commercial fishing apparatus that restricts maneuverability when underway shall, so far as possible, keep his vessel out of the way of:

1. A vessel not under command; and
2. A vessel restricted in its ability to maneuver.

D. The pilot of a seaplane on the water shall, in general, keep his seaplane well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, he shall comply with the right of way provisions above.

E. When two sailing vessels are approaching one another, so as to involve risk of collision, the operator of one of them shall keep out of the way of the other as follows:

1. When each has the wind on a different side, the vessel that has the wind on the left side shall keep out of the way of the other;
2. When both have the wind on the same side, the vessel that is to windward (upwind) shall keep out of the way of the vessel that is to leeward (downwind); and
3. If a vessel with the wind on the left side sees a vessel to windward (upwind) and cannot determine with certainty whether the other vessel has the wind on the left or on the right side, it shall keep out of the way of the other.

For the purpose of this section, the windward (upwind) side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

4 VAC 15-390-70. Duty of vessel required to keep out of way; duty of other vessel.

~~Every vessel which is directed by this chapter to keep out of the way of another vessel shall, if circumstances of the case permit, avoid crossing ahead of the other vessel and shall, if necessary, slacken speed, or stop, or reverse, in addition to altering course as necessary to avoid the other vessel; and the other vessel, if circumstances of the case permit, shall not alter course or speed until no further danger of collision exists.~~

A. The operator of every vessel shall at all times maintain a proper look-out by sight and sound as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision. If there is any doubt, such risk shall be deemed to exist.

B. Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship. Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar. A succession of small alterations of course or speed should be avoided. If necessary to avoid collision or allow more time to assess the situation, the operator shall slacken speed or stop. The effectiveness of all actions taken to avoid a collision shall be carefully checked until the other vessel is finally past and clear.

C. The operator of a vessel that is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient room for the safe passage of the other vessel.

4 VAC 15-390-90. Duty where ~~motorboat~~ operator's vision obscured.

A. Where a ~~motorboat~~ an operator's vision is obscured by bridges or other obstructions ahead, or by sharp bends in a narrow waterway, or by fog or other weather conditions, the ~~motorboat~~ vessel shall be operated at reduced speed such that the vessel can be stopped, if necessary, within the distance the operator or a lookout is able to see ahead.

B. When the operator detects by radar alone the presence of another vessel, he shall determine if a close-quarters situation is developing or risk of collision exists. If so, he shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

1. An alteration of course to the left for a vessel forward of the other vessel, other than for a vessel being overtaken; and
2. An alteration of course directly or nearly so toward the other vessel.

C. Except where it has been determined that a risk of collision does not exist, the operator of every vessel who hears apparently forward of his position the fog signal of another vessel, or who cannot avoid a close-quarters situation with another vessel forward of its position, shall reduce his speed to the minimum at which the vessel can be kept on course. He shall if necessary stop and, in any event, navigate with extreme caution until danger of collision is over.

4 VAC 15-390-100. Operation of ~~motorboat~~ in narrow channel.

In narrow channels the operator of every ~~motorboat~~ vessel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the ~~starboard~~ right side of such vessel. Notwithstanding the provisions of any other section of this chapter, the operator of a vessel under 65.6 feet in length underway, fishing or at anchor in narrow channels shall not interfere with the passage of large, deep-draft vessels that can safely navigate only inside such channels.

4 VAC 15-390-110. Departure from regulations to avoid immediate danger.

In obeying and construing this chapter due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from this chapter necessary in order to avoid immediate danger. When, from any cause, the vessel required to keep its course and speed finds itself so close that collision cannot be avoided by the action of the give-way vessel alone, the operator shall take such action as will best aid to avoid collision. This action does not relieve the give-way vessel of its obligation to keep out of the way. The "give-way" vessel is that vessel required to take early and substantial action to keep well away from other vessels by stopping, slowing or changing course.

4 VAC 15-390-130. Standard whistle and horn signals.

~~A. Signals upon meeting, crossing or overtaking.~~ Whenever ~~motorboats~~ vessels are approaching in a meeting, crossing, or overtaking situation, and it appears desirable to the operator of one of the vessels to communicate his intentions to the operator of the other, the following standard whistle or horn signals will be used, and none other:

1. One short blast; meaning: "I am altering my course to ~~starboard the right~~"; except that in a crossing situation when this signal is initiated by the vessel to ~~starboard the right~~ of the other it means, "I am holding my course and speed."
2. Two short blasts; meaning: "I am altering my course to ~~port the left~~."
3. Three short blasts; meaning: "I am stopping, or backing, by applying power astern."
4. Five or more short blasts in rapid succession; meaning: "DANGER"; or "I do not understand your intentions"; or "I do not concur in the maneuver indicated by your signal."

~~B. Answering signals.~~ Whenever a ~~Class 1, 2, or 3~~ motorboat less than 65.6 feet long receives one of the above signals from an approaching vessel, and if the operator understands the signal and concurs in the maneuver, he will answer with a similar signal. Whenever the intention of the approaching vessel is unclear, or if the proposed maneuver appears to involve risk of collision or other danger, the operator of the motorboat receiving the signal will answer with five or more short blasts in rapid succession, whereupon the operators of both vessels will slow, stop, or change course as necessary to avoid collision.

~~C. Signals in or near an area of restricted visibility or when the operator's vision is obscured by fog or other weather conditions shall be one prolonged blast of intervals of not more than two minutes for motorboats, and one prolonged plus two short blasts of intervals of not more than two minutes by sailboats under sail alone.~~

~~D. A vessel of 39.4 feet (12 meters) or more in length shall be provided with a whistle and a bell that meets U.S. Coast Guard requirements. The bell may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible. A motorboat of less than 39.4 feet (12 meters) shall not be obligated to carry a whistle or bell as required above, but the operator shall have a whistle or other device intended to make audible signals capable of being heard 0.5 mile.~~

~~C. Motorboats not required to have sound-producing devices.~~

~~Motorboats~~ E. The operators of vessels not required to have sound-producing devices on board are not required to give or answer horn to whistle signals, but if they have sound-producing devices on board and elect to give or answer signals, the standard signals prescribed in the foregoing rules above shall be used, and none other.

4 VAC 15-390-140. Riding on decks and gunwales.

It shall be unlawful for the operator of a motorboat to allow any person to ride or sit on the bow, gunwales, transom, or on the

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decking over the bow of the vessel while under power unless such motorboat is provided with adequate guards or railing to prevent passengers from falls overboard. Nothing in this section shall be construed to mean that passengers or other persons aboard a watercraft cannot occupy these areas of the vessel to moor or anchor the watercraft, to cast off, or for any other necessary purpose. Any person who violates any provision of this section shall be guilty of a Class 1 misdemeanor as provided by § 29.1-738 of the Code of Virginia.

4 VAC 15-390-150. Safe speed.

It shall be unlawful to operate a watercraft in excess of a safe speed. A safe speed is a speed less than the maximum at which the operator can take proper and effective action to avoid collision and stop within a distance appropriate to the prevailing circumstances and conditions. In establishing a safe operating speed, operators shall take into account the state of visibility, traffic density, maneuverability of the vessel with special reference to stopping distance and turning ability, the presence of background light at night, the proximity of navigational hazards, the draft of the vessel, the limitations of radar equipment, and the state of wind, sea, and current. Any person who violates any provision of this section shall be guilty of a Class 1 misdemeanor as provided by §§ 29.1-738 and 29.1-738.03 of the Code of Virginia.

4 VAC 15-390-160. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-15; Filed September 4, 2002, 11:15 a.m.

* * * * *

Title of Regulation: 4 VAC 15-400. Watercraft: Accident and Casualty Reporting (amending 4 VAC 15-400-20 and 4 VAC 15-400-30; adding 4 VAC 15-400-50).

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The proposed amendments (i) require immediate notification of a game warden or the Richmond Headquarters of the Department of Game and Inland Fisheries of all reportable accidents; (ii) conform the regulation to the dollar loss threshold as established by the United States Coast Guard for reportable boating accidents; and (iii) clearly define the penalty for violation of any provision of this chapter.

4 VAC 15-400-20. Immediate notification of ~~occurrence involving loss of life or disappearance~~ reportable accident.

~~When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel an accident occurs that requires a written report in accordance with 4 VAC 15-400-30, the operator shall, without delay, by the quickest means available, notify the department in Richmond, Virginia, or the most immediately available member of the department's law-enforcement (game warden) force, of:~~

1. The date, time, and exact location of the occurrence;
2. The *major details of the accident including the name of each person who died or disappeared;*
3. The number and name of the vessel; and
4. The names and addresses of the owner and operator.

When the operator of a vessel cannot give the notice required by the foregoing, each person, on board the vessel shall notify the department or a member of its law-enforcement force, or determine that the notice has been given.

4 VAC 15-400-30. Written casualty or accident reports required; time for making.

A. In addition to the notification required by 4 VAC 15-400-20 of this chapter, the operator of a vessel shall submit a written casualty or accident report to the department when, as a result of an occurrence that involves the vessel or its equipment:

1. A person dies;
2. A person is unable to perform normal or usual activities;
3. Damage to the vessel and other property damage totals more than ~~\$500~~ \$2,000 or complete loss of the vessel; or
4. A person disappears from the vessel under circumstances that indicate probable death or injury.

B. A written report required by this section must be made:

1. Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;
2. Within 48 hours of the occurrence if a person is unable to perform normal or usual activities or disappears from a vessel; and
3. Within 10 days of the occurrence or death if an earlier report is not required by the foregoing provisions of this section.

C. When the operator of a vessel cannot submit the report required by this section, the owner shall submit the required report.

4 VAC 15-400-50. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

* * * * *

Title of Regulation: 4 VAC 15-420. Watercraft: Navigation Lights and Shapes (adding 4 VAC 15-420-10 through 4 VAC 15-420-120).

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.
Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The proposed action establishes a new regulation adapting the federal inland navigation rules for lights and shapes to Virginia and establishing the applicability of those rules in relation to the weather, sunrise and sunset.

CHAPTER 420.

WATERCRAFT: NAVIGATION LIGHTS AND SHAPES.

4 VAC 15-420-10. Application.

The navigation lights requirements in this chapter shall be complied with in all weather and from sunset to sunrise on the public waters of the Commonwealth. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this chapter or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed by this chapter shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary. The lights specified in this chapter shall comply with U.S. Coast Guard specifications.

4 VAC 15-420-20. Definitions.

For the purpose of this chapter, except where the context otherwise requires, the following words and terms mean:

"All-round light" means a light showing an unbroken light over an arc of the horizon of 360°.

"Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

"Inland waters" means the navigable waters of the Commonwealth shoreward of the navigational demarcation lines established by the U.S. Coast Guard dividing the high seas from harbors, rivers, and other inland waters of the United States.

"Length" and "breadth" of a vessel mean its length overall and greatest breadth.

"Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225° and so fixed as to show the light

from right ahead to 22.5° abaft the beam on either side of the vessel, except that on a vessel of less than 39.4 feet (12 meters) in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

"Power-driven vessel" means a motorboat or any vessel propelled by machinery.

"Restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

"Sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

"Seaplane" includes any aircraft designed to maneuver on the water.

"Secretary" means the secretary of the department in which the U. S. Coast Guard is operating.

"Sidelights" mean a green light on the starboard (right) side and a red light on the port (left) side, each showing an unbroken light over an arc of the horizon of 112.5° and so fixed as to show the light from right ahead to 22.5° abaft the beam on its respective side. On a vessel of less than 65.6 feet (20 meters) in length, the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

"Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180° nor more than 225° and so fixed as to show the light from right ahead to abeam and no more than 22.5° abaft the beam on either side of the vessel.

"Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135° and so fixed as to show the light 67.5° from right aft on each side of the vessel.

"Towing light" means a yellow light having the same characteristics as the "sternlight" defined above.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include surfboards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids.

"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus that restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus that does not restrict maneuverability.

"Vessels in sight of one another" means one can be observed visually from the other.

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"Vessel not under command" means a vessel that through some exceptional circumstance is unable to maneuver as required by these rules and is therefore unable to keep out of the way of another vessel.

"Vessel restricted in its ability to maneuver" means a vessel that from the nature of its work is restricted in its ability to maneuver as required in this chapter and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

1. A vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline.
2. A vessel engaged in dredging, surveying, or underwater operations.
3. A vessel engaged in replenishment or transferring persons, provisions, or cargo while underway.
4. A vessel engaged in a towing operation such as severely restricts the towing vessel and its tow in their ability to deviate from their course.

4 VAC 15-420-30. Visibility of lights.

The lights prescribed in this chapter shall have an intensity as specified by the U.S. Coast Guard, so as to be visible at the following minimum ranges:

1. In a vessel of 164 feet (50 meters) or more in length: a masthead light, 6 miles; a sidelight, 3 miles; a sternlight, 3 miles; a towing light, 3 miles; a white, red, green or yellow all-round light, 3 miles; and a special flashing light, 2 miles.
2. In a vessel of 39.4 feet (12 meters) or more in length but less than 164 feet (50 meters) in length: a masthead light, 5 miles; except that where the length of the vessel is less than 65.6 feet (20 meters), 3 miles; a sidelight, 2 miles; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.
3. In a vessel of less than 39.4 feet (12 meters) in length: a masthead light, 2 miles; a sidelight, 1 mile; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.
4. In an inconspicuous, partly submerged vessel or object being towed: a white all-round light, 3 miles.

4 VAC 15-420-40. Power-driven vessels underway.

A. A power-driven vessel underway shall exhibit:

1. A masthead light forward;
2. A second masthead light abaft of and higher than the forward one; except that a vessel of less than 164 feet (50 meters) in length shall not be obliged to exhibit such light but may do so;
3. Sidelights; and
4. A sternlight.

B. An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights

prescribed in subsection A of this section, exhibit an all-round flashing yellow light where it can best be seen.

C. A power-driven vessel of less than 39.4 feet (12 meters) in length may, in lieu of the lights prescribed in subsection A of this section, exhibit an all-round white light and sidelights.

4 VAC 15-420-50. Towing and pushing.

A. A power-driven vessel when towing astern shall exhibit:

1. Instead of the lights prescribed in 4 VAC 15-420-40 A 1 or 2, two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 656.2 feet (200 meters), three such lights in a vertical line;
2. Sidelights;
3. A sternlight;
4. A towing light in a vertical line above the sternlight; and
5. When the length of the tow exceeds 656.2 feet (200 meters), a diamond shape where it can best be seen.

B. When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit, they shall be regarded as a power-driven vessel and exhibit the lights prescribed in 4 VAC 15-420-40.

C. A power-driven vessel when pushing ahead or towing alongside, except as required by subsections A and B of this section, shall exhibit:

1. Instead of the light prescribed in 4 VAC 15-420-40 A 1 or 2, two masthead lights in a vertical line;
2. Sidelights; and
3. Two towing lights in a vertical line.

D. A power-driven vessel to which subsection A or C of this section apply shall also comply with 4 VAC 15-420-40 A 1 and 2.

E. A vessel or object other than those referred to in subsection G of this section being towed shall exhibit:

1. Sidelights;
2. A sternlight; and
3. When the length of the tow exceeds 656.2 feet (200 meters), a diamond shape where it can best be seen.

F. Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in subdivision 3 of this subsection:

1. A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;
2. A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and
3. When vessels are towed alongside on both sides of the towing vessels, a sternlight shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and

a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

G. An inconspicuous, partly submerged vessel or object being towed shall exhibit:

1. If it is less than 82 feet (25 meters) in breadth, one all-round white light at or near each end;
2. If it is 82 feet (25 meters) or more in breadth, four all-round white lights to mark its length and breadth;
3. If it exceeds 328.1 feet (100 meters) in length, additional all-round white lights between the lights prescribed in subdivisions 1 and 2 of this subsection so that the distance between the lights shall not exceed 328.1 feet (100 meters), provided that any vessels or objects being towed alongside each other shall be lighted as one vessel or object;
4. A diamond shape at or near the aftermost extremity of the last vessel or object being towed; and
5. The towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

H. Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in subsection A or G of this section, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

I. Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by subsection A or C of this section, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. A searchlight may be used to illuminate the tow.

4 VAC 15-420-60. Sailing vessels underway and vessels under oars.

A. A sailing vessel underway shall exhibit:

1. Sidelights; and
2. A sternlight.

B. In a sailing vessel of less than 65.6 feet (20 meters) in length, the lights prescribed in subsection A of this section may be combined in one lantern carried at or near the top of the mast where it can best be seen.

C. A sailing vessel underway may, in addition to the lights prescribed in subsection A of this section, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by subsection B of this section.

D. A sailing vessel of less than 23 feet (7 meters) in length shall, if practicable, exhibit the lights prescribed in subsection A or B of this section, but if not, shall have ready at hand an

electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

E. A vessel under oars may exhibit the lights prescribed above for sailing vessels, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

F. A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 39.4 feet (12 meters) in length is not required to exhibit this shape, but may do so.

4 VAC 15-420-70. Vessels fishing with apparatus that restricts maneuverability.

A. A vessel engaged in fishing with nets, trawls or other fishing apparatus that restricts maneuverability (as defined in 4 VAC 15-410-10), whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this section. A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

1. Two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;
2. A masthead light abaft of and higher than the all-round green light; a vessel of less than 164 feet (50 meters) in length shall not be obliged to exhibit such a light but may do so; and
3. When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

B. A vessel engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability, other than trawling, shall exhibit:

1. Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;
2. When there is outlying gear extending more than 492.1 feet (150 meters) horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and
3. When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

C. Vessels engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability in close proximity to other vessels engaged in fishing may exhibit the additional signals established by the U.S. Coast Guard.

D. A vessel when not engaged in fishing with nets, trawls or other fish apparatus that restricts maneuverability shall not exhibit the lights or shapes prescribed in this rule but only those prescribed for a vessel of its length.

4 VAC 15-420-80. Vessels not under command or restricted in their ability to maneuver.

A. A vessel not under command shall exhibit:

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1. Two all-round red lights in a vertical line where they can best be seen;
 2. Two balls or similar shapes in a vertical line where they can best be seen; and
 3. When making way through the water, sidelights and a sternlight in addition to the lights prescribed in this section.
- B. A vessel restricted in its ability to maneuver shall exhibit:
1. Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;
 2. Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;
 3. When making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subdivision 1 of this subsection; and
 4. When at anchor, in addition to the lights or shapes prescribed in subdivisions 1 and 2 of this subsection, the light, lights or shapes prescribed in 4 VAC 15-420-100.
- C. A vessel engaged in a towing operation that severely restricts the towing vessel and its tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subdivisions B 1 and B 2 of this section, exhibit the lights or shape prescribed in 4 VAC 15-420-50.
- D. A vessel engaged in dredging or underwater operations, when restricted in its ability to maneuver, shall exhibit the lights and shapes prescribed in subdivisions B 1, B 2, and B 3 of this section and shall in addition, when an obstruction exists, exhibit:
1. Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;
 2. Two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and
 3. When at anchor, the lights or shape prescribed by this section, instead of the lights or shapes prescribed in 4 VAC 15-420-100 for anchored vessels.
- E. Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in subsection D of this section, the following shall instead be exhibited:
1. Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.
 2. A rigid replica of the international code flag "A" not less than 3.3 feet (1 meter) in height. Measures shall be taken to ensure its all-round visibility.
- F. A vessel of less than 39.4 feet (12 meters) in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this section.

4 VAC 15-420-90. Pilot vessels.

- A. A vessel engaged on pilotage duty shall exhibit:
1. At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;
 2. When underway, in addition, sidelights and a sternlight; and
 3. When at anchor, in addition to the lights prescribed in subdivision 1 of this subsection, the anchor light, lights, or shape prescribed in 4 VAC 15-420-100 for anchored vessels.
- B. A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of its length.

4 VAC 15-420-100. Anchored vessels and vessels aground.

- A. A vessel at anchor shall exhibit where it can best be seen:
1. In the fore part, an all-round white light or one ball; and
 2. At or near the stern and at a lower level than the light prescribed in subdivision 1 of this subsection, an all-round white light.
- B. A vessel of less than 164 feet (50 meters) in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in subsection A of this section.
- C. A vessel at anchor may, and a vessel of 238.1 feet (100 meters) or more in length shall, also use the available working or equivalent lights to illuminate its decks.
- D. A vessel aground shall exhibit the lights prescribed in subsection A or B of this section and in addition, if practicable, where they can best be seen:
1. Two all-round red lights in a vertical line; and
 2. Three balls in a vertical line.
- E. A vessel of less than 23 feet (7 meters) in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in subsections A and B of this section.
- F. A vessel of less than 39.4 feet (12 meters) in length when aground shall not be required to exhibit the lights or shapes prescribed in subdivisions D 1 and D 2 of this section.
- G. A vessel of less than 65.6 feet (20 meters) in length, when at anchor in a special anchorage area designated by the secretary, shall not be required to exhibit the anchor lights and shapes required by this section.

4 VAC 15-420-110. Seaplanes.

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the rules of this part, it shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

4 VAC 15-420-120. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-17; Filed September 4, 2002, 11:16 a.m.

Title of Regulation: 4 VAC 15-430. Watercraft: Safety Equipment Requirements (adding 4 VAC 15-430-10 through 4 VAC 15-430-220).

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002. (See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The proposed action establishes safety equipment requirements and conforms to federal rules governing watercraft equipment requirements for vessels on inland waters.

CHAPTER 430.

WATERCRAFT: SAFETY EQUIPMENT REQUIREMENTS.

4 VAC 15-430-10. Application.

This chapter applies to all recreational vessels that are propelled or controlled by machinery, sails, oars, paddles, poles, or another vessel on waters within the territorial limits of the Commonwealth (both public and private waters).

4 VAC 15-430-20. Definitions.

As used in this chapter the following words and terms shall have the following meanings:

"Coastal waters" means the territorial seas of the United States, and those waters directly connected to the territorial seas (i.e., bays, sounds, harbors, rivers, inlets, etc.) where any entrance exceeds two nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to two miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

"Passenger" means every person carried on board a vessel other than:

1. The owner or his representative;
2. The operator;

3. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or

4. Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

"Personal flotation device" or "PFD" means a device that is approved by the U.S. Coast Guard.

"Racing shell, rowing scull, racing canoe, and racing kayak" means a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

"Recreational vessel" means any vessel being manufactured or operated primarily for pleasure, or leased, rented, or chartered to another for the latter's pleasure. It does not include any vessel engaged in the carrying of any passengers for consideration.

"Sailboard" means a sail-propelled vessel with no freeboard and equipped with a swivel-mounted mast not secured to a hull by guys or stays.

"Use" means operate, navigate, or employ.

"Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include surfboards, tubes, swimming rafts, inflatable toys and similar devices routinely used as water toys or swimming aids.

"Visual distress signal" means a device that is approved by the U.S. Coast Guard or certified by the manufacturer.

4 VAC 15-430-30. Personal flotation devices required.

A. Except as provided in 4 VAC 15-430-40, it shall be unlawful to use a recreational vessel unless at least one PFD of the following types is on board for each person:

1. Type I PFD;
2. Type II PFD; or
3. Type III PFD.

B. Except as provided in 4 VAC 15-430-40, it shall be unlawful to use a recreational vessel unless one Type IV PFD is on board in addition to the total number of PFDs required in subsection A of this section.

C. Notwithstanding the provisions of § 29.1-742 of the Code of Virginia, it shall be unlawful to operate a personal watercraft unless each person riding on the personal watercraft or being towed by it is wearing a Type I, Type II, Type III or Type V PFD.

4 VAC 15-430-40. Personal flotation device exemptions.

A. A Type V PFD may be used in lieu of any PFD required under 4 VAC 15-430-30, provided:

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1. The approval label on the Type V PFD indicates that the device is approved:

- a. For the activity in which the vessel is being used; or
- b. As a substitute for a PFD of the type required on the vessel in use;

2. The PFD is used in accordance with any requirements on the approval label;

3. The PFD is used in accordance with requirements in its owner's manual, if the approval label makes reference to such a manual; and

4. The PFD is being worn.

B. Personal watercraft, kayaks and vessels less than 16 feet in length that are registered in another state are exempted from the requirements for carriage of the additional Type IV PFD required by 4 VAC 15-430-30.

C. Racing shells, rowing sculls, racing canoes and racing kayaks are exempted from the requirements for carriage of any Type PFD required by 4 VAC 15-430-30.

D. Sailboards are exempted from the requirements for carriage of any Type PFD required by 4 VAC 15-430-30.

E. Vessels of the United States used by foreign competitors while practicing for or racing in competition are exempted from the carriage of any PFD required under 4 VAC 15-430-30, provided the vessel carries one of the sponsoring foreign country's acceptable flotation devices for each foreign competitor on board.

4 VAC 15-430-50. Personal flotation device stowage.

A. It shall be unlawful to use a recreational vessel unless each Type I, II, or III PFD required by 4 VAC 15-430-30, or equivalent type allowed by 4 VAC 15-430-40 is readily accessible. "Readily accessible" means that PFDs are stowed where they can be easily reached, or are out in the open ready for wear. A readily accessible PFD cannot be in a protective covering or under lock and key.

B. It shall be unlawful to use a recreational vessel unless each Type IV PFD required by 4 VAC 15-430-30 of this chapter is immediately available. "Immediately available" means the PFD shall be quickly reachable in an emergency situation. An immediately available PFD cannot be in a protective covering, in a closed compartment or under other equipment.

4 VAC 15-430-60. Personal flotation device condition; size and fit; approval marking.

It shall be unlawful to use a recreational vessel unless each PFD required by 4 VAC 15-430-30 or allowed by 4 VAC 15-430-40 is:

1. In serviceable condition as provided in 4 VAC 15-430-70;
2. Of an appropriate size and fit for the intended wearer, as marked on the approval label; and
3. Legibly marked with its U.S. Coast Guard approval number.

4 VAC 15-430-70. Personal flotation device serviceable condition.

A PFD is considered to be in serviceable condition only if the following conditions are met:

1. No PFD may exhibit deterioration that could diminish the performance of the PFD, including:

- a. Metal or plastic hardware used to secure the PFD on the wearer that is broken, deformed, or weakened by corrosion;
- b. Webbing or straps used to secure the PFD on the wearer that are ripped, torn, or which have become separated from an attachment point on the PFD; or
- c. Any other rotted or deteriorated structural component that fails when tugged.

2. In addition to meeting the requirements of subdivision 1 of this section, no inherently buoyant PFD, including the inherently buoyant components of a hybrid inflatable PFD, may exhibit:

- a. Rips, tears, or open seams in fabric or coatings that are large enough to allow the loss of buoyant material;
- b. Buoyant material that has become hardened, nonresilient, permanently compressed, waterlogged, oil-soaked, or which shows evidence of fungus or mildew; or
- c. Loss of buoyant material or buoyant material that is not securely held in position.

3. In addition to meeting the requirements of subdivision 1 of this section, an inflatable PFD, including the inflatable components of a hybrid inflatable PFD, must be equipped with:

- a. Except as provided in subdivision 4 of this section, a properly armed inflation mechanism, complete with a full inflation medium cartridge and all status indicators showing that the inflation mechanism is properly armed;
- b. Inflatable chambers that are all capable of holding air;
- c. Oral inflation tubes that are not blocked, detached, or broken;
- d. A manual inflation lanyard or lever that is not inaccessible, broken, or missing; and
- e. Inflator status indicators that are not broken or otherwise nonfunctional.

4. The inflation system of an inflatable PFD need not be armed when the PFD is worn inflated and otherwise meets the requirements of subdivisions 1 and 3 of this section.

4 VAC 15-430-80. Visual distress signals required.

A. It shall be unlawful to use a vessel 16 feet or more in length or any boat carrying six or less passengers for consideration on the coastal waters as defined in 4 VAC 15-430-20 unless visual distress signals selected from the list in 4 VAC 15-430-120 or the alternatives in 4 VAC 15-430-130, in the number required, are on board. Devices suitable for day use and

devices suitable for night use, or devices suitable for both day and night use, must be carried.

B. Between sunset and sunrise, it shall be unlawful to use a vessel less than 16 feet in length on the coastal waters unless visual distress signals suitable for night use, selected from the list in 4 VAC 15-430-120 or 4 VAC 15-430-130, in the number required, are on board.

4 VAC 15-430-90. Visual distress signal launcher.

When a visual distress signal carried to meet the requirements of 4 VAC 15-430-80 requires a launcher to activate, then an approved launcher must also be carried.

4 VAC 15-430-100. Visual distress signal exceptions.

The following persons need not comply with 4 VAC 15-430-80; however, each must carry on board visual distress signals suitable for night use, selected from the list in 4 VAC 15-430-120 or 4 VAC 15-430-130, in the number required, between sunset and sunrise:

1. A person competing in any organized marine parade, regatta, race, or similar event;
2. A person using a manually propelled boat; or
3. A person using a sailboat of completely open construction, not equipped with propulsion machinery, under 26 feet in length.

4 VAC 15-430-110. Visual distress signal stowage, serviceability, marking.

A. It shall be unlawful to use a vessel unless the visual distress signals required by 4 VAC 15-430-80 are readily accessible.

B. It shall be unlawful to use a vessel unless each signal required by 4 VAC 15-430-80 is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired.

C. It shall be unlawful to use a vessel unless each signal required by 4 VAC 15-430-80 is legibly marked with a U.S. Coast Guard approval number or certification statement.

4 VAC 15-430-120. Visual distress signals accepted.

A. Any of the following signals, when carried in the number required, can be used to meet the requirements of 4 VAC 15-430-80:

1. An electric distress light. One is required to meet the night only requirement.
2. An orange flag. One is required to meet the day only requirement.
3. Pyrotechnics meeting the standards noted in the table below.

B. Any combination of signal devices selected from the types noted in subsection A of this section, when carried in the number required, may be used to meet both day and night requirements. Example--the combination of two hand held red flares (reference number 1 in table below), and one parachute

red flare (reference numbers 3 and 4) meets both day and night requirements.

Pyrotechnic Signal Devices

Reference number	Device Description	Meets Requirement for	Number Required
1	Hand-Held Red Flare Distress Signals ³	Day and Night	3
2	Floating Orange Smoke Distress Signals.	Day Only	3
3	Parachute Red Flare Distress Signals.	Day and Night ¹	3
4	Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals.	Day and Night	3
5	Hand-Held Orange Smoke Distress Signals.	Day Only	3
6	Floating Orange Smoke Distress Signals.	Day Only	3
7	Distress Signal for Boats, Red Aerial Pyrotechnic Flare.	Day and Night ²	3

¹ These signals require use in combination with a suitable launching device.

² These devices may be either meteor or parachute-assisted type. Some of these signals may require use in combination with a suitable launching device.

³ Must have manufacture date of Oct. 1, 1980, or later.

4 VAC 15-430-130. Visual distress signals; existing equipment.

Launchers manufactured before January 1, 1981, that do not have approval numbers are acceptable for use with meteor or parachute signals listed in the table in 4 VAC 15-430-120 as long as they remain in serviceable condition.

4 VAC 15-430-140. Visual distress signals; prohibited use.

It shall be unlawful for any person in a vessel to display a visual distress signal on waters to which this chapter applies under any circumstance except a situation where assistance is needed because of immediate or potential danger to the persons on board.

4 VAC 15-430-150. Ventilation.

A. All motorboats or motor vessels, except open boats and as provided in subsections D and E of this section, the construction or decking over of which is commenced after April 25, 1940, and which use fuel having a flashpoint of 110°F, or less, shall have at least two ventilator ducts, fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least one

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exhaust duct installed so as to extend from the open atmosphere to the lower portion of the bilge and at least one intake duct installed so as to extend to a point at least midway to the bilge or at least below the level of the carburetor air intake. The cowls shall be located and trimmed for maximum effectiveness and in such a manner so as to prevent displaced fumes from being recirculated.

B. As used in this section, the term open boats means those motorboats or motor vessels with all engine and fuel tank compartments, and other spaces to which explosive or flammable gases and vapors from these compartments may flow, open to the atmosphere and so arranged as to prevent the entrapment of such gases and vapors within the vessel.

C. Vessels built after July 31, 1980, which are manufactured or used primarily for noncommercial use; which are leased, rented, or chartered to another for the latter's noncommercial use; which are engaged in the carriage of six or fewer passengers for consideration; or which are in compliance with the requirements of the U.S. Coast Guard are exempted from these requirements.

D. Vessels built after July 31, 1978, which are manufactured or used primarily for noncommercial use; which are rented, leased, or chartered to another for the latter's noncommercial use; or which engage in conveying six or fewer passengers for consideration are exempted from the requirements of subsection A of this section for fuel tank compartments that:

1. Contain a permanently installed fuel tank if each electrical component is ignition protected; and
2. Contain fuel tanks that vent to the outside of the boat.

4 VAC 15-430-160. Fire extinguishing equipment application and general provisions.

A. The provisions of this section through 4 VAC 15-430-210, with the exception of 4 VAC 15-430-200, shall apply to all vessels contracted for on or after November 19, 1952. Vessels contracted for prior to that date shall meet the requirements of 4 VAC 15-430-200.

B. Where equipment in this section is required to be of an approved type, such equipment requires the specific approval of the U.S. Coast Guard.

C. All hand-portable fire extinguishers, semiportable fire extinguishing systems, and fixed fire extinguishing systems shall be of a type approved by the U.S. Coast Guard.

4 VAC 15-430-170. Hand-portable fire extinguishers and semiportable fire extinguishing systems.

A. Hand-portable fire extinguishers and semiportable fire extinguishing systems are classified by a combination letter and number symbol, the letter indicating the type of fire that the unit could be expected to extinguish, and the number indicating the relative size of the unit.

B. For the purpose of this section, all required hand-portable fire extinguishers and semiportable fire extinguishing systems are of the "B" type; i.e., suitable for extinguishing fires involving flammable liquids, greases, etc.

C. The number designations for size will start with "I" for the smallest to "V" for the largest. For the purpose of this section, only sizes I through III will be considered. Sizes I and II are considered hand-portable fire extinguishers and sizes III, IV, and V are considered semiportable fire extinguishing systems that shall be fitted with suitable hose and nozzle or other practicable means so that all portions of the space concerned may be covered. Examples of size graduations for some of the typical hand-portable fire extinguishers and semiportable fire extinguishing systems are set forth in the following table:

Classification		Foam (gallons)	Carbon Dioxide (pounds)	Dry Chemical (pounds)
Type	Size			
B	I	1.75	4	2
B	II	2.50	15	10
B	III	12.00	35	20

D. All hand-portable fire extinguishers and semiportable fire extinguishing systems shall have permanently attached thereto a metallic name plate giving the name of the item, the rated capacity in gallons, quarts, or pounds, the name and address of the person or firm for whom approved, and the identifying mark of the actual manufacturer.

E. Vaporizing-liquid type fire extinguishers containing carbon tetrachloride or chlorobromomethane or other toxic vaporizing liquids are not acceptable as equipment required by this section.

F. Hand-portable or semiportable extinguishers that are required on their name plates to be protected from freezing shall not be located where freezing temperatures may be expected.

G. The use of dry chemical, stored pressure, fire extinguishers not fitted with pressure gauges or indicating devices, manufactured prior to January 1, 1965, may be permitted on motorboats and other vessels so long as such extinguishers are maintained in good and serviceable condition. The following maintenance and inspections are required for such extinguishers:

1. When the date on the inspection record tag on the extinguishers shows that six months have elapsed since last weight check ashore, then such extinguisher is no longer accepted as meeting required maintenance conditions until reweighed ashore and found to be in a serviceable condition and within required weight conditions.
2. If the weight of the container is one-fourth ounce less than that stamped on container, it shall be serviced.
3. If the outer seal or seals (which indicate tampering or use when broken) are not intact, the boarding officer or marine inspector will inspect such extinguisher to see that the frangible disc in neck of the container is intact; and if such disc is not intact, the container shall be serviced.
4. If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the container shall be replaced with a new one and the extinguisher properly serviced or the extinguisher replaced with another approved extinguisher.

H. The dry chemical, stored pressure, fire extinguishers without pressure gauges or indicating devices manufactured after January 1, 1965, shall not be carried on board motorboats or other vessels as required equipment.

4 VAC 15-430-180. Fixed fire extinguishing systems.

When a fixed fire extinguishing system is installed, it shall be of an approved carbon dioxide type, designed and installed in agreement with the applicable provisions required by the U.S. Coast Guard.

4 VAC 15-430-190. Fire extinguishing equipment required.

A. Motorboats.

1. All motorboats shall carry at least the minimum number of hand-portable fire extinguishers set forth in the following table, except that motorboats less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry such portable fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.

Length, feet	Minimum number of B-I hand-portable fire extinguishers required ¹	
	No fixed fire extinguishing systems in machinery space	Fixed fire extinguishing system in machinery space
Under 16	1	0
16 to less than 26	1	0
26 to less than 40	2	1
40 to 65	3	2

¹ One B-II hand-portable fire extinguisher may be substituted for two B-I hand-portable fire extinguishers.

2. Fire extinguishers are required if any one or more of the following conditions exist:

- a. Closed compartment under thwarts and seats wherein portable fuel tanks may be stored.
- b. Double bottoms not sealed to the hull or that are not completely filled with flotation material.
- c. Closed living spaces.
- d. Closed stowage compartments in which combustible or flammable materials are stowed.
- e. Permanently installed fuel tanks.

3. The following conditions do not, in themselves, require that fire extinguishers be carried:

- a. Bait wells.
- b. Glove compartments.
- c. Buoyant flotation material.
- d. Open slatted flooring.
- e. Ice chests.

B. Motor vessels.

1. All motor vessels shall carry at least the minimum number of hand-portable fire extinguishers set forth in the table below:

Gross tonnage		Minimum number of B-II hand-portable fire extinguishers
Over	Not over	
	50	2
50	100	2
100	500	3
500	1000	6
1000		8

2. In addition to the hand-portable fire extinguishers required by subdivision 1 of this subsection, the following fire-extinguishing equipment shall be fitted in the machinery space:

a. One Type B-II hand-portable fire extinguisher shall be carried for each 1,000 B.H.P. of the main engines or fraction thereof. However, not more than six such extinguishers need be carried.

b. On motor vessels of over 300 gross tons, either one Type B-III semiportable fire-extinguishing system shall be fitted, or alternatively, a fixed fire extinguishing system shall be fitted in the machinery space.

3. The frame or support of each Type B-III fire extinguisher required by subdivision 2 b of this subsection must be welded or otherwise permanently attached to a bulkhead or deck.

4. If an approved semiportable fire extinguisher has wheels and is not required by this section, it must be securely stowed when not in use to prevent it from rolling out of control under heavy sea conditions.

C. Barges carrying passengers.

1. Every barge of 65 feet in length or less while carrying passengers when towed or pushed by a motorboat, motor vessel, or steam vessel shall be fitted with hand-portable fire extinguishers as required by the table in subsection B of this section, depending upon the length of the barge.

2. Every barge of over 65 feet in length while carrying passengers when towed or pushed by a motorboat, motor vessel, or steam vessel shall be fitted with hand-portable fire extinguishers as required by the table in subsection B of this section, depending upon the gross tonnage of the barge.

4 VAC 15-430-200. Fire extinguishing equipment on vessels contracted prior to November 19, 1952.

Vessels contracted for prior to November 19, 1952, shall meet the applicable provisions of 4 VAC 15-430-160 through 4 VAC 15-430-190 insofar as the number and general type of equipment is concerned. Existing items of equipment and installations previously approved but not meeting the applicable requirements for type approval may be continued in

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service so long as they are in good condition. All new installations and replacements shall meet the requirements of 4 VAC 15-430-160 through 4 VAC 15-430-190.

4 VAC 15-430-210. Backfire flame control.

A. Every gasoline engine installed in a motorboat or motor vessel after April 25, 1940, except outboard motors, shall be equipped with an acceptable means of backfire flame control.

B. Installations made before November 19, 1952, may be continued in use as long as they are serviceable and in good condition. Replacements shall comply with any applicable standards established by the U.S. Coast Guard and be marked accordingly. The flame arrester must be suitably secured to the air intake with a flamtight connection.

C. Installations consisting of backfire flame arresters bearing basic approval nos. 162.015 or 162.041 or engine air and fuel induction systems bearing basic approval nos. 162.015 or 162.042 may be continued in use as long as they are serviceable and in good condition. New installations or replacements must comply with SAE J-1928 or UL 1111 standards and be marked accordingly. The flame arrester must be suitably secured to the air intake with a flamtight connection.

4 VAC 15-430-220. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-18; Filed September 4, 2002, 11:16 a.m.

* * * * *

Title of Regulation: 4 VAC 15-440. Watercraft: Commercial Vessel Safety Equipment Requirements (adding 4 VAC 15-440-10 through 4 VAC 15-440-60).

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701, and 29.1-735 of the Code of Virginia.

Public Hearing Date: October 24, 2002 - 9 a.m.

Public comments may be submitted until October 24, 2002.
(See Notice to the Public preceding 4 VAC 15-370)

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

Summary:

The proposed action establishes safety equipment requirements for commercial vessels and conforms to federal rules governing watercraft equipment requirements for vessels on the waters of the United States.

CHAPTER 440. WATERCRAFT: COMMERCIAL VESSEL SAFETY EQUIPMENT REQUIREMENTS.

4 VAC 15-440-10. Application and definitions.

A. This chapter applies to vessels on waters within the territorial limits of the Commonwealth (both public and private waters), except:

1. Vessels used for noncommercial use;
2. Vessels leased, rented, or chartered to another for the latter's noncommercial use;
3. Commercial vessels propelled by sail not carrying passengers for hire; or
4. Commercial barges not carrying passengers for hire.

B. Terms used in this chapter shall have the same meanings as the terms defined in 4 VAC 15-430-20.

4 VAC 15-440-20. Lifesaving equipment required.

A. It shall be unlawful to operate a vessel to which this chapter applies unless it meets the requirements of this section.

B. Each vessel not carrying passengers for hire less than 40 feet in length must have at least one U.S. Coast Guard approved life preserver (Type I PFD), buoyant vest (Type II PFD), or marine buoyant device intended to be worn (Type III PFD), of a suitable size for each person on board. Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by the U.S. Coast Guard are not acceptable as equipment required by this subsection.

C. Each vessel carrying passengers for hire and each vessel 40 feet in length or longer not carrying passengers for hire must have at least one approved (Type I PFD) life preserver of a suitable size for each person on board. Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by the U.S. Coast Guard are not acceptable as equipment required by this subsection.

D. In addition to the equipment required by subsections B or C of this section, each vessel 26 feet in length or longer must have at least one approved ring life buoy, constructed in accordance with requirements of the U.S. Coast Guard.

E. Each vessel not carrying passengers for hire may substitute an immersion suit for a life preserver, buoyant vest, or marine buoyant device required under subsection B or C of this section. Each immersion suit carried in accordance with this subsection must be of a type approved by the U.S. Coast Guard.

F. On each vessel, regardless of length and regardless of whether carrying passengers for hire, an approved commercial hybrid PFD may be substituted for a life preserver, buoyant vest, or marine buoyant device required under subsection B or C of this section if it is:

1. Used in accordance with the conditions marked on the PFD and in the owner's manual;
2. Labeled for use on commercial vessels; and

3. In the case of a Type V commercial hybrid PFD, worn when the vessel is underway and the intended wearer is not within an enclosed space.

4 VAC 15-440-30. Lifesaving equipment marking, storage and condition.

A. The lifesaving equipment required by this chapter must be legibly marked as required by the U.S. Coast Guard.

B. The lifesaving equipment designed to be worn, required in 4 VAC 15-440-20 subsections B, C and E, must be readily accessible as defined in 4 VAC 15-430-50.

C. Lifesaving equipment designed to be thrown, required in 4 VAC 15-440-20 D, must be immediately available as defined in 4 VAC 15-430-50.

D. The lifesaving equipment required by this section must be in serviceable condition as described in 4 VAC 15-430-70.

4 VAC 15-440-40. Personal flotation device lights.

A. This section applies to vessels described in 4 VAC 15-440-10 that engage in ocean or coastwise voyages.

B. Each immersion suit carried in accordance with 4 VAC 15-440-20, each life preserver, each marine buoyant device intended to be worn, and each buoyant vest must have a personal flotation device light that is approved by the U.S. Coast Guard.

C. Each personal flotation device light required by this section must be securely attached to the front shoulder area of the immersion suit, life preserver, or other personal flotation device.

D. If a personal flotation device light has a nonreplaceable power source, the light must be replaced on or before the expiration date of the power source. If the light has a replaceable power source, the power source must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

4 VAC 15-440-50. Personal flotation device retroreflective material.

A. Each life preserver, each marine buoyant device intended to be worn, and each buoyant vest carried on a vessel must have Type I retroreflective material that is approved by the U.S. Coast Guard.

B. Each item required to have retroreflective material must have at least 31 sq. in. (200 sq. cm.) of material attached to its front side, at least 31 sq. in. of material on its back side, and, if the item is reversible, at least 31 sq. in. of material on each of its reversible sides. The material attached on each side of the item must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the item.

4 VAC 15-440-60. Penalties.

Except as otherwise provided by statute, any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for each such violation as provided by § 29.1-746 of the Code of Virginia.

VA.R. Doc. No. R03-19; Filed September 4, 2002, 11:16 a.m.



TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-70. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia (amending 8 VAC 20-70-10, 8 VAC 20-70-30, 8 VAC 20-70-40, 8 VAC 20-70-70 through 8 VAC 20-70-170, 8 VAC 20-70-190, 8 VAC 20-70-200, 8 VAC 20-70-220, 8 VAC 20-70-230, 8 VAC 20-70-280, 8 VAC 20-70-290, 8 VAC 20-70-340 through 8 VAC 20-70-380, 8 VAC 20-70-400 through 8 VAC 20-70-440, 8 VAC 20-70-460, 8 VAC 20-70-470, and 8 VAC 20-70-510; adding 8 VAC 20-70-235 and 8 VAC 20-70-525; repealing 8 VAC 20-70-240 through 8 VAC 20-70-270, 8 VAC 20-70-390, 8 VAC 20-70-520, and 8 VAC 20-70-530 through 8 VAC 20-70-1510).

Statutory Authority: §§ 22.1-16, 22.1-177, and 22.1-178 of the Code of Virginia.

Public Hearing Date: October 16, 2002 - 1 p.m.

Public comments may be submitted until November 25, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Ms. June Eanes, Director of Pupil Transportation, Department of Education, P.O. Box 2120, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524, or e-mail jeanes@mail.vak12ed.edu.

Basis: The scope of legal authority is defined by Article VIII, § 4 of the Constitution of Virginia, which vests in the Board of Education the general supervision of the public school system.

Section 22.1-16 of the Code of Virginia authorizes the board to promulgate "such regulations as may be necessary to carry out its powers and duties..."

Section 22.1-177 of the Code of Virginia gives the board general authority to make regulations relating to the construction, design, operation, equipment, and color of public school buses and the authority to issue an order prohibiting the operation on public streets and highways of any public school bus that does not comply with such regulations.

Section 22.1-178 of the Code of Virginia additionally sets forth requirements for school bus drivers and authorizes the board to furnish forms to school divisions to obtain information from applicants for employment as school bus drivers as required in statute.

Purpose: The Regulations Governing Pupil Transportation are revised to include new state laws passed since 1994 and new federal standards governing transportation included in the 2000 National School Transportation Specifications and Procedures.

Current law does not require students to ride public school buses nor does it require school divisions to provide

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transportation. These regulations do, however, govern those instances when transportation is provided and is used by students. Consequently, the revision of these regulations will help to ensure the safety of children riding public school buses. Providing safe, free transportation to and from school for children in Virginia provides a valuable service and eliminates the need for parents to transport their children.

Substance: Substantive changes to the existing regulations are as follows:

1. Definitions have been updated to reflect the 2000 National School Transportation Specifications and Procedures definitions.
2. Language has been included to accommodate new equipment and technology that will better facilitate the transportation of students safely and efficiently.
3. The revisions include the latest laws passed on the speed limit school buses may travel on any given highway.
4. The revised regulations include the use of flashing amber warning lights to notify motorists that buses are about to stop or are stopped. The white strobe light assists in identifying a school bus during reduced visibility.
5. Drivers of Type D buses will be required to complete eight additional hours of training behind-the-wheel. Drivers of special needs children will be required to receive appropriate training and instruction using a curriculum approved by the Department of Education.
6. School divisions will determine the amount of in-service training and develop a schedule that is needed for bus drivers.
7. The regulations update the minimum requirements for pupil transportation in Virginia. School divisions may exceed these requirements with permission from the Department of Education.
8. Article 2 (Bus Chassis) and Article 3 (Bus Body) of former Part V, Minimum Standards for School Buses in Virginia, have been removed from the regulations and will be issued by the department each year as guidelines with the specifications for school buses. These guidelines will be updated each year to reflect changes in technology and equipment.

Issues: The proposed amendments benefit the public by improving safety for students, drivers, and the public. Additional training will provide drivers a better understanding of the regulations and the operation of the bus. The use of the strobe light and other traffic warning devices will make the bus more visible to other vehicles on the road. The back-up alarm will assist in making the area around the bus safer for pedestrians and vehicles. The requirement to turn off noisy equipment when crossing railroads will allow the driver to hear whether a train is approaching a road crossing.

The amendments change the specification section of the regulations to guidelines that will be updated each year so that the school divisions in Virginia may purchase buses with the most up-to-date technology and equipment, which will help to improve safety. The level of detail currently in the regulations

makes it very difficult to make revisions and updates as necessary to permit the latest enhancements that are available.

The amendments provide safe, free transportation to and from school, thus providing assistance to parents by eliminating the need for parents to transport their children to and from school.

The only disadvantage of the proposed amendments is a possible cost increase for school divisions that pay their drivers to go through additional training. Currently many school divisions offer some training of this type.

There are no disadvantages to the public.

Fiscal Impact: The proposed regulations will have very little fiscal impact on school divisions at this time. The one item that may have a small impact would be the eight hours of training on Type D buses. The majority of school divisions currently offer some training of this nature. The change in the regulation to eight hours of training may cause divisions to have to pay drivers for additional time to attend the training.

There is no additional fiscal impact on the Department of Education. The department currently administers these regulations. None of the proposed changes should create additional costs. The current regulations are administered by the Pupil Transportation office in the Department of Education. General funds totaling \$605,111 annually support this office in program/subprogram 191-08-20.

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

Summary of the proposed regulation. The Board of Education (board) proposes numerous amendments to its regulation concerning pupil transportation. Several of the proposed amendments reflect changes in the Code of Virginia, including: (i) altering the maximum speed limits for school buses, (ii) allowing licensed nurse practitioners to perform drivers' annual physical examinations, and (iii) requiring school districts to notify the Department of Motor Vehicles immediately whenever it employs or terminates a bus driver. The board also proposes to require that drivers who transport students with disabilities or who drive Type D buses complete additional training.

Estimated economic impact.

Speed Limits. Pursuant to § 46.2-871 of the Code of Virginia, on interstate highways where the general maximum speed limit is 55 miles per hour, the board proposes to reduce the maximum permitted speed for school buses from 55 miles per

hour to 45 miles per hour or the minimum speed allowable, whichever is greater. On the other hand, also pursuant to § 46.2-871 of the Code of Virginia, on non-interstate highways where the general maximum speed limit is greater than 55 miles per hour, the board proposes to increase the maximum permitted speed for school buses from 45 miles per hour, or the minimum legal speed allowable, to 55 miles per hour. The school bus speed limit on interstate highways where the maximum general speed limit is greater than 55 miles per hour remains at 55 miles per hour. Also, under both the current and the proposed language, for buses that are taking on or are discharging children, the maximum speed limit is 35 miles per hour between the first stop and the last stop, not including the school.

Higher speed limits can be beneficial in that trips to and from school may take less time, possibly allowing the earliest bus routes to start somewhat later in the morning, and possibly allowing students to get home somewhat earlier without shortening the school day. Also, by permitting school buses to travel at speeds closer to the general traffic flow on highways, overall traffic speed may be increased, moderately shortening travel time for other highway users. Higher speed limits for school buses may be costly if by traveling at higher speeds safety for the buses' passengers is reduced. Conversely, lower speed limits may be costly by causing trips to and from school to take more time and by slowing overall traffic speed, moderately increasing travel time for other highway users; and lower speed limits may be beneficial if by traveling at lower speeds, safety for the buses' passengers is increased.

Data are not available to evaluate whether the undetermined potential safety benefits of lowering the maximum permitted speed for school buses on interstate highways where the general maximum speed limit is 55 miles per hour outweighs the potential costs of causing trips to and from school to take more time and moderately increasing travel time for other highway users. Also, data are not available to determine whether the potential benefits of shortening travel time for students and other highway travelers by raising the maximum permitted speed for school buses on non-interstate highways where the general maximum speed limit is greater than 55 miles per hour outweighs the potential negative impact on safety. Thus it cannot be determined whether the proposed speed limit changes produce net benefits.

Drivers' Physical Examinations. Under the current regulations, only Virginia-licensed physicians may conduct drivers annual physical exams. Pursuant to § 22.1-178 of the Code of Virginia, the board proposes to permit licensed nurse practitioners to perform drivers' annual physical exams. Increasing the supply of individuals who may conduct drivers' physical exams may reduce the wait time before drivers get their exams, and may reduce the market cost. If licensed nurse practitioners are not significantly more likely to fail to detect or misdiagnose impairment or other problems of drivers compared to physicians, then this proposed amendment would likely create a net benefit.

DMV Notification. Pursuant to § 46.2-340 of the Code of Virginia, school divisions must notify the Department of Motor Vehicles (DMV) immediately whenever it employs or terminates a bus driver. Under the current regulations school

divisions report driver changes on the tenth of each month. With the use electronic mail, notification of staff changes can be done quickly and easily. Thus, if school divisions have to report driver changes a few more times a year the additional cost will be quite small. The DMV reports to the school divisions when a school bus driver has his license suspended or revoked or is convicted in any court of reckless driving or driving while intoxicated. Allowing the DMV to maintain more up-to-date driver records can potentially be more than marginally beneficial since, for example, the DMV may alert a school division that a newly hired driver has recently demonstrated unsafe performance sooner than the DMV would without the quickly updated data. Presuming that school divisions would more quickly remove unsafe drivers, children would be put at less risk of injury. Thus the benefits of this proposed amendment likely outweigh the cost.

Drivers' Training. The board proposes to mandate that every driver who transports students with disabilities receive six hours of appropriate training beyond the basic training for all drivers. Students with disabilities have seating and safety issues that differ from nondisabled students. For example, students in wheelchairs or who are otherwise physically encumbered may need assistance in entering the bus, being safely seated, and leaving the bus. According to the Department of Education (department), the majority of school divisions already meet this requirement. For those school divisions who do not currently meet this requirement, the cost of compliance will be additional pay for the instructor's time as well as the trainee driver's time. Employee pay varies by school division. In Henrico County, for example, new drivers earn \$10.21 per hour and instructors¹ typically earn about \$15.21 per hour.² The benefit of the training is the potential reduction in the probability of student injuries due to greater knowledge concerning safely seating and transporting students with disabilities. If the value of the potential reduction in probability of student injuries exceeds the cost of the additional training, then the proposed additional training will create a net benefit. Since no data is available to estimate the potential reduction in probability of student injuries due to the required training, it cannot be determined whether the benefits of the required training exceed the costs.

The board also proposes to require drivers of Type D buses to complete eight additional hours of behind-the-wheel training. According to the department, Type D buses are considered more difficult to maneuver safely; thus, the additional training is necessary for public safety. The department also states that the majority of school divisions currently offer some training of this nature. For those school divisions who do not currently meet this requirement, the cost of compliance would be additional pay for the instructor's time as well as the trainee driver's time. As mentioned above, employee pay varies by school division, but Henrico County, for example, pays new drivers \$10.21 per hour and typical instructors \$15.21 per hour. If the additional hours of training significantly improve drivers' ability to safely operate Type D buses, then the

¹ In Henrico, lead drivers are the instructors. Lead drivers with 10 years of experience earn \$15.21 per hour.

² Source: Henrico County Public Schools.

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benefits of this requirement may outweigh the costs, but no data is available to estimate the benefit of the additional training. Thus, it cannot be determined whether the benefits of the required training exceed the costs.

Businesses and entities affected. The proposed regulatory changes affect the 132 school divisions in Virginia, as well as school bus drivers, trainers of school bus drivers, students who ride school buses, and other highway travelers.

Localities particularly affected. The proposed regulatory changes potentially affect all Virginia localities. Those localities whose school divisions do not currently provide at least six additional hours of training for drivers who transport students with disabilities and eight additional hours of behind-the-wheel training for drivers of Type D buses will be particularly affected.

Projected impact on employment. The proposed additional hours of training for drivers of students with disabilities and Type D buses will create some additional hours of employment for instructors and new drivers in school divisions that are not already meeting the proposed requirements.

Effects on the use and value of private property. The proposed amendments are unlikely to affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis issued by the Department of Planning and Budget.

Summary:

The proposed amendments reflect changes in the Code of Virginia including (i) altering the maximum speed limits for school buses; (ii) allowing licensed nurse practitioners to perform drivers' annual physical examinations; and (iii) describing the use of warning strobe lights.

Additionally, proposed amendments (i) update the definitions to conform to the definitions used in the 2000 National School Transportation Specifications and Procedures; (ii) require that drivers who transport students with disabilities or who drive Type D buses complete additional training; (iii) repeal Part III relating to distribution of pupil transportation funds since this funding is governed by the appropriation act; (iv) eliminate the provisions addressing bus specifications, equipment and construction, which will instead be adopted annually as specification guidelines; and (v) delete the requirement that bus drivers report pupil misconduct to the principal.

8 VAC 20-70-10. Definitions.

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

"Color-black" means federal standard No. 595, black.

"Color-yellow" means national school bus yellow ~~SBM~~ SBMTC color standard 008.

"Nonconforming bus" means any vehicle designed to carry more than 10 passengers that is used to transport children to

or from school or school-related activities that does not meet the federal standards, 49 CFR Part 571, specific to school buses. These vehicles are not approved for transporting students to and from school or school-related activities.

"School bus" means any motor vehicle described in this chapter as "Type A1 and A2," "Type B1 and B2," "Type C," or "Type D," which is designed and used for the transportation of pupils, which is painted yellow with the words "School Bus" in black letters of specified size on front and rear, and which is equipped with the required warning devices.

Note: This definition includes school buses owned and operated by school boards, private contractors, local governments, and transit systems which *that* are used for the transportation of public school pupils.

~~"School bus Type A" means a conversion or body constructed upon a van-type compact truck or a front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than four persons. Range from four to 20 passenger capacity.~~

~~"School bus Type B" means a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath or behind the windshield, or both, and beside the driver's seat. The entrance door is behind the front wheels. Range from 16 to 74 passenger capacity.~~

~~"School bus Type C" means a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels. Range from 34 to 64 passenger capacity.~~

~~"School bus Type D" means a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat; it may be at the rear of the bus behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. Range from 72 to 84 passenger capacity.~~

~~"School activity vehicle" means any school bus as defined in this section with the modifications authorized in Part VII of this chapter (8 VAC 20-70-1510 et seq.). Type A, B, C, D school buses are recommended for transporting pupils to and from school activity events; however, a school activity vehicle may be used solely for extra-curricular activities, when deemed necessary and appropriate by the local school board.~~

Note: A standard or mini-size passenger van which has not been reconstructed to meet Virginia state and federal school vehicle construction standards does not meet this definition.

"Specially equipped bus" means a school bus designed, equipped, or modified to accommodate students with special needs.

"Type A school bus" means a van conversion or bus constructed utilizing a cutaway front-section vehicle with a left

side driver's door. The entrance door is behind the front wheels. This definition includes two classifications. Type A1, with a Gross Vehicle Weight Rating (GVWR) less than or equal to 10,000 pounds; and Type A2, with a GVWR greater than 10,000 pounds.

"Type B school bus" means a bus with a body constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B1, with a GVWR less than or equal to 10,000 pounds; and Type B2, with a GVWR greater than 10,000 pounds.

"Type C school bus" means a bus with a body constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels.

"Type D school bus" means a bus with a body constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

~~"Undercoating modified test procedure" means test panels are to be prepared in accordance with paragraph 4.6.12 of TT-C-520a of the Federal Code, incorporated by reference, with modified procedure requiring that test be made on a 48-hour air-cured film at thickness recommended by compound manufacturer.~~

8 VAC 20-70-30. Safe speeds.

A school bus transporting school pupils shall be operated at a safe speed ~~not in excess of 45 miles per hour, or minimum legal speed allowable; except, 55 miles per hour on interstate highways. However, for any such vehicle which takes on or discharges children, the maximum speed limit shall be 35 miles per hour between the first stop and the last stop, not including the school. The school and the designated school bus parking area shall not be considered the first or last stop as stated in § 46.2-871 of the Code of Virginia.~~

8 VAC 20-70-40. Seating.

The number of pupils who may ride a school bus shall be determined by the total number who can be seated on the seat cushion facing forward, safely seated within the seating compartment, and shall not exceed the manufacturer's capacity. During the first 30 instructional days of the school year standees may be permitted for short distances in the aisle back of the driver's seat. Pupils may not be permitted to stand after the first 30 instructional days, except under unforeseen emergency conditions as identified by the local school board.

8 VAC 20-70-70. Traffic warning devices.

Every school bus operated at public expense for the purpose of transporting school children shall be equipped with traffic warning devices of the type prescribed in the standards and specifications of the Board of Education. ~~The warning lights shall indicate when the bus is about to stop, is stopped, and when it is loading or discharging children. The warning lights shall be in operation for a distance of not less than 100 feet before the bus stops, if the lawful speed limit is less than 35 miles per hour, and for a distance of at least 200 feet before the bus stops if the lawful speed limit is 35 miles per hour or more. The warning sign and crossing control arm shall be extended when, and only when, the bus is stopped to load or~~

~~discharge children as stated in §§ 46.2-1090 and 46.2-1090.1 of the Code of Virginia.~~

8 VAC 20-70-80. Loading or discharging pupils.

When loading or discharging pupils on the highway, stops shall be made in the right-hand lane and shall be made only at designated points where the bus can be clearly seen for a safe distance from both directions. *Pupils shall be picked up and discharged only at designated school bus stops approved by the local school division except in the case of an emergency.* While stopped, the driver shall keep the school bus warning devices in operation to warn approaching traffic to stop and allow pupils to cross the highway safely. Pupils who must cross the road shall be required to cross in front of the bus. They shall be required to walk to a point 10 feet or more in front of the bus, stop before reaching a position in line with the left side of the bus, and wait for a *hand* signal from the bus driver before starting across the highway.

On dual highways divided by a physical barrier, unpaved area, or five lane highway with turning lane, buses shall be routed so that pupils will be picked up and discharged on the side of the road on which they live.

8 VAC 20-70-90. Safety belts.

Persons operating a school bus shall wear the appropriate safety belt system *in accordance with manufacturer's recommendations* while bus is in motion.

8 VAC 20-70-100. Passenger restraint belts.

Pupils riding in ~~Type A~~ school buses *required by federal law* to be equipped with passenger restraint belts shall wear them as *required by state or federal law* while the bus is in motion. See *Federal Motor Vehicle Safety Standard No. 209.*

8 VAC 20-70-110. Pupil rider safety instruction.

Pupil rider safety instruction shall be included in the school curriculum, including demonstration and practices of safety procedures.

1. At the Pre-K-1 grade levels, initial safety training shall occur during the first week of school and additional training on a periodic basis during the year.
2. Emergency exit drills shall be practiced by all pupil riders at least twice a year, the first occurring during the first 30 instructional days *and the second in the second semester. Summer session evacuation drills should be performed as needed.*
3. A copy of bus rider safety rules shall be sent to parents at the beginning of the school year. The information shall include a request that parents or their designee accompany their young children to and from the bus stop.

8 VAC 20-70-120. Insurance.

Section 22.1-190 of the Code of Virginia states that every vehicle used in transporting school pupils and personnel at public expense shall be covered by insurance that will provide financial assistance to pupils and personnel in case of injuries or deaths resulting from an accident. Insurance is required by law in the following minimum amounts:

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1. ~~Public liability or bodily injury, including death:~~
 - a. ~~per person, or lower limit~~ \$ 50,000
 - b. ~~per accident, or upper limit~~ \$200,000
2. ~~Property damage liability~~ \$ 20,000
3. ~~Uninsured motorists coverage — equal to aforesaid limits of liability~~
4. ~~Medical payment — per person~~ \$ 1,000

8 VAC 20-70-130. *Maintenance inspection.*

All school buses and school activity vehicles used to transport public school pupils to and from school and school activity events shall be inspected and maintained by competent mechanics immediately before being used in the fall and at least once every 30 operating days or every 2,500 miles traveled, whichever occurs first. The inspections and maintenance shall be conducted in accordance with provisions of the "Preventive Maintenance Manual for Virginia School Buses *Bus Personnel and School Administrators, 1983*" and recorded on the prescribed inspection forms or in a format approved by the Department of Education. If the inspection and maintenance are not made in a shop operated by the school board or the local governing body, the school board shall designate one or more inspection centers to make the inspections and require a copy of the results of the inspections to be furnished to the division superintendent.

Maintenance and service personnel shall be encouraged to attend approved workshops or training institutes and shall receive all necessary service and maintenance publications for equipment serviced.

8 VAC 20-70-140. ~~Report~~ *Crash/incident reporting.*

A report, on forms or on the format furnished by the Department of Education, of any ~~accidents~~ *crashes or incidents* involving school buses, pupils, and personnel who ride school or activity buses (including injury or death while crossing the road, waiting at bus stops, etc.) shall be sent to the Pupil Transportation Service, Department of Education by the division superintendent or designee at least once a month. The report shall give the apparent cause of the ~~accident~~ *crash or incident*, the extent of injuries to pupils or others. The division superintendent or designee shall notify the Pupil Transportation Service of any school bus ~~accident~~ *crash or incident* involving serious injuries, requiring professional medical treatment, or death within the next working day from the date of the accident.

A crash is an accident when property damage is \$1,000 or more or when persons are injured. An incident is an accident when property damage is \$999 or less and there are no injured individuals.

8 VAC 20-70-150. *Route schedule.*

All school buses in operation shall be ~~carefully~~ *carefully* scheduled ~~on routes to schools to maximize safety and efficiency.~~ The schedule shall show the time the bus starts in the morning, the time it leaves each point at which pupils are taken on, and the time of arrival at school. One copy of such schedule shall be

kept in the bus and one copy shall be kept in the office of the division superintendent or designee ~~of schools.~~

8 VAC 20-70-160. *Review of routes.*

School bus routes, school sites, and safety of pupils at *designated school* bus stops shall be reviewed at least once each year. Bus routes shall be reviewed for safety hazards, fuel conservation, and to assure maximum use of buses. Local school administrators shall evaluate the safety of pupils at bus stops periodically and shall at the request of the local school board report the results annually to the school board. *Hazardous or unusual situations, to include railway crossings, shall be marked on the route sheet and made available to drivers and substitutes.*

A written vehicular and pedestrian traffic control plan for each existing school site shall be reviewed annually for safety hazards. All new school site plans shall include provisions ~~which~~ *that* promote vehicular and pedestrian safety.

8 VAC 20-70-170. *Railway crossings.*

School buses shall stop, as required by law, at railway grade crossings. The 4-way hazard lights shall be activated when approaching the railway grade crossing and deactivated before crossing the track. The bus driver shall *turn off all noisy equipment*, open the entrance door of the bus and determine when it is safe for the vehicle to cross the railroad tracks. The entrance door shall be closed when the bus is in motion. No stop need be made at any grade crossing where traffic is directed by a police officer or a green traffic-control signal.

8 VAC 20-70-190. *Policies.*

Local school boards shall adopt policies, consistent with provisions of ~~the Code of Virginia School Laws,~~ before establishing a practice of collecting transportation fees from pupils or receiving contributions from other sources for activities sponsored by schools under their authority. No pupil whose parent or guardian is financially unable to pay the pro rata cost of the trip may be denied the opportunity to participate. See § 22.1-176 of the Code of Virginia.

8 VAC 20-70-200. *Identification and lights covering.*

The lettered identification and traffic warning lights on the front and rear of school buses shall be covered with opaque detachable material when they are used for purposes other than to transport pupils on regular routes to and from school, or on special trips to participate in contests of various kinds, and for supplementary education purposes *as required by § 22.1-183 of the Code of Virginia.* This does not apply when the bus is being used to transport elderly or mentally or physically handicapped persons.

8 VAC 20-70-220. *Passage restriction.*

No object shall be placed ~~in the~~ *on any bus carrying passengers* that will restrict the ~~passage~~ *access* to ~~the entrance or emergency doors~~ *any exit.*

8 VAC 20-70-230. *Required materials.*

All vehicles used to transport students to and from school or school-related activities shall carry reflective triangles, first aid

kit, body fluid clean-up kit and fire extinguisher. (See 8 VAC 20-70-1040.)

8 VAC 20-70-235. Funding for pupil transportation.

Funding for pupil transportation shall be pursuant to the provisions of the appropriation act.

PART III.

DISTRIBUTION OF PUPIL TRANSPORTATION FUNDS.

8 VAC 20-70-240. Regular approved school bus fund. (Repealed.)

The regular approved school bus fund shall be allocated for pupils transported on approved school buses to the extent that these provisions are consistent with the annual Appropriation Act:

1. School divisions shall be eligible for reimbursement for transportation of pupils in kindergarten through grade 12 and for students with disabilities ages two to 21 as defined in § 22.1-213 of the Code of Virginia, paragraph 1.

2. No reimbursement shall be made for pupils transported on any bus or for any bus which does not meet the provisions of the annual inspections required by the Department of State Police, the fleet assessment by the Department of Education and regulations of the Board of Education.

NOTE: Any required reduction in the fund will be based on a pro rata share of the total "Regular Approved Bus Fund" allocation.

3. No reimbursement shall be made for pupils or buses unless the pupils are transported and the bus is used both from home to school and from school to home.

4. No reimbursement shall be made from this fund for pupils or buses if transportation assistance is received from other state or federal sources. Fares/fees shall not be collected from the pupil/parent, except as provided for in §§ 22.1-6 and 22.1-176 of the Code of Virginia, and Board of Education Regulations.

5. The computation for reimbursement shall be based on the number of pupils transported in average daily attendance (average number transported daily) and the prevailing number of buses for a prior years.

6. The computation for reimbursement of school divisions during their first year of school bus operation shall be based on the number of pupils and buses for the current year.

7. Before final reimbursement for the transportation of pupils to and from public schools is made to a school division, a report shall be submitted by the division superintendent to the Superintendent of Public Instruction certifying the number of pupils transported, the correct net operating cost of transporting pupils (actual expenditure, less gas tax refunds), and the average daily mileage of each bus meeting the standards and specifications of the Board of Education used in transporting pupils for the preceding school year. Such report shall include information covering the type of bus, make and model of the body and chassis, and the number of bus inspections. Information for the

review of pupil transportation programs shall be furnished annually on forms provided by the Department of Education. Records of vehicle inspections and maintenance shall be presented for review at the time of the annual fleet assessment conducted by the Department of Education or at other times necessary to ensure compliance with 8 VAC 20-70-130 and 8 VAC 20-70-380 of this chapter.

8. Regular fund reimbursement will be included in basic aid payment.

9. For purposes of costing the standards of quality, the Board of Education assumes a 12-year school bus replacement cycle.

8 VAC 20-70-250. Fund for Exclusive Transportation of Students with Disabilities on approved school buses. (Repealed.)

The Fund for Exclusive Transportation of Students with Disabilities shall be allocated on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

1. All provisions in 8 VAC 20-70-240 "Regular Approved Bus Fund" shall apply to the computation of the reimbursement from this fund;

2. Reimbursement shall be allowed only for transportation of students with disabilities who have been classified as such in the Rehabilitation Act of 1973, § 504, the Individual with Disabilities Education Act of 1975, the Code of Virginia, and regulations of the Board of Education, and for those pupils who have not been identified but whose handicapping conditions dictate exclusive transportation;

3. No reimbursement authorized by this article shall be made when both nonhandicapped pupils and students with disabilities are transported on the same trip;

4. Exclusive fund reimbursement will be included in basic aid payment; and

5. For purposes of costing the standards of quality, the Board of Education assumes a 12-year school bus replacement cycle.

8 VAC 20-70-260. Special transit fund. (Repealed.)

The special transit fund shall be allocated for pupils transported on public transit systems.

1. The amount of reimbursement shall be based on the number of pupils riding public transit buses multiplied by the comparable prevailing regular program per pupil cost consistent with the annual Appropriations Act.

2. Transit funds shall be available to school divisions for eligible pupils transported in transit buses through contracts with public transit systems listed and recognized as public transit systems by the Virginia Department of Transportation. School divisions will not be eligible to include pupils transported in vehicles commonly referred to or licensed as passenger cars, cabs, vans, taxis, school activity vehicles, and school buses.

3. The local school board shall make provisions when such transportation is provided that each vehicle be operated and

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~~maintained so as to ensure safe service to the pupils. Insurance shall be provided by the owner of such vehicles in amount not less than those provided for in § 22.1-190 of the Code of Virginia. Evidence of such insurance shall be on file in the school board office.~~

~~4. Reimbursement shall be available for pupils who are transported to and from public schools for the regular school session and will not be available for special trips and extracurricular activities.~~

~~5. In no case, shall reimbursement exceed local school board expenditures for transporting such pupils.~~

~~6. Transit fund reimbursement will be included in basic aid payment.~~

8 VAC 20-70-270. Special Arrangements Fund for Transportation of Students with Disabilities. (Repealed.)

The special arrangements fund for transportation of students with disabilities shall be allocated on the following bases to the extent that these provisions are consistent with the annual Appropriations Act:

~~1. Funds shall be available to school divisions for eligible students with disabilities, ages two to 21 inclusive, transported by contract with approved private schools, taxicabs, airlines, intercity/interstate passenger buses, school board owned cars, or for the transportation by parents in lieu of the school board providing transportation services.~~

~~2. No reimbursement shall be allocated for pupils transported on vehicles which are not in compliance with all applicable federal school vehicle regulations.~~

~~3. Data on attendance, actual cost, and type of vehicles related to the special arrangement transportation to public, approved private, and regional schools shall be submitted each semester on forms provided by the Department of Education.~~

~~4. Pupils eligible for or claimed in reimbursement from any other transportation fund, state or federal, shall not be eligible for reimbursement from the Special Arrangements Fund.~~

~~5. Special Arrangements Fund reimbursement will be included in basic aid payment.~~

PART IV III.

REQUIREMENTS FOR SCHOOL BUS DRIVERS.

8 VAC 20-70-280. Requirements for school bus drivers both for employment and continued employment.

Sections 22.1-178, 46.2-339, and 46.2-340 of the Code of Virginia require drivers of school and activity buses shall to:

1. Have a physical examination of a scope prescribed by the Board of Education with the advice of the Medical Society of Virginia and furnish a form prescribed by the Board of Education showing the results of such examination.

a. No person shall drive a school bus unless that person is physically qualified to do so and has submitted a

School Bus Driver's Application For Physician's Certificate signed by the applicant and the doctor *or a licensed nurse practitioner* for the applicable employment period.

b. A person is physically qualified to drive a school bus if the individual: *The physical form describes the basic physical qualifications for school bus drivers; however, the examining physician or licensed nurse practitioner shall make the final determination of the individual's physical capacity to operate a school bus based upon their assessment of the individual's overall physical condition.*

(1). ~~Has no loss of a foot, a leg, a hand, or an arm which interferes with the ability to control and safely drive a school bus without reasonable accommodations;~~

(2). ~~Has no impairment of the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation likely to interfere with the ability to control and safely drive a school bus without reasonable accommodations;~~

(3). ~~Has no known medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control likely to interfere with the ability to control and safely drive a school bus without reasonable accommodations;~~

(4). ~~Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;~~

(5). ~~Has no known medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with the ability to control and drive a school bus safely without reasonable accommodations;~~

(6). ~~Has no known current clinical diagnosis of high blood pressure likely to interfere with the ability to operate a school bus safely without reasonable accommodations;~~

(7). ~~Has no known medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which would interfere with the ability to control and operate a school bus safely without reasonable accommodations;~~

(8). ~~Has no known medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a school bus without reasonable accommodations;~~

(9). ~~Has no known mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with the ability to drive a school bus safely without reasonable accommodations;~~

(10). ~~Has both distant and near visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses, and field of vision of at least 70 degrees in the~~

horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

~~(11). First perceives a forced-whispered voice in the better ear at not less than five feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951; and~~

~~(12). Does not use an amphetamine, narcotic, or any habit-forming drug without appropriate physician supervision.~~

2. Furnish a statement or copy of records from the Department of Motor Vehicles showing that the person, within the preceding five years, has not been convicted of a charge of driving under the influence of intoxicating liquors or drugs, *convicted of a charge of refusing to take a blood or breath test*, convicted of a felony, or assigned to any alcohol safety action program or driver alcohol rehabilitation program pursuant to § 18.2-271.1 of the Code of Virginia or, within the preceding 12 months, has not been convicted of two or more moving traffic violations or has not been required to attend a driver improvement clinic by the Commissioner of the Department of Motor Vehicles pursuant to § 46.2-497 of the Code of Virginia.

3. Furnish a statement signed by two reputable ~~residents of persons who reside in the school division or in the applicant's community~~ that the person is of good moral character.

4. Exhibit a license showing the person has successfully undertaken the examination prescribed by § 46.2-339 of the Code of Virginia.

5. ~~Have reached the age of~~ *Be at least 18 years old.*

6. Submit to testing for alcohol and controlled substances ~~which that~~ is in compliance with the Omnibus Transportation Employee Testing Act of 1991 (Public Law 102-143, Title V) and the amendments *and is in compliance with 49 CFR Parts 40 and 382.*

8 VAC 20-70-290. First aid course.

Any school board may require successful completion of the American Red Cross first aid course or its equivalent as a condition to employment to operate a school bus transporting pupils *as required by § 22.1-178 of the Code of Virginia.*

8 VAC 20-70-340. Highway driving.

Section 46.2-339 of the Code of Virginia requires that no person shall drive a school or activity bus upon a highway in the Commonwealth unless such person has had a reasonable amount of experience in driving motor vehicles, and shall have passed a special examination indicating the ability to operate a school bus without endangering the safety of pupil passengers and persons using the highway. To prepare for the examination required by this section, any person holding a

valid operator's license and Commercial Driver's License (CDL) Instruction Permit issued under the provisions of § 46.2-325 of the Code of Virginia, may operate, under the direct supervision of a person holding a valid school bus license endorsement, a school bus ~~which that~~ contains no pupil passengers. The Department of Motor Vehicles is required to adopt such rules and regulations as may be necessary to provide for the examination of persons desiring to qualify to drive such buses in this Commonwealth and for the granting of permits to qualified applicants.

8 VAC 20-70-350. Training.

No person shall operate a school or activity bus transporting pupils unless the person shall ~~have~~ *has*:

1. Received classroom, demonstration, and behind-the-wheel instruction in accordance with ~~the minimum provisions of the "Virginia School Bus Driver Training Curriculum Guide," a program developed by the Department of Education pursuant to § 22.1-181 of the Code of Virginia.~~

2. Completed a minimum of 20 classroom hours and 20 hours of behind-the-wheel training. A minimum of 10 of the 20 hours of behind-the-wheel time shall involve the operation of a bus with pupils on board while under the direct supervision of a designated bus driver trainer. *Drivers of Type D buses must complete eight additional hours of training behind-the-wheel.*

Any driver who transports students with disabilities shall receive an additional six hours of appropriate instruction, training and demonstration from an approved instructor using Department of Education approved curriculum.

The superintendent or his designee shall maintain a record showing that the applicant has completed the training and has been approved to operate a school or activity bus.

8 VAC 20-70-360. In-service training.

~~In-service training (at least two hours before opening of schools and at least two hours during the second half of the school year) devoted to improving the skills, attitudes, and knowledge including orientation to maximize benefits of using safety programs and safety components shall be provided to all school or activity bus drivers.~~

Prior to the beginning of each school year, school divisions shall determine the amount of training and a schedule that is needed for experienced drivers and new drivers.

8 VAC 20-70-370. Supervision.

The drivers of school and activity buses shall be under the general direction and control of the superintendent ~~and school board or the supervisor of transportation or designee~~, and shall also be accountable to the principal of the school to which transportation is provided.

8 VAC 20-70-380. Pre-trip safety inspection.

The drivers of school and activity buses shall perform a ~~daily~~ pre-trip safety inspection of the vehicle immediately prior to transporting children. The items checked and recorded shall

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be at least equal to the pre-trip inspection procedure as prescribed by the Department of Education.

8 VAC 20-70-390. Misconduct reports. (Repealed.)

~~The drivers of school and activity buses shall report to the principal the misconduct of pupils on the school bus or at waiting stations or stops on the way to or from school and shall be guided by the principal's advice and direction, subject to the regulations of the school board. When it becomes necessary for the driver to correct pupils, the driver shall stop at the nearest and safest place and restore order before proceeding. In no case shall a driver put a pupil off the bus between the home and school as a disciplinary measure.~~

8 VAC 20-70-400. Performance Evaluation.

~~The performance of Each school and activity bus driver shall be evaluated by the transportation director or designee at least once each year. The results of the evaluation shall be discussed with the driver and included in the driver's personnel file.~~

8 VAC 20-70-410. Emergency equipment.

The driver of activity or extracurricular trip buses shall advise the pupils and/or sponsors of the location of the required emergency equipment and exits prior to the beginning of any such trip.

8 VAC 20-70-420. Instructor course certificate.

Local school bus driver training instructors shall hold a certificate for completion of an instructor course conducted or ~~sponsored~~ approved by the Department of Education and shall attend a recertification course every five years.

8 VAC 20-70-430. Driver data.

The names and driver license numbers of persons operating school and activity buses used to transport pupils shall be submitted to the Department of Motor Vehicles annually as required by § 46.2-340 of the Code of Virginia. ~~These data for each new driver employed during the school year shall be submitted by the 10th of each month.~~

~~PART V.~~

~~MINIMUM STANDARDS FOR SCHOOL BUSES IN VIRGINIA.~~

~~Article 1.~~

~~General Requirements.~~

8 VAC 20-70-440. Responsibility for compliance.

The responsibility for compliance with ~~these~~ the school bus and activity vehicle specifications issued by the Department of Education rests with dealers and manufacturers. If any dealer or manufacturer sells school buses or school activity vehicles ~~which~~ that do not conform to any or all of ~~these~~ the specifications issued by the Department of Education, a general notice will be sent to all school divisions advising that equipment supplied by such dealer or manufacturer will be disapproved for school transportation until further notice. A copy of the notice will be sent to the dealer or manufacturer and will remain in effect until full compliance by the dealer or manufacturer is assured.

Dealers and manufacturers shall be given at least 30 days' notice of any changes in the specifications.

~~PART IV.~~

~~GENERAL REQUIREMENTS FOR SCHOOL BUSES IN VIRGINIA.~~

8 VAC 20-70-460. Specifications.

It is the intent of the Board of Education to accommodate new equipment and technology that will better facilitate the safe and efficient transportation of students. When a new technology, piece of equipment, or component is desired to be applied to the school bus, it must have the approval of the Virginia Department of Education and must meet the following criteria:

- 1. The technology, equipment, or component shall not compromise the effectiveness or integrity of any major safety system.*
- 2. The technology, equipment, or component shall not diminish the safety of the interior of the bus.*
- 3. The technology, equipment, or component shall not create additional risk to students who are boarding or exiting the bus or are in or near the school bus loading zone.*
- 4. The technology, equipment, or component shall not require undue additional activity or responsibility for the driver.*
- 5. The technology, equipment, or component shall generally increase efficiency or safety, or both, of the bus, generally provide for a safer or more pleasant experience for the occupants and pedestrians in the vicinity of the bus, or shall generally assist the driver and make his many tasks easier to perform.*

Buses and school activity vehicles must conform to the specifications relative to construction and design effective on the date of procurement. Any variation from the specifications, in the form of additional equipment or changes in style of equipment, without prior approval of the ~~Pupil Transportation Service~~, Department of Education, is prohibited. *The Department of Education shall issue guidelines on the specifications and standards for public school buses to reflect desired technology or safety improvements for the then current model year.*

8 VAC 20-70-470. Adjustments.

The Superintendent of ~~Pupil~~ Public Instruction is authorized to make such adjustments from time to time in technical specifications as are deemed necessary in the interest of safety and efficiency in school bus operation. This includes the issuance of chassis specifications by size, type and model year. Authority is also granted for conducting investigations and field tests of certain pertinent vehicle components.

8 VAC 20-70-510. Vehicles powered by alternative fuels.

A. The Board of Education will continue to promote the use of alternative fuels for school buses. Any vehicle powered by alternative fuels will be subject to inspection and approval by the Virginia Department of Education.

B. Local school divisions, in consultation with the Department of Education, may purchase and use school buses using alternative fuels—(as covered in § 22.1-177 of the Code of Virginia).

C. Installation of alternative fuel tanks and fuel systems shall comply with all applicable Federal Motor Vehicles Safety Standards (FMVSS) 301, 49 CFR § Part 571, and all applicable fire codes.

D. A sign with black letters on clear or school bus yellow background, indicating the type of alternative fuel being used, may be placed on the side of the bus near the entrance door. No sign shall be more than 4-3/4 inches long or more than 3-1/4 inches high.

8 VAC 20-70-520. Road speed control. (Repealed.)

School divisions may, at their discretion, set road speed control to a maximum of 55 miles per hour.

PART V.
ACTIVITY VEHICLES.

8 VAC 20-70-525. Regulations and standards.

Activity vehicles owned or operated under contract by or for the school board, which are used solely to transport pupils to and from school activity events, shall comply with all applicable regulations and standards prescribed for school buses except as noted in this part.

1. Exceptions, general regulations.

a. An activity vehicle transporting school pupils shall be operated at a safe, legal speed not in excess of 55 miles per hour.

b. No standees shall be permitted.

c. The eight-inch school bus lettered identification and traffic warning devices shall be removed by the local school division as required by §§ 46.2-100 and 46.2-1090 of the Code of Virginia. The name of the school division or individual school shall be placed on both sides of the vehicle.

d. Stops for the purpose of loading or discharging pupils on the travel portion of the highway shall not be permitted.

2. Exceptions, minimum standards for school buses in Virginia.

a. School activity vehicles shall not be painted national school bus yellow.

b. Other types of seats and increased spacing may be used provided all provisions of FMVSS 222, 49 CFR § 571.222, are met.

Article 2.
The Bus Chassis.

8 VAC 20-70-530. Air cleaner. (Repealed.)

A. The engine intake air cleaner system shall be furnished and properly installed by the chassis manufacturer to meet the engine manufacturer's specifications.

B. An air cleaner restriction indicator shall be furnished and installed by chassis manufacturer.

8 VAC 20-70-540. Alternator. (Repealed.)

A. All Type A and B buses up to 15,000 pounds gross vehicle weight rating (GVWR) shall have a minimum 90 ampere alternator.

B. Type B buses over 15,000 pounds GVWR and all Type C and D buses shall be equipped with a heavy duty truck or bus type alternator meeting Society of Automotive Engineers (SAE) J-180; having a minimum output rating of 100 amperes, alternator shall be capable of producing a minimum of 50% of its maximum rated output at the engine manufacturer's recommended idle speed.

C. All buses equipped with an electrical power lift shall have an alternator capable of producing a minimum 75 amperes at engine manufacturer's recommended idle speed.

D. Belt drive shall be capable of handling the rated capacity of the alternator with no detrimental effect on other driven components. Direct-drive alternator is permissible in lieu of belt drive.

8 VAC 20-70-550. Axles. (Repealed.)

A. The front axle and rear differential, including suspension assemblies, shall have a gross axle weight rating at ground at least equal to that portion of the load as would be imposed by the chassis manufacturer's maximum gross vehicle weight rating.

B. Rear axle shall be single speed, full floating type.

8 VAC 20-70-560. Battery. (Repealed.)

A. No bus shall be equipped with a battery of less than 700 amperes cold cranking current at 0°F with 170 minutes reserve capacity at 80°F.

B. Battery shall be mounted in the engine compartment or temporarily mounted to chassis. When battery is temporarily mounted to chassis by chassis manufacturer, the chassis manufacturer shall furnish and install one piece cables of sufficient length to allow battery to be mounted in slide-out tray in body skirt on left side of bus. Cable shall be at least one gauge color coded (positive red, negative black). Annual chassis requirements will specify battery location for different types of chassis.

8 VAC 20-70-570. Brakes. (Repealed.)

A. Four wheel brakes, adequate at all times to control bus when fully loaded, shall be provided in accordance with Federal Motor Vehicle Safety Standards.

B. Service brakes shall meet FMVSS 105, 49 CFR 571.105, for hydraulic brakes, and FMVSS 121, 49 CFR 571.121, for air brakes. Brake lining shall not contain asbestos.

C. Chassis shall be equipped with auxiliary brakes capable of holding vehicle on any grade on which it is operated under any conditions of loading on a surface free from snow or ice. Operating controls of such auxiliary brakes shall be independent of operating controls of service brakes.

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~~D. Buses having full compressed air systems shall be equipped with:~~

- ~~1. A minimum 12 cubic feet per minute engine oil fed air compressor.~~
- ~~2. Air supply for air compressor shall be taken from the clean side of engine air cleaner system.~~
- ~~3. An air dryer with automatic purge and drain cycle and a heating element.~~

~~E. Buses using hydraulic brakes shall have power assist brakes. Hydraulic line pressure shall not exceed recommendation of chassis or brake manufacturer.~~

Diagram 1. Chassis Elevation (Repealed.)

8 VAC 20-70-580. Bumper, front. (Repealed.)

~~A. Front bumper shall be heavy duty, channel steel at least eight inches in height with 3/16 inch thickness, painted black, and shall be furnished by chassis manufacturer as part of chassis.~~

~~B. Front bumper shall extend to outer edges of fenders at bumper top line (to assure maximum fender protection) and be of sufficient strength to permit pushing, lifting or towing without permanent distortion to bumper, chassis, or body.~~

~~C. Exception Type A vehicles.~~

~~Bumper shall be manufacturer's standard painted black.~~

~~D. Exception Type D vehicles. Same as above, except that front bumper shall be furnished by body manufacturer.~~

8 VAC 20-70-590. Clutch. (Repealed.)

~~Torque capacity shall be equal to or greater than the engine torque output. Clutch facing shall be nonasbestos.~~

8 VAC 20-70-600. Color. (Repealed.)

~~A. Chassis, including wheels, and front bumper shall be black.~~

~~B. Hood, cowl, and fenders shall be national school bus yellow.~~

~~C. Grill shall be national school bus yellow, if painted; otherwise, it shall be chrome or anodized aluminum.~~

~~D. All paint shall meet the lead-free standards.~~

8 VAC 20-70-610. Drive shaft. (Repealed.)

~~Drive shaft shall be protected by metal guard or guards to prevent it from whipping through floor or dropping to ground if broken.~~

8 VAC 20-70-620. Electrical system. (Repealed.)

~~A. Battery see 8 VAC 20-70-560.~~

~~B. Alternator see 8 VAC 20-70-540.~~

~~C. Lights and signals see 8 VAC 20-70-730.~~

~~D. Wiring see 8 VAC 20-70-1350.~~

~~E. Power terminal. Chassis manufacturer shall provide an electric power source terminal for bus body power connection. Wiring from the power source in wiring terminal shall have a~~

~~current carrying capacity of 125 amperes continuous (minimum 4 gauge wire).~~

~~This conductor shall be of continuous size uninterrupted by fusible links, fuses, or circuit breakers. The terminal shall be of the single post type, minimum of one fourth inch (1/4") stud and located on the fire wall above the toeboard on the left hand side, subject to approval of the pupil transportation service, Department of Education.~~

~~F. Light terminal. The chassis manufacturer shall provide a wire terminal adjacent to or in the under dash area of the left side panel accessible to the body company for connection of rear brake lights, tail lights, turn signal lights, and back-up lights. A terminal strip consisting of individual terminals with each terminal properly identified shall be provided to meet this requirement.~~

~~G. Fuse. All fuses shall be located in fuse block and properly identified for the circuit protected.~~

~~H. Each chassis circuit shall be color coded and a diagram of the circuits shall be included with the chassis.~~

~~I. Wiring harness. All conductors from the alternator to the battery shall be continuous in length. The conductors shall be sized to provide at least a 25% greater current carrying capacity than the design output of the alternator (minimum 4 gauge wire). The conductor between the alternator and the battery shall be routed in a manner that will provide the least distance between points of termination. A separate ground conductor from alternator to engine shall be provided (minimum four gauge).~~

~~J. Safety switch shall be installed on the clutch linkage and prohibit engine from being started unless clutch pedal is depressed.~~

8 VAC 20-70-630. Engine. (Repealed.)

~~The engine shall be of the internal combustion, four-stroke cycle type, having not less than six cylinders. Thermostats with not less than 175°F - 195°F rating shall be provided.~~

8 VAC 20-70-640. Exhaust system. (Repealed.)

~~A. Exhaust pipe, muffler, and tail pipe shall be outside bus body attached to chassis.~~

~~B. Tail pipe shall be constructed of seamless or electrically welded tubing of 16-gauge steel or equivalent, and shall extend at least five inches beyond chassis frame. (See 8 VAC 20-70-1260)~~

~~C. Size of tail pipe shall not be reduced after it leaves muffler.~~

~~D. Exhaust system shall be properly insulated from fuel tank and tank connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections.~~

~~E. Muffler shall be constructed of corrosion-resistant material.~~

~~F. Exception Type A and B Vehicles less than 15,000 pounds (GVWR).~~

~~Tail pipe may exit behind rear wheel.~~

8 VAC 20-70-650. Fenders, front. (Repealed.)

~~A. Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position.~~

~~B. Front fenders shall be properly braced and free from any body attachment.~~

~~C. Chassis sheet metal shall not extend beyond rear face of cowl.~~

8 VAC 20-70-660. Frame. (Repealed.)

~~A. Frame shall be of such design as to correspond at least to standard practice for trucks of same general load characteristics which are used for severe service.~~

~~B. When frame side members are used, they shall be of one-piece construction. If frame side members are extended, such extension shall be designed and furnished by chassis manufacturer with a guarantee, and installation shall be made by either chassis or body manufacturer and guaranteed by company making installation. Extensions of frame lengths are permissible only when such alterations are behind rear hanger of rear spring, and shall not be for purpose of extending wheel base.~~

~~C. Holes in top or bottom flanges of frame side rails shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis or body manufacturer.~~

8 VAC 20-70-670. Frame length. (Repealed.)

~~Frame length (See 8 VAC 20-70-890)~~

8 VAC 20-70-680. Fuel tank. (Repealed.)

~~A. Fuel tank equipped with protective cage to meet FMVSS 301, 49 CFR § 571.301, shall have minimum fill capacity of 30 gallons, with a minimum draw of 25 gallons, and be mounted directly on right side of chassis frame, filled and vented entirely outside body. All fuel tanks shall be vented from the top of the tanks.~~

~~B. Fuel filter with replaceable element shall be installed between fuel tank and engine.~~

~~C. No portion of the fuel system which is located to the rear of the engine compartment, except the filler tube, shall extend above top of chassis frame rail.~~

~~D. If tank sizes other than 30 gallons are supplied, location of front of tank and filler spout must remain as specified by the School Bus Manufacturer's Institute Design Objectives, January 1985 edition, and have a minimum draw of 83% of fill capacity.~~

~~E. Measurements shown below are for guidance of chassis manufacturers and serve only to prevent need for replacement of original tank. (Inspectors concerned with state or local approval of vehicle need not consider them unless tank does not fit.)~~

- ~~1. Tank or cage shall not extend in height above side member of chassis.~~

~~2. Distance from center line of chassis to outside of tank cage shall not be more than 44 inches.~~

~~3. Bottom of tank cage shall not be more than 190 inches below top of frame.~~

~~4. Center of fillpipe cap shall be one inch below top of frame with plus or minus tolerance of 1/4 inch permitted.~~

~~F. Exceptions.~~

~~1. For Type A vehicles, the fuel tank shall be manufacturer's standard, mounted, filled, and vented outside of body.~~

~~2. For Type B of body on chassis or vehicles constructed with a power lift unit, the fuel tank may, due to space limitation, be mounted behind rear wheels with fillpipe on right or left side of body and have capacity of less than 30 gallons.~~

~~3. For Type D vehicles, the fuel tank may be mounted between frame rails with fuel filler pipe extending to right side of body between frame rails and body floor. Bottom of cage shall not extend below the level of the front axle.~~

8 VAC 20-70-690. Governor. (Repealed.)

~~A. An approved engine governor set by engine manufacturer is required on vehicles equipped with gasoline engines.~~

~~B. An approved road speed control shall be required on all buses and may be set at a maximum speed of 55 mph.~~

8 VAC 20-70-700. Heating system, provision for. (Repealed.)

~~The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The opening shall be suitable for attaching 3/4 inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170°F at a flow rate of 50 pounds per minute at the return end of 30 feet of one inch inside diameter automotive hot water heater hose. (SBMI Standards No. 001 Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)~~

8 VAC 20-70-710. Horn. (Repealed.)

~~Bus shall be equipped with dual horns of standard make which meet requirements of Federal Motor Vehicle Safety Standards, 49 CFR 571.~~

8 VAC 20-70-720. Instrument and instrument panel. (Repealed.)

~~A. Chassis shall be equipped with following instruments and gauges:~~

- ~~1. Speedometer which will show speed;~~
- ~~2. Odometer which will show accrued mileage, including tenths of miles;~~
- ~~3. Ammeter or voltmeter with graduated scale;~~
- ~~4. Oil pressure gauge;~~
- ~~5. Water temperature gauge;~~
- ~~6. Fuel gauge;~~

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~~7. Upper beam headlamp indicator; and~~

~~8. Tachometer.~~

~~B. All instruments or gauges shall be mounted on instrument panel in such manner that each is clearly visible to driver in normal seated position. Lights in lieu of gauges are not acceptable.~~

~~C. Exceptions. On all Type A vehicles, both the ammeter or voltmeter and its wiring are to be compatible with generating capacity.~~

8 VAC 20-70-730. Lights and signals. (Repealed.)

~~A. Each chassis shall be equipped with not less than two sealed beam headlights—beam controlled, and stop and tail lights, and two front turn signal lamps mounted on front fenders.~~

~~B. Lights shall be protected by fuse or circuit breakers.~~

~~C. Self-canceling directional signal switch shall be installed by the chassis manufacturer. The directional signals shall activate only when ignition is in "on" position.~~

8 VAC 20-70-740. Oil filter. (Repealed.)

~~Oil filter of replaceable element type shall be provided and shall have oil capacity of at least one quart.~~

8 VAC 20-70-750. Openings. (Repealed.)

~~All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and auxiliary brake lever, shall be sealed unless altered by body manufacturer. (See 8 VAC 20-70-960)~~

8 VAC 20-70-760. Overall length. (Repealed.)

~~Annual body specifications shall specify overall length.~~

8 VAC 20-70-770. Passenger load. (Repealed.)

~~Gross vehicle weight (i.e., wet weight, plus body weight, plus driver's weight of 150 pounds, plus weight of maximum seated pupil load based on not less than 120 pounds per pupil) shall not exceed maximum gross vehicle weight rating as established by manufacturer.~~

8 VAC 20-70-780. Retarder system (optional). (Repealed.)

~~Retarder system, if used, shall maintain the speed of the fully loaded school bus at 19 mph on a 7.0% grade for 3.6 miles and shall be approved by the Department of Education.~~

8 VAC 20-70-790. Shock absorbers. (Repealed.)

~~Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity.~~

8 VAC 20-70-800. Springs. (Repealed.)

~~A. Springs or suspension assemblies shall be of ample resiliency under all load conditions and of adequate strength to sustain loaded bus without evidence of overload.~~

~~B. Springs or suspension assemblies shall be designed to carry their proportional share of gross vehicle weight in accordance with requirement for "Weight Distribution" as shown in 8 VAC 20-70-850.~~

~~C. Rear springs shall be of progressive or variable type.~~

~~D. Stationary eye of the front spring shall be protected by full wrapper leaf in addition to main leaf.~~

~~Exception Type A vehicles.~~

~~Springs that are regular equipment on vehicle to be purchased may be used.~~

8 VAC 20-70-810. Steering gear. (Repealed.)

~~A. Steering gear shall be approved by chassis manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and maximum speed.~~

~~B. No changes shall be made in steering apparatus which are not approved by chassis manufacturer.~~

~~C. There shall be clearance of at least two inches between steering wheel and cowl instrument panel, windshield, or any other surface.~~

~~D. Power steering is required and shall be of the integral type with integral valves.~~

8 VAC 20-70-820. Tires and rims. (Repealed.)

~~A. Tire and rim sizes, based upon current standards of Tire and Rim Association, shall be required.~~

~~B. Total weight imposed on any tire shall not be above current standard of Tire and Rim Association.~~

~~C. Dual rear tires shall be provided on all vehicles.~~

~~D. All tires on given vehicles shall be of same size and ply rating.~~

~~E. Spare tire, if required, shall be suitably mounted in accessible location outside passenger compartment.~~

~~Exception Type A conversion van.~~

~~Same as above, except that dual rear tires are not required.~~

8 VAC 20-70-830. Transmission. (Repealed.)

~~A. Mechanical type transmission shall be synchromesh except first and reverse gears. Its design shall provide not less than four forward and one reverse speeds. With five-speed transmission, fifth gear shall be direct.~~

~~B. Automatic transmissions are permissible when equipped with a parking pawl or approved parking brake system.~~

~~Exception Type A vehicles.~~

~~Three-speed transmissions are acceptable.~~

8 VAC 20-70-840. Turning radius. (Repealed.)

~~Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb to curb measurement. Chassis with a wheel base over 264 inches shall have a right and left turning radius of not more than 44 1/2 feet curb to curb measurement.~~

8 VAC 20-70-850. Weight distribution. (Repealed.)

A. ~~Weight distribution of fully loaded bus on level surface shall be such that not more than 75% of gross vehicle weight is on rear tires, and not more than 35% is on front tires.~~

B. ~~Exception Type D vehicles. With engine inside front of body, if entrance door is ahead of front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 50% on front tires. If entrance door is behind front wheels, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires. With engine in rear, not more than 75% of gross vehicle weight shall be on rear tires, nor more than 40% on front tires.~~

8 VAC 20-70-860. Wheels. (Repealed.)

~~Disc wheels are required.~~

~~Article 3.
The Bus Body.~~

8 VAC 20-70-870. Aisle. (Repealed.)

A. ~~Minimum clearance of all aisles, including aisle (or passageway between seats) leading to emergency door, shall be 12 inches. Aisles shall be unobstructed at all times. (See 8 VAC 20-70-990 B 6)~~

B. ~~Aisle supports of seat backs shall be slanted away from aisle sufficiently to give aisle clearance of 15 inches at top of seat backs.~~

C. ~~Exceptions.~~

- ~~1. Type D vehicles with engine inside front of body: Minimum distance between barrier at rear of entrance stepwell and engine cover shall be 14 inches, measured at floor level.~~
- ~~2. Type A vehicles to have minimum aisle width of 15 inches.~~
- ~~3. Type B, forward control to have minimum aisle width of 14 inches.~~
- ~~4. Buses equipped with wheelchair positions. See 8 VAC 20-70-1370 of this chapter.~~

8 VAC 20-70-880. Battery. (Repealed.)

~~The battery shall be located in the engine compartment, except when otherwise specified on annual chassis specifications. (See 8 VAC 20-70-560 B) when mounted outside engine compartment.~~

8 VAC 20-70-890. Body sizes. (Repealed.)

~~Sizes are based on knee room clearance between rows of forward-facing seats, overall width, center aisle width, and average rump width. Body lengths for various capacity units will be designated in Specification Notices, issued periodically by the Pupil Transportation Service, Department of Education.~~

8 VAC 20-70-900. Bumper, front. (Repealed.)

~~See 8 VAC 20-70-580 of this chapter.~~

8 VAC 20-70-910. Bumper, rear. (Repealed.)

A. ~~Rear bumper shall be of pressed steel channel at least 3/16 inch by 9 1/2 inches.~~

B. ~~It shall be wrapped around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line.~~

C. ~~Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent hitching of rides.~~

D. ~~Rear bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line.~~

~~Exception Type A vehicles.~~

~~Rear bumper shall be standard type furnished by chassis manufacturer as part of chassis on conversion vans. Body manufacturer will furnish bumper on cutaway chassis.~~

8 VAC 20-70-920. Ceiling. (Repealed.)

~~See insulation and interior, 8 VAC 20-70-1070 and 8 VAC 20-70-1080.~~

8 VAC 20-70-930. Chains. (Repealed.)

~~See wheel housings, 8 VAC 20-70-1300 D.~~

8 VAC 20-70-940. Color. (Repealed.)

A. ~~School bus body including hood, cowl, external speakers and fenders shall be painted uniform color, national school bus yellow.~~

B. ~~Grill shall be national school bus yellow, if painted; otherwise it shall be chrome or anodized aluminum.~~

C. ~~Rear bumper, body trim, and required rub rails shall be painted black.~~

D. ~~The roof of the bus may be painted white extending down to the drip rails on the sides of the body except that front and rear roof caps shall remain national school bus yellow.~~

E. ~~All paint shall meet the lead free standards.~~

F. ~~Retroreflective tape.~~

~~Reflective material shall be installed on all buses ordered after July 1, 1994. Material shall be Type V or better, as determined by the American Society of Testing Materials (ASTM): D4956-90. "Standard specifications for reflective sheeting for traffic control."~~

~~1. The material shall retain at least 50% of reflectance values for a minimum of seven years.~~

~~2. Reflective materials and markings shall include all of the following:~~

- ~~a. On the rear, a strip of reflective yellow material two inches in width to be applied on the back of the bus, extending from the left lower corner of the "SCHOOL BUS" lettering, across to left side of the bus, then vertically down to the top of the bumper, across the bus on a line immediately above the bumper to the right side,~~

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then vertically up to a point even with a horizontal strip terminating at the right lower corner of the "SCHOOL BUS" lettering. (See diagram 2.)

Diagram 2. Placement of Reflective Markings (*Repealed.*)

b. "SCHOOL BUS" signs shall be marked with reflective yellow material comprising background for lettering of the front and rear "SCHOOL BUS" signs. (See diagrams 2 and 3.)

Diagram 3. (*Repealed.*)

c. Sides of the bus body shall be marked with reflective yellow material, two inches in width, extending the length of the bus body and located (vertically) as close as practicable to the beltline. (See diagram 4.)

Diagram 4. (*Repealed.*)

3. Reflective material shall be installed on the rear and sides of school activity buses, following the same specifications in subdivisions 2 a and 2 c of this subsection. There will be no "SCHOOL BUS" signs on either the front or the rear of the vehicle. Color of the reflective material shall match, as closely as possible, the color of the bus body.

4. OPTION: Rear bumpers on school or activity buses may be marked with a maximum three-inch wide continuous black strip of reflective material which continues around corners to the ends of the bumpers. (See diagram 2.)

8 VAC 20-70-950. Communication system -- optional equipment. (*Repealed.*)

A. Two-way communication systems. If two-way communication systems are installed on school buses, the systems shall be subject to written policies adopted by the local school board. Installation shall be subject to the Department of Education Annual Fleet Assessment.

1. The radio mounting shall be in the driver's compartment in a safe, secure location, so as not to interfere with normal bus operation.

2. Mounting shall be permanent type (temporary or slide-in mounting will not be acceptable).

3. Wiring shall be protected by a proper fuse or circuit breaker and permanently connected to an accessory circuit shut off by ignition switch. Plug-in type connections are not acceptable.

4. Antenna shall be permanently mounted to cowl or roof so as not to interfere with driver's vision of roadway. Antenna lead-in cable shall be permanently secured with the proper clamps, grommets, and sealant. Antenna cable may not pass through window opening.

B. Public address system. For use by driver, the system contains an inside speaker and an external speaker which is of special use when driver needs to caution pupils about surrounding dangers at school bus stops. Inside speakers shall be recessed type.

C. AM/FM radios and cassette players. If AM/FM radios or cassette players are installed, they shall be properly mounted by the body manufacturer or local shop personnel. All wiring

shall be properly connected and concealed and any speakers shall be of recessed type.

D. Video camera. Advanced approval must be received from the Department of Education when video camera equipment use on school buses is desired by the local school division. Both equipment and installation shall be subject to the Department of Education annual fleet assessment.

1. Equipment shall not extend more than six inches from the front header panel into the driver's compartment.

2. Camera boxes shall be mounted securely to the header without use of brackets or other supports.

3. Mounted equipment shall be located on the left side of the front header and shall not interfere with passenger ingress and egress.

8 VAC 20-70-960. Construction Type B, C, and D vehicles. (*Repealed.*)

A. Construction of body shall meet all requirements of FMVSS 220 (Roll-over), 49 CFR § 571.220, FMVSS 221 (Joint Strength), 49 CFR § 571.221, and all other applicable federal standards.

B. Construction shall be of prime commercial quality steel or other metal with strength at least equivalent to all steel as certified by bus body manufacturer. All such construction materials shall be fire resistant.

C. Construction shall provide reasonable dust proof and watertight unit.

D. Bus body (including roof bows, body posts, strainers, stringers, floor, inner and outer linings, rub rails and other reinforcements) shall be of sufficient strength to support entire weight of fully loaded vehicle on its top or side if overturned. Bus body as unit shall be designed and built to provide impact and penetration resistance.

E. Side posts and roof bows. There shall be a body side post and roof bow fore and aft of each window opening. This may be a continuous bow or two separate pieces effectively joined.

F. Floor shall be of prime commercial quality steel of at least 14-gauge or other metal or other material at least equal in strength to 14-gauge steel. Floor shall be level from front to back and from side to side except in wheel housing, toeboard, and driver's seat platform areas. When plywood is used, it shall be of 1/2-inch exterior B.B. Grade or equivalent and securely fastened to the existing steel floor.

G. Roof strainers. Two or more roof strainers or longitudinal members shall be provided to connect roof bows, to reinforce flattest portion of roof skin, and to space roof bows. These strainers may be installed between roof bows or applied externally. They shall extend from windshield header and, when combined with rear emergency door post, are to function as longitudinal members extending from windshield header to rear floor body cross member. At all points of contact between strainers or longitudinal members and other structural material, attachment shall be made by means of welding, riveting or bolting.

H. Side strainers. There shall be one or more side strainers or longitudinal members to connect vertical structural members and to provide impact and penetration resistance in event of contact with other vehicles or objects. Such strainers shall be formed (not in flat strip) from metal of at least 16-gauge and three inches wide.

1. Side strainers shall be installed in area between bottom of window and bottom of seat frame and shall extend completely around bus body except for door openings and body cowl panel. Side strainers shall be fastened to each vertical structural member in any one or any combination of the following methods as long as stress continuity of members is maintained:

- a. Installed between vertical members;
- b. Installed behind panels but attached to vertical members; and
- c. Installed outside external panels.

2. Fastening method employed shall be such that strength of strainers is fully utilized.

3. Side strainers of longitudinal members may be combined with one of required rub rails (see 8 VAC 20-70-1170), or be in form of additional rub rail, as long as separate conditions and physical requirements for rub rails are met. No portion of side strainer or longitudinal member is to occupy same vertical position as rub rail.

I. Rear corner reinforcements. Rear corner framing of bus body between floor and window sill and between emergency door posts and last side posts shall consist of at least three structural members applied horizontally or vertically, two of which shall be vertical, to provide additional impact and penetration resistance equal to that provided by frame members in areas of sides of body. Such structural members shall be securely attached at each end.

Exception: Extra vertical member required in subsection I above may be deleted on units of less than 90 inches in width.

J. Floor sills. There shall be one main body sill at each side post and two intermediate body sills on approximately 10 inch centers. All sills shall be of equal height, not to exceed three inches. All sills shall extend width of body floor except where structural members or features restrict area.

Main body sill shall be equivalent to or heavier than 10-gauge and each intermediate body sill shall be equivalent to or heavier than 16-gauge, or each of all body sills shall be equivalent to or greater than 14-gauge. All sills shall be permanently attached to floor.

Connections between sides and floor system shall be capable of distributing loads from vertical posts to all floor sills.

K. All openings between chassis and passenger-carrying compartment made due to alterations of body manufacturer shall be sealed. (See 8 VAC 20-70-1130)

L. A cover shall be provided for the opening to the gasoline tank fillpipe.

M. A moisture and rustproof removable panel shall be provided in the floor for access to the fuel tank sender gauge.

It shall be designed for prolonged use and adequate fastening to the floor.

Exception Type B vehicles.

Subsection M of this section does not apply.

Diagram 5. Body Plan. (*Repealed.*)

8 VAC 20-70-970. Construction Type A vehicles. (*Repealed.*)

A. Construction of body shall meet all requirements of FMVSS 220 (Roll-over), 49 CFR § 571.220, and all other applicable federal standards.

B. Body joints created by body manufacturer shall meet the 60% joint strength provision required in FMVSS 221, 49 CFR § 571.221, for Type B, C & D buses.

C. Construction shall be of prime commercial quality steel or other metal strength at least equivalent to all steel as certified by bus body manufacturer. All such construction materials shall be fire resistant.

D. Construction shall provide reasonably dustproof and watertight unit.

E. Bus body (including roof bows, body posts, strainers, stringers, floor, inner and outer linings, rub rails and other reinforcements) shall be of sufficient strength to support entire weight of fully loaded vehicle on its top or side if overturned. Bus body as unit shall be designed and built to provide impact and penetration resistance.

F. Floor. Plywood of 1/2 inch exterior B.B. Grade or equivalent shall be applied over the existing steel floor and securely fastened. Floor shall be level from front to back and from side to side except in wheel housing, toeboard and driver seat platform areas.

Exception. Plywood may be deleted when provisions of subsection D and subdivision H 1 of 8 VAC 20-70-960 for Type C and D are met.

G. Roof strainers. Two or more roof strainers or longitudinal members shall be provided to connect roof bows to reinforce flattest portion of roof skin, and to space roof bows. These strainers may be installed between roof bows or applied externally. They shall extend from windshield header to rear body header over the emergency door. At all points of contact between strainers of longitudinal members and other structural material, attachment shall be made by means of welding, riveting, or bolting.

After load as called for in Static Load Test Code has been removed, none of the following defects shall be evident:

1. Failure or separation at joints where strainers are fastened to roof bows;
2. Appreciable difference in deflection between adjacent strainers and roof bows;
3. Twisting, buckling, or deformation of strainer cross section.

H. Side strainers. There shall be one longitudinal side strainer mounted at shoulder level (window sill level) and extending

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from front main vertical post to rear corner post. This member shall be attached to each vertical structural member. Such strainer shall be formed of metal (not in flat strip).

1. There shall be one longitudinal side strainers installed in the area between bottom of window and bottom of seat frame extending from front main vertical post to rear corner post. This member shall be attached to each vertical structural member.

2. Strainers may be fastened in any one or any combination of the following methods as long as stress continuity of members is maintained:

- a. Installed between vertical members;
- b. Installed behind panels but attached to vertical members; or
- c. Installed outside external panels.

3. Fastening method employed shall be such that strength of strainers is fully utilized.

I. Area between floor and window line shall be restructured inside to include at least four vertical formed reinforcement members extending from floor to window line rail. They shall be securely attached at both ends.

J. Rear corner reinforcements. Rear corner framing of the bus body between floor and window sill and between emergency door post and last side post shall consist of at least one structural member applied horizontally to provide additional impact and penetration resistance equal to that provided by frame members in areas of sides of body. Such member shall be securely attached at each end. Bodies over 90 inches in width shall comply with 8 VAC 20-70-960 I.

K. All openings between chassis and passenger carrying compartment made due to alterations by body manufacturers shall be sealed. (See 8 VAC 20-70-1130.)

8 VAC 20-70-980. Defrosters. (Repealed.)

Defrosters shall be of sufficient capacity to keep windshield clear of fog, ice, and snow and to defog the window to the left of the driver. (See 8 VAC 20-70-1040) An auxiliary fan of sufficient capacity to defog the entrance door glass shall be installed above the windshield on the right side. An additional fan to the left of the driver is permissible. Fans shall be placed so as not to block driver's view of outside rearview mirrors.

Exception: Type A vehicle, Auxiliary fan not required.

8 VAC 20-70-990. Doors. (Repealed.)

A. Service door.

1. Service door shall be manually or power operated, under control of driver, and so designed as to afford easy release and prevent accidental opening. No parts shall come together so as to shear or crush fingers.

2. Service door shall be located on right side of bus opposite driver and within his direct view.

3. Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches.

4. Service door shall be of split type, jack knife type, or sedan type. (Split type door includes any sectioned door which divides and opens inward or outward.) If one section of split type door opens inward and other opens outward, front section shall open outward. The jack knife type shall fold inward at the front of the door opening.

5. Lower as well as upper panels shall be of approved safety glass. (See 8 VAC 20-70-1320 1) Bottom of lower glass panel shall not be more than 35 inches from ground when bus is unloaded. Top of upper glass panel shall not be more than six inches from top of door.

6. Vertical closing edges shall be equipped with flexible material to protect children's fingers.

7. There shall be no door left of driver.

Exception Type A vehicles. Standard does not apply.

8. All doors shall be equipped with padding at the top of each door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.

B. Rear emergency door Type B, C, and D vehicles.

1. Emergency door shall be located in center of rear end of bus.

2. Rear emergency door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 45 inches measured from floor level.

3. Rear emergency door shall be hinged on right side and shall open outward and be equipped with an adequate strap or stop to prevent door from striking lamps or right rear of body. Such strap or stop shall allow door to open at least at a 90 degree angle from closed position.

Exception: Type D vehicles with rear engines.

Emergency door shall be located on the left side, shall be hinged on the left side and open outward. Door shall meet all requirements of FMVSS 217, 49 § CFR 571.217.

4. Upper portion of rear emergency door shall be equipped with approved safety glass, exposed area of which shall not be less than 400 square inches. (See 8 VAC 20-70-1320 1) Lower portion of door shall be equipped with approved safety glass, area of which shall not be less than 12 inches in height and 20 inches in width. This glass shall be protected by metal guard on inside. This guard shall be free of any sharp edges that may cause injury to passengers.

5. There shall be no steps leading to emergency door.

6. No seat or other object shall be so placed in bus which restricts any part of passageway leading to emergency door to an opening smaller than rectangle of 12 inches in width and 48 inches in height, measured from floor level.

7. When not fully latched, emergency door shall actuate signal audible to driver by means of mechanism actuated by latch.

8. Words "EMERGENCY DOOR," both inside and outside in black letters two inches high, painted or vinyl, shall be

~~installed directly above emergency door. Words may be placed on the top of door outside if space is available.~~

~~9. The emergency door shall be designed to open from inside and outside bus. It shall be equipped with a slide bar and cam operated lock located on left side of door and fastened to the door framing.~~

~~The slidebar shall be approximately 1 1/4 inches wide and 3/8 inch thick and shall have a minimum stroke of 1 1/4 inches. The slidebar shall have a bearing surface of a minimum of 3/4 inch with the door lock in a closed position. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of nondetachable device so designed as to prevent hitching to, but to permit opening when necessary. Door lock shall be equipped with interior handle and guard that extends approximately to center of door. It shall lift up to release lock.~~

~~10. All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.~~

~~C. Rear emergency door Type A vehicles.~~

~~1. Emergency door shall be located in center of rear end of bus and shall be equipped with fastening device for opening from inside and outside body, which may be quickly released but is designed to offer protection against accidental release. Control from driver's seat shall not be permitted. Provision for opening from outside shall consist of device designed to prevent hitching to but to permit opening when necessary.~~

~~2. When not fully closed, emergency door shall actuate signal audible to driver.~~

~~3. Emergency door shall be marked "EMERGENCY DOOR" on inside and outside in painted or vinyl black letters two inches high immediately above the emergency door.~~

~~4. There shall be no steps leading to emergency door.~~

~~5. No seat or other object shall be placed in bus which restricts passageway to emergency door to less than 15 inches.~~

~~6. All doors shall be equipped with padding at the top edge of each door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.~~

~~D. Security locking system. A locking system designed to prevent vandalism, which is approved by the Pupil Transportation Service, Department of Education, may be installed provided it is equipped with an interlock in the chassis starting circuit and an audible alarm to indicate to the driver when an emergency exit is locked while the ignition is in the "on" position. A cutoff switch on the interlock circuit or a lock and hasp on emergency exits shall not be permitted.~~

8 VAC 20-70-1000. Electrical system. (Repealed.)

- 1. Battery — see 8 VAC 20-70-560.
- 2. Alternator — see 8 VAC 20-70-540.

~~3. Lights and signals — see 8 VAC 20-70-730.~~

~~4. Wiring — see 8 VAC 20-70-1350.~~

8 VAC 20-70-1010. Emergency equipment. (Repealed.)

A. Fire extinguisher.

~~1. Bus shall be equipped with one dry chemical fire extinguisher of at least five pound capacity with pressure indicator, mounted in extinguisher manufacturer's bracket of automotive type, and located in full view and in an accessible place in the front of the bus excluding floor and area above bottom line of windshield.~~

~~2. Fire extinguisher shall bear label of Underwriters' Laboratories, Inc., showing rating of not less than 2A-10-B-C.~~

~~3. Fire extinguisher shall have aluminum, brass, or steel valves, heads, check stems, siphon tubes, levers, safety pins, chain, handles and metal hanging brackets. Plastic shall not be used for those named parts.~~

B. First aid kit.

~~1. Bus shall carry Grade A metal first aid kit, unit type, mounted in full view and in accessible place in the front of the bus and identified as a first aid kit.~~

~~2. The first aid kit shall contain the following items:~~

Item	Unit
Bandage compress (sterile gauze pads), 4 inch	13
Bandage compress (sterile gauze pads), 2-inch	12
Adhesive absorbent bandage (nonadhering pad), 121 x 3 inch	
Triangular bandage, 40 inch	12
Gauze bandage, 4 inch	12
Absorbent gauze compress	11
Antiseptic applicator (swab type), 10 per unit (Zephiran Chloride/Green Soap type)	12
Bee sting applicator (swab type), 10 per unit	14

C. Warning devices.

~~1. Bus shall be equipped with a kit containing three reflectorized triangular warning devices meeting requirements of FMVSS-125, 49 CFR § 571.125.~~

~~2. Kit shall be securely mounted on the right of toeboard as far forward as practical or in the area to the left of the driver's seat.~~

Exception Type A vehicles.

~~Kit may be mounted behind left rear seat.~~

D. Body fluid cleanup kit.

~~1. Each bus shall carry a Grade A metal or rigid plastic kit, mounted in an accessible place and identified as a body fluid clean-up kit with a directions for use sheet attached to the inside cover.~~

~~2. The kit shall be moisture proof and properly mounted or secured in a storage compartment.~~

Proposed Regulations

3. Contents shall include but not be limited to the following items:

- a. 1 pair latex gloves;
- b. 1 pick-up spatula or scoop;
- c. 1 face mask;
- d. Infectious liquid spill control powder;
- e. Anti-microbial hand wipes—individually wrapped;
- f. Germicidal disinfectant wipes—tuberculocidal; and
- g. Plastic disposal bag with tie.

8 VAC 20-70-1020. Emergency exits. (Repealed.)

Each emergency exit shall comply with FMVSS 217, 49 CFR § 571.217, regarding the number of exits, types of exits and location of exits based on the capacity of the vehicle.

1. Side emergency exit doors.

- a. A dedicated aisle of at least 12 inches in width, referenced to the rear of the emergency exit door is required.
- b. Side emergency exit doors shall be hinged on the forward edge.
- c. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of the emergency opening, not the emergency exit itself.
- d. When not fully latched, side emergency exit door shall actuate a signal audible to the driver by means of a mechanism actuated by the latch when the ignition switch is on.
- e. A security locking system designed to prevent vandalism may be installed provided it meets all specifications of 8 VAC 20-70-990-D of this chapter.

2. Roof exits/vents.

- a. All Type A, B, C, and D vehicles shall be equipped with a minimum of one emergency roof exit/vent approved by the Department of Education.
- b. When not fully latched, this exit shall actuate a signal audible to the driver by means of a mechanism actuated by the latch when the ignition switch is on.
- c. A roof exit/vent security locking system designed to prevent vandalism may be installed provided it meets all specifications of 8 VAC 20-70-990-D.
- d. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of the emergency exit opening, not the emergency exit itself.

NOTE: If the roof is painted white, the one-inch wide strip shall be white retroreflective material.

- e. When a single roof exit is installed, it shall be located as near as practicable to the longitudinal midpoint of the passenger compartment, and shall be installed such that the centerline of the hatch is on the longitudinal centerline of the bus.

f. If two roof exits are utilized, they shall be located as near as practicable to the points equidistant between the longitudinal midpoint of the passenger compartment and the front and the rear of the passenger compartment.

NOTE: No removal or cutting of any roof structural component shall occur during installation. If the installation required by subdivisions 2 e and 2 f of this section cannot be accomplished as described, then prior approval by the Pupil Transportation Service will be required through a written request from the local school division.

g. Roof exits/vents shall have rust proof hardware.

h. Roof exits/vents shall be hinged in the front and be equipped with an outside release handle.

3. Emergency exit windows.

- a. Push-out emergency windows are permissible, if required by FMVSS 217, 49 CFR § 571.217.
- b. When not fully latched, the emergency exit window shall actuate a signal audible to the driver by means of a mechanism actuated by the latch.
- c. A one-inch wide strip of yellow retroreflective tape shall be placed around the outside perimeter of each emergency exit opening, not the emergency exit itself.

d. No emergency exit window shall be located directly in front of a side emergency exit door.

8 VAC 20-70-1030. Floor covering. (Repealed.)

A. Floor (See 8 VAC 20-70-960.)

B. Floor in underseat area, including tops of wheel housings, driver's compartment and toeboard shall be covered with fire-resistant rubber floor covering or an approved equivalent, having minimum overall thickness of .125 inch. Driver's compartment and toeboard area shall be trimmed with molding strips behind the cowl face line.

C. Floor covering in aisle shall be of aisle-type fire-resistant rubber or an approved equivalent, nonskid, wear resistant and ribbed. Minimum overall thickness shall be .1875 inch measured from tops of ribs. Rubber floor covering shall meet federal specifications ZZ-M71d.

D. Floor covering shall be permanently bonded to floor, and shall not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of the type recommended by manufacturer of floor covering material. All seams shall be sealed with waterproof sealer.

8 VAC 20-70-1040. Heaters. (Repealed.)

A. Hot water heaters of fresh air or combination fresh air and recirculating type, with power defrosters, are required.

B. Heaters shall bear name plate rating affixed by heater manufacturer on top of heater shell.

C. Heaters shall be capable of maintaining inside temperature of 50°F, with an outside temperature of 20°F when the bus is loaded to one-half capacity.

D. The heater wiring shall be connected to the cold side of the ignition switch through a continuous duty solenoid relay Cole Hersee No. 24106 or equivalent. (See 8 VAC 20-70-1350 D.)

E. The power defroster shall deliver a sufficient amount of heated air distributed through a windshield duct, nozzle or nozzles to defog and deice the entire windshield, and to defog the driver's window. The duct, nozzle, or nozzles shall be designed to prevent objects from being placed in any manner which would obstruct the flow of air.

F. Water circulation cut-off valves in the supply and return lines, a minimum of 3/4 inch diameter, shall be at or near the engine. A water flow regulating valve in the pressure line for convenient operation by the driver is also required.

G. Heater hoses, including those in engine compartment, shall be supported in such manner that hose chafing against other objects will not occur nor shall suspended water lines interfere with routine vehicle maintenance.

H. All water hoses in driver or passenger area shall be shielded.

I. An auxiliary heater of recirculating type, having a minimum capacity of 60,000 BTU output, shall be installed under the second seat behind the wheelhousing. There shall be a grille or guard over exposed heater cores to prevent damage by pupils' feet.

J. A booster pump in the intake heater line shall be provided on all Type B, C and D buses.

K. Exception Type A vehicles:

1. Front heater with high output and defroster shall be furnished by the chassis manufacturer.
2. The body manufacturer shall provide an additional underseat heater near the rear of the bus.

8 VAC 20-70-1050. Identification of school buses. (Repealed.)

For purpose of identification school buses shall be lettered as follows:

1. Lettering shall be placed according to Diagrams 7 and 8. Lettering shall be of black paint or vinyl and conform to "Series B" for Standard Alphabets for Highway Signs.
2. Both the front and rear of the body shall bear the words, "SCHOOL BUS" in black letters eight inches in height.
3. All school buses shall have a black painted or vinyl number four inches high on the rear of the body, on the right side just back of the entrance door, and on the left side just back of the warning sign. (See Diagrams 7 and 8.) The number shall also be placed on the front bumper, approximately 18 inches from the right end in yellow letters four inches high.
4. The name of the school division shall be on each side of the bus in black letters four inches high as "... COUNTY PUBLIC SCHOOLS," or "... CITY PUBLIC SCHOOLS."
5. Options:

a. The bus number may be placed in the center of the bus roof with black (12-inch minimum) numbers.

b. A black number (four-inch maximum) may be placed on the inside rear header. It shall not interfere with emergency door lettering.

8 VAC 20-70-1060. Inside height. (Repealed.)

Inside body height shall be 72 inches or more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow.

Exception Type A conversion van.

Inside body height shall be 63 inches minimum.

8 VAC 20-70-1070. Insulation. (Repealed.)

Ceilings and walls shall be coated with proper materials to deaden sounds and to reduce vibrations to a minimum. Fiber glass thermal insulation (minimum thickness one inch) shall be used to insulate walls and roof between inner and outer panels.

8 VAC 20-70-1080. Interior. (Repealed.)

Interior of bus shall be free of all unnecessary projections likely to cause injury. This standard requires inner lining on ceilings and walls. Ceiling panels shall be constructed so as to contain lapped joints with all exposed edges hemmed to minimize sharpness. If lateral panels are used, forward panels shall be lapped by rear panels.

8 VAC 20-70-1090. Lights and signals -- see Diagrams 7 and 8. (Repealed.)

No lights or signals other than specified here shall be installed on school buses, except those required by federal regulations. All lights and reflectors shall be approved by the Superintendent, Department of State Police, Commonwealth of Virginia.

1. Clearance lights. Body shall be equipped with two red clearance lamps at rear, two amber clearance lamps at front, and intermediate side marker lamps on buses 30 feet or more in length.

They shall be of armour type.

2. Identification lamps. Three amber lamps shall be mounted on front and three red lamps on rear of body.

3. Stop and tail lamps. Bus shall be equipped with two matched stop and tail lamps of heavy duty type, which shall be in combination, emitting red light plainly visible from a distance of at least 500 feet to rear, and mounted on rear end with their centers not less than 12 nor more than 24 inches from plane side of body, and not less than six nor more than 18 inches below D-glass in rear of body. They shall be approximately seven inches in diameter. These lights shall be on the same horizontal line with the turn signal units and shall not flash. A list of approved stop and tail lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

Proposed Regulations

4. For illumination of rear license plate, the type of stop and tail light with which the chassis is equipped may be used. The stop light connection will be made to this light.

5. Back-up lamps. Back-up lamps shall be mounted on the rear of the body and shall be illuminated when the ignition switch is energized and reverse gear is engaged.

6. Interior lamps. Interior lamps shall be provided which adequately illuminate aisles and stepwell.

7. Turn signal units. Bus shall be equipped with Class A, flashing turn signal units of heavy-duty type. These signals shall be independent units equipped with amber lenses on all faces. The turn signals/directional signal units shall activate only when ignition is in "on" position. A pilot light or lights shall indicate when these lights are activated. The front lights shall be mounted near the front corners of chassis on each side. The rear lights shall be seven inches in diameter and mounted not less than six nor more than 18 inches from plane of the side of the body and not less than six nor more than 18 inches below D-glass in rear of body. They shall be on the same horizontal line with the stop and tail lights required in 3 above.

a. In addition to the turn signals described above, two amber lenses metal turn signal lamps of armour type with a minimum of four candlepower each shall be mounted on the body side at approximate seat level height and located just to the rear of the entrance door on the right side of the body and approximately the same location on the left side. They are to be connected to and function with the regular turn signal lamps. Such lamps shall provide 180° angle vision and if painted, they shall be black.

b. A list of approved turn signal lights will be supplied to the body manufacturers by the Pupil Transportation Service, Department of Education. The use of lights not on this list will not be approved.

c. Exception Type A conversion vans.

Turn signals shall be chassis manufacturer's standard.

8. Hazard warning signal. The turn signal units shall also function as the hazard warning system. The system shall operate independently of the ignition switch and, when energized, shall cause all turn signal lamps to flash simultaneously.

9. Reflex reflectors. (Class A) Two amber lights and two amber reflectors (they may be combined) shall be mounted, one on each side, near the front of the chassis. Two four-inch red reflectors shall be mounted, one on each side near the rear of the body and two four-inch red reflectors shall be mounted on the rear above the bumper. Two intermediate amber four-inch reflectors, one on each side near the middle of the bus, shall be mounted on buses 30 feet or more in length. They shall be mounted on panel above floor line rub rail and be metal-encased.

10. School bus traffic warning lights.

a. Buses shall be equipped with four red lamps and four amber lamps. One amber lamp shall be located near

each red lamp, at the same level, but closer to the vertical center line of the bus. Lamps to be 80 watts, 12-volt sealed beam clear spot units five inches in diameter with seven inch acrylic lens, including component parts and location necessary for their operation. All lamps shall comply with SAE standards for school bus warning lamps. Information on such approved components will be supplied by the Pupil Transportation Service, Department of Education.

b. The traffic warning light system shall be wired so that the amber lamps are activated manually by a hand operated switch. When door is opened, amber lamps will be automatically deactivated and red lamps, warning sign with flashing lamps and crossing control arm shall be activated. When door is closed, all lamps shall be deactivated. No lamps shall come on when door is reopened unless the manual switch is depressed. There shall also be a cancellation switch in case lamps are accidentally activated or when no stop needs to be made.

c. The control circuit shall be connected to the cold side of the ignition switch with the master push button cancel switch mounted on the accessory console, clearly distinguished, visible and accessible to the driver.

d. The flasher and the relay shall be fastened in a compartment in the driver area and be easily accessible for servicing. The location of the flasher shall be approved by Pupil Transportation Service, Department of Education.

e. System shall contain an amber pilot light for amber lamps and a red pilot light for red lamps, clearly visible to the driver, to indicate when system is activated.

f. A three-inch black painted border around the lamps is required if not equipped with a black painted housing.

g. All electrical connections shall be soldered or connected by an acceptable SAE method.

h. The traffic warning lamp system shall require a separate control panel. This panel shall be as small as practicable, and switches and pilot lamps shall be located in conformance with the diagram below. All switches shall be properly identified by labels.

Diagram 6. Traffic Warning Lamp Controlled Panel. (Repealed.)

i. The panel shall be located at or near the entrance door control handle within easy reach, visible, and be readily accessible to the driver.

j. There shall be an interrupt feature in the system to interrupt the traffic warning sign and the crossing control arm when their use is not desired. This feature shall consist of a double throw relay and a push button momentary switch.

k. Manual switch, cancel switch and interrupt switch shall be push button or flip-type momentary switches.

11. School bus traffic warning sign.

- a. ~~Warning sign shall be mounted on the left side near the front of the bus immediately below the window line.~~
- b. ~~Sign shall be of the octagon series, 18 inches in diameter, 16-gauge cold-rolled steel, and be equipped with windguard. The sign shall have a red background with a 1/2-inch white border, and the word "STOP" on both sides in white letters, six inches high and one inch wide. The sign may be reflective.~~
- c. ~~Sign shall have double-faced alternately flashing red lamps, four inches in diameter, located at the top and bottommost portions of the sign, one above the other.~~
- d. ~~The sign shall be connected and energized through the red traffic warning lamps.~~
- e. ~~Air-operated signs require air pressure regulator in addition to control valve. Source of supply shall be the main air tank with a pressure protection valve at the tank.~~
- f. ~~Sign and components shall comply with all provisions of SAEJ 1133. A list of approved traffic warning signs and components will be supplied by the Pupil Transportation Service, Department of Education.~~

12. ~~School bus crossing control arm.~~

- a. ~~An approved crossing control arm shall be mounted on the right end of the front bumper with mounting brackets appropriate for the bumper configuration. Information on such approved arms will be supplied by the Pupil Transportation Service, Department of Education.~~
- b. ~~The arm shall be activated in conjunction with the traffic warning sign.~~
- c. ~~Wiring for an electric-powered arm shall be grounded to a metal base at a suitable place on the bumper.~~
- d. ~~Source of supply for air-operated arms shall be the main air supply tank with pressure protection valve at tank.~~
- e. ~~Appropriate grommets or a loom shall be used where wires or tubes go through holes in bumper and firewall.~~

13. ~~Optional strobe warning light.~~

- a. ~~A white flashing strobe light may be installed on the roof of a school bus not to exceed 1/3 of the body length from the rear of the roof edge. Light shall have a single clear lens emitting light 360 degrees around its vertical axis. A manual switch and a pilot light must be included to indicate when the light is in operation.~~
- b. ~~The strobe light must operate only when the bus transports students during periods of reduced visibility caused by conditions other than darkness.~~
- c. ~~A list of approved strobe lights and components will be supplied by the Pupil Transportation Service, Department of Education.~~

Diagram 7. *(Repealed.)*

Diagram 8. *(Repealed.)*

8 VAC 20-70-1100. Metal treatment. *(Repealed.)*

~~All metal parts that will be painted shall be chemically cleaned, etched, zinc-phosphate coated, and zinc-chromate or epoxy-primed or conditioned by equivalent process.~~

8 VAC 20-70-1110. Mirrors. *(Repealed.)*

~~A. Interior rear view mirror at least six X 30 inches, metal encased safety glass of at least 1/8-inch thickness, which will afford good view of pupils and roadway to rear and shall be installed in such a way that vibration will be reduced to a minimum. It shall have rounded corners and protected edges.~~

~~B. All buses shall have a mirror system which conforms to FMVSS 111, 49 CFR§ 271.111 as amended.~~

~~C. Mirrors shall be rigidly braced so as to reduce vibration.~~

~~D. An adjustable convex mirror with a minimum diameter of four inches and a maximum diameter of five inches may be mounted on each side on a separate arm attached to the mounting of the regular outside mirror. This convex mirror shall be mounted so that it can be positioned immediately below the regular outside mirror. Stick-on convex type mirrors to the face of regular outside mirrors are prohibited.~~

~~E. A list of approved mirrors will be supplied to body manufacturers by the Pupil Transportation Service, Department of Education. The use of mirrors not on this list will not be approved.~~

~~Exception Type A vehicles.~~

~~Interior mirror to be six X 16 inches minimum and outside six X nine 1/2 inches mounted on doors.~~

~~F. Heated exterior mirrors are permissible.~~

8 VAC 20-70-1120. Mounting. *(Repealed.)*

~~A. Chassis frame shall extend to rear edge of rear body cross member. Bus body shall be attached to chassis frame in such manner as to prevent shifting or separation of body from chassis under severe operating conditions.~~

~~B. Body front shall be attached and sealed to chassis cowl in such manner as to prevent entry of water, dust, and fumes through joint between chassis cowl and body.~~

~~C. Insulating material shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4 inch thick and shall be so attached to chassis frame or body member that it will not move under severe operating conditions.~~

~~D. Exception Type A conversion vans.~~

~~Standard does not apply.~~

8 VAC 20-70-1130. Openings. *(Repealed.)*

~~Any openings in body or front fenders of chassis resulting from change necessary to furnish required components shall be sealed. (See 8 VAC 20-70-750 and 8 VAC 20-70-960 K.)~~

8 VAC 20-70-1140. Overall length. *(Repealed.)*

~~Overall length of bus shall not exceed 36 feet for conventional flat faced cowl units or 40 feet for metropolitan type.~~

Proposed Regulations

8 VAC 20-70-1150. Overall width. (Repealed.)

~~Overall width of bus shall not exceed 100 inches, including traffic warning sign in closed position. Outside rearview mirrors are excluded.~~

8 VAC 20-70-1160. Posts. (Repealed.)

~~Posts—See 8 VAC 20-70-960 and 8 VAC 20-70-1320 C.~~

8 VAC 20-70-1170. Rub rails. (Repealed.)

~~A. There shall be one rub rail located on each side of bus immediately below window level which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side. If floor level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.~~

~~Exception—This rub rail is not required between the front body post and rear side post if an internal frame member (fortress rail) of greater strength is positioned immediately below the window level. The rub rail shall be applied from the last sidepost to the emergency doorpost.~~

~~B. There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side. This rail shall be painted black.~~

~~C. There shall be one rub rail located approximately at floor line which shall extend from rear side of entrance door completely around bus body (except for emergency door) to point of curvature near outside cowl on left side, except at wheel housings. If the window level rub rail extends to emergency door post in rear, this rub rail may stop at rear side post.~~

~~D. All rub rails shall be attached at each body post and all other upright structural members.~~

~~E. All rub rails shall be of four inches or more in width, shall be of 16-gauge steel, and shall be constructed in corrugated or ribbed fashion.~~

~~F. All rub rails shall be applied outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement.~~

~~G. Certain exceptions may be approved for heater airintake and for rear engine type buses.~~

~~Exception Type A vehicles.~~

~~Rail required in subsection A of this section does not apply on conversion vans.~~

8 VAC 20-70-1180. Seat belt for driver. (Repealed.)

~~A locking retractor type 2 lap belt/shoulder harness seat belt shall be provided for the driver. Each belt section shall be booted so as to keep the buckle and button-type latch off the floor and within easy reach of the driver. Belt shall be anchored in such a manner or guided at the seat frame so as to prevent the driver from sliding sideways from under the belt.~~

8 VAC 20-70-1190. Seats. (Repealed.)

~~A. All seats shall have minimum depth of 14 inches.~~

~~B. In determining seating capacity of bus, allowable average rump width shall be 13 inches. (See 8 VAC 20-70-890.)~~

~~C. All seats shall be forward facing. They shall have two legs securely fastened to the floor with the other end supported by rail or bracket on side wall.~~

~~D. Seating plans for buses with wheelchair positions see 8 VAC 20-70-1370 and 8 VAC 20-70-1450. All other seating plans will be approved annually by Pupil Transportation Service, Department of Education.~~

~~E. Seat cushions shall have 24-hour glass coil type springs interlaced and securely fastened to plywood base having minimum thickness of 1/2 inch. Urethane foam may be used in place of springs if sample is submitted and approved each year.~~

~~Passenger seat cushion retention system shall be employed to prevent passenger seat cushions from disengaging from seat frames in event of accident. Each seat cushion retention system shall be capable of withstanding vertical static load equal to minimum of five times weight of cushion. System shall also be capable of withstanding forward or rearward static load equal to 20 times weight of cushion.~~

~~F. No bus shall be equipped with jump seats or portable seats. (See 8 VAC 20-70-1500.)~~

~~G. Seat spacing shall provide a minimum of 25-inch knee room at center of seat, when measured horizontally from back to back, at cushion level.~~

~~H. Seat and back cushions of all seats shall be designed to safely support designated number of passengers under normal road conditions encountered in school bus service. Covering of seat cushions shall be of material having 42 ounce finished weight, 54-inch width, and finished vinyl coating of 1.06 broken twill. Material on polyester drill and polyester cotton twill knit backing with equal vinyl coating which meets or exceeds the laboratory test results for the 42 ounce 1.06 covering may be used. Padding and covering on all seats shall comply with provisions of FMVSS 302, 49 CFR § 571.302.~~

~~I. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have fore-and-aft adjustment of not less than four inches and up and down adjustment of three inches. It shall be manually adjustable and strongly attached to floor.~~

~~J. Minimum of 36-inch head room for sitting position above top of undepressed cushion line of all seats shall be provided. Measurement shall be made vertically not more than seven inches from side wall at cushion height and at fore-and-aft center of cushion.~~

~~K. Backs of all seats of similar size shall be of same width at top and of same height from floor and shall slant at same angle with floor.~~

~~L. Seat back heights shall be between 19 and 24 inches measured from cushion level.~~

8 VAC 20-70-1200. Barriers. (Repealed.)

~~A. A padded barrier shall be installed at rear of driver's seat in such a position as neither to interfere with adjustment of driver's seat nor to obstruct 21 inch entranceway to the aisle.~~

~~B. A padded barrier shall be installed at rear of entrance stepwell. Placement shall not restrict entrance passageway at any level to less than 21 inches. Barrier to coincide with length of the right front seat cushion with minimum width of 26 inches and shall have a modesty panel to extend from bottom of barrier to floor.~~

~~C. Lift-gate units see 8 VAC 20-70-1460 B.~~

8 VAC 20-70-1210. Steering wheel. (Repealed.)

~~Steering wheel See 8 VAC 20-70-810 4.~~

8 VAC 20-70-1220. Steps. (Repealed.)

~~A. First step at service door shall be not less than 10 inches and not more than 14 inches from ground, based on standard chassis specifications.~~

~~B. Service door entrance may be equipped with two-step or three-step stepwell. Risers in each case shall be approximately equal.~~

~~C. Steps shall be enclosed to prevent accumulation of ice and snow.~~

~~D. Steps shall not protrude beyond side body line.~~

~~E. Grab handle not less than 20 inches in length shall be provided in unobstructed location inside doorway, but shall not be attached so that it will interfere with the opening of the glove compartment door. This handle shall be designed to eliminate exposed ends that would catch passenger clothing and shall be so placed in a position to aid small children entering the bus.~~

~~F. Step covering. All steps, including floor line platform area, shall be covered with 3/16-inch rubber metal-backed treads with at least 1 1/2-inch white nosing (or three inch white rubber step edge with metal back at floorline platform area).~~

~~1. Step tread minimum overall thickness shall be 3/16-inch ribbed design, similar to ribbed design of the rubber aisle;~~

~~2. Metal back of tread, minimum 24-gauge cold rolled steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run at 90° angle to long dimensions of step tread;~~

~~3. 3/16-inch ribbed step tread shall have a 1 1/2-inch white nosing as integral piece without any joint; and~~

~~4. Rubber portion of step treads shall have following characteristics:~~

~~a. Special compounding for good abrasion resistance and high coefficient of friction;~~

~~b. Flexibility so that it can be bent around a 1/2-inch mandrel both at 20°F and 130°F without breaking, cracking, or crazing; and~~

~~c. Show a durometer hardness 85 to 95.~~

8 VAC 20-70-1230. Stirrup steps. (Repealed.)

~~There shall be one folding stirrup step and suitably located handle on each side of front of body for easy accessibility for cleaning windshield and lamps.~~

~~Exception Type A vehicles. Standard does not apply.~~

8 VAC 20-70-1240. Storage and luggage compartments. (Repealed.)

~~A. Two metal storage compartments for tools, chains and supplies are required. (A local school division may waive the requirement for one of the two compartments if chains or tools are not carried on bus and a written request for deletion has been filed with the Pupil Transportation Service, Department of Education and noted in the purchase agreement.)~~

~~B. One of the metal compartments shall have adequate strength and capacity for storage of chains and other emergency tools and one of the compartments shall be moisture proof, equipped with a lock and suitable for storage of cleaning supplies. Such containers shall be located outside passenger compartment in body skirt on the right side of body with a door hinged at the top or front and equipped with an adequate fastener.~~

~~C. Vehicles may be equipped with luggage compartments in the body skirt provided they do not reduce ground clearance to less than 14 1/2 inches from bottom of compartment and that the addition of the compartments does not exceed the vehicles' GVWR.~~

8 VAC 20-70-1250. Sun shield. (Repealed.)

~~Interior adjustable transparent sun shield, darkest shade available, not less than 60 X 30 inches shall be installed in position convenient for use by driver.~~

~~Exception Type A vehicles. Manufacturer's standard is acceptable.~~

8 VAC 20-70-1260. Tail pipe. (Repealed.)

~~Tail pipe shall extend to but not more than 1 1/2 inches beyond outer edge of rear bumper. (See 8 VAC 20-70-640 B.)~~

8 VAC 20-70-1270. Undercoating. (Repealed.)

~~Entire underside of bus body, including floor sections, cross members, and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to bus body builder that compounds meet or exceed all performance requirements of Federal Specification TT-C-520 b using modified test procedures for following requirements:~~

~~1. Salt spray resistance pass test modified to 5.0% salt and 1,000 hours;~~

~~2. Abrasion resistance pass;~~

~~3. Fire resistance pass.~~

~~Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommend film thickness and shall show no evidence of voids in cured film. Undercoating is expected to prevent rust under all bus service conditions for minimum of five years.~~

Proposed Regulations

~~8 VAC 20-70-1280. Ventilation and air conditioning. (Repealed.)~~

~~A. Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather.~~

~~B. Static-type, nonclosable, exhaust roof ventilators shall be installed in low-pressure area of roof panel.~~

~~C. Air conditioning units may be installed on an optional basis. Application requires heavier electrical components and assessment by the Pupil Transportation Service, Department of Education, on an individual unit basis.~~

~~8 VAC 20-70-1290. Water test. (Repealed.)~~

~~Each and every school bus body, after it is mounted on chassis ready for delivery, shall be subjected to a thorough water test in which water under pressure equal to a driving rain is forced against the entire bus body from various directions. Any leaks detected are to be repaired before the bus is declared ready for delivery.~~

~~8 VAC 20-70-1300. Wheel housings. (Repealed.)~~

~~A. Wheel housings shall be of full open type.~~

~~B. Wheel housings shall be designed to support seat and passenger loads and shall be attached to floor sheets in such manner as to prevent any dust or water from entering the body.~~

~~C. Inside height of wheel housings above floor line shall not exceed 10 inches.~~

~~D. Wheel housings shall provide clearance for dual wheels as established by National Association of Chain Manufacturers.~~

~~Exception -~~

~~Standard does not apply to Type A conversion vans.~~

~~8 VAC 20-70-1310. Width. (Repealed.)~~

~~Width - See 8 VAC 20-70-1150.~~

~~8 VAC 20-70-1320. Windshield and windows. (Repealed.)~~

~~A. All glass in windshield, windows, and doors shall be of approved safety glass, so mounted that permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction. Windshield shall be AS1 and all other glass shall be AS2.~~

~~B. Plastic glazing material of a thickness comparable to AS2 glass, meeting ANSI Standard Z-26.1 and FMVSS-205, 49 CFR § 571.205, may be used in side windows behind the driver's compartment.~~

~~C. Windshield shall have horizontal shade band consistent with SAE J-100.~~

~~D. Each full side window shall provide unobstructed emergency opening at least nine inches high and 22 inches wide, obtained either by lowering of window or by use of knock-out type split-sash windows.~~

~~E. Approved tinted glass or plastic glazing material may be used.~~

~~F. All exposed edges of glass shall be banded.~~

~~8 VAC 20-70-1330. Windshield washers. (Repealed.)~~

~~Windshield washers meeting federal requirements shall be provided and shall be controlled by push button switch located on instrument panel. Reservoir shall be mounted outside passenger compartment.~~

~~8 VAC 20-70-1340. Windshield wipers. (Repealed.)~~

~~A. Bus shall be equipped with two variable-speed windshield wipers of air or electric type powered by two motors of sufficient power to operate wipers.~~

~~B. Blades and arms shall be of such size that minimum blade length will be 12 inches with longer blades being used whenever possible.~~

~~C. Wiper motor and arm linkage shall be shielded to prevent objects from being placed against them.~~

~~Exception - Type A vehicles. One variable speed motor is acceptable.~~

~~8 VAC 20-70-1350. Wiring. (Repealed.)~~

~~A. All wiring shall conform to current standards of Society of Automotive Engineers.~~

~~B. Circuits.~~

~~1. Wiring shall be arranged in at least 12 regular circuits as follows:~~

- ~~a. Head, tail, stop (brake) and instrument panel lamps;~~
- ~~b. Clearance lamps;~~
- ~~c. Dome and stepwell lamps;~~
- ~~d. Starter motor;~~
- ~~e. Ignition;~~
- ~~f. Turn signal units;~~
- ~~g. Alternately flashing red signal lamps;~~
- ~~h. Horns;~~
- ~~i. Heater and defroster;~~
- ~~j. Emergency door buzzer;~~
- ~~k. Auxiliary fan; and~~
- ~~l. Booster pump;~~

~~2. Any of above combination circuits may be subdivided into additional independent circuits.~~

~~3. Whenever possible, all other electrical functions (such as electric type windshield wipers) shall be provided with independent and properly protected circuits.~~

~~4. Each body circuit shall be color coded and a diagram of the circuits shall be attached to the body in a readily accessible location.~~

~~C. A separate fuse or circuit breaker shall be provided for each circuit except starter motor and ignition circuits.~~

~~D. A continuous duty solenoid relay, Cole Hersee No. 24106 or approved equal, operated by the ignition switch, shall be provided fans, and booster pump (Circuits i, j, k and l).~~

~~E. All wires within body shall be insulated and protected by covering of fibrous loom (or equivalent) which will protect them from external damage and minimize dangers from short circuits. Whenever wires pass through body member, additional protection in form of appropriate type of insert shall be provided.~~

~~F. All light circuits shall be such as to provide, as nearly as possible, bulb design voltage at lightbulb terminals.~~

~~G. Wires shall be fastened securely at intervals of not more than 24 inches. All joints shall be soldered or jointed by equally effective connectors.~~

~~Diagram 9. Virginia School Bus Wiring Diagram. (Repealed.)~~

~~Diagram 10. Wiring Diagram for Virginia School Bus Traffic Lights. (Repealed.)~~

~~PART VI.
STANDARDS FOR LIFT GATE SCHOOL BUSES.~~

~~**8 VAC 20-70-1360. General requirements. (Repealed.)**~~

~~A. School buses or school vehicles designed for transporting children with special transportation needs shall comply with Virginia's standards applicable to school buses and Federal Motor Vehicle Safety Standards as applicable to their GVWR category.~~

~~B. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance, shall be equipped with a power lift, unless a ramp is needed for unusual circumstances.~~

~~C. Lift shall be located on the right side of the body, in no way attached to the exterior sides of the bus but confined within the perimeter of the school bus body when not extended.~~

~~D. Every driver who transports students with disabilities shall receive instruction, training and demonstration in the following areas; however, the instruction shall not be limited to these topics:~~

- ~~1. Characteristics and symptoms of disabilities of the children being transported;~~
- ~~2. Dealing with disruptive behavior;~~
- ~~3. Using special equipment to include but not limited to:

 - ~~a. Lifts and ramps;~~
 - ~~b. Wheelchairs;~~
 - ~~c. Tie-down systems;~~
 - ~~d. Restraining/assistive devices; and~~
 - ~~e. Mobility devices.~~~~
- ~~4. Loading and unloading; and~~

~~5. Planning for and executing emergency evacuation drills.~~

~~**8 VAC 20-70-1370. Aisles. (Repealed.)**~~

~~All aisles leading to the emergency door from wheelchair area shall be a minimum of 30 inches in width.~~

~~**8 VAC 20-70-1380. Communications. (Repealed.)**~~

~~Special education buses may be equipped with a two-way radio communication system. (See 8 VAC 20-70-950 A.)~~

~~**8 VAC 20-70-1390. Fastening devices. (Repealed.)**~~

~~Unless otherwise specified below, fastening devices shall conform to FMVSS 222, 49 CFR § 571.222, as amended.~~

~~1. Wheelchair fastening devices shall be provided and attached to the floor or walls or both to enable securement of wheelchairs in the vehicle. The devices shall be of the type that require human intervention to unlatch or disengage. The fastening devices shall be designed to withstand forces up to 3,000 pounds per tiedown leg or clamping mechanism or 12,000 pounds total for each wheelchair.~~

~~2. Additional fastening devices may be needed to assist the student due to the many different configurations of chairs and exceptionalities.~~

~~**8 VAC 20-70-1400. Heaters. (Repealed.)**~~

~~An additional heaters shall be installed in the rear portion of the bus behind wheel wells as required in 8 VAC 20-70-1040 I, except a 50,000 minimum BTU heater may be used in bodies originally designed for 31-66 passenger capacity and 34,000 minimum BTU heater may be used in bodies of 30 passengers or less. Hose to rear heater, when under body shall be encased in metal tube.~~

~~**8 VAC 20-70-1410. Identification. (Repealed.)**~~

~~Buses with wheelchair lifts used for transporting children with physical disabilities shall display universal handicapped symbols located on the front and rear of the vehicle below the windowline. Such emblems shall be white on blue, shall be a minimum of nine inches and a maximum of 12 inches in size, and shall be reflectorized. They shall be placed so as not to cover lettering, lamps or glass.~~

~~**8 VAC 20-70-1420. Power lift. (Repealed.)**~~

~~A. Lifting mechanism shall be able to lift minimum pay load of 1,000 pounds. A clear opening and platform to accommodate at least a 30-inch wide wheelchair shall be provided.~~

~~B. When the platform is in the fully up position, it shall be locked in position mechanically and also shall have an additional support, or lug in the door to prevent the lift from resting against the door.~~

~~C. Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.~~

~~D. Power lifts shall be so equipped that they may be manually raised in the event of power failure of the power lift mechanism.~~

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~~E. Lift travel shall allow the lift platform to rest securely on the ground.~~

~~F. All edges of the platform shall be designed to restrain wheelchair and to prevent operator's feet from being entangled during the raising and lowering process.~~

~~G. Up and down movements of the lift platform shall be perpendicular to the plane of the bus body in all positions.~~

~~H. A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level.~~

~~I. A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subsection H above. The lift platform shall be skid resistant.~~

~~J. A circuit breaker or fuse energized through the ignition side of the accessory solenoid, shall be installed between power source and lift motor if electrical power is used.~~

~~K. The lift mechanism shall be equipped with adjustable limit switches or by-pass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position.~~

~~L. Handrails shall be required.~~

~~M. Sharp or protruding edges or components shall be padded.~~

8 VAC 20-70-1430. Ramps. (Repealed.)

~~When a power lift system is not adequate to load and unload students having special and unique needs, a ramp device may be installed.~~

~~1. If a ramp is used, it shall be of sufficient strength and rigidity to support the special device, occupant, and attendants. It shall be equipped with a protective flange on each longitudinal side to keep special device on the ramp.~~

~~2. Floor of ramp shall be of nonskid construction.~~

~~3. Ramp shall be of weight and design, and equipped with handles, to permit one person to put ramp in place and return it to its storage place.~~

8 VAC 20-70-1440. Regular service entrance. (Repealed.)

~~A. In Type D vehicles, there shall be three step risers, of equal height, in the entrance well.~~

~~B. An additional fold-out step may be provided which will provide for the step level to be no more than six inches from the ground level.~~

~~C. Three step risers in Type C vehicles are optional.~~

8 VAC 20-70-1450. Restraining devices. (Repealed.)

~~Seat frames may be equipped with attachments or devices to which restraining harnesses or other devices may be attached. Attachment framework or anchorage devices, if installed, shall conform with FMVSS 210, 49 CFR § 571.210.~~

8 VAC 20-70-1460. Seating arrangements. (Repealed.)

~~A. Flexibility in seat spacing to accommodate special devices shall be permitted due to the constant changing of passenger requirements.~~

~~B. There shall be a padded barrier forward of any standard seating position and between lift gate and first seat to rear of lift gate. A wheelchair position immediately forward of lift gate shall have a barrier between lift and wheelchair. (See 8 VAC 20-70-1200.)~~

8 VAC 20-70-1470. Special light. (Repealed.)

~~Lights shall be placed inside the bus to sufficiently illuminate lift area and shall be activated from door area. An outside light to be activated when lift door is open and deactivated when lift door is closed is permissible.~~

8 VAC 20-70-1480. Special service entrance. (Repealed.)

~~A. Bus bodies may have a special service entrance constructed in the body to accommodate a wheelchair lift for the loading and unloading of passengers.~~

~~B. The opening to accommodate the special service entrance shall be at any convenient point on the right (curb side) of the bus and far enough to the rear to prevent the doors, when open, from obstructing the right front regular service door (excluding a regular front service door lift).~~

~~C. The opening shall not extend below the floor level. Outboard type lifts shall be used.~~

~~D. The opening, with doors open, shall be of sufficient width to allow the passage of wheelchairs. The minimum clear opening through the door and the lift mechanism shall be 30 inches in width.~~

~~E. A drip moulding shall be installed above the opening to effectively divert water from entrance.~~

~~F. Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform.~~

~~G. Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors.~~

~~H. Special service entrance doors shall be equipped with padding at the top edge of the door opening. Pad shall be at least three inches wide and one inch thick and extend the full width of the door opening.~~

8 VAC 20-70-1490. Special service entrance doors. (Repealed.)

~~A. A single door may be used if the width of the door opening does not exceed 43 inches.~~

~~B. Two doors shall be used if any door opening would have to exceed 43 inches.~~

~~C. All doors shall open outwardly.~~

~~D. All doors shall have positive fastening devices to hold doors in the open position.~~

E. All doors shall be weather sealed and on buses with double doors, they shall be so constructed that a flange on the forward door overlaps the edge of the rear door when closed.

F. When dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door.

G. Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body.

H. Each door shall have windows set in rubber compatible within one inch of the lower line of adjacent sash.

I. Doors shall be equipped with a device that will actuate a red flashing visible signal located in the driver's compartment when doors are not securely closed and ignition is in "on" position.

J. A switch shall be installed so that the lifting mechanism will not operate when the lift platform doors are closed.

8 VAC 20-70-1500. Special optional equipment. (Repealed.)

Special seats for attendants may be installed on an optional basis. The location, restraints, and so forth shall be assessed and approved on an individual unit basis. All equipment shall be secured properly.

**PART VII.
ACTIVITY VEHICLES.**

8 VAC 20-70-1510. Regulations and standards. (Repealed.)

Activity vehicles owned or operated under contract by or for the school board, which are used solely to transport pupils to and from school activity events, shall comply with all applicable regulations and standards prescribed for school buses except as noted in this article.

1. Exceptions, general regulations.

a. An activity vehicle transporting school pupils shall be operated at a safe, legal speed not in excess of 55 miles per hour.

b. No standees shall be permitted.

c. The eight inch school bus lettered identification and traffic warning devices shall be removed by the local school division as required by §§ 46.2-100 and 46.2-1090 of the Code of Virginia. The name of the school division or individual school shall be placed on both sides of the vehicle.

d. Stops for the purpose of loading or discharging pupils on the travel portion of the highway shall not be permitted.

2. Exceptions, minimum standards for school buses in Virginia.

a. School activity vehicles shall not be painted national school bus yellow.

b. Other type seats and increased spacing may be used provided all provisions of FMVSS 222, 49 CFR § 571.222, are met.

DOCUMENTS INCORPORATED BY REFERENCE

American National Standard 224.5-1951, American National Standards Institute.

American National Standard 226.1, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, American National Standards Institute.

ASTM Standard D4956-90, American Society for Testing and Materials.

Federal Specification TT-C-520(b), Specifications of bus undercoating.

Preventive Maintenance Manual for Virginia School Bus Personnel and School Administrators, 1983.

School Bus Manufacturer's Standards for Fuel Tanks.

School Bus Manufacturer's Standards for Heating Systems.

SAE Standard J180 for Bus Alternatives, Society of Automotive Engineers.

Current Standards of the Tire and Rim Association.

Virginia School Bus Driver Training Curriculum Guide, 1977.

VA.R. Doc. No. R01-171; Filed September 4, 2002, 10:37 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic (adding 18 VAC 85-20-310 through 18 VAC 85-20-390).

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Public Hearing Date: October 10, 2002 - 11 a.m.
Public comments may be submitted until November 22, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

The specific mandate to promulgate regulations for office-based anesthesia is found in § 54.1-2912.1 of the Code of Virginia.

Purpose: In 1999, a letter to the Board of Medicine from the Medical Society of Virginia stated that there is a growing concern for patients and that the board is the appropriate agency to ensure that anesthetic services delivered in nonhospital settings are delivered in the safest environment possible. It was their position that such regulations would provide the necessary oversight without the burdensome requirement of licensure under a state agency. In response, the board has adopted regulations to provide some assurance that moderate or general anesthesia is being delivered and monitored by qualified practitioners, who have appropriately selected the level of anesthesia, informed the patient about anesthesia, and are adequately equipped and prepared to handle any emergency that might arise.

The board did not choose to regulate the surgical practice or the office in which the anesthesia is being performed, nor does the board intend to license or inspect the premises where office-based anesthesia is being performed. It was careful to address regulations to the narrow intent of the law and its own notice of intended regulatory action. Likewise, the board did not address the practice of anesthesia by certified registered nurse anesthetists, since that profession is jointly regulated with the Board of Nursing under a different set of regulations. The purpose of this regulation was to clearly establish the responsibility of the doctor providing anesthesia or supervising the delivery of anesthesia for the safety and well-being of the patient. Thus it is the doctor's responsibility to ensure that patient health and safety is adequately protected when anesthesia is being delivered in an office-based setting.

Substance: The board has adopted a new section to set forth the rules for "Office-Based Anesthesia," including definitions that are applicable to these regulations. First, the rules establish applicability, excluding the delivery of anesthesia in hospital settings or federal facilities and excluding the administration of levels of anesthesia with little potential for complications, such as local, topical or minimal sedation. General provisions set out the responsibilities of the doctor of medicine, osteopathy or podiatry and require that all procedures and protocols be in writing and available for inspection.

Requirements for the providers of anesthesia include training in the level of anesthesia being given as well as in advanced resuscitative techniques. If the doctor administers anesthesia without a qualified anesthesia provider, he is required to devote four of his 60 hours of continuing education to anesthesia. Higher levels of anesthesia with greater risks to patients can only be delivered by qualified anesthesia providers, who are anesthesiologists or nurse anesthetists.

Regulations establish a requirement for a written protocol on procedure and anesthesia selection and on the evaluation of a patient to determine pre-existing conditions, physical classification, risks and benefits. Anesthesia in an office-based setting is not permitted for certain patients who are at very high risk. All patients must give informed consent after the anesthesia plan has been discussed.

Requirements for monitoring are established to include appropriate equipment that has been maintained up to industry standards. The equipment, drugs and supplies necessary for different levels of anesthesia are set out in the regulation. Procedures for monitoring patients during and after the procedure must be in writing and must include continuous clinical observation; and for deep sedation or general anesthesia, the practitioner is required to be present in the facility until discharge criteria have been met.

Finally, there are requirements for emergencies and transfer to a hospital, for discharge protocols and for reporting of serious incidents resulting from the delivery of office-based anesthesia.

Issues:

Advantages and disadvantages to the public. With the proliferation of outpatient surgery and procedures requiring anesthesia, there has been a growing concern about the safety of patients in an unregulated environment. Most doctors practice with an accepted standard of care, including utilizing licensed anesthesia providers, equipping their offices with essential rescue and monitoring equipment, and carefully selecting the appropriate anesthesia, and inform the patient in advance. But the medical community is well aware of serious complications resulting from lesser standards of care in outpatient settings. Therefore, these regulations will provide a clearer standard by which doctors are expected to practice and give patients a higher degree of safety when receiving office-based anesthesia. As insurers and physicians encourage more procedures to be performed in an office-based practice or surgi-center rather than a hospital, these regulations will provide a definite advantage to patients, who typically do not have sufficient knowledge to judge whether the doctor and the facility are appropriately equipped and trained and whether adequate care is being taken to prepare and monitor their recovery. Since the regulations do not apply to the more common and less risky forms of anesthesia or sedation, there should be no disadvantages to the public in terms of limiting access or increasing cost.

Advantages and disadvantages to the agency. There are no specific advantages or disadvantages to the agency. Regulations that set standards for practice may create an opportunity for complaints for noncompliance, but under current laws and regulations, failure to appropriately provide and monitor anesthesia could be considered substandard care and subject the licensee to disciplinary action. The advantage of these regulations is derived from having a more objective standard on which to base such a decision or make findings in a disciplinary case involving anesthesia. However, with more objective rules to follow, practitioners who are conscientious about their practice and protecting their patients should be able to avoid incidents of unprofessional conduct related to delivery of anesthesia.

Fiscal Impact:

Projected cost to the state to implement and enforce. Fund source: as a special fund agency, the board must generate sufficient revenue to cover its expenditures from nongeneral funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.

Budget activity by program or subprogram. There is no change required in the budget of the Commonwealth as a result of this program.

One-time versus ongoing expenditures. The agency will incur some one-time costs (less than \$5,000) for meetings of the advisory committee, mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected cost to localities. There are no projected costs to localities.

Description of entities that are likely to be affected by regulation. The entities that are likely to be affected by these regulations would be licensed doctors of medicine, osteopathy, or podiatry who administer anesthesia in an office-based setting.

Estimate of number of entities to be affected. Currently, there are 28,283 persons licensed doctors of medicine and surgery, 886 licensed as doctors of osteopathic medicine, and 494 licensed as doctors of podiatry.

Projected costs to the affected entities. The cost for compliance will vary depending on the practitioner and the level of anesthesia administered in an office-based setting. The regulations will have no effect on the vast majority of doctors who do not use anesthesia in their practice, administer anesthesia or supervise the administration of anesthesia only in a hospital, or only utilize minimal sedation, local or topical anesthesia or minor conductive blocks. For most practitioners covered by these regulations, there should be no additional cost. Many outpatient surgery centers or physician practices are accredited or in the process of seeking accreditation by national credentialing agencies for outpatient surgery (such as Joint Commission (JACHO) for ambulatory accreditation under the Office-Based Surgery standards, the American Association for the Accreditation of Ambulatory Surgical Facilities (AAAASF) or the Accreditation Association for Ambulatory Health Care (AAAH). Equipment and facility standards required for such accreditation are more stringent than those set forth in these regulations, so any doctor practicing in an accredited facility could comply with regulations with no additional expense.

Doctors who utilize office-based moderate sedation, deep sedation or general anesthesia may have some added cost if their practices are not appropriately equipped. If a doctor does not currently maintain the basic equipment required for monitoring patients under deep sedation or general anesthesia, he may not be practicing according to an accepted standard for anesthesia care. It would be necessary for such a practitioner to acquire the necessary drugs, equipment or supplies to comply with these regulations, but

patients would be better protected and unfortunate consequences may be avoided.

Doctors who are required to obtain four hours of continuing education in anesthesia would incur no additional cost because those hours are included in the 60 hours per biennium already required for licensure. They may have to redirect some of their hours to the subject of anesthesia, but no additional hours are required. Most doctors already maintain training in advanced resuscitative techniques, whether they perform surgery or not. If not certified in ACLS or PALS, the cost for training is minimal and is usually available through the local hospital. Finally, it may be necessary for a doctor who supervises or administers anesthesia to develop written policies and procedures, but such an exercise is necessary to ensure steps have been taken before, during and after the delivery of anesthesia to follow acceptable standards of care.

Department of Planning and Budget's Economic Impact

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

Summary of the proposed regulation. In response to a petition for rulemaking from the Medical Society of Virginia and in order to comply with § 54.1-2912.1 of the Code of Virginia, the Board of Medicine has adopted a new section to its Regulations Governing the Practice of Medicine, Osteopathy, Chiropractic, and Podiatry that will set forth rules for the practice of office-based anesthesia. The proposed amendments to the regulation establish the applicability of the rules, qualifications of providers, protocols for anesthesia/procedure selection, requirements for informed consent, and procedures for monitoring, emergency transfers, and discharge.

Estimated economic impact. As insurers and physicians encourage more procedures to be performed in an office-based practice or surgi-center rather than a hospital, there has been a growing concern about the safety of patients in an unregulated environment. According to the Department of Health Professions, most doctors practice with an accepted standard of care, including utilizing licensed anesthesia providers, equipping their offices with essential rescue and monitoring equipment, and carefully selecting the appropriate anesthesia and informing the patient in advance. However, there still exists the potential for serious complications resulting from lesser standards of care in outpatient settings. The proposed regulations are intended to provide a clear standard by which doctors are expected to practice and give

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patients a higher degree of safety when receiving office-based anesthesia.

Compliance costs will vary depending on the practitioner and the level of anesthesia administered in an office-based setting. The proposed regulations will have no effect on the vast majority of doctors who do not use anesthesia in their practice, administer anesthesia or supervise the administration of anesthesia only in a hospital, or only utilize minimal sedation, local or topical anesthesia or minor conductive blocks. For most practitioners covered by these regulations, there should be no additional cost. The Department of Health Professions reports that many outpatient surgery centers and physician practices are accredited or in the process of seeking accreditation by national credentialing agencies for outpatient surgery. Equipment and facility standards required for such accreditation are more stringent than those set forth in these regulations, so any doctor practicing in an accredited facility could comply with the proposed regulations with no additional expense. Some practitioners who utilize office-based moderate sedation, deep sedation or general anesthesia may have some added cost if their practices are not appropriately equipped. However, under existing laws and regulations, failure to appropriately provide and monitor anesthesia could be considered substandard care and subject the licensee to disciplinary action.

By providing additional guidance, the proposed regulations can be expected to benefit patients, who typically do not have sufficient knowledge to judge whether the doctor and the facility are appropriately equipped and trained and whether adequate care is being taken to prepare and monitor their recovery. Since the regulations do not apply to the more common and less risky forms of anesthesia or sedation, the Department of Health Professions anticipates no disadvantages to the public in terms of limiting access or increasing costs.

Businesses and entities affected. There are currently 28,283 doctors of medicine and surgery, 886 doctors of osteopathic medicine, and 494 doctors of podiatry licensed in Virginia.¹ The proposed changes to this regulation will affect only those practitioners who administer anesthesia in an office-based setting.

Localities particularly affected. The proposed changes to this regulation will not uniquely affect any particular localities.

Projected impact on employment. The proposed changes to this regulation are not likely to have any significant effects on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not likely to have any significant effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 85-20 for office-based anesthesia.

Summary:

In response to a petition for rulemaking concerning the use of anesthesia in physician offices, ambulatory surgery centers and other nonhospital settings and pursuant to Chapter 324 of the 2002 Acts of the Assembly, the board is proposing rules for the practice of office-based anesthesia. The proposed amendments establish the applicability of the rules; qualifications of providers; protocols for anesthesia/procedure selection; requirements for informed consent; and procedures for monitoring, emergency transfers, and discharge.

PART VIII. OFFICE-BASED ANESTHESIA.

18 VAC 85-20-310. Definitions.

"Advanced resuscitative techniques" means methods learned in certification courses for Advanced Cardiopulmonary Life Support (ACLS), or Pediatric Advanced Life Support (PALS).

"Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients often require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

"General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive-pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

"Local anesthesia" means a transient and reversible loss of sensation in a circumscribed portion of the body produced by a local anesthetic agent.

"Minimal sedation/anxiolysis" means a drug-induced state during which a patient responds normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are usually not affected.

"Moderate sedation/conscious sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are usually required to maintain a patent airway, and spontaneous ventilation is usually adequate. Cardiovascular function is usually maintained.

"Monitoring" means the continual clinical observation of patients and the use of instruments to measure and display the values of certain physiologic variables such as pulse, oxygen saturation, level of consciousness, blood pressure and respiration.

"Office-based" means any setting other than (i) a licensed hospital as defined in § 32.1-123 of the Code of Virginia or

¹ Numbers provided by the Department of Health Professions.

state-operated hospitals or (ii) a facility directly maintained or operated by the federal government.

"Physical status classification" means a description used in determining the physical status of a patient as specified by the American Society of Anesthesiologists. Classifications are Class 1 for a normal healthy patient; Class 2 for a patient with mild systemic disease; Class 3 for a patient with severe systemic disease limiting activity but not incapacitation; Class 4 for a patient with incapacitating systemic disease that is a constant threat to life; and Class 5 for a moribund patient not expected to live 24 hours with or without surgery.

"Regional anesthesia" means the administration of anesthetic agents to a patient to interrupt nerve impulses without the loss of consciousness and includes minor and major conductive blocks.

"Minor conductive block" means the injection of local anesthesia to stop or prevent a painful sensation in a circumscribed area of the body (local infiltration or local nerve block), or the block of a nerve by refrigeration. Minor conductive nerve blocks include, but are not limited to, peribulbar blocks, pudendal blocks and ankle blocks.

"Major conductive block" means the use of local anesthesia to stop or prevent the transmission of painful sensations from large nerves, groups of nerves, nerve roots or the spinal cord. Major nerve blocks include, but are not limited to epidural, spinal, caudal, femoral, interscalene and brachial plexus.

"Topical anesthesia" means an anesthetic agent applied directly to the skin or mucous membranes, intended to produce a transient and reversible loss of sensation to a circumscribed area.

18 VAC 85-20-320. General provisions.

A. Applicability of requirements for office-based anesthesia.

1. The administration of topical anesthesia, local anesthesia, minor conductive blocks, or minimal sedation/analgesia, not involving a drug-induced alteration of consciousness other than minimal preoperative tranquilization, is not subject to the requirements for office-based anesthesia. A health care practitioner administering such agents shall adhere to an accepted standard of care as appropriate to the level of anesthesia or sedation, including evaluation, drug selection, administration and management of complications.

2. The administration of moderate sedation/conscious sedation, deep sedation, general anesthesia, or regional anesthesia consisting of a major conductive block are subject to these requirements for office-based anesthesia.

B. A doctor of medicine, osteopathic medicine, or podiatry administering office-based anesthesia or supervising such administration shall:

1. Perform a preanesthetic evaluation and examination or ensure that it has been performed;
2. Develop the anesthesia plan or ensure that it has been developed;

3. Ensure that the anesthesia plan has been discussed and informed consent obtained;

4. Ensure patient assessment and monitoring through the pre-, peri-, and post-procedure phases, addressing not only physical and functional status, but also physiological and cognitive status;

5. Ensure provision of indicated post-anesthesia care; and

6. Remain physically present or immediately available, as appropriate, for diagnosis, treatment and management of anesthesia-related complications or emergencies.

C. All written policies, procedures and protocols required for office-based anesthesia shall be maintained and available for inspection at the facility.

18 VAC 85-20-330. Qualifications of providers.

A. Doctors who utilize office-based anesthesia shall ensure that all medical personnel assisting in providing patient care are appropriately trained, qualified and supervised, are sufficient in numbers to provide adequate care, and maintain training in basic cardiopulmonary resuscitation.

B. All providers of office-based anesthesia shall hold the appropriate license and have the necessary training and skills to deliver the level of anesthesia being provided.

1. Deep sedation, general anesthesia or a major conductive block shall only be administered by an anesthesiologist or by a certified registered nurse anesthetist.

2. Moderate sedation/conscious sedation may be administered by the operating doctor with the assistance of and monitoring by a licensed nurse, a physician assistant or a licensed intern or resident.

C. Additional training.

1. The doctor who provides office-based anesthesia or who supervises the administration of anesthesia shall maintain current certification in advanced resuscitation techniques.

2. Any doctor who administers office-based anesthesia without the use of an anesthesiologist or certified registered nurse anesthetist shall obtain four hours of continuing education in anesthesia each biennium.

18 VAC 85-20-340. Procedure/anesthesia selection and patient evaluation.

A. A written protocol shall be developed and followed for procedure selection to include but not be limited to:

1. The doctor providing or supervising the anesthesia shall ensure that the procedure to be undertaken is within the scope of practice of the health care practitioners and the capabilities of the facility.

2. The procedure shall be of a duration and degree of complexity that will permit the patient to recover and be discharged from the facility in less than 24 hours.

3. The level of anesthesia used shall be appropriate for the patient, the surgical procedure, the clinical setting, the education and training of the personnel, and the equipment available. The choice of specific anesthesia agents and

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techniques shall focus on providing an anesthetic that will be effective, appropriate and will address the specific needs of patients while also ensuring rapid recovery to normal function with maximum efforts to control post-operative pain, nausea or other side effects.

B. A written protocol shall be developed for patient evaluation to include but not be limited to:

1. The preoperative anesthesia evaluation of a patient shall be performed by the health care practitioner administering the anesthesia or supervising the administration of anesthesia. It shall consist of performing an appropriate history and physical examination, determining the patient's physical status classification, developing a plan of anesthesia care, acquainting the patient or the responsible individual with the proposed plan and discussing the risks and benefits.

2. The condition of the patient, specific morbidities that complicate anesthetic management, the specific intrinsic risks involved, and the nature of the planned procedure shall be considered in evaluating a patient for office-based anesthesia.

3. Patients who have pre-existing medical or other conditions that may be of particular risk for complications shall be referred to a facility appropriate for the procedure and administration of anesthesia. Nothing relieves the licensed health care practitioner of the responsibility to make a medical determination of the appropriate surgical facility or setting.

C. Office-based anesthesia shall only be provided for patients in physical status classifications for Classes I, II and III. Patients in Classes IV and V shall not be provided anesthesia in an office-based setting.

18 VAC 85-20-350. Informed consent.

Prior to administration, the anesthesia plan shall be discussed with the patient or responsible party by the health care practitioner administering the anesthesia or supervising the administration of anesthesia. Informed consent for the nature and objectives of the anesthesia planned shall be in writing and obtained from the patient or responsible party before the procedure is performed. Informed consent shall only be obtained after a discussion of the risks, benefits, and alternatives, contain the name of the anesthesia provider and be documented in the medical record.

18 VAC 85-20-360. Monitoring.

A. A written protocol shall be developed for monitoring equipment to include but not be limited to:

1. Monitoring equipment shall be appropriate for the type of anesthesia and the nature of the facility. At a minimum, provisions shall be made for a reliable source of oxygen, suction, resuscitation equipment and emergency drugs.

2. In locations where anesthesia is administered, there shall be adequate anesthesia apparatus and equipment to ensure appropriate monitoring of patients. All equipment shall be maintained, tested and inspected according to manufacturer's specifications, and backup power shall be

sufficient to ensure patient protection in the event of an emergency.

3. When anesthesia services are provided to infants and children, the required equipment, medication and resuscitative capabilities shall be appropriately sized and calibrated for children.

B. To administer office-based moderate sedation/conscious sedation, the following equipment, supplies and pharmacological agents are required:

1. Appropriate equipment to manage airways;

2. Drugs and equipment to treat shock and anaphylactic reactions;

3. Precordial stethoscope;

4. Pulse oximeter with appropriate alarms or an equivalent method of measuring oxygen saturation;

5. Continuous electrocardiograph with paper recorder;

6. Devices for measuring blood pressure, heart rate and respiratory rate;

7. Defibrillator; and

8. Accepted method of identifying and preventing the interchangeability of gases.

C. In addition to requirements in subsection B of this section, to administer general anesthesia, deep sedation or major conductive blocks, the following equipment, supplies and pharmacological agents are required:

1. Drugs to treat malignant hyperthermia, when triggering agents are used;

2. Peripheral nerve stimulator, if a muscle relaxant is used; and

3. If using an anesthesia machine, the following shall be included:

a. End-tidal carbon dioxide monitor (capnograph);

b. In-circuit oxygen analyzer designed to monitor oxygen concentration within breathing circuit by displaying oxygen percent of the total respiratory mixture;

c. Oxygen failure-protection devices (fail-safe system) that have the capacity to announce a reduction in oxygen pressure and, at lower levels of oxygen pressure, to discontinue other gases when the pressure of the supply of oxygen is reduced;

d. Vaporizer exclusion (interlock) system, which ensures that only one vaporizer, and therefore only a single anesthetic agent can be actualized on any anesthesia machine at one time;

e. Pressure-compensated anesthesia vaporizers, designed to administer a constant non-pulsatile output, which shall not be placed in the circuit downstream of the oxygen flush valve;

f. Flow meters and controllers, which can accurately gauge concentration of oxygen relative to the anesthetic

agent being administered and prevent oxygen mixtures of less than 21% from being administered;

g. Alarm systems for high (disconnect), low (subatmospheric) and minimum ventilatory pressures in the breathing circuit for each patient under general anesthesia; and

h. A gas evacuation system.

D. A written protocol shall be developed for monitoring procedures to include but not be limited to:

1. Physiologic monitoring of patients shall be appropriate for the type of anesthesia and individual patient needs, including continuous monitoring and assessment of ventilation, oxygenation, cardiovascular status, body temperature, neuromuscular function and status, and patient positioning.

2. Intraoperative patient evaluation shall include continuous clinical observation and continuous anesthesia monitoring.

3. A health care practitioner administering general anesthesia or deep sedation shall remain present and available in the facility to monitor a patient until the patient meets the discharge criteria. A health care practitioner administering moderate sedation/conscious sedation shall routinely monitor a patient according to procedures consistent with such administration.

18 VAC 85-20-370. Emergency and transfer protocols.

A. There shall be written protocols for handling emergency situations, including medical emergencies and internal and external disasters. All personnel shall be appropriately trained in and regularly review the protocols and the equipment and procedures for handling emergencies.

B. There shall be written protocols for the timely and safe transfer of patients to a prespecified hospital or hospitals within a reasonable proximity. There shall be a transfer agreement with such hospital or hospitals.

18 VAC 85-20-380. Discharge policies and procedures.

A. There shall be written policies and procedures outlining discharge criteria. Such criteria shall include stable vital signs, responsiveness and orientation, ability to move voluntarily, controlled pain, and minimal nausea and vomiting.

B. Discharge from anesthesia care is the responsibility of the health care practitioner providing the anesthesia care and shall only occur when patients have met specific physician-defined criteria.

C. Written instructions and an emergency phone number shall be provided to the patient. Patients shall be discharged with a responsible individual who has been instructed with regard to the patient's care.

D. At least one person trained in advanced resuscitative techniques shall be immediately available until all patients are discharged.

18 VAC 85-20-390. Reporting requirements.

The doctor administering the anesthesia or supervising such administration shall report to the board within 30 days any incident relating to the administration of anesthesia that results in patient death, either intraoperatively or within the immediate 72-hour postoperative period or in transport of a patient to a hospital for a stay of more than 24 hours.

VA.R. Doc. No. R02-69; Filed August 28, 2002, 10:28 a.m.

Title of Regulation: 18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-10, 18 VAC 85-110-50, 18 VAC 85-110-60, 18 VAC 85-110-80, 18 VAC 85-110-150, 18 VAC 85-110-155, and 18 VAC 85-110-160; repealing 18 VAC 85-110-30 and 18 VAC 85-110-70).

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Public Hearing Date: October 10, 2002 - 11 a.m.

Public comments may be submitted until November 22, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

The legal authority to promulgate regulations for the licensure of acupuncturists is found in § 54.1-2956.9 of the Code of Virginia.

Purpose: The purpose of the proposed regulatory action is to clarify and update the regulations pursuant to a periodic review and to amend an unnecessarily burdensome requirement for foreign-trained acupuncturists. The updated educational requirements will make compliance less burdensome for applicants, since the total number of hours required may be reduced. In addition, the proposed educational requirements (after July 1, 1999) must include clinical hours as well as didactic course work. Clinical hours in observation or internship prior to licensure are integral in the preparation for competent acupuncture practice, so the proposed requirements are essential to protect the health and safety of consumers of acupuncture treatment.

The major problem being addressed affected only a small number of applicants or potential licensees who have received their acupuncture education outside the United States and have moved into Virginia. These individuals are caught in a regulatory bind that is burdensome and which the board has now determined is unnecessary. Currently, such an individual must repeat his acupuncture education in the U.S. (which is

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impossible for most whose English is very limited) or they must be licensed by another state and practice there for four years (which may also be impossible if their residence is in Virginia). The board is confident that a transcript review by a credentialing evaluation service and passage of the national certification examination is sufficient evidence to ensure minimal competency to practice.

Substance: Regulations will clarify certain sections of the regulation for consistency with current terminology and practice. Educational requirements are amended to make them less burdensome for applicants and for conformity with the national certifying body. The requirement for licensure and practice in another state prior to applying to Virginia for foreign-trained acupuncturists is eliminated.

Issues:

Advantages or disadvantages. There are no disadvantages to the public. There may be an advantage to a narrow segment of the population that will benefit from the services of foreign-trained acupuncturists who are currently unable to obtain a license in Virginia. Likewise, there may be some acupuncturists who will be able to open a practice or create a small business who are presently barred from licensure. The public continues to have some assurance of the competency of acupuncture practitioners by requirements for certification by NCCAOM that include continuing education.

There are no advantages or disadvantages to the agency since there are no additional tasks or responsibilities involved in compliance with these regulations.

Fiscal Impact:

Projected cost to the state to implement and enforce. Fund source: as a special fund agency, the board must generate sufficient revenue to cover its expenditures from nongeneral funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.

Budget activity by program or subprogram. There is no change required in the budget of the Commonwealth as a result of this program.

One-time versus ongoing expenditures. The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. The development of proposed regulations has occurred in conjunction with scheduled meetings of the advisory committee, legislative committee and the full board. Every effort will be made to incorporate notices and hearings into anticipated mailings and board meetings already scheduled.

Projected cost to localities. There are no projected costs to localities.

Description of entities that are likely to be affected by regulation. The entities that are likely to be affected by these regulations would be licensed acupuncturists.

Estimate of number of entities to be affected. Currently, there are approximately 157 acupuncturists who are licensed by the Board of Medicine to practice acupuncture.

Projected costs to the affected entities. There should be no additional costs to the affected entities for compliance.

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

Summary of the proposed regulation. The Board of Medicine (board) proposes to 1) change the licensure requirements for individuals who attend acupuncture school in a foreign country, 2) remove the prohibition of part-time study of more than five years, 3) eliminate a requirement that individuals wishing to reactivate their inactive license provide information on any practice and licensure in other jurisdictions for the period in which the license was inactive, and 4) make several clarifying changes.

Estimated economic impact. The Department of Health Professions (department) explains that individuals who have received their acupuncture education outside of the United States are caught in a regulatory bind which the board has now determined is unnecessary. Currently, if such an individual wishes to be licensed to perform acupuncture in Virginia, he must repeat his acupuncture education in the U.S. or be licensed by another American state and practice there for at least four years. The board proposes to eliminate this requirement. Instead, the applicant could submit his transcripts to a foreign credential evaluation service. If the foreign credential evaluation service determines that the individual's education and training was at least equivalent to that required for National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) certification, then the board would deem the applicant to have met the education requirement for licensure.

This proposed change will likely produce a net benefit. Some individuals who are judged to have adequate training are currently being prevented from providing acupuncture services. Allowing these individuals to legally sell and provide their acupuncture services is clearly beneficial to them. The public will also benefit by having access to a larger supply of acupuncture services from practitioners deemed sufficiently trained. The larger supply may reduce market prices for acupuncture services in some areas.

The current regulations prohibit an individual from satisfying the education requirement for initial licensure through part-time study of more than five years. The board proposes to eliminate this restriction. Rescinding this rule is beneficial since some potentially skilled acupuncturists may not be in a position to be a full-time student or otherwise finish their education within five years. Thus, the elimination of this

restriction could produce a small increase in the number of individuals providing acupuncture services. Since these individuals will still be required to pass a qualifying exam and complete the same amount and type of coursework as other licensure applicants, there is no evidence or reasonable rationale to indicate that these acupuncturists would be any less competent than other licensed acupuncturists.

The board also proposes to rescind a requirement that individuals wishing to reactivate their inactive license provide information on any practice and licensure in other jurisdictions for the period in which the license was inactive in Virginia. The department points out that this is not required for other professions regulated by the board. Since the board deems the information of little benefit, and providing the information does involve cost for the affected acupuncturists, the elimination of this requirement produces a net benefit.

Businesses and entities affected. The proposed regulations affect the 157 acupuncturists licensed in Virginia, individuals interested in becoming licensed acupuncturists, and the 62 schools and colleges that either have or are seeking ACAOM accreditation.¹

Localities particularly affected. The proposed regulations potentially affect all Virginia localities.

Projected impact on employment. The proposed elimination of the prohibition on part-time study of more than five years and the proposed change to the licensure requirements for individuals who attended acupuncture school in a foreign country may increase acupuncture employment by a small amount.

Effects on the use and value of private property. The proposed elimination of the prohibition on part-time study of more than five years and the proposed change to the licensure requirements for individuals who attended acupuncture school in a foreign country may enable a small number of individuals to create an acupuncture practice who otherwise would not have. The proposed rescinding of the requirement that individuals wishing to reactivate their inactive license provide information on any practice and licensure in other jurisdictions for the period in which the license was inactive will reduce costs for those acupuncturists and will moderately increase the value of their practices.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 85-110 for changes recommended by a periodic review of regulations.

Summary:

The proposed amendments (i) require acupuncture programs in which applicants are enrolled on or after July 1, 1999, to be accredited by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); (ii) establish educational requirements, which mirror the current educational requirements of the NCCAOM, for applicants enrolled in a program on or after

July 1, 1999; (iii) change the licensure requirements for individuals who attend acupuncture school in a foreign country; (iv) remove the prohibition of part-time study of more than five years; (v) eliminate a requirement that individuals wishing to reactivate their inactive license provide information on any practice and licensure in other jurisdictions for the period in which the license was inactive; and (vi) make several clarifying changes.

18 VAC 85-110-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in § 54.1-2900 of the Code of Virginia.

Acupuncturist

Board

Licensed acupuncturist

Practice of acupuncture

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

"ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine. ACAOM replaces the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

"CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine and ~~replaces the "NCASC" designation for the National Council of Acupuncture Schools and Colleges.~~

"CNT course" means a Clean Needle Technique Course as administered by the CCAOM.

"NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine. ~~NCCAOM replaces the National Commission for the Certification of Acupuncturists.~~

18 VAC 85-110-30. ~~Nonrestriction of doctors of medicine, osteopathy, chiropractic and podiatry. (Repealed.)~~

~~Nothing in this chapter shall be construed to prohibit or restrict the practice of doctors of medicine, osteopathy, chiropractic or podiatry who are qualified by regulation to practice acupuncture.~~

18 VAC 85-110-50. Educational requirements: graduates of approved institutions or programs in the United States.

A. Requirements for acupuncture education obtained prior to July 1, 1990, shall be as provided in this subsection.

1. An applicant applying for licensure to practice as an acupuncturist on the basis of successful completion of education in a school or college of acupuncture accredited by the ACAOM or other accrediting agencies approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of successful completion of an acupuncture course of study in an accredited school or college for acupuncture, providing evidence of not less than 1,000 hours of schooling in not less than a continuous 18-month period.

¹ Numbers provided by the Department of Health Professions.

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2. The studies shall include not less than 700 didactic hours and not less than 250 clinical hours. Additional hours may be in either didactic or clinical hours based upon the school or college curriculum.

B. Requirements for acupuncture education obtained after July 1, 1990, shall be as provided in this subsection.

An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ACAOM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of three academic years in length equivalent to 90 semester credit hours or 135 quarter credit hours.

One academic year means full-time study completed in three quarters, two semesters, or three trimesters. A full-time continuous study program shall be a concentrated educational process in acupuncture which requires individual study with assigned materials in a classroom or clinical setting.

C. *Requirements for acupuncture education obtained after July 1, 1999, shall be as provided in this subsection. An applicant applying for licensure to practice as a licensed acupuncturist on the basis of successful completion of education in a school or college for acupuncture accredited by ACAOM or any other accrediting agency approved by the Board of Medicine, which confers a degree or certificate in acupuncture in the United States, shall submit evidence of having a minimum of 1,725 hours of entry-level acupuncture education to include at least 1,000 didactic hours and 500 clinical hours. Clinical hours may include observation, as well as internship or treatment hours; the remaining 225 hours may be earned as either didactic or clinical. Correspondence programs or courses in acupuncture are excluded and do not meet the requirements for acupuncture education.*

18 VAC 85-110-60. Requirements of graduates of nonapproved educational programs in acupuncture.

A. An applicant who has completed an educational course of study in a school or college that is not approved or accredited by ACAOM or any other board-approved accrediting agency shall:

~~1. Submit evidence of successful completion of not less than two years of acupuncture study a transcript from his educational course of study in acupuncture to a foreign credential evaluation service approved by the board to determine equivalency in education and training to that required for certification by the NCCAOM.~~

~~2. Have not less than four years of practice in the previous seven years as a licensed acupuncturist in another jurisdiction without evidence of disciplinary action.~~

~~3.~~ 2. Meet the examination requirements as prescribed in 18 VAC 85-110-80 and 18 VAC 85-110-90.

B. All documents submitted to the board which are not in English must be translated into English and certified by the embassy of the issuing government.

18 VAC 85-110-70. Part-time study. (Repealed.)

~~Part-time study of more than five years or correspondence courses in acupuncture are excluded and do not meet the requirements for acupuncture study.~~

18 VAC 85-110-80. Examination requirements for licensure.

The examination requirements for licensure shall consist of:

1. Passing the NCCAOM comprehensive written examination, resulting in *current, active* certification by the NCCAOM *at the time the application is filed with the board*;
2. Passing the Practical Examination of Point Location Skills (PEPLS) test; and
3. Completing the CNT course as administered by the CCAOM.

18 VAC 85-110-150. Biennial renewal of licensure.

A. A licensed acupuncturist shall renew his license biennially during his birth month in each odd-numbered year by:

1. Paying to the board the renewal fee as prescribed in subdivision 2 of 18 VAC 85-110-35; and
2. Attesting to having ~~documentation of~~ *current, active* certification by the NCCAOM.

B. A licensed acupuncturist whose license has not been renewed by the first day of the month following the month in which renewal is required shall not be licensed in Virginia.

C. An additional fee to cover administrative costs for processing a late application renewal shall be imposed by the board as prescribed by subdivision 3 of 18 VAC 85-110-35.

18 VAC 85-110-155. Inactive licensure.

A. A licensed acupuncturist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to maintain *current, active* certification by the NCCAOM.
2. An inactive licensee shall not be entitled to perform any act requiring a license to practice acupuncture in Virginia.

B. An inactive licensee may reactivate his license by:

1. Submission of the required application;
2. Payment of the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure for the biennium in which the license is being reactivated; *and*
3. Submission of documentation of having maintained current certification or having been recertified by the NCCAOM; *and*.

~~4. Providing information on practice and licensure in other jurisdictions for the period in which the license was inactive in Virginia.~~

C. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2914 of the Code of Virginia or any provisions of this chapter.

18 VAC 85-110-160. Reinstatement.

A. A licensed acupuncturist who allows his license to lapse for a period of two years or more and chooses to resume his practice shall submit to the board a reinstatement application, information on practice and licensure in other jurisdictions for the period in which the license was lapsed in Virginia, proof of current, *active* certification by the NCCAOM, and the fee for reinstatement of his license as prescribed in subdivision 4 of 18 VAC 85-110-35.

B. A licensed acupuncturist whose license has been revoked by the board and who wishes to be reinstated must make a new application to the board, hold current, *active* certification by the NCCAOM, and pay the fee for reinstatement of his license as prescribed in subdivision 6 of 18 VAC 85-110-35.

VA.R. Doc. No. R02-141; Filed August 28, 2002, 10:29 a.m.

BOARDS OF NURSING AND MEDICINE

Title of Regulation: 18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-10, 18 VAC 90-30-70, and 18 VAC 90-30-90).

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public Hearing Date: September 24, 2002 - 1:30 p.m.
Public comments may be submitted until November 22, 2002.
(See Calendar of Events section for additional information)

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

Section 54.1-2957 of the Code of Virginia authorizes The Board of Medicine and the Board of Nursing to jointly prescribe the regulations governing the licensure of nurse practitioners.

Purpose: The purpose of the proposal is to ensure that credentialing bodies on which the board relies to certify each type of specialty practice are basing such a credential on sound, objective standards with examinations that are defensible. Without such a requirement, there is no independent review of the specialty certifications to ensure that the advanced practice nurses licensed by the board are minimally competent to provide health care services to patients in the Commonwealth. Assurance of competency is a

basic responsibility of the board for the health, safety and welfare of the public.

In addition, the board has added in regulation a category of licensed nurse practitioner that is currently being licensed based on an action by the Committee of the Joint Boards of Nursing and Medicine. That committee has the authority to add a specialty if it determines that a new category meets the requirements of this chapter.

Substance: Amendments to regulations will specify that agencies on which the board relies to credential specialty practice are accredited or deemed acceptable by the National Council of State Boards of Nursing. An amendment is also proposed to add "psychiatric nurse practitioner" to the listing of categories of nurse practitioner.

Issues: Advantages or disadvantages to the public. Amendments have no immediate advantages or disadvantages to the public as all the specialty bodies that credential nurse practitioners meet the amended requirements. They will offer the board a more objective standard by which to judge the merits of a certifying body seeking board approval to credential nurse practitioners.

Advantages or disadvantages to the agency. The additional criteria for recognition of national certifying bodies will offer the board a more objective standard on which to base any future requests for recognition. Although the board has already begun to license psychiatric nurse practitioners, the addition of that category in the regulation will be clarifying.

There are no disadvantages to the agency; there are no new requirements to be interpreted and enforced.

Fiscal Impact:

Projected cost to the state to implement and enforce:

(i) Fund source: as a special fund agency, the board must generate sufficient revenue to cover its expenditures from nongeneral funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.

(ii) Budget activity by program or subprogram: there is no change required in the budget of the Commonwealth as a result of this program.

(iii) One-time versus ongoing expenditures: the agency will incur some one-time costs (less than \$2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled. There should be no on-going expenditures related to the proposed amendments.

Projected cost to localities. There are no projected costs to localities.

Description of entities that are likely to be affected by regulation. The entities that are likely to be affected by these regulations would be persons licensed as nurse practitioners or national certifying bodies that credential nurse practitioners.

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Estimate of number of entities to be affected. Currently there are 4,400 licensed nurse practitioners in all categories in Virginia, including two persons licensed as psychiatric nurse practitioners. There are six national certifying bodies recognized in regulation for nurse practitioners.

Projected costs to the affected entities. There should be no costs to the affected entities for compliance with these amended regulations. All six of the national certifying bodies for nurse practitioners meet the amended standard.

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

Summary of the proposed regulation. The Boards of Medicine and Nursing (boards) propose to 1) add psychiatric nurse practitioner to the list of categories by which the boards license nurse practitioners, and 2) add clarifying language concerning from which agencies license applicants may hold professional certification in order to qualify for licensure.

Estimated economic impact. The boards license nurse practitioners for practice in specific fields. The current regulations state that the boards shall license nurse practitioners in the following categories: 1) adult nurse practitioner, 2) family nurse practitioner, 3) pediatric nurse practitioner, 4) family planning nurse practitioner, 5) obstetric/gynecological nurse practitioner, 6) emergency nurse practitioner, 7) geriatric nurse practitioner, 8) certified registered nurse anesthetist, 9) certified nurse midwife, 10) school nurse practitioner, 11) medical nurse practitioner, 12) maternal child health nurse practitioner, 13) neonatal nurse practitioner, 14) women's health nurse practitioner, and 15) acute care nurse practitioner. The regulations also state that other categories of licensed nurse practitioners shall be licensed if the Committee of the Joint Boards of Nursing and Medicine determines that the category meets the requirements of the regulations. The boards have in fact licensed a sixteenth category, psychiatric nurse practitioners. The boards propose to add this sixteenth category to the list of nurse practitioner licensure fields.

The boards could continue to license psychiatric nurse practitioners without listing the category in the regulations. Adding the category to the regulations informs potentially interested parties that the licensure category exists. Some individuals may choose to pursue a psychiatric nurse practitioner license who otherwise would not have due to lack of knowledge of the license availability. Thus the proposal to add the psychiatric nurse practitioner category to the regulations produces potential benefit.

Individuals must submit evidence of professional certification by a board-approved agency in order to qualify for initial licensure. Both the current and proposed regulations state that the boards shall approve professional certification from any one of six specified agencies, or may accept professional certification from other certifying agencies provided that the professional certification is awarded on the basis of: (i) completion of an approved education program and (ii) achievement of a passing score on an examination. The boards propose to add clarifying language to the regulations stating that they may only accept professional certification from other certifying agencies if the agency is accredited by an accrediting agency recognized by the U.S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing. This new language conforms to the boards' long-time policy. Since the language just clarifies long-time policy, it will not have significant impact.

Businesses and entities affected. The proposed regulations affect the 4,400 individuals that currently hold licensure in one of the 16 nurse practitioner licensure fields, individuals interested in nurse practitioner licensure, and physicians and patients who interact with nurse practitioners.

Localities particularly affected. The proposed regulations potentially affect all Virginia localities.

Projected impact on employment. Including the psychiatric nurse practitioner category in the regulations may increase the number of individuals who pursue that license.

Effects on the use and value of private property. If individuals seek and obtain the psychiatric nurse practitioner license due to learning about it through its inclusion in the regulations, and working with that license increases their net earnings, then the proposal to include that license category in the regulations will increase the value of their private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Boards of Nursing and Medicine concur with the analysis of the Department of Planning and Budget for amendments to 18 VAC 90-30 for changes recommended by a periodic review of regulations.

Summary:

The proposed amendments (i) add psychiatric nurse practitioner to the list of categories by which the boards license nurse practitioners and (ii) add clarifying language concerning from which agencies license applicants may hold professional certification in order to qualify for licensure.

18 VAC 90-30-10. Definitions.

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

"Approved program" means a nurse practitioner education program that is accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, American Association of Colleges of Nursing or the National League for Nursing or is offered by a school of nursing or jointly offered by a school of medicine and a school of nursing which grant a master's degree in

nursing and which hold a national accreditation acceptable to the board.

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

"Collaboration" means the process by which a nurse practitioner, in association with a physician, delivers health care services within the scope of practice of the nurse practitioner's professional education and experience and with medical direction and supervision, consistent with this chapter.

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Controlling institution" means the college or university offering a nurse practitioner education program.

"Licensed nurse practitioner" means a registered nurse who has met the requirements for licensure as stated in Part II (18 VAC 90-30-60 et seq.) of this chapter.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

"Medical direction and supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for availability and ongoing communications which provide for and define consultation among the collaborating parties and the patient; and periodic joint evaluation of services provided, e.g., chart review, and review of patient care outcomes. Guidelines for availability shall address at a minimum the availability of the collaborating physician proportionate to such factors as practice setting, acuity, and geography.

"National certifying body" means a national organization that is accredited by an accrediting agency recognized by the U. S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing and has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in this chapter as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a licensed nurse practitioner who supervises and evaluates the nurse practitioner student.

"Protocol" means a written statement, jointly developed by the collaborating physician(s) and the licensed nurse practitioner(s), that directs and describes the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner(s) in the care and management of patients.

18 VAC 90-30-70. Categories of licensed nurse practitioners.

A. The boards shall license nurse practitioners in the following categories (a two-digit suffix appears on licenses to designate category):

1. Adult nurse practitioner (01);
2. Family nurse practitioner (02);
3. Pediatric nurse practitioner (03);

4. Family planning nurse practitioner (04);
5. Obstetric/gynecologic nurse practitioner (05);
6. Emergency nurse practitioner (06);
7. Geriatric nurse practitioner (07);
8. Certified registered nurse anesthetist (08);
9. Certified nurse midwife (09);
10. School nurse practitioner (10);
11. Medical nurse practitioner (11);
12. Maternal child health nurse practitioner (12);
13. Neonatal nurse practitioner (13);
14. Women's health nurse practitioner (14); and
15. Acute care nurse practitioner (16);-; and
16. Psychiatric nurse practitioner (17).

B. Other categories of licensed nurse practitioners shall be licensed if the Committee of the Joint Boards of Nursing and Medicine determines that the category meets the requirements of this chapter.

18 VAC 90-30-90. Certifying agencies.

A. The boards shall accept the professional certification by examination of the following:

1. American College of Nurse Midwives Certification Council;
2. American Nurses' Credentialing Center;
3. Council on Certification of Nurse Anesthetists;
4. National Certification Board of Pediatric Nurse Practitioners and Nurses;
5. National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties; and
6. American Academy of Nurse Practitioners.

B. The boards may accept professional certification from other certifying agencies on recommendation of the Committee of the Joint Boards of Nursing and Medicine provided the agency meets the definition of a national certifying body set forth in 18 VAC 90-30-10 and that the professional certification is awarded on the basis of:

1. Completion of an approved educational program as defined in 18 VAC 90-30-10; and
2. Achievement of a passing score on an examination.

VA.R. Doc. No. R02-142; Filed August 28, 2002, 10:29 a.m.



Proposed Regulations

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-375. Economic and Employment Improvement Program for Disadvantaged Persons (adding 22 VAC 40-375-10 through 22 VAC 40-375-60).

Statutory Authority: §§ 63.2-217 and 63.2-700 et seq. of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 22, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Faye Palmer, Manager, Job Readiness and Employment, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1065, FAX (804) 225-2202 or e-mail afp900@email1.dss.state.va.us.

Basis: Section 63.2-701 of the Code of Virginia mandates that the Department of Social Services shall promulgate regulations for the implementation of the Economic and Employment Improvement Program for Disadvantaged Persons.

Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for the operation of public assistance and social services programs.

Purpose: The regulation implements the Economic and Employment Improvement Program for Disadvantaged Persons (program). The program is designed to improve the employability of disadvantaged persons through education and job training. The regulation is essential to protect the welfare of citizens because it implements a program that assists disadvantaged individuals with securing employment and moving from minimum wage jobs to employment or college, or both, that facilitates career development and economic independence. This goal is accomplished by encouraging self-sufficiency and economic independence.

Substance: The regulation establishes the designation of projects to receive grant awards for the program and additional provisions establishing eligibility criteria for projects designed to serve certain hard-to-employ persons.

Issues: The primary advantage of the regulation is that it protects the welfare of participants by providing ongoing services to reduce long-term dependence on welfare and emphasizes personal responsibility by enhancing opportunities for personal initiative and self-sufficiency by promoting the value of work. The primary advantage of the regulation to the Department of Social Services and the Commonwealth is that it assists disadvantaged individuals with securing employment thereby reducing long-term dependence on welfare. There are no known disadvantages of this regulation to the public or the Commonwealth.

Fiscal Impact: Implementation of the regulation does not produce a fiscal impact on the Commonwealth.

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

Summary of the proposed regulation. Pursuant to the statutory requirement under § 63.2-701 of the Code of Virginia, to promulgate regulations for the program, the proposed regulations will establish rules on grantee eligibility and responsibility and participant eligibility and responsibility for the Economic and Employment Improvement Program for Disadvantaged Persons.

Estimated economic impact. The proposed regulations apply to the Economic and Employment Improvement Program for Disadvantaged Persons (the program). The funding source of the program is federal Temporary Assistance for Needy Families (TANF) funds. The General Assembly appropriated \$400,000 from TANF reserve funds for the 2001 - 2002 biennium, or \$200,000 for fiscal year (FY) 2002. Of this amount, only up to 15% may be used for administrative purposes, which is the standard allocation for administrative expenses in all other TANF programs.

The program, through the grantees, provides education and training to people who are (i) historically underrepresented in Virginia institutions of higher education, and in management and administrative levels in the business community, (ii) residing in counties, cities, and towns with high local stress indicators and in economically depressed regions of the Commonwealth, (iii) disproportionately represented in the workforce in minimum wage jobs and occupations requiring minimum education, training, and skills, (iv) ineligible to continue to receive public assistance under state and federal laws, (v) eligible to participate in TANF program, (vi) returning to the community from state and federal correctional institutions, (vii) chronically employed or hard-to-employ, (viii) displaced by technological advances in industry, or (ix) possessing any combination of these characteristics.¹ In short, the purpose of the program is to improve the employability of and provide assistance to disadvantaged, certain hard to employ, and chronically unemployed persons through education and job skills programs.

To achieve its goals, the program issues a statewide request for proposal inviting grant applicants to submit proposed projects. The grant awards committee, composed of nine members, evaluates the proposals, and makes up to ten grant awards. In FY 2001 and FY 2002, seven applicants were

¹ Source: Section 63.2-702 Code of Virginia.

operating with grants ranging from \$50,000 to \$75,000 and totaling \$400,000.² The 2002 General Assembly appropriated an additional \$400,000 in TANF funds for the current biennium. The existing seven grants were renewed for FY 2003 for \$25,000 each. A new request for proposal will be issued in early winter for new awards to begin on July 1, 2003 for a period of one year.

Several statutory changes related to this program occurred in the past several years. Prior to July 1, 2000, the Governor's Employment and Training Department (GETD) administered the program and \$150,000 was appropriated to the program from the general fund for each of the 1999-2000 biennium. When the federal Job Training Partnership Act administered by GETD ended in 2000, the agency closed. The 2000 General Assembly transferred the program to the Department of Social Services effective July 1, 2000. During this transition in 2000, several economically significant changes occurred.

First, the funding source was shifted from general fund to federal TANF funds and the funding amount was increased from \$150,000 to \$200,000 annually. This change freed \$150,000 from Virginia's general fund for other purposes and increased the use of federal funds by \$200,000 for each year of operation under TANF. Second, approximately one full time position was terminated at the Governor's Employment and Training Department that can be attributed to this program and approximately one additional full time position was provided to the Department of Social Services for administration of this program. Third, the grant awards committee was reduced from 15 to nine representatives from several agencies, and a representative from the Department of Social Services was added. Fourth, eligibility requirements were expanded to include persons eligible to participate in vocational, educational, and job skills training programs under federal and state welfare law reforms, persons ineligible to continue to receive assistance under federal and state welfare reform laws, and persons returning to community from federal and state correctional facilities. Fifth, participants in the program who are not participating in the program called "Virginia Initiative for Employment not Welfare" are required to work a minimum of eight hours per week in paid employment. Finally, TANF requirements were added restricting participants to custodial and non-custodial parents with family incomes below 200% of the federal poverty limit and requiring the program concentrate on one of the four TANF goals which is "to end dependence of needy parents by promoting job placement, work, and marriage."

Pursuant to the statutory requirement under § 63.1-133.57 of the Code of Virginia, to promulgate regulations for the program, the proposed regulations will establish rules on grantee eligibility and responsibility and participant eligibility and responsibility. Since the program have been administered under the statutory requirements effective since July 1, 2000 and the proposed regulations contain the same provisions as

the statute, no significant change will occur in implementation of the program regarding the changes discussed above. Thus, no significant economic effects related to issues discussed above is expected upon promulgation of the proposed regulations, other than improving the clarity of the program administration and implementation and applicable laws by referencing and consolidating all relevant information in a regulatory document.

The Department of Social Services indicates that the only change that will depart from the current implementation of the program is the proposed requirement to consider demography in the distribution of funds in addition to the requirement that funds be distributed geographically equally throughout the Commonwealth, pursuant to § 63.1-133.58 (C) of the Code of Virginia. This change has the potential to more equally distribute the funds among the participants with different demographic backgrounds. However, currently it is not known what demographic characteristics will be used as criteria. Thus, no conclusive projections can be made about the potential changes in the mix of the program participants.

Businesses and entities affected. The proposed regulations apply to program participants and grantees. In FY 2002, there were 135 participants and seven grantees in the program.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. Expected redistribution of funds among the participants with different demographic backgrounds is expected to change the composition of the persons participating in the program. This change is likely to increase assistance provided to participants in demographically underrepresented groups and decrease assistance provided to participants in demographically overrepresented groups. The net effect on labor supply is not expected to be significant.

Effects on the use and value of private property. No significant effect on the use and value of private property is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

Section 63.2-701 of the Code of Virginia directs promulgation of a regulation for the implementation of the Economic and Employment Improvement Program for Disadvantaged Persons (program). The regulation designates the types of projects eligible to receive grant awards for the program and additional provisions establishing eligibility criteria for projects designed to serve certain hard-to-employ persons.

² Grantees were 1) Pittsylvania County Community Action, Inc., Chatham, Virginia, 2) Greater Peninsula Workforce Development Consortium, Hampton, Virginia, 3) Culpeper Department of Social Services, Culpeper, Virginia, 4) Fifth District Employment and Training Consortium, Roanoke, Virginia, 5) Capital Area Workforce Investment Board, Sandston, Virginia, 6) Danville Community College, Danville, Virginia, 7) Office of Human Affairs, Newport News, Virginia.

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CHAPTER 375.
ECONOMIC AND EMPLOYMENT IMPROVEMENT
PROGRAM FOR DISADVANTAGED PERSONS.

22 VAC 40-375-10. Definitions.

The following words and terms when used in this regulation will have the following meanings unless the context clearly indicates otherwise:

"Chronically unemployed" means an individual who performs no work and earns no wages for 12 months or longer.

"Custodial parent" means the biological, adoptive or stepparent with whom the child resides.

"Department" means the Virginia Department of Social Services.

"Disadvantaged" means individuals (other than individuals with disabilities) who have economic or academic disadvantages and need assistance and services to enable them to succeed in career development and economic independence.

"Hard-to-employ" means a public assistance recipient or a person returning to the community from a federal or state correctional facility.

"Minor child" means a child who is under the age of 18, or if 18 and not yet 19, is enrolled and attending a secondary school or vocational/technical school of secondary equivalency and is expected to complete the high school or vocational/technical program prior to or in the month he attains age 19.

"Participant" means an individual who has been determined to be eligible to receive services under the Economic and Employment Improvement Program for Disadvantaged Persons and who is enrolled and receiving services under this program.

"Temporary Assistance for Needy Families (TANF)" means the program administered by the Virginia Department of Social Services and based on Title IV-A of the Social Security Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and § 63.2-600 et seq. of the Code of Virginia.

2 VAC 40-375-20. Program description.

A. In order to improve the employability of and provide assistance to disadvantaged, certain hard-to-employ and chronically unemployed persons through education and job skills programs:

1. The department must administer the Economic and Employment Improvement Program for Disadvantaged Persons program pursuant to § 63.2-700 et seq. of the Code of Virginia.

2. The program is designed to assist eligible participants to secure employment and move from minimum wage jobs to employment or college, or both, that will facilitate career development and economic independence.

B. Grant program project awards.

1. The Grant Awards Committee, composed of nine members pursuant to § 63.2-702 A of the Code of Virginia, makes grant awards pursuant to § 63.2-702 B of the Code of Virginia and program funding availability.

2. No more than 10 grants will be awarded pursuant to § 63.2-702 C of the Code of Virginia.

3. Of any grant amount awarded for the program, no more than 15% of the total award may be used for administrative costs.

4. Grant applicants may include, but are not limited to, local workforce investment boards, local departments of social services, public and private colleges and universities, disability community organizations, community action agencies, and private entities such as community development corporations, both nonprofit and profit.

5. Funds will be equally distributed geographically and demographically throughout the Commonwealth.

6. The Grant Awards Committee can renew grants for a period not to exceed 12 months upon satisfactory evaluation of the program project performance.

22 VAC 40-375-30. Grant applicant eligibility.

Grant applicants must satisfy the eligibility criteria pursuant to § 63.2-702 C of the Code of Virginia.

22 VAC 40-375-40. Grantee responsibility.

A. Grantees must operate their programs in accordance with, but not limited to, § 63.2-702 D of the Code of Virginia; and

B. Grantees must, through performance outcomes, show that they meet the TANF objective of ending dependency of needy parents by promoting job preparation, work and marriage pursuant to 42 USC §§ 601-619.

22 VAC 40-375-50. Participant eligibility.

In order to be eligible:

1. Participants must have at least one minor child and be either a custodial or noncustodial parent and have an income below 200% of the current federal poverty level as published by the federal Office of Management and Budget; or

2. Participants must meet other eligibility requirements as determined by the department.

22 VAC 40-375-60. Participant responsibility.

A. Participants in the program that are not participating in the Virginia Initiative for Employment not Welfare are required to work a minimum of eight hours per week in paid employment pursuant to § 63.2-702 D of the Code of Virginia.

B. Participants are required to comply with the guidelines established by the individual grantees.

VA.R. Doc. No. R02-151; Filed September 3, 2002, 3:02 p.m.

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Title of Regulation: 22 VAC 40-700. Child Protective Services Central Registry Information (amending 22 VAC 40-700-10 and 22 VAC 40-700-30).

Statutory Authority: §§ 63.2-217 and 63.2-1500 et seq. of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 22, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Jesslyn Cobb, Program Specialist, 730 E. Broad Street, Richmond, VA 23219, telephone (804) 692-1255, FAX (804) 225-2215 or e-mail jqc900@email1.dss.state.va.us.

Basis: Sections 63.2-217 and 63.2-1500 et seq. of the Code of Virginia provide statutory authority to the State Board of Social Services to promulgate the regulation regarding the Central Registry. With these amendments, this regulation will not exceed the scope of the mandate.

Purpose: Amendments are necessary to ensure that this regulation is consistent with the regulation entitled Child Protective Services (22 VAC 40-705), which requires "Preponderance of the Evidence" for founded disposition, and to ensure consistency with the Virginia Court of Appeals decision of Jackson v. Marshall. That court decision determined that only categories of "founded" and "unfounded" are allowed under § 63.2-1500 of the Code of Virginia. The department officially ceased use of the "reason to suspect" category on March 9, 1995, as a result of this court decision, and purged all such findings from the Central Registry. This action is the result of an approved Executive Order 25 (1998) regulation review.

This regulation is essential to protect the health, safety or welfare of citizens. Unless this regulation is consistent with the law and other regulations dealing with child protective services, individuals who have abused or neglected a child will not be adequately tracked, and abusers and neglectors would be hired in settings where they would have access to children.

Substance: This regulation tracks individuals who have abused or neglected a child. Any person who is determined by child protective services (CPS) to have committed an act of child abuse or neglect in Virginia, and any child determined to be a victim of same, may have information about his identity and about the abuse/neglect maintained in the Central Registry for a time period established in the regulation. Such persons may include parents (birth, step, foster or adoptive), other family members, childcare providers, teachers and anyone else determined to have been acting in a caretaker role when the abuse/neglect occurred. Central Registry searches (for other than a CPS investigation) cannot be conducted unless the individual being searched has authorized the search or a court has ordered the search.

Persons whose names are in the Central Registry are not allowed to be employed in the day-to-day operations of a child welfare agency. Section 63.2-100 of the Code of Virginia defines "child-welfare agency" as "a child day center, child day

center system, child-placing agency, child-caring institution, family day home, family day system, or independent foster home." Identification of individuals with a history of child abuse/neglect prior to employment in a child welfare agency would reduce the opportunities for such individuals to abuse additional children, and may make the children in Virginia's families safer. When there is a history of child abuse or neglect for a given caretaker, or a given victim child, and that history is made known to child protective services workers when conducting future investigations involving the same individuals, more prudent decisions can be made to ensure the safety of all involved victim children.

Issues: The primary advantage to the public with this regulation is the protection of children from abusers and neglectors. The primary advantage to local departments of social services and the Department of Social Services and the Commonwealth is the reduction of risk of liability if an abuser or neglector is hired and should further abuse or neglect children. There are no disadvantages to the public, to local departments, the Department of Social Services or to the Commonwealth with these amendments.

Fiscal Impact: Amendments to this regulation will have no fiscal impact to the Commonwealth or to the public.

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

Summary of the proposed regulation. The proposed amendments will replace the "clear and convincing evidence" standard of proof for a founded case with "preponderance of the evidence" and eliminate the "reason to suspect" category from the Child Abuse and Neglect Central Registry.

Estimated economic impact. This regulation contains rules for determining when the names of individuals involved in child abuse and neglect investigations must be entered into the Child Protective Services Central Registry by local departments of social services and how long that information must be retained in the registry. The current rules establish three levels of founded cases that involve injuries/conditions with serious, moderate, and minimal harm to a child. Depending on the seriousness of the founded case, the name of the abuser is maintained in the central registry for 3, 7, or 18 years. This information is accessible to the Department of Social Services (the department), to local departments of social services, to the persons themselves named in the central registry or their agents upon written and notarized request, and to child welfare agencies such as child day centers, child placement agencies, child-caring institutions,

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family day homes, and independent foster homes to do a background check in the central registry on a prospective employee with the employee's written and notarized consent.

One of the proposed amendments will lower the standard of proof for a founded case from "clear and convincing evidence" to "preponderance of the evidence" to conform with the department's primary Child Protective Services regulation, 22 VAC 40-705. The primary regulation requires the standard of proof "preponderance of the evidence" since it was promulgated and implemented in 1998. Since then, the department has been using this standard of proof in practice. It is believed that this change in 1998 has been increasing the number of founded cases. Since the proposed regulations merely reflect the current practice followed by the department, no effect on the number of founded cases is expected.

The current discrepancy between this regulation and the primary Child Protective Services regulation has been creating some confusion in enforcement and creating litigation costs to the department and the alleged abusers. The department indicates that the current discrepancy in determining founded cases resulted in a case against the department and was recently settled out of court. If this discrepancy is not corrected, there is believed to be a chance for a class action suit. Thus, the proposed amendment to make the standard proof in this regulation and the main Child Protective Services regulation consistent with each other will likely produce cost savings to the department and the individuals involved in terms of avoided litigation costs in the future. However, the department is not aware of the number of the potential cases that will be prevented and the size of potential cost savings.

The proposed amendments will also eliminate the "reason to suspect" category from central registry entries pursuant to a 1995 Virginia Court of Appeals decision in *Jackson v. Marshall*. The court ruled that the only dispositions allowed by the Code of Virginia are "founded" and "unfounded" and that there cannot be a "reason to suspect" finding in the department's investigations. As a result of eliminating "reason to suspect" category, the department purged approximately 3,278 names from the central registry in 1995. Although it is not known how many total "reason to suspect" dispositions were added to the central registry prior to 1995, on an annual basis, 3,387 dispositions in 1992, 3,137 dispositions in 1993, and 2,830 dispositions in 1994 were recorded under "reason to suspect" category.¹ Also, the elimination of this category resulted in an increased number of unfounded cases in 1995 and forward. For example, the number of unfounded cases jumped from 24,836 in 1994 to 27,896 in 1995 while total completed complaints increased approximately by only 400, an indication that most of the increase in unfounded cases can be attributed to eliminating the "reason to suspect" category rather than an increase in the number of complaints. Since this proposed amendment will not have any effect on the practice followed by the department, no significant economic effect is expected other than eliminating potential confusion that may be present due to discrepancy between agency practice and what is stated in the regulations. This clarification may provide some cost savings to the department

and the associated individuals by avoiding potential confusion that may otherwise occur.

Businesses and entities affected. The proposed regulations apply to individuals in Child Protective Services Central Registry. Currently, the central registry contains approximately 19,121 entries. However, since the two proposed changes have been already followed in practice for a number of years, no entities are expected to be affected upon promulgation of the proposed regulations.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth.

Projected impact on employment. No significant effect on employment is expected.

Effects on the use and value of private property. The proposed amendments are unlikely to result in significant effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The amendments change the definition of "founded" making it consistent with other Child Protective Services regulations, delete the definition of "reason to suspect," and delete the requirement that identifying information in reports of child abuse be maintained in the central registry for one year past the date of complaints determined by the investigating agency to be reason to suspect.

22 VAC 40-700-10. Definitions.

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

"*Central registry*" means the name index of individuals involved in child abuse and neglect reports maintained by the Virginia Department of Social Services.

"*Child protective services*" means the identification, receipt and immediate investigation of complaints and reports of child abuse and neglect for children under 18 years of age. It also includes documenting, arranging for, or providing social casework and other services for the child, his family, and the alleged abuser.

"*Complaint*" means a valid report of suspected child abuse or neglect which shall be investigated by the local department of social services.

"*Founded*" means that a review of all the facts shows ~~clear and convincing~~ *by a preponderance of the evidence* that child abuse or neglect has occurred.

"*Identifying information*" means name, race, sex, and date of birth of the subject.

"*Investigating agency*" means the local department of social services responsible for conducting investigations of child abuse or neglect complaints pursuant to § ~~63.1-248.6~~ 63.2-1503 of the Code of Virginia.

¹ Source: Department of Social Services.

~~"Reason to suspect" means that a review of the facts shows no clear and convincing evidence that child abuse and neglect has occurred. However, the situation gives the worker reason to believe that abuse or neglect has occurred.~~

"Unfounded" means that a review of the facts shows no reason to believe that abuse or neglect occurred.

22 VAC 40-700-30. Maintenance of identifying information.

Identifying information in reports of child abuse and neglect shall be maintained in the central registry as follows:

1. Eighteen years past the date of the complaint for all complaints determined by the investigating agency to be founded, Level 1.
2. Seven years past the date of the complaint for all complaints determined by the investigating agency to be founded, Level 2.
3. Three years past the date of the complaint for all complaints determined by the investigating agency to be founded, Level 3.
4. ~~One year past the date of the complaint for all complaints determined by the investigating agency to be reason to suspect.~~

If an individual is involved in more than one complaint, the information from all complaints will be maintained until the last deletion date has been reached.

VA.R. Doc. No. R02-147; Filed September 3, 2002, 2:56 p.m.



FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

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

Title of Regulations: 4 VAC 15-20. Definitions and Miscellaneous: In General (amending 4 VAC 15-20-160).

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

Effective Date: October 23, 2002.

Summary:

The amendment removes the mute swan from the list of wildlife species designated as nuisance species in Virginia. The amendment puts the state regulation in compliance with a federal court ruling and U.S. Fish and Wildlife Service notification that mute swans are afforded protection under the federal Migratory Bird Treaty Act.

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

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:24 VA.R. 3195 August 12, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-305; Filed September 4, 2002, 11:17 a.m.

MARINE RESOURCES COMMISSION

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

Title of Regulation: 4 VAC 20-752. Pertaining to Blue Crab Sanctuaries (amending 4 VAC 20-752-20).

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

Effective Date: September 1, 2002.

Summary:

The amendment clarifies specific coordinates pertaining to the borders of the Virginia Blue Crab Sanctuary.

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

4 VAC 20-752-20. Definitions.

"Hampton Roads Blue Crab Sanctuary" means that area consisting of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

"Virginia Blue Crab Sanctuary" means two distinct sanctuary areas, with one area consisting of all tidal waters that are bounded by a line beginning at a point, near the western shore of Fisherman's Island, being on a line from the Cape Charles Lighthouse to the Thimble Shoal Light, having NAD83 geographic coordinates of 37° 05' 58.00" N, 75° 58' 45.95" W; thence southwesterly to Thimble Shoal Light, 37° 00' 52.19" N, 76° 14' 24.63" W; thence southwesterly to the offshore end of Harrison's Fishing Pier, 36° 57' 44.98" N, 76° 15' 31.76" W; thence north to Flashing Green Buoy "9" on the York River Entrance Channel, 37° 11' 30.99" N, 76° 15' 16.85" W; thence northeasterly to Wolf Trap Light, 37° 23' 27.15" N, 76° 11' 46.01" W; thence northwesterly to a point, northeast of Windmill Point, 37° 38' 23.13" N, 76° 15' 59.54" W; thence north to Flashing Red Light "2", east of Smith Point, 37° 53' 20.25" N, 76° 13' 48.61" W; thence northeasterly to a point on the Virginia-Maryland state line, 37° 55' 44.82" N, 76° 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37° 44' 59.85" N, 76° 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37° 43' 41.05" N, 76° 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37° 45' 36.95" N, 75° 52' 53.87" W; thence southeasterly to a point, 37° 44' 56.15" N, 75° 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37° 42' 41.49" N, 75° 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor, 37° 15' 37.23" N, 76° 04' 13.79" W; thence southeasterly to a point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a second area consisting of all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, having NAD83 geographic coordinates of 37° 07' 31.63" N, 75° 53' 58.36" W; thence southwesterly to Cape Henry Lighthouse, 36° 55' 42.02" N, 76° 00' 18.44" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37° 06' 45" N, 75° 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the

point of beginning thence northerly to a point due east of Great Wicomico Light at 37° 48' 15.72" N, 76° 14' 33.15" W; thence northeasterly to a point, 37° 49' 18.10" N, 76° 13' 06.00" W; thence northerly to a point on the Virginia-Maryland state line, 37° 54' 04.00" N, 76° 11' 49.15" W; thence northeasterly to a point on the Virginia-Maryland state line, 37° 55' 44.82" N, 76° 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37° 44' 59.85" N, 76° 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37° 43' 41.05" N, 76° 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37° 45' 36.95" N, 75° 52' 53.87" W; thence southeasterly to a point, 37° 44' 56.15" N, 75° 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37° 42' 41.49" N, 75° 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor, 37° 15' 37.23" N, 76° 04' 13.79" W; thence southeasterly to a point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a second area consisting of all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, having NAD83 geographic coordinates of 37° 07' 31.63" N, 75° 53' 58.36" W; thence southwesterly to Cape Henry Lighthouse, 36° 55' 42.02" N, 76° 00' 18.44" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37° 06' 45" N, 75° 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the point of beginning.

VA.R. Doc. No. R03-6; Filed September 4, 2002, 10:24 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

REGISTRAR'S NOTICE: The Department of Health is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12 VAC 5-410-230, 12 VAC 5-410-390, 12 VAC 5-410-1170 and 12 VAC 5-410-1180).

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: November 1, 2002.

Summary

The amendments address (i) rights and responsibilities of patients, (ii) signing of verbal orders, and (iii) criminal records checks for nonlicensed pharmacy personnel. These

amendments assure that the hospital regulation is in compliance with the Code of Virginia.

Agency Contact: Carrie Eddy, Senior Policy Analyst, Center for Quality Health Care Services, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149 or e-mail cedly@vdh.state.va.us.

12 VAC 5-410-230. Patient care management.

A. All patients shall be under the care of a member of the medical staff.

B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.

C. Each hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' 2000 Hospital Accreditation Standards, January 2002. The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities. Patients shall be given a copy of their rights and responsibilities upon admission.

~~D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes. Emergency telephone and other verbal orders shall be signed within 24 hours.~~

1. Hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, may accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders.

2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital policies and procedures, emergency telephone and other verbal orders shall be signed within a reasonable period of time not to exceed 72 hours, by the person giving the order, or, when such person is not available, cosigned by another physician or other person authorized to give the order.

~~D. E. Each hospital shall have a reliable method for identification of each patient, including newborn infants.~~

12 VAC 5-410-390. Pharmaceutical service.

A. Each hospital shall provide pharmaceutical services under the direction of a pharmacist licensed in Virginia in accordance with the regulations of the Virginia Board of Pharmacy.

There shall be evidence of a current pharmacy license in compliance with the standards of Appendix A, Reference 8.

B. A program for the control of all drugs throughout the hospital shall be established under the supervision of the director of pharmaceutical services and shall contain policies and procedures pertaining to no less than the following:

1. The authority, responsibilities and duties of the director of pharmaceutical services;

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2. Compliance with federal and state laws for the storage, dispensing, administration and disposal of all drugs;
3. The selection, distribution, administration, and storage of drugs;
4. Maintenance of records of all transactions; and
5. Inspection of all drug storage and medication areas and documented evidence of findings.

C. In addition to the above, the medical staff in cooperation with the pharmacist and other disciplines shall develop policies and procedures relating to:

1. An approved drug list or formulary and exceptions thereto;
2. Emergency access to drugs in the pharmacist's absence;
3. Control of patient medication from any source; and
4. Monitoring program to identify adverse drug reactions.

D. Each hospital shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee, not licensed by the Board of Pharmacy, whose job duties provide access to controlled substances with the hospital pharmacy.

12 VAC 5-410-1170. Policy and procedures manual.

A. Each outpatient surgical hospital shall develop a policy and procedures manual which shall include provisions covering the following items:

1. The types of emergency and elective procedures which may be performed in the facility.
2. Types of anesthesia which may be used.
3. Admissions and discharges, including criteria for evaluating the patient before admission and before discharge.
4. Written informed consent of patient prior to the initiation of any procedures.
5. Procedures for housekeeping and infection control.

B. A copy of approved policies and procedures and revisions thereto shall be made available to the licensing agency upon request.

C. Each outpatient surgical hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' Standards for Ambulatory Care (2000 Hospital Accreditation Standards, January 2000). The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities. Patients shall be given a copy of their rights and responsibilities upon admission.

D. Each outpatient surgical hospital shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee not licensed by the Board of Pharmacy whose job duties provide access to controlled substances within the outpatient surgical hospital pharmacy.

12 VAC 5-410-1180. Medical staff.

A. The size and organizational structure of the medical staff will vary depending on the scope of service.

1. Professional and clinical services shall be supervised by a physician licensed to practice medicine or surgery in Virginia.
2. Surgical procedures shall be performed by a physician licensed to perform such procedures in Virginia.
3. Clinical privileges of physician and nonphysician practitioners shall be clearly defined.
4. Credentials including education and experience shall be reviewed and privileges identified, established, and approved for each person allowed to diagnose, treat patients or perform surgical procedures in accordance with guidelines, policies or bylaws adopted by the governing body and approved by the medical staff.

B. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statute.

1. Outpatient surgical hospital personnel, as designated in medical staff bylaws, rules and regulations, or policies and procedures, may accept emergency telephone and other verbal orders for medication or treatment for outpatient surgical hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders.

2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital policies and procedures, emergency telephone and other verbal orders shall be signed within a reasonable period of time not to exceed 72 hours by the person giving the order, or, when such person is not available, cosigned by another physician or other person authorized to give the order.

DOCUMENTS INCORPORATED BY REFERENCE

2000 Hospital Accreditation Standards, Joint Commission on Accreditation of Healthcare Organizations, January 2002.

VA.R. Doc. No. R03-4; Filed August 27, 2002, 9:18 a.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 14 VAC 5-71. Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers (amending 14 VAC 5-71-10 through 14 VAC 5-71-100).

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: September 4, 2002.

Summary:

The revisions update filing dates and references to the Code of Virginia in 14 VAC 5-71-40 C, E, and F. These revisions are necessary as a result of the passage of Senate Bill 913 (Chapter 706 of the 2001 Acts of Assembly) during the 2001 General Assembly Session, which repealed the viatical settlement broker licensing section located at § 38.2-5702 of the Code of Virginia and replaced it with § 38.2-1865.1, effective September 1, 2002. Additional revisions to reporting requirements in 14 VAC 5-71-70 A and technical/grammatical revisions throughout the rules are made.

Agency Contact: Raquel Pino-Moreno, Senior Insurance Analyst, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, toll free 1-800-552-7945 or e-mail rpino@ins.state.va.us.

AT RICHMOND, SEPTEMBER 3, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00167

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Viatical Settlement
Providers and Viatical Settlement
Brokers

ORDER ADOPTING REVISIONS TO RULES

By Order to Take Notice entered herein July 12, 2002, all interested persons were ordered to take notice that subsequent to August 27, 2002, the Commission would consider the entry of an order adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers, set forth in Chapter 71 of Title 14 of the Virginia Administrative Code, unless on or before August 27, 2002, any person objecting to the adoption of the proposed revisions filed a request for a hearing on the proposed revisions with the Clerk of the Commission. The proposed revisions reflect the relocation of the viatical settlement broker licensing section from § 38.2-5702 to § 38.2-1865.1 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, effective September 1, 2002.

The Order to Take Notice also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before August 27, 2002.

A hearing request was filed with the Clerk of the Commission (the "Clerk") on August 12, 2002, by Michael J. McNerney, on behalf of Mutual Benefits Corporation, a viatical settlement provider licensed by the Commission ("MBC"), and the Viatical and Life Settlement Association of America (the "VLSAA"). Mr. McNerney's request also stated that comments on behalf of MBC and the VLSAA in opposition to the proposed

revisions would be filed in accordance with the Order to Take Notice.

Comments were filed with the Clerk on August 27, 2002, by the VLSAA. The VLSAA's comments were extensive and recommended in-depth substantive revisions to Chapter 71 in its entirety; however, they stated no specific objection to the proposed revisions themselves.

Comments also were filed with the Clerk on August 27, 2002, by the Life Settlement Institute (the "LSI"). The LSI stated that it is unopposed to the proposed revisions; however, it requested that the Commission revise Chapter 71 in a number of respects to take into account developments in the viatical settlement area that have occurred since the adoption of the Viatical Settlements Act, Chapter 57 (§ 38.2-5700 et seq.) of Title 38.2 of the Code of Virginia, in 1997.

The Bureau of Insurance (the "Bureau") has reviewed the filed comments and has filed its response with the Clerk's Office on September 3, 2002, recommending there be no amendments to the proposed revisions and the proposed revisions be adopted. The Bureau also responded that, at the present time, the Viatical Settlements Act does not allow the changes to Chapter 71 proposed in the comments of the VLSAA and the LSI.

The Bureau further recommended that the Commission deny Mr. McNerney's request for a hearing, on behalf of MBC and the VLSAA, because the basis for such request, as set forth in the comments filed by the VLSAA, exceeds the scope of the proposed revisions.

The Bureau also has recommended that the Commission not have a hearing on the proposed revisions because neither of the filed comments state any opposition to the proposed revisions, and the proposed revisions reflect changes that are required as a result of statutory changes effective September 1, 2002.

THE COMMISSION, having considered the proposed revisions, the filed comments, the hearing request on behalf of MBC and VLSAA, and the Bureau's response to the filed comments, is of the opinion that the attached proposed revisions should be adopted and that a hearing should not be held on the proposed revisions. As to the changes to Chapter 71 requested by the VLSAA and the LSI in their filed comments, the Commission is of the opinion that it would be more appropriate for such changes to be considered in a separate proceeding given the nature of the requested changes. To this end, the VLSAA and the LSI may file an application pursuant to 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure to request revisions to Chapter 71 as set forth in their filed comments.

THEREFORE, IT IS ORDERED THAT:

(1) The revisions to Chapter 71 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers," which amend the rules at 14 VAC 5-71-10 through 14 VAC 5-71-100, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED.

(2) The request for a hearing filed by Mr. Michael McNerney on behalf of Mutual Benefits Corporation and the Viatical and

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Life Settlement Association of America be, and it is hereby, DENIED.

(3) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all viatical settlement providers and viatical settlement brokers licensed by the Commission and certain interested parties designated by the Bureau of Insurance.

(4) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(5) On or before September 10, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(6) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (3) above.

Agency Contact: Raquel Pino-Moreno, Senior Insurance Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, toll-free 1-800-552-7945 or e-mail rpino-moreno@scc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:24 VA.R. 3198-3203 August 12, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-256; Filed September 4, 2002, 11:28 a.m.

* * * * *

Title of Regulation: **14 VAC 5-350. Rules Governing Surplus Lines Insurance (amending 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210; adding 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165; repealing 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180).**

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Effective Date: September 1, 2002.

Summary:

The revisions reflect the relocation of the surplus lines brokers licensing sections from Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia. These revisions are necessary as a result of the passage of Senate Bill 913 (Chapter 706 of the 2001 Acts of Assembly) during the 2001 General Assembly

Session, which repealed the surplus lines broker licensing sections located at §§ 38.2-4800 through 38.2-4805 of the Code of Virginia and replaced them with §§ 38.2-1857.1 through 38.2-1857.9 of the Code of Virginia, effective September 1, 2002.

The repeal of the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80 and the deletion of Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2 are proposed due to the relocation of the broker licensing sections. Definitions at 14 VAC 5-350-30 are added, amended, and deleted, and clarifications regarding quarterly and annual filings also are proposed. The chapter also is reorganized to make it easier to use.

Agency Contact: Keith D. Kelley, Principal Insurance Financial Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, telephone (804) 371-9333, toll-free 1-800-552-7945 or e-mail kdkelley@scc.state.va.us.

AT RICHMOND, AUGUST 28, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00187

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Surplus Lines Insurance

ORDER ADOPTING REVISIONS TO RULES

By order entered herein July 24, 2002, all interested persons were ordered to take notice that the Commission would consider the entry of an order subsequent to August 27, 2002, adopting revisions proposed by the Bureau of Insurance to the Commission's Rules Governing Surplus Lines Insurance, set forth in Chapter 350 of Title 14 of the Virginia Administrative Code, to reflect the relocation of the surplus lines broker licensing sections from Chapter 48 (§ 38.2-4801 et seq.) of Title 38.2 of the Code of Virginia to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia due to the passage of Senate Bill 913 by the General Assembly during its 2001 Session, effective September 1, 2002, and other proposed revisions, unless on or before August 27, 2002, any person objecting to the adoption of the proposed rules filed a request for a hearing with the Clerk of the Commission.

The July 24, 2002, Order also required all interested persons to file their comments in support of or in opposition to the proposed revisions on or before August 27, 2002.

As of the date of this Order, no request for a hearing has been filed with the Clerk of the Commission, and, as of the date of this Order, no comments have been filed with the Clerk of the Commission.

The Bureau has recommended that the proposed revisions be adopted; and

THE COMMISSION, having considered the proposed revisions and the Bureau's recommendation, is of the opinion that the proposed revisions should be adopted.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to Chapter 350 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Surplus Lines Insurance," which amend the rules at 14 VAC 5-350-20, 14 VAC 5-350-30, 14 VAC 5-350-150, 14 VAC 5-350-160, and 14 VAC 5-350-210, repeal the rules at 14 VAC 5-350-40 through 14 VAC 5-350-80, 14 VAC 5-350-110 through 14 VAC 5-350-140, 14 VAC 5-350-170, and 14 VAC 5-350-180, propose new rules at 14 VAC 5-350-85, 14 VAC 5-350-95, 14 VAC 5-350-155, and 14 VAC 5-350-165, delete Form SLB-1, Part 1, Form SLB-1, Part 2, and Form SLB-2, and which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED to be effective September 1, 2002.

(2) AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Administrative Manager Brian P. Gaudiose, who forthwith shall give further notice of the adoption of the revisions to the rules by mailing a copy of this Order, including a copy of the attached revised rules, to all surplus lines brokers licensed by the Commission and certain parties designated by the Bureau of Insurance.

(3) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, including a copy of the attached rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(4) On or before September 6, 2002, the Commission's Division of Information Resources shall make available this Order and the attached rules on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(5) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:24 VA.R. 3203-3207 August 12, 2002, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

14 VAC 5-350-20. [No change from proposed.]

14 VAC 5-350-30. Definitions.

As used in this chapter:

"Admitted insurer" means an insurer licensed by the commission to do an insurance business in this Commonwealth.

"Authorized to write the insurance coverage sought" means that the admitted insurer is licensed for that class of insurance in this Commonwealth and has complied with the applicable provisions of Title 38.2 of the Code of Virginia concerning the filing of rules, rates and policy forms providing the insurance

coverage sought, unless such insurance coverage has been exempted from filing by commission order.

"Business entity" means a partnership, limited partnership, limited liability company, corporation, or other legal entity other than a sole proprietorship.

"Class of insurance" means the classes enumerated in §§ 38.2-109 through 38.2-121 and §§ 38.2-124 through 38.2-134 of the Code of Virginia.

"Commercial insured" means an insured (i) who [~~procures solicits or negotiates~~] the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer, (ii) whose aggregate annual premiums for insurance on all risks total at least \$75,000, or (iii) who has at least 25 full-time employees.

"Diligent effort" means:

1. For business that is originated by a surplus lines broker, a good faith search for insurance among admitted insurers resulting in declinations of coverage by three unaffiliated admitted insurers licensed and authorized in this Commonwealth to write the insurance coverage sought, whether or not the surplus lines broker is an agent of any of the declining insurers; and
2. For business that is referred from a licensed property and casualty insurance agent, declinations or rejections of coverage by three insurers licensed in this Commonwealth to write the class of insurance, whether or not the surplus lines broker is an agent of any of the declining insurers.

"Eligible surplus lines insurer" means a non-admitted insurer approved by the commission pursuant to subsection B of § 38.2-4811 of the Code of Virginia.

"Nonadmitted insurer" means an insurer not licensed to do an insurance business in this Commonwealth. "Nonadmitted insurer" includes insurance exchanges authorized under the laws of a state.

~~"Procure" means to bind or cause to be bound insurance coverage (orally or in writing) or to issue or cause to be issued an insurance policy, whichever comes first.~~

"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

"Solicit" or "negotiate" means the attempted selling or attempted placing of insurance or coverage, whether directly or indirectly, in this Commonwealth.

~~"Surplus lines broker" means a person an individual or business entity licensed under this chapter to procure insurance on risks resident, located or to be performed in this Commonwealth from eligible surplus lines insurers pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia and thereby authorized to engage in the activities set forth in Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2 of the Code of Virginia.~~

"Surplus lines insurance" means any insurance in this Commonwealth of risks resident, located or to be performed in this Commonwealth, permitted to be ~~procured~~ sold by or through a surplus lines broker from an eligible surplus lines

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insurer. Surplus lines insurance does not include reinsurance, insurance obtained directly from a nonadmitted insurer by the insured upon his own life or property, life insurance, credit life, industrial life, variable life, annuities, variable annuities, credit accident and sickness, credit insurance, title insurance, contracts of insurance on vessels or craft, their cargo, freight, marine builder's risk, maritime protection and indemnity, ship repairer's legal liability, tower's liability or other risks commonly insured under ocean marine insurance, and insurance of the rolling stock and operating properties of railroads used in interstate commerce or of any liability or other risks incidental to the ownership, maintenance or operation of such railroads.

"Unaffiliated" means admitted insurers who are not part of a group of insurers under common ownership or control.

14 VAC 5-350-40 through 14 VAC 5-350-210. [No change from proposed.]

FORMS [No change from proposed.]

VA.R. Doc. No. R02-306; Filed August 29, 2002, 1:26 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-80. Regulations Governing the Practice of Occupational Therapy (amending 18 VAC 85-80-10, 18 VAC 85-80-35, 18 VAC 85-80-40, and 18 VAC 85-80-60 through 18 VAC 85-80-110; adding 18 VAC 85-80-26 and 18 VAC 85-80-45; repealing 18 VAC 85-80-120).

Statutory Authority: §§ 54.1-2400, 54.1-2956.1, and 54.1-2956.2 of the Code of Virginia.

Effective Date: October 23, 2002.

Summary:

The amendments clarify the types of occupational therapy tasks that may and may not be delegated to unlicensed personnel by licensed occupational therapists. Amendments also clarify which titles may be used by the graduates from an occupational therapy program who are not licensed at the time, the duration of their practice under the designated titles, and that the designated titles must be used on any identification or signature in the course of their practice.

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: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:16 VA.R. 2042-2049 April 22, 2002, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

18 VAC 85-80-10. [No change from proposed.]

18 VAC 85-80-26. [No change from proposed.]

18 VAC 85-80-35. [No change from proposed.]

18 VAC 85-80-40. [No change from proposed.]

18 VAC 85-80-45. [No change from proposed.]

18 VAC 85-80-60. [No change from proposed.]

18 VAC 85-80-70. [No change from proposed.]

18 VAC 85-80-80. [No change from proposed.]

18 VAC 85-80-90. General responsibilities.

An occupational therapist renders his services of assessment, program planning, and therapeutic treatment upon request for such service. [*The practice of occupational therapy may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.*]

18 VAC 85-80-100. [No change from proposed.]

18 VAC 85-80-110. Supervisory responsibilities.

A. *Delegation to unlicensed occupational therapy personnel.*

1. An occupational therapist shall be responsible for supervision of occupational therapy personnel who work under his direction.

2. *An occupational therapist shall not delegate the [discretionary aspects of the] initial assessment, evaluation or development of a treatment plan for a patient to unlicensed occupational therapy personnel nor shall he delegate any task requiring a clinical decision or the knowledge, skills, and judgment of a licensed occupational therapist.*

3. *Delegation shall only be made if, in the judgment of the occupational therapist, the task or procedures do not require the exercise of professional judgment, can be properly and safely performed by [appropriately trained] unlicensed occupational therapy personnel, and the delegation does not jeopardize the health or safety of the patient.*

4. *Delegated tasks or procedures shall be communicated on a patient-specific basis with clear, specific instructions for performance of activities, potential complications, and expected results.*

B. The occupational therapist providing clinical supervision shall meet with the occupational therapy personnel to review and evaluate treatment and progress of the individual patients at least once every fifth treatment session or 21 calendar days, whichever occurs first.

C. An occupational therapist shall not provide clinical supervision for more than six occupational therapy personnel.

D. An occupational therapist shall be responsible and accountable for the ~~direct treatment actions of persons providing services provided by occupational therapy personnel~~ under his clinical supervision.

18 VAC 85-80-120. [No change from proposed.]

FORMS [No change from proposed.]

VA.R. Doc. No. R01-187; Filed August 28, 2002, 10:35 a.m.

* * * * *

Title of Regulation: 18 VAC 85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-10, 18 VAC 85-101-60, 18 VAC 85-101-70, and 18 VAC 85-101-150).

Statutory Authority: §§ 54.1-2400 and 54.1-2956.8:1 of the Code of Virginia.

Effective Date: October 23, 2002.

Summary:

The amendments provide an additional credential qualifying an applicant to be licensed as a radiologic technologist-limited in bone densitometry. The board will recognize the training course, examination and certification by the International Society for Clinical Densitometry for a limited license in that anatomical area. The regulations also clarify that a licensee who performs bone densitometry must get additional training and pass the American Registry of Radiologic Technologists examinations in order to add other anatomical areas. Finally, an amendment allows the board to accept other approved entities offering continuing education courses for bone densitometry.

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: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:16 VA.R. 2049-2053 April 22, 2002, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

18 VAC 85-101-10. [No change from proposed.]

18 VAC 85-101-60. Examination requirements.

A. An applicant for licensure by examination as a radiologic technologist-limited shall submit:

1. The required application and fee as prescribed by the board;

2. Evidence of successful completion of an examination as required in this section; and

~~2-~~ 3. Evidence of completion of training as required in 18 VAC 85-101-70.

B. To qualify for limited licensure to practice under the direction of a doctor of medicine [~~or~~ ,] osteopathy [, or chiropractic] with the exception of practice in bone densitometry, the applicant shall:

1. Provide evidence that he has received a passing score as determined by the board on the core section of the ARRT examination for Limited Scope of Practice in Radiography; and

2. Meet one of the following requirements:

a. Provide evidence that he has received a passing score as determined by the board on the section of the ARRT examination on specific radiographic procedures, depending on the anatomical areas in which the applicant intends to practice-, or

b. Until the ARRT offers an examination in the radiographic procedures of the abdomen and pelvis ~~or for bone densitometry~~, the applicant may qualify for a limited license in ~~one of these areas~~ by submission of a notarized statement from a licensed radiologic technologist or doctor of medicine or osteopathy attesting to the applicant's training and competency to practice in that anatomical area as follows:

~~(1) To perform radiographic procedures for bone densitometry, the applicant shall have successfully performed at least 10 examinations for bone density under the direct supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy.~~

~~(2)~~ (1) To perform radiographic procedures on the abdomen or pelvis, the applicant shall have successfully performed during the traineeship at least 25 radiologic examinations of the abdomen or pelvis under the direct supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy. The notarized statement shall further attest to the applicant's competency in the areas of radiation safety, positioning, patient instruction, anatomy, pathology and technical factors.

~~or~~ (2) When a section is added to the limited license examination by the ARRT which that includes the abdomen and pelvis ~~or bone densitometry~~, the applicant shall provide evidence that he has received a passing score on that portion of the examination as determined by the board.

C. To qualify for limited licensure to practice in bone densitometry under the direction of a doctor of medicine [~~or~~ ,] osteopathy, [or chiropractic], the applicant shall either:

1. Provide evidence that he has received a passing score as determined by the board on the core section of the

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ARRT examination for Limited Scope of Practice in Radiography; and

a. The applicant shall provide a notarized statement from a licensed radiologic technologist or doctor of medicine [or ,] osteopathy [, or chiropractic] attesting to the applicant's training and competency to practice in that anatomical area. The applicant shall have successfully performed at least 10 examinations for bone density under the direct supervision and observation of a licensed radiologic technologist or a doctor of medicine or osteopathy; or

b. When a section is added to the limited license examination by the ARRT that includes bone densitometry, the applicant shall provide evidence that he has received a passing score on that portion of the examination as determined by the board; or

2. Provide evidence that he has taken and passed an examination resulting in certification in bone densitometry from the ISCD or any other substantially equivalent credential acceptable to the board.

~~C.~~ D. To qualify for a limited license to practice under the direction of a doctor of chiropractic, the applicant shall provide evidence that he has taken and passed the appropriate examination by the ACRRT.

~~D.~~ E. To qualify for a limited license to practice under the direction of a doctor of podiatry, the applicant shall provide evidence that he has taken and passed an examination acceptable to the board.

~~E.~~ F. An applicant who fails the examination shall be allowed two more attempts to pass the examination after which he shall reapply and take additional educational hours which meet the criteria of 18 VAC 85-101-70.

18 VAC 85-101-70. [No change from proposed.]

18 VAC 85-101-150. [No change from proposed.]

FORMS [No change from proposed.]

VA.R. Doc. No. R02-10; August 28, 2002, 10:34 a.m.

BOARD OF PHYSICAL THERAPY

Title of Regulation: 18 VAC 112-20. Regulations Governing the Practice of Physical Therapy (amending 18 VAC 112-20-10, 18 VAC 112-20-130, 18 VAC 112-20-135, and 18 VAC 112-20-140; adding 18 VAC 112-20-131 and 18 VAC 112-20-136).

Statutory Authority: §§ 54.1-2400, 54.1-3474 and 54.1-3480.1 of the Code of Virginia.

Effective Date: October 23, 2002.

Summary:

The amendments require 30 contact hours of continuing education within the two years immediately preceding renewal. Physical therapists must have at least 15 hours and physical therapist assistants must have at least 10 hours of Type 1, face-to-face continuing education, which

must be offered by an approved sponsor or organization. The remaining required hours may be in self-learning (Type 2) activities that are considered by the therapist or therapist assistant to be beneficial to practice or to continued learning. The amendments also provide for documenting continuing education hours, retention of records, random audits, extensions and exemptions, and continuing education requirements for the reactivation of an inactive or lapsed license.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:18 VA.R. 2256-2264 May 20, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-29; Filed August 28, 2002, 10:34 a.m.

BOARD OF COUNSELING

REGISTRAR'S NOTICE: The Board of Counseling is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Health Professions will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 115-30. Regulations Governing the Certification of Substance Abuse Counselors (amending 18 VAC 115-30-130).

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

Effective Date: October 23, 2002.

Summary:

The amendment updates a Code of Virginia reference necessitated by a title recodification.

Agency Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

18 VAC 115-30-140. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons certified by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency area for which they are qualified by training or experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of certified substance abuse counselors.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Disclose counseling records to others only in accordance with the requirements of state and federal statutes and regulations, including, but not limited to §§ 32.1-127.1:03 (Patient Health Records Privacy Act), ~~2-1-342-B-3~~ 2.2-3704 (Virginia Freedom of Information Act), and 54.1-2400.1 (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the Code of Virginia; 42 USC § 290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations).
7. Not engage in dual relationships with clients, former clients, supervisees and supervisors that are harmful to the client's, former client's, or supervisee's well being, or which would impair the substance abuse counselor's or supervisor's objectivity and professional judgment, or increase the risk of client or supervisee exploitation. This prohibition includes, but is not limited to, such activities as counseling close friends, former sexual partners, employees or relatives; or engaging in business relationships with clients.

Engaging in sexual intimacies with current clients or supervisees is strictly prohibited. For at least five years after cessation or termination of professional services, certified substance abuse counselors shall not engage in sexual intimacies with a client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, certified substance abuse counselors shall bear the burden of demonstrating that there has been no exploitation. A client's consent to, initiation of or participation in sexual behavior or involvement with a certified substance abuse counselor does not change the nature of the conduct nor lift the regulatory prohibition.
8. Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.

VA.R. Doc. No. R03-2; Filed August 28, 2002, 10:28 a.m.

* * * * *

REGISTRAR'S NOTICE: The Board of Counseling is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Health Professions will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 115-60. Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners (amending 18 VAC 115-60-130).

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

Effective Date: October 23, 2002.

Summary:

The amendment updates a Code of Virginia reference necessitated by a title recodification.

Agency Contact: Ben Foster, Deputy Executive Director, Board of Counseling, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-7250 or e-mail ben.foster@dhp.state.va.us.

18 VAC 115-60-130. Standards of practice.

- A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.
- B. Persons licensed by the board shall:
 1. Practice in a manner that does not endanger the public health, safety, or welfare.
 2. Practice only within the competency areas for which they are qualified by training or experience.
 3. Be aware of competencies of practitioners in other fields of practice and make referrals for services when appropriate.
 4. Stay abreast of new developments, concepts and practices which are important to providing appropriate professional services.
 5. Terminate a service or consulting relationship when it is apparent that the client is not benefiting from the relationship.
 6. Provide to clients only those services which are related to diagnostic or therapeutic goals.
 7. Not offer services to a client who is receiving services from other mental health professionals without attempting to inform such other professionals of the planned provision of services.
 8. Inform clients fully of the risks and benefits of services and treatment and obtain informed consent to all such services and treatment.
 9. Ensure that the welfare of clients is not compromised by experimentation or research involving those clients and

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conform practice involving research or experimental treatment to the requirements of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

10. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.

11. Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information.

12. Consider the validity, reliability and appropriateness of assessments selected for use with clients and carefully interpret the performance of individuals from groups not represented in standardized norms.

13. Represent accurately their competence, education, training and experience.

14. In connection with practice as a substance abuse treatment practitioner, represent to the public only those educational and professional credentials as are related to such practice.

15. Not use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with practice without including simultaneously a clarifying title, initials, abbreviation or designation or language that identifies the basis for use of the title, such as M.D., Ph.D., D.Min.

16. Announce professional services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation.

17. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the disposal of records in a manner consistent with professional requirements.

18. Disclose client records to others in accordance with state and federal statutes and regulations including, but not limited to, §§ 32.1-127.1:03 (Patient Health Records Privacy Act), ~~2-1-342-B-3~~ 2.2-3704, (Virginia Freedom of Information Act) and 54.1-2400.1 (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the Code of Virginia; 42 USC § 290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations).

19. Maintain client records for a minimum of five years from the date of termination of the substance abuse treatment relationship, or as otherwise required by employer, hospital or insurance carrier.

20. Obtain informed consent from clients before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using client records and clinical materials in teaching, writing or public presentations.

21. Not engage in dual relationships with clients, former clients, residents, supervisees, and supervisors that compromise the client's or resident's well being, impair the practitioner's or supervisor's objectivity and professional judgment or increase the risk of client or resident

exploitation. This includes, but is not limited to, such activities as treating close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients.

Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.

22. Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.

23. Report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified health care practitioners.

VA.R. Doc. No. R03-3; Filed August 28, 2002, 10:32 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Attachment B referenced in the following order is not being published, however, is available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1300 East Main Street, 1st Floor, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday.

Title of Regulation: 20 VAC 5-302. **Filing Requirements in Support of Applications for Authority to Construct and Operate an Electric Generating Facility (amending 20 VAC 5-302-20; adding 20 VAC 5-302-25 and 20 VAC 5-302-35).**

Statutory Authority: §§ 12.1-13 and 56-265.2 of the Code of Virginia.

Effective Date: August 21, 2002.

Summary:

The amendments expand the information to be included in applications filed for authority to construct electric generating facilities. The expansion also requires applicants to submit information intended to help the commission gauge what, if any, impact the proposed electric generating

facility will have on the applicant's ability to exert market power. The commission declined to adopt filing requirements related to cumulative environmental impacts as initially proposed. Other changes to the filing requirements were made to reflect comments received from interested parties.

Agency Contact: Tommy Oliver, State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, telephone (804) 371-9358 or e-mail toliver@scc.state.va.us.

AT RICHMOND, AUGUST 21, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE-2001-00665

Ex Parte: In re further amendments to filing requirements for applications for authority to construct and operate an electric generating facility and development of expedited permitting procedures for small generating facilities of 50 MW or less

ORDER AMENDING FILING REQUIREMENTS

On December 14, 2001, the State Corporation Commission ("Commission") entered an order in Case No. PUE-2001-00313 amending the filing requirements for applications to construct and operate electric generating facilities. In that same order, the Commission established Case No. PUE-2001-00665 to consider further amendments to those filing requirements and to consider development of expedited permitting processes for small generating facilities of 50 MW or less. The further amendments, as proposed by the Commission, were related to cumulative environmental impacts, market power, and fuel and fuel infrastructure.

The order of December 14, 2001, also directed the Commission Staff ("Staff") to invite interested parties to participate in work group discussions on the proposed further amendments and on the development of expedited permitting processes for generating facilities of 50 MW or less. The order required Staff to file a report with recommendations for further action and permitted interested parties to submit written comments and requests for hearing.

Staff filed its report on April 19, 2002 ("Report"). The Report explained that two work group meetings, which generated significant discussion by a large number of participants, were held on this matter. The Report also summarized the informal written comments of those that participated in the work group meetings. Based on the work group meetings, Staff developed a proposed set of revised filing requirements (20 VAC 5-302-10 et seq.) that were attached to the Report. Staff's proposed filing requirements modified the amendments originally set forth by the Commission in this case. On or before May 24, 2002, the parties in this case filed written comments on the Report and the proposed filing requirements. No requests for hearing were received.

NOW THE COMMISSION, upon consideration of the record established herein and the applicable law, is of the opinion and finds that the filing requirements in support of applications for authority to construct and operate an electric generating facility, as amended and attached hereto as Attachment A, should be adopted effective as of the date of this Order for applications filed on or after September 1, 2002. A clean version of the rules is included as Attachment B.

We commend the parties for their efforts in addressing further amendments to the filing requirements. We note that there was significant preference expressed in the written comments for portions of the amendments proposed by Staff, as opposed to the requirements originally proposed by the Commission. In this regard, the requirements that we adopt today are based on the Staff's proposals, rather than Commission's initial amendments. In addition, parties submitting written comments also requested modifications to the amendments proposed by Staff. The remainder of this Order will discuss the amended filing requirements that we adopt and certain issues raised by the parties in relation thereto.

First, the filing requirements do not address cumulative environmental impacts. Subsequent to our order initiating this docket, the General Assembly passed Senate Bill No. 554 ("SB 554"), which became effective on July 1, 2002. Given this legislation, Commission filing requirements addressing cumulative environmental impacts are no longer necessary. Commission filing requirements do not limit either the filing requirements of, or what may be considered by, the Department of Environmental Quality ("DEQ") and other agencies. In addition, in accordance with SB 554, the Commission and the DEQ have entered into a memorandum of agreement regarding the coordination of reviews of environmental impact of electric generating plants and associated facilities.¹ Accordingly, the amended filing requirements do not address cumulative environmental impacts.

The amended filing requirements include streamlined provisions for small generating facilities of 50 MW or less.² Most participants generally supported these streamlined requirements. Competitive Power Ventures, however, asserted that it is inappropriate to have separate filing requirements based solely on the size of the facility, and that this may encourage the construction of smaller units even if the economics otherwise would lead to the development of larger facilities. As noted by Columbia Gas of Virginia ("Columbia"), however, these streamlined requirements are consistent with § 56-578 D of the Code of Virginia ("Code"), which states that the "Commission shall consider developing

¹ See In the matter of receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission, Case No. PUE-2002-00315, Order Distributing Memorandum of Agreement (Aug. 14, 2002).

² See 20 VAC 5-302-25.

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expedited permitting processes for small generation facilities of fifty megawatts or less.³

The DEQ and other environmental agencies request that additional information be included in the streamlined filing requirements. We will not adopt these requests. The purpose of this rule, consistent with § 56-578 D of the Code, is to streamline the Commission's filing requirements for these small facilities. As noted above, we emphasize that the Commission's filing requirements in no manner limit the environmental reviews undertaken by other agencies, nor do our regulations limit the information that such agencies may request from the applicant in order to perform environmental reviews.

The amended filing requirements also include information related to market power.⁴ These requirements apply to incumbent electric utilities and their affiliates, when such entities propose to construct facilities within the incumbent's control area. Appalachian Power Company and Dominion Virginia Power assert that this rule should not be limited to incumbents and their affiliates. Non-incumbents, however, generally supported such limitation. An incumbent utility currently possesses a unique presence in its control area and is most likely to have a concentration of generation ownership.⁵ Thus, it is reasonable at this time to limit this filing requirement to incumbents and their affiliates.

Several parties also argued that the Federal Energy Regulatory Commission, and not the Commonwealth, will review market power. The issue of market power, however, may be relevant to our statutorily-required review of whether proposed generating facilities are contrary to the public interest. Moreover, § 56-596 A requires this Commission to take into consideration the goal of advancement of competition in the Commonwealth. Further, as explained by Dynegy, federal market power review will not necessarily address proposed assets, whereas the Commission's review under § 56-580 D must address, for example, proposed assets and the impact of such on the public interest.

Dominion Virginia Power, while commenting that the market power filing requirements are not overly burdensome, expressed concern regarding use of the term "control area" and requested the Commission to acknowledge the fundamentally regional nature of generation markets. In this regard, we emphasize that the market power filing requirements encompass not only the control area, but also capacity "reasonably accessible to the control area through transmission interconnections." Accordingly, the market power filing requirements currently recognize the regional nature of generation markets.

The amended filing requirements include information on fuel and fuel infrastructure.⁶ The required information does not reflect the Commission's originally proposed rule, which parties such as Allegheny Power, Columbia, and Dominion Virginia Power opposed as overly broad. Rather, the amended requirement includes the particular information proposed by Staff, for which these parties expressed a preference. In addition, Allegheny Power, Dynegy, and Competitive Power Ventures expressed opposition to any requirements in this regard. The assertions by these parties included, among other things, that fuel and fuel infrastructure should not be evaluated on a case-by-case basis. The Commission recognizes that fuel and fuel infrastructure involve wide-ranging issues. The Commission, however, remains obligated to evaluate individual applications on a case-by-case basis. Information on fuel and fuel infrastructure is relevant to the Commission's review of proposed generating facilities. Generating facilities may impact fuel and fuel infrastructure, which in turn may impact the public interest.

There were a number of requests that will not be resolved as part of this proceeding. For example, Allegheny Power asked the Commission to recognize that certain portions of an application may be identified by an applicant as commercially sensitive. The Commission's Rules of Practice and Procedure, however, provide sufficient opportunity for parties to seek confidential treatment of information.⁷

MeadWestvaco Corporation ("MeadWestvaco") asserted that qualifying cogeneration facilities should be exempt from the filing requirements.⁸ This proceeding, however, is limited to specific amendments to the filing requirements; we will not issue a declaratory ruling as part of this case. In addition, there is not a fully developed record on MeadWestvaco's request, nor has there been an opportunity for legal analyses from interested parties.

Columbia requested that the Commission consider initiating a new proceeding to develop a standardized interconnection agreement, uniform interconnection standards, and minimum contract terms. We recognize the importance of interconnection standards, but we will not rule on Columbia's request as part of this limited proceeding.

Finally, the filing requirements do not include specific modifications recommended by the DEQ to ensure that it has a sufficient opportunity to adequately complete environmental reviews. These modifications are no longer necessary; as noted above, the DEQ and the Commission have recently executed a memorandum of agreement to ensure proper coordination between the two agencies.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Regulations amending 20 VAC 5-302-10 *et al.*, Filing Requirements in Support of Applications for Authority to

³ In addition, as suggested by Columbia and others, this rule has been clarified to state that units of exactly 50 MW are governed by the streamlined filing requirements.

⁴ See 20 VAC 5-302-35.

⁵ Moreover, the filing requirements of this or any other part of these rules do not place limits on matters that may be considered by the Commission with respect to a specific application to construct and operate generating facilities. The filing requirements also do not restrict matters that may be proper for discovery purposes under rule 5 VAC 5-20-240 of the Commission's Rules of Practice and Procedure.

⁶ See 20 VAC 5-302-20 9.

⁷ See 5 VAC 5-20-170.

⁸ On May 24, 2002, MeadWestvaco filed a motion for leave to file its notice of participation out-of-time. MeadWestvaco asserted that no party would be prejudiced by granting the motion, and no party opposed the motion. We will grant the motion.

Construct and Operate an Electric Generating Facility, are adopted as set forth in Attachment A to this Order, effective as of the date of this Order for applications filed on or after September 1, 2002.

(2) A copy of this Order and the rules attached hereto as Attachment A shall be forwarded promptly for publication in the Virginia Register of Regulations.

(3) MeadWestvaco Corporation's motion for leave to file notice of participation out-of-time is granted.

(4) There being nothing further to come before the Commission in this case, it shall be removed from the docket and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Kurt L. Krieger, NiSource Corporate Services, Pipeline Legal Group, 12801 Fair Lakes Parkway, Fairfax, Virginia 22030; Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C., 823 East Main Street, Suite 1200, Richmond, Virginia 23219; Jill C. Hayek, Esquire, Dominion Virginia Power, Legal Services, P.O. Box 26532, Richmond, Virginia 23261; James S. Copenhaver, Esquire, Columbia Gas of Virginia, Inc., 9001 Arboretum Parkway, Richmond, Virginia 23235; Cassandra Sturkie, Esquire, Latham & Watkins, 555 Eleventh Street, N.W., Suite 100, Washington, D.C. 20004-2001; Philip J. Bray, Esquire, Allegheny Power Company, 10435 Downsville Pike, Hagerstown, Maryland 21740-1766; John A. Pirko, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Alexander M. Macaulay, Virginia Law & Government Affairs, 1015 East Main Street, Richmond, Virginia 23219; John M. Holloway, III, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Robert F. Riley, Esquire, Williams Mullen P.C., 1666 K Street, N.W., Suite 1200, Washington, D.C. 20006; Thomas B. Nicholson, Esquire, Williams Mullen P.C., Two James Center, 1021 East Cary Street, P.O. Box 1320, Richmond, Virginia 23218-1320; Donna M. Reynolds, Director of Community Relations, American Lung Association of Virginia, 9221 Forest Hill Avenue, Richmond, Virginia 23235-6876; Barbara P. Linkiewicz, Senior Environmental Specialist, FPL Energy, LLC, 700 Universe Boulevard, Juno Beach, Florida 33408; and the Commission's Division of Energy Regulation.

20 VAC 5-302-20. General information, electric generating facility information and documents to be included in the application [for electric generating facilities greater than 50 MW].

The following information shall be provided for all proposed electric generating facilities [*with a rated capacity in excess of 50 MW*]. In addition, an applicant requiring the construction of natural gas facilities in conjunction with the construction, ownership or operation of an electric generating facility shall serve notice of its application for construction of the electric generating facility upon all natural gas local distribution companies in whose certificated service territories the natural gas facilities will be constructed or operated.

1. Legal name of the applicant as well as any trade name.

2. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the date thereof, e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date thereof.

3. Name and business addresses of all principal corporate officers and directors, partners, and LLC members, as appropriate.

4. Financial information for the applicant, or principal participant or participants in the project. If the applicant or principal participant or participants is a private entity, financial information should include an analysis of the entity's financial condition and audited financial statements for the two most recent fiscal years. If the applicant or principal participant or participants is a public company, financial information should include the entity's most recent stockholder report and most recent Securities and Exchange Commission Form 10-K.

5. Prefiled testimony in support of the application.

6. A discussion of the applicant's qualifications, including:

a. A summary of other projects developed and managed by the applicant. Include location, status, and operational history.

b. A detailed description of the organizational structure of the applicant. Include the division of ownership, if applicable.

c. A description of any affiliation or affiliations with an incumbent electric utility as defined in § 56-576 of the Code of Virginia.

7. Specific information about the site for the proposed facility, including:

a. A written description of the location including identification of the city or county in which the facility will be constructed. Such description should be suitable for newspaper publication and be sufficient for identification of affected areas.

b. A description of the site, and a depiction on topographic maps of the proposed site.

c. The status of site acquisition (i.e., purchase option, ownership, etc.).

d. A description of any applicable local zoning or land use approvals required and the status of such approvals.

8. Specific information about the proposed facility, including:

a. Description of all major systems, facility configuration and expected suppliers of major components.

b. Nameplate capacity, gross dependable capacity, net dependable capacity and expected seasonal heat rates.

c. Estimated costs, and schedule for construction, testing and commercialization.

9. A description of the fuel supply arrangement for the proposed facility. The description should detail:

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- a. Fuel type, quality and source or sources.
- b. Transportation and fuel storage arrangements for fuel delivery.
- c. Identification of all new pipeline facilities, if any, needed to serve the proposed facility.
- d. Ownership of any such facilities.
- e. Plans for constructing such facilities.
- f. The location and routing of any such facilities.
- g. The size of such facilities.
- h. Whether such facilities will be utilized to provide or enhance fuel supplies to other entities.

i. [~~Impacts of applicant's facility, in conjunction with other proposed electric generating facilities and manufacturing facilities, on Virginia's natural gas and fuel oil infrastructure and availability of fuel supplies. Identification of the pipeline or gas distribution company and the rate schedule the applicant intends to utilize in order to serve the proposed generating facility. Identification of whether the service is firm or interruptible.~~

j. ~~If the applicant is to be served by firm capacity from an interstate pipeline, identification of whether the capacity is to be acquired through the construction of new facilities, via capacity that is currently unsubscribed or through capacity purchased on the secondary market.~~

k. ~~If pipeline capacity is to be constructed, identification of the FERC docket number or any open season that has been held by the interstate pipeline.~~

l. ~~If capacity is to be purchased on the secondary market, identification of the availability of secondary market capacity in the plant's market area during days that the plant intends to operate.~~

m. ~~Identification of the proposed in-service date of any facilities to be constructed.~~

n. ~~In general terms, description of the availability of fuel supplies required to serve the proposed facility.]~~

10. A discussion of economic impacts (both positive and negative), of the project. The discussion should address the tax and employment implications of the project.

11. A list of other local, state or federal government agencies whose requirements must be met in connection with the construction or operation of the project and a statement of the status of the approval procedures for each of these agencies.

12. An analysis of the environmental impact of the project shall be provided sufficient to enable the commission to make the determinations required by §§ 56-46.1 and 56-580 D of the Code of Virginia. This analysis shall include, but is not limited to, the impacts on the environment and natural resources, analysis of alternatives considered, unavoidable adverse impacts, mitigation measures proposed to minimize unavoidable impacts, and any irreversible environmental changes. The information required by this subdivision shall

be submitted to the Department of Environmental Quality, simultaneously with its filing with the commission, for coordination and review by state agencies responsible for environmental and natural resource protection. Such information shall include at a minimum, the following:

a. ~~Air quality. Discussion should identify required air permits, expected restrictions, expected emissions, rates of emissions, [and any] needed emissions offsets or allowances [, and the cumulative impacts of applicant's proposed facility and other proposed facilities on existing overall air quality in any area that may be impacted by the applicant's proposed facility. Other proposed facilities shall include all proposed electric generating and other proposed facilities that can or will influence air quality in any area that may be impacted by applicant's proposed facility if such facilities require an air permit issued by a state or federal authority and if the owners or developers of such facilities have sought approval from any federal, state or local governing body for zoning or land use permits such as special use permits or conditional use permits, or requests for water withdrawal permits or water discharge permits, or air permits. Assumptions regarding existing air quality should be based on the maximum allowed emissions from existing permitted sources and an ambient level of pollutants from nonpermitted sources]~~.

b. ~~Water source. Discussion should include required permits for water withdrawals, expected restrictions, the amount of water estimated to be used, the source of such water, identification of a backup source of water, if any, and identification of any facilities that need to be constructed to provide such water [, and the cumulative impacts of applicant's proposed facility and other facilities on existing water resources in any area that may be impacted by applicant's proposed facility. Other facilities shall include all existing and proposed electric generating and other facilities that can or will draw from the same water source as applicant's proposed facility if such facilities have or will require a water withdrawal permit issued by a state or federal authority and if, in the case of proposed facilities, the owners or developers of such facilities have sought approval from any federal, state or local governing body for zoning or land use permits such as special use permits or conditional use permits, or requests for water withdrawal permits or water discharge permits, or air permits]~~.

c. Discharge of cooling water. Discussion should include an identification of required permits for water discharge and potential impacts on regional water flows.

d. Tidal and nontidal wetlands. Discussion should include an identification of any required permits related to the wetlands and an identification of any tidal and nontidal wetlands located near the proposed site and how such wetlands will be impacted by applicant's proposed facility.

e. Solid and hazardous wastes. Discussion should address impact on local water resources.

f. Natural heritage, threatened and endangered species.

g. Erosion and sediment control.

- h. Archaeological, historic, scenic, cultural, or architectural resources in the area.
- i. Chesapeake Bay Preservation Areas designated by the locality.
- j. Wildlife resources.
- k. Recreation, agricultural and forest resources. Discussion should identify federal, local, state or private parks and recreation areas.
- l. The use of pesticides and herbicides.
- m. Geology and mineral resources, caves, and sinkholes.
- n. Transportation infrastructure.

13. A general discussion of reliability impacts including:

- a. A description of transmission interconnection requirements and needed interconnection facilities.
- b. A description of the potential impact of the proposed facility on the interconnected transmission system. Discussion should identify and summarize any system impact studies or proposed studies.
- c. A description of anticipated services (ancillary services, re-dispatch, energy imbalance, etc.) that may be provided to any transmission service provider.
- d. A discussion of existing and expected generation reserves in the region and the impact of the proposed facility on such reserves.

14. A discussion of whether the proposed facility is not contrary to the public interest. Such discussion shall include, but is not limited to, an analysis of any reasonably known impacts the proposed facility may have upon reliability of service to, and rates paid by, customers of any regulated public utility for service in the Commonwealth, including water service, gas distribution service, electric distribution service, and electric transmission service.

~~[15. A discussion of how the proposed facility will impact an applicant's ability to exert market power within the control area in which the facility is expected to be constructed. In addition, the following information should be included.~~

- ~~a. Total capacity controlled by or under contract to the applicant and its affiliates located within the control area and reasonably accessible to the control area through transmission interconnections, with and without the proposed facility.~~
- ~~b. Information regarding whether there are purchase options for the project or any part of its output. Such information should identify the holder of any such options.~~
- ~~c. Total capacity located within the control area and reasonably accessible to the control area through transmission interconnections, prior to construction of the proposed facility.~~
- ~~d. Five year projections of total expected capacity additions by size, technology and fuel type within the control area and expected increases in transmission interconnection capacities into the control area.~~

~~e. Five year projections of capacity additions by size, technology and fuel type within the control area to be made by the incumbent electric utility and its affiliates.~~

~~f. A description of the impact of the proposed facility on transmission congestion.~~

~~g. A market power analysis that demonstrates that neither the applicant nor an affiliate of the applicant, considered separately and collectively, has or will have, as a result of the control of electric generating capacity or energy within a transmission constrained area, market power over the sale of electric generating capacity or energy to retail customers located within the Commonwealth, or to licensed competitive service providers selling electric generating capacity or energy to retail customers located within the Commonwealth.]~~

[15. ~~46.~~] A discussion of whether and, if so, how the project will further the goals of advancement of [~~electronic electric~~] competition in Virginia.

[**20 VAC 5-302-25. General information, electric generating facility information and documents to be included in the application for electric generating facilities equal to 50 MW or less.**

The following information shall be provided for all proposed electric generating facilities with a rated capacity of 50 MW or less.

1. Legal name of the applicant as well as any trade name.
2. A description of the applicant's authorized business structure, identifying the state authorizing such structure and the date thereof, e.g., if incorporated, the state and date of incorporation; if a limited liability company, the state issuing the certificate of organization and the date thereof.
3. Name and business addresses of all principal corporate officers and directors, partners, and LLC members, as appropriate.
4. Financial information for the applicant, or principal participant or participants in the project. If the applicant or principal participant or participants is a private entity, financial information should include an analysis of the entity's financial condition and audited financial statements for the two most recent fiscal years, if available. If the applicant or principal participant or participants is a public company, financial information should include the entity's most recent stockholder report and most recent Securities and Exchange Commission Form 10-K. If such information is unavailable, provide evidence that applicant has the financial resources, or access to capital, necessary to complete the proposed project.
5. A discussion of the applicant's qualifications, including:
 - a. A summary of other projects developed and managed by the applicant. Include location, status, and operational history.
 - b. A description of any affiliation or affiliations with an incumbent electric utility as defined in § 56-576 of the Code of Virginia.

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6. Specific information about the site for the proposed facility, including:

a. A written description of the location including identification of the city or county in which the facility will be constructed. Such description should be suitable for newspaper publication and be sufficient for identification of affected areas.

b. A description of the site, and a depiction on topographic maps of the proposed site.

c. The status of site acquisition (i.e., purchase option, ownership, etc.).

7. A general description of the proposed facility, type of facility, size and fuel type.

8. A general description of the fuel supply arrangement for the proposed facility.

9. A general discussion of the economic developments impacts of the project.

10. A list of other local, state or federal government agencies whose requirements must be met in connection with the construction or operation of the project and a statement of the status of the approval procedures for each of these agencies.

11. An analysis of the environmental impact of the project shall be provided sufficient to enable the commission to make the determinations required by §§ 56-46.1 and 56-580 D of the Code of Virginia. This analysis shall include, but is not limited to, the impacts on the environment and natural resources, analysis of alternatives considered, unavoidable adverse impacts, mitigation measures proposed to minimize unavoidable impacts, and any irreversible environmental changes. The information required by this subdivision shall be submitted to the Department of Environmental Quality, simultaneously with its filing with the commission, for coordination and review by state agencies responsible for environmental and natural resource protection. Such information shall include at a minimum, the following:

a. Air quality. Discussion should identify required air permits, expected restrictions, expected emissions, rates of emissions, and any needed emissions offsets or allowances.

b. Water source. Discussion should include required permits for water withdrawals, expected restrictions, the amount of water estimated to be used, the source of such water, identification of a backup source of water, if any, and identification of any facilities that need to be constructed to provide such water.

c. Discharge of cooling water. Discussion should include an identification of required permits for water discharge and potential impacts on regional water flows.

d. Tidal and nontidal wetlands. Discussion should include an identification of any required permits related to the wetlands and an identification of any tidal and nontidal wetlands located near the proposed site and how such wetlands will be impacted by applicant's proposed facility.

e. Solid and hazardous wastes. Discussion should address impact on local water resources.

f. Natural heritage, threatened and endangered species.

g. Erosion and sediment control.

h. Archaeological, historic, scenic, cultural, or architectural resources in the area.

i. Chesapeake Bay Preservation Areas designated by the locality.

j. Wildlife resources.

k. Recreation, agricultural and forest resources. Discussion should identify federal, local, state or private parks and recreation areas.

l. The use of pesticides and herbicides.

m. Geology and mineral resources, caves, and sinkholes.

n. Transportation infrastructure.

12. A general discussion of reliability impacts including:

a. A description of transmission interconnection requirements and needed interconnection facilities.

b. A description of the potential impact of the proposed facility on the interconnected transmission system. Discussion should identify and summarize any system impact studies or proposed studies.

c. A description of anticipated services (ancillary services, redispatch, energy imbalance, etc.) that may be provided to any transmission service provider.

d. A discussion of existing and expected generation reserves in the region and the impact of the proposed facility on such reserves.

13. Any other information the applicant wishes to include that will demonstrate that the project is not contrary to the public interest.

14. A discussion of whether and, if so, how the project will further the goals of advancement of electric competition in Virginia.

20 VAC 5-302-35. Information required from incumbent electric utilities and affiliates of incumbent electric utilities.

Any incumbent electric utility as defined in § 56-576 of the Code of Virginia and any affiliate of an incumbent electric utility proposing to construct an electric generating facility within its control area in the Commonwealth of Virginia should provide a discussion of how the proposed facility will impact its ability to exert market power within its control area. In addition, the following information should be included:

1. Total capacity controlled by, or under contract to, the applicant and its affiliates located within the control area and reasonably accessible to the control area through transmission interconnections, with and without the proposed facility.

2. Total capacity located within the control area and reasonably accessible to the control area through transmission interconnections, with and without the proposed facility.

3. A calculation showing the percentage of capacity within and accessible to the control area through transmission interconnections owned by the applicant and its affiliates, with and without the proposed facility.]

VA.R. Doc. No. R02-101; Filed August 21, 2002, 2:01 p.m.

* * * * *

Title of Regulation: 20 VAC 5-312. Rules Governing Retail Access to Competitive Energy Services (amending 20 VAC 5-312-90).

Statutory Authority: §§ 12.1-13 and 56-581.1 of the Code of Virginia.

Effective Date: January 1, 2003.

Summary:

The amendments to 20 VAC 5-312-90 include applicability to competitive service providers offering consolidated billing service to retail customers. Changes to the previously proposed amendments include the following:

- 1. 20 VAC 5-312-90 A 2 requires a competitive service provider to establish such financial security as the commission may require for its estimated liability associated with the collection and remittance of local utility consumer taxes.
2. 20 VAC 5-312-90 B explicitly references the statutory exemption for municipalities and cooperatives regarding competitive billing.
3. 20 VAC 5-312-90 C 5 clarifies that consolidated billing must comply with the local distribution company's normal billing and credit cycle requirements.
4. 20 VAC 5-312-90 H 2 b avoids a potential conflict with local ordinances on tax remittance.
5. 20 VAC 5-312-90 I 7 clarifies that competitive service providers do not send disconnection notices.

Agency Contact: Thomas E. Lamm, Assistant Director, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9392, FAX (804) 371-9350, toll free 1-800-552-7945 or e-mail tlamm@scc.state.va.us.

AT RICHMOND, AUGUST 21, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2001-00297

Ex Parte: In the matter of establishing rules and regulations pursuant to the Virginia Electric Utility Restructuring Act for consolidated billing services

ORDER ADOPTING RULES AND REGULATIONS

On May 24, 2002, the Staff of the State Corporation Commission ("Staff") filed in this proceeding its Staff Report and proposed rules for implementing consolidated billing services by licensed competitive service providers ("CSPs"), consistent with § 56-581.1 of the Virginia Electric Utility Restructuring Act, § 56-577 et seq. of the Code of Virginia ("Code").

Pursuant to prior orders of the Commission, the Staff conducted an investigation, with input from a work group, and developed proposed rules as may be necessary to implement the offering of consolidated billing services by licensed CSPs to local distribution companies ("LDCs") and retail customers. The Staff invited representatives of interested parties to participate in the work group to facilitate the development of the required regulations. The Staff's proposed rules were the result of extensive work group meetings identifying and evaluating consolidated billing issues.

On May 28, 2002, the Commission issued an order, which attached the Staff's proposed amendments to 20 VAC 5-312-90 of the Commission's Rules Governing Retail Access to Competitive Energy Services ("Retail Access Rules"). The proposed rules addressed consolidated billing by CSPs. Among other things, the proposed rules included the requirements that a CSP must meet to offer consolidated billing services. A CSP would be required to provide written advance notice to the LDC and the Commission's Division of Energy Regulation and Division of Economics and Finance prior to an initial offering of consolidated billing service. In addition, a CSP would be required to establish such financial security as the Commission may require for such CSP's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes. Other proposed rules addressed disconnection for nonpayment of regulated service charges to the LDC where the CSP is the billing party, as well as certain state, local, and special regulatory consumption tax collection processes.

The order of May 28, 2002, also directed that the proposed rules be published in the Virginia Register of Regulations and permitted interested parties to file written comments and requests for hearing on the proposed rules and the Staff Report. On or before June 27, 2002, interested parties filed written comments. The Commission received no requests for hearing.

NOW THE COMMISSION, upon consideration of the record established herein, the filed comments, and the applicable law, is of the opinion and finds that the rules governing consolidated billing services attached hereto should be adopted as final, effective on and after January 1, 2003. We commend the participants for their efforts in addressing amendments to these rules governing competitive consolidated billing services. The remainder of this Order will discuss certain issues raised in the written comments.

The Virginia Municipal League/Virginia Association of Counties ("VML/VACO") requests that the Commission delay for one year (from January 1, 2003, to January 1, 2004) the effective date of consolidated billing by CSPs. Section 56-581.1 B of the Code provides that, effective January 1, 2003,

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CSPs may offer consolidated billing services. VML/VACO notes that the Commission, upon its own motion pursuant to § 56-581.1 C of the Code, may delay consolidated billing by one year. We conclude, however, that VML/VACO has not established, as we must find under § 56-581.1 C, that a delay is necessary at this time to resolve issues related to billing accuracy, timeliness, quality, consumer readiness, or adverse effects upon the development of competition.

We have not included in the attached rules additional requirements requested by VML/VACO that each CSP: (i) agree to a procedure with each locality to assure that the CSP knows the proper amount of tax to collect and the proper amount to remit to each affected local jurisdiction; and (ii) agree with each locality to collect and remit the proper tax amounts. Local utility consumer taxes are subject to various local jurisdictional requirements, and each CSP must collect and remit local utility consumer taxes based on existing law. In addition, the Retail Access Rules currently require that CSPs undertake coordination efforts with each affected locality regarding the obligation to collect and remit taxes (20 VAC 5-312-90 A 1 d).

VML/VACO also requests that the proposed rules on financial security be modified to encompass local utility consumer taxes. We reject VML/VACO's request to require each CSP to enter into a separate agreement with each locality, in the form each locality may require, for reasonable financial security; such a requirement would place an unreasonable burden on CSPs attempting to provide competitive billing services. Rather, we have adopted VML/VACO's alternative proposal and modified 20 VAC 5-312-90 A 2 as follows:

The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes and local utility consumer taxes.

VML/VACO and American Electric Power ("AEP") separately request modifications to 20 VAC 5-312-90 H 2 b. This rule addresses a CSP's obligation to remit local consumption and consumer taxes and reports to each locality. VML/VACO requests that the rules require CSPs: (i) to use a standardized tax report format to be developed by the localities; and (ii) to submit to reasonable audit requests by local governments. We will not modify the rules to address the localities' authority to audit CSPs, or to mandate that CSPs follow a specific reporting format that is yet to be developed. We encourage the localities and CSPs, however, to develop a standardized reporting format to aid both parties in this regard.

AEP asserts, among other things, that requiring payment to each locality on a specified day may conflict with local ordinances on tax remittance. We find that the rule should be modified to avoid this potential conflict. We have modified 20 VAC 5-312-90 H 2 b as follows:

Submit simultaneously, ~~on or before the last day of the succeeding month of collection in accordance with the Code of Virginia and local ordinance,~~ to each local government in whose jurisdiction the taxes have been collected, the payment of ~~the preceding month's~~ local

consumption taxes and local utility consumer taxes and associated ~~monthly tax remittance~~ reports.

The Virginia Electric Cooperatives ("Cooperatives") request that 20 VAC 5-312-90 B be modified to reference explicitly the statutory exemption for municipalities and cooperatives regarding competitive billing. We find, as explained by the Cooperatives, that the requested reference may help inform CSPs of the statutory exemptions. We have therefore modified 20 VAC 5-312-90 B as follows:

~~A~~ Subject to the exemptions applicable to municipal electric utilities and utility consumer service cooperatives set forth in § 56-581.1 J of the Code of Virginia, a competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

Dominion Virginia Power requests a change to 20 VAC 5-312-90 C 5. Specifically, Dominion Virginia Power requests that the rule be modified to explicitly require a CSP to "comply with," rather than "accommodate," the LDC's normal billing and credit cycle requirements for distribution service. We will adopt this request. While it is always important to avoid billing errors and customer confusion, it is particularly important as the Commonwealth transitions to retail competition. The requested change clarifies that full compliance is expected from the CSPs in this regard. We also note that this rule does not preclude a CSP from entering into unique arrangements with the customer for supply service billing. We have modified 20 VAC 5-312-90 C 5 as follows:

~~Accommodate~~ Comply with the local distribution company's normal billing and credit cycle requirements for distribution service.

AEP asserts that the rules should be restructured to ensure that only the LDC sends a disconnection notice – i.e., the customer should not receive a disconnection notice from the CSP as well. Although we do not adopt the particular changes suggested by AEP, we have modified 20 VAC 5-312-90 I 7 to clarify that CSPs do not send disconnection notices:

In the event a disconnection notice for nonpayment is included on a customer bill issued by the local distribution company, the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

Washington Gas Light requests that CSPs provide LDCs additional numeric fields and text characters on a CSP's consolidated bill. We will not make the requested modification at this time. The rules currently require the billing party to provide the non-billing party with six numeric fields and 240 text characters. This appears reasonable. If actual experience shows this to be unworkable, however, then possible changes could be addressed at a later date.

Finally, the LDCs propose to implement an interim electronic data interchange ("EDI") workaround approach. This workaround approach is not part of the rules. Rather, the workaround approach recognizes that standardized business practices and EDI protocols, outside the scope of these rules, will be needed to implement consolidated billing on a sufficient scale. The LDCs explain that the workaround approach is necessary at this time due to, among other things, the nascent stage of competitive billing and the costs involved in establishing a permanent approach. We find that the LDCs' EDI workaround proposal is reasonable on an interim basis and should be coordinated with the Virginia Electronic Data Transfer Working Group. A permanent approach, however, will be needed at some point as the market for these services develops. Thus, the interim EDI workaround will need to be replaced with standardized business practices and EDI protocols as the competitive market develops and the volume of competitive billing increases.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) Regulations amending 20 VAC 5-312-90 of the Rules Governing Retail Access to Competitive Energy Services are adopted as set forth in Attachment A to this Order, effective January 1, 2003.

(2) A copy of this Order and the rules attached hereto shall be forwarded promptly for publication in the Virginia Register of Regulations.

(3) Local distribution companies shall file revised supplier tariffs and/or agreements as necessary to reflect the rules adopted herein at least 60 days in advance of implementation of competitive service provider consolidated billing within the local distribution company's respective service territory.

(4) There being nothing further to come before the Commission in this case, it shall be removed from the docket and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

20 VAC 5-312-90. Billing and payment.

A. A competitive service provider shall offer separate billing service or consolidated billing service by, where either the local distribution company, or both the competitive service provider would be the billing party, to prospective customers pursuant to § 56-581.1 of the Code of Virginia and the local distribution company's tariff approved by the State Corporation Commission. Where a competitive service provider would be the billing party, prior to an initial offering of consolidated billing service to customers within the service territory of each local distribution company, and after certification as required by 20 VAC 5-312-20 L, the competitive service provider shall abide by the following requirements:

1. The competitive service provider shall provide written notice, at least 30 days in advance, to the local distribution company and to the State Corporation Commission's Division of Energy Regulation and Division of Economics

and Finance. The written notification to the Division of Energy Regulation and the Division of Economics and Finance shall include:

- a. The anticipated date of the initial consolidated billing service offering in each local distribution company service territory in which the service will be offered.
- b. Any changes in information provided by the competitive service provider in its original license application pursuant to 20 VAC 5-312-40 A that have not been reported to the State Corporation Commission pursuant to 20 VAC 5-312-20 Q and 20 VAC 5-312-20 R.
- c. The expected maximum market penetration for the provision of consolidated billing service to electricity customers during the following 12 months, including the estimated number of customers and associated annual consumption by customer type or load profile classification.
- d. A representation that the electric competitive service provider has undertaken the necessary preliminary coordination efforts with tax officials of each potentially affected locality regarding the competitive service provider's obligation to collect and remit local consumption taxes and local utility consumer taxes.

2. The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes [and local utility consumer taxes].

B. [Subject to the exemptions applicable to municipal electric utilities and utility consumer service cooperatives set forth in § 56-581.1 J of the Code of Virginia,] a competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

C. Consolidated billing by the local distribution company, except as otherwise arranged through contractual agreement between the local distribution company and a competitive service provider or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission, shall:

1. Be performed under a "bill-ready" protocol.
2. Not require the local distribution company billing party to purchase the accounts receivable of the competitive service provider nonbilling party.
3. Not require the electric local distribution company to include natural gas competitive energy service charges on a consolidated bill or the natural gas local distribution company to include electric competitive energy service charges on a consolidated bill.
4. Not require the local distribution company to receive the transmittal of exchange billing information for one any

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customer account ~~from~~ with more than one competitive service provider or aggregator for the same billing period.

5. [~~Accommodate~~ Comply with] the local distribution company's normal billing and credit cycle requirements for distribution service.

D. In the event a competitive service provider collects security deposits or prepayments, such funds shall be held in escrow by a third party in Virginia, and the competitive service provider shall provide to the State Corporation Commission the name and address of the entity holding such deposits or prepayments.

E. A competitive service provider requiring a deposit or prepayment from a customer shall limit the amount of the deposit or prepayment to the equivalent of a customer's estimated liability for no more than three months' usage of services from the competitive service provider by that customer.

F. Customer deposits held or collected by a local distribution company shall be for only those services provided by the local distribution company. Any deposit held in excess of this amount shall be promptly credited or refunded to the customer. The local distribution company may, upon a customer's return to regulated electricity supply service or natural gas supply service, collect that portion of a customer deposit as permitted by the local distribution company's tariffs and 20 VAC 5-10-20.

G. Terms and conditions concerning customer disconnection for nonpayment of regulated service charges shall be set forth in each local distribution company's tariff approved by the State Corporation Commission. A customer may not be disconnected for nonpayment of unregulated service charges. *If a customer receives consolidated billing service and a competitive service provider is the billing party, the local distribution company shall advise the customer directly of any pending disconnection action for nonpayment through 10 days' notice by mail, separate from the consolidated bill. Such notice shall clearly identify the amount that must be paid and the date by which such amount must be received by, and also provide instructions for direct payment to, the local distribution company to avoid disconnection.*

H. *The provision of consolidated billing service shall conform to the following requirements:*

1. ~~The local distribution company~~ *billing party* shall apply a customer's partial payment of a consolidated bill as designated by the customer, or, in the absence of a customer's designation, to charges in the following order: (i) to regulated service arrearages owed the local distribution company; (ii) to competitive energy service arrearages owed the competitive service provider; (iii) to regulated service current charges of the local distribution company; (iv) to competitive energy service current charges of the competitive service provider; and (v) to other charges.

2. Collections of state and local consumption taxes and local consumer utility taxes shall be remitted as required by law. *The person responsible for collecting and remitting such taxes shall:*

a. Submit simultaneously, on or before the last day of the succeeding month of collection to the State Corporation Commission's Division of Public Service Taxation, the payment of the preceding month's state and special regulatory consumption taxes and associated Electric Utility or Natural Gas Consumption Tax Monthly Report.

b. Submit simultaneously, [~~on or before the last day of the succeeding month of collection~~ in accordance with the Code of Virginia and local ordinance,] to each local government in whose jurisdiction the taxes have been collected, the payment of [~~the preceding month's~~] local consumption taxes and local utility consumer taxes and associated [~~monthly tax remittance~~] reports.

I. The local distribution company and a competitive service provider shall comply with the following minimum billing information standards applicable to all customer bills:

1. Sufficient information shall be provided or referenced on the bill so that a customer can understand and calculate the billing charges.

2. Charges for regulated services and unregulated services shall be clearly distinguished.

3. Standard terminology shall be employed and charges shall be categorized for the following key bill components, as applicable: (i) distribution service; (ii) competitive transition charge; (iii) electricity supply service or natural gas supply service; (iv) state and local consumption tax; and (v) local (or locality name) utility tax. The bill may provide further detail of each of these key components as appropriate.

4. Nonroutine charges and fees shall be itemized including late payment charges and deposit collections.

5. The total bill amount due and date by which payment must be received to avoid late payment charges shall be clearly identified.

6. The 24-hour toll-free telephone number of the local distribution company for service emergencies shall be clearly identified.

7. In the event a disconnection notice for nonpayment is included on a customer bill [*issued by the local distribution company*], the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

8. The following additional information shall be provided on customer bills to the extent applicable:

a. Customer name, service address, billing address, account number, rate schedule identifier, and meter identification number.

b. Billing party name, payment address, and toll-free telephone number for customer inquiries and complaints.

c. For consolidated bills, nonbilling party name and toll-free telephone number for customer inquiries and

complaints and the customer's local distribution company account number.

d. Bill issue date and notice of change in rates.

e. Previous and current meter readings and dates of such meter readings or metering period days, current period energy consumption, meter reading unit conversion factor, billing-demand information, and "estimated" indicator for non-actual meter reads.

f. Previous bill amount or account balance, payments received since previous billing, balance forward, current charges, total amount due or current account balance, and budget billing payment plan information.

g. For consolidated bills, billing party and nonbilling party elements as specified in subdivision 8 f of this subsection.

J. The local distribution company shall comply with the following additional billing information standards applicable to the bills of customers that are not subject to demand-based billing charges and that purchase regulated electricity supply service or regulated natural gas supply service from the local distribution company:

1. The local distribution company shall employ standard terminology and categorize charges for the following key billing components: (i) distribution service; (ii) electricity supply service or natural gas supply service; (iii) state and local consumption tax; and (iv) local (or locality name) utility tax. Brief explanations of distribution service and electricity supply service or natural gas supply service shall be presented on the bill. Such explanations shall convey that distribution service is a regulated service that must be purchased from the local distribution company and that electricity supply service or natural gas supply service may be purchased from the competitive market but, if applicable, may result in a competitive transition charge;

2. The local distribution company shall provide on customer bills a customer's monthly energy consumption, numerically or graphically, for the previous 12 months; and

3. The investor-owned electric local distribution company shall provide on each bill a "price-to-compare" value, stated in cents per kilowatt-hour, representing the cost of regulated electricity supply service less the competitive transition charge, if any, that would be applicable if such service were purchased from a competitive service provider. The appropriate use and limitations of such "price-to-compare" value shall be stated on the bill.

K. The local distribution company shall develop and implement a program to provide "price-to-compare" information and assistance to customers. The local distribution company shall provide a program plan to the State Corporation Commission's Division of Energy Regulation at least 90 days prior to the implementation of full or phased-in retail access. Such a program shall ensure that customers will be provided meaningful information for evaluating competitive offers of electricity supply service or natural gas supply service. At a minimum, the program shall include a mechanism for providing, or making readily accessible, customer-specific "price-to-compare" information, including explanations of its appropriate use and limitations and, if

applicable, the relationship between the regulated electricity supply charge, the competitive transition charge, and the "price-to-compare."

L. ~~The local distribution company billing party shall, except as otherwise arranged through contractual agreement between the local distribution company and a competitive service provider with the nonbilling party, provide sufficient space on a consolidated bill to accommodate a competitive service provider's the local distribution company's customer account number and the nonbilling party's name and toll-free telephone number, previous bill amount or account balance, payments applied since the previous billing, balance forward, total current charges, total amount due or current account balance, six additional numeric fields to detail current charges, and 240 additional text characters.~~

M. *If the local distribution company, as the billing party, provides consolidated billing service to a customer and continues to be the customer's billing party after the customer's service with a competitive service provider terminates, the local distribution company shall, except as otherwise arranged through contractual agreement between the local distribution company and a with such competitive service provider, continue to track and bill customer account arrearages owed to former such competitive service providers or aggregators provider for two billing cycles after service has terminated. The bill shall list, at a minimum, the name, toll-free telephone number, and balance due for each former competitive service provider.*

N. *If the current charges of a competitive service provider the nonbilling party are not included on the consolidated bill issued by the local distribution company billing party, the bill shall note that such charges are not included.*

O. *If the current charges of a competitive service provider the nonbilling party are not included on the consolidated bill issued by the local distribution company billing party due to causes attributable to the competitive service provider nonbilling party, the charges shall be billed in the following month unless the two parties mutually agree to other arrangements.*

P. *If the current charges of a competitive service provider the nonbilling party are not included on the consolidated bill issued by the local distribution company billing party due to causes attributable to the local distribution company billing party, the bill shall be cancelled and reissued to include such charges unless the two parties mutually agree to other arrangements.*

Q. The local distribution company or a competitive service provider shall report any significant deficiency regarding the timely issuance, accuracy, or completeness of customer bills to the State Corporation Commission's Division of Energy Regulation as soon as practicable. Such reports shall detail the circumstances surrounding the deficiency and the planned corrective actions.

VA.R. Doc. No. R02-191; Filed August 22, 2002, 10 a.m.



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TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR THE AGING

REGISTRAR'S NOTICE: The following regulatory actions are exempt from the Administrative Process Act in accordance with (i) § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved, and (ii) § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Department for the Aging will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22 VAC 5-10. Public Participation Guidelines (amending 22 VAC 5-10-10, 22 VAC 5-10-20, and 22 VAC 5-10-100).

Title of Regulation: 22 VAC 5-20. Grants to Area Agencies on Aging (amending 22 VAC 5-20-20 through 22 VAC 5-20-100, 22 VAC 5-20-120, 22 VAC 5-20-140, 22 VAC 5-20-150, 22 VAC 5-20-170, 22 VAC 5-20-180, 22 VAC 5-20-190, 22 VAC 5-20-210, 22 VAC 5-20-230, 22 VAC 5-20-250, 22 VAC 5-20-300, 22 VAC 5-20-310, 22 VAC 5-20-330, 22 VAC 5-20-450, 22 VAC 5-20-460, 22 VAC 5-20-580 and 22 VAC 5-20-600; repealing 22 VAC 5-20-110).

Statutory Authority: § 2.1-373.6 of the Code of Virginia.

Effective Date: October 23, 2002.

Summary:

The amendments update references to the Code of Virginia, change the official names of Area Agencies on Aging that have been created over the last several years, and make technical changes resulting from the reauthorization of the federal Older Americans Act in 2000.

Agency Contact: Bill Peterson, Deputy Commissioner, Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, VA 23229, telephone (804) 662-9325, FAX (804) 662-7035 or e-mail whpeterson@vdh.state.va.us.

22 VAC 5-10-10. Definitions.

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

"Board" means the ~~Governor's Advisory Board on Aging.~~

"Council" means the Commonwealth Council on Aging.

"Department" means the Department for the Aging.

22 VAC 5-10-20. Purpose.

This chapter is being promulgated in response to the applicable provisions of the Administrative Process Act (§ 9-6.14:1 2.2-4000 et seq. of the Code of Virginia). This chapter provides guidelines for the involvement of the public in the development and promulgation of regulations. The guidelines

are not applicable to regulations exempted or excluded from the provisions of the Administrative Process Act.

22 VAC 5-10-100. ~~Governor's Advisory Board on Aging Commonwealth Council on Aging.~~

A. The department shall solicit comments from the ~~Governor's Advisory Board Commonwealth Council on Aging~~ on any new regulations or changes to current regulations.

B. Whenever the ~~board council~~ intends to discuss at a regular or special meeting any regulatory action by the department, the Notice of Meeting published in The Virginia Register shall include such intent in the description of the nature of the meeting and the business to be conducted.

C. Whenever the ~~board council~~ intends to discuss at a regular or special meeting any regulatory action by the department, a copy of the regulation under consideration shall be made available upon request to interested persons at least two days prior the meeting. A copy of the regulation under consideration shall be made available to persons attending the meeting.

D. The ~~board council~~ shall hold its meetings in a location accessible to the persons with disabilities. If requested, a sign language interpreter will be made available for persons with a hearing impairment.

22 VAC 5-20-20. Definitions.

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

"Access services" means services associated with access to other services, such as ~~consolidated access services care coordination, information and assistance~~ and transportation services.

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 USC 3001 et. et seq.) and incorporated by reference in this chapter, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for the Aging.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider which adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures which govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term

care services provided in the community who is at least 60 years of age.

"*Complaint counseling*" means information, guidance, and support to enable the complainant or the recipient of services to attempt to resolve the complaint or concern himself, if he so chooses or is able, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"*Contract*" means the document of agreement wherein the Virginia Department for the Aging designates the contractor as the duly funded Area Agency on Aging, consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

"*Frail*" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"*Government-sponsored area agencies or area agencies sponsored by governmental entities*" means area agencies created as units of general purpose local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District III *Three Governmental Cooperative trading as District Three Senior Services*, New River Valley Agency on Aging, Alexandria ~~Office~~ Agency on Aging, Arlington Agency on Aging, Fairfax County Area Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Rappahannock-Rapidan Community Services Center — ~~Aging Services Board~~, Jefferson Area Board for Aging, Lake Country Area Agency on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as free-standing joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"*Grant*" means an award of financial assistance in the form of money, or property instead of money, by the Virginia Department for the Aging to an Area Agency on Aging. The term includes such financial assistance when provided by contract.

"*Grantee*" or "*contractor*" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Virginia Department for the Aging for the use of the funds provided.

"*Greatest economic need*" means the need resulting from an income level at or below the poverty level established by the federal Office of Management and Budget.

"*Greatest social need*" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, which restricts an individual's ability to perform

normal daily tasks or which threatens such individual's capacity to live independently.

"*In-home services*" means (i) homemaker/personal care services, (ii) ~~home care/companion~~ chore services, (iii) home health services, (iv) checking services, (v) residential repair and renovation services, and (vi) in-home respite care for families and adult day care as a respite service for families.

"*Long-term care facility*" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, but not limited to, nursing homes licensed by the Department of Health, ~~homes for adults~~ *assisted living facilities* licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"*Long-term care services*" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"*Office of the State Long-Term Care Ombudsman*" means the program administered and ~~managed~~ funded by the Virginia Department for the Aging, which serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"*Older person*" or "*elderly*" or "*older individual*" means any individual who is 60 years of age or older.

"*Planning and service area (PSA)*" means a geographic area of the Commonwealth which is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by the Virginia Department of Planning and Budget, pursuant to §§ ~~2.1-394~~ 2.2-1501 and ~~15.1-1402(a)~~ 15.2-4202 of the Code of Virginia.

"*Private nonprofit Area Agency on Aging*" means those area agencies created independently of a local governing body or bodies. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans *trading as LOA - Area Agency on Aging*, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia ~~Commission~~ Area Agency on Aging, Southern Area Agency on Aging, Piedmont Senior Resources Area Agency on Aging, ~~Capital Area Agency on Aging~~ Senior Connections, ~~The Capital Area Agency on Aging~~, Rappahannock Area Agency on Aging, ~~Northern Neck Middle Peninsula Agency on Aging~~ Bay Aging, Southeastern Virginia Areawide Model Program *trading as Senior Services of Southeastern Virginia*, Peninsula Area Agency on Aging, and ~~Eastern Shore Community Development Group~~ Eastern Shore Area Agency on Aging/Community Action Agency.

"*Subgrant*" means an award of financial assistance in the form of money, or property instead of money, made under a grant by an Area Agency on Aging to an eligible subgrantee. The

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term includes such financial assistance when provided by contract.

"Subgrantee" or "subcontractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to an Area Agency on Aging for the use of the funds provided.

"Substate Long-Term Care Ombudsman Program" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

"Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

22 VAC 5-20-30. Applicability of other regulations.

Several other regulations apply to all activities conducted with Title III funds. These include, but are not limited to:

1. 45 CFR Part 1321: Grants to State and Community Programs on Aging;
2. 45 CFR Part 74: ~~Administration of Grants~~ *Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Government and Indian Tribal Governments*; and
3. 45 CFR Part 84: Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or ~~Benefiting from~~ Federal Financial ~~Participation Assistance~~.

22 VAC 5-20-40. Planning and service areas.

A. The following are currently accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of 42 USC § 3001 et seq. (the "Older Americans Act") and the federal regulations promulgated thereunder (45 CFR 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for the Aging as of the date of these regulations, are named herein for identification but may be subject to change, pursuant to 22 VAC 5-20-50.

Planning and Service Area 1
Mountain Empire Older Citizens, Inc.
Wise, Virginia
Serves Lee, Scott, and Wise counties; the City of Norton.

Planning and Service Area 2
Appalachian Agency for Senior Citizens, Inc.
Richlands, Virginia
Serves Buchanan, Dickenson, Russell, and Tazewell counties.

Planning and Service Area 3
District III Governmental Cooperative
Marion, Virginia
Serves Bland, Carroll, Grayson, Smyth, Washington, and Wythe counties; the cities of Bristol and Galax.

Planning and Service Area 4

New River Valley Agency on Aging
Pulaski, Virginia
Serves Floyd, Giles, Montgomery, and Pulaski counties; the City of Radford.

Planning and Service Area 5
League of Older Americans, Inc. *trading as LOA - Area Agency on Aging*,
Roanoke, Virginia
Serves Alleghany, Botetourt, Craig, and Roanoke counties; the cities of ~~Clifton Forge~~, Covington, Roanoke, and Salem.

Planning and Service Area 6
Valley Program for Aging Services, Inc.
Waynesboro, Virginia
Serves Augusta, Bath, Highland, Rockbridge, and Rockingham counties; the cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.

Planning and Service Area 7
Shenandoah Area Agency on Aging, Inc.
Front Royal, Virginia
Serves Clarke, Frederick, Page, Shenandoah, and Warren counties; the City of Winchester.

Planning and Service Area 8A
City of Alexandria
(Alexandria Area Agency on Aging)
Alexandria, Virginia
Serves the City of Alexandria.

Planning and Service Area 8B
Arlington County
(Arlington Agency on Aging)
Arlington, Virginia
Serves Arlington County.

Planning and Service Area 8C
Fairfax County
(Fairfax County Area Agency on Aging)
Fairfax, Virginia
Serves Fairfax County; the cities of Fairfax and Falls Church.

Planning and Service Area 8D
Loudoun County
(Loudoun County Area Agency on Aging)
Leesburg, Virginia
Serves Loudoun County.

Planning and Service Area 8E
Prince William County
(Prince William Area Agency on Aging)
Manassas, Virginia
Serves Prince William County; the cities of Manassas and Manassas Park.

Planning and Service Area 9
Rappahannock-Rapidan Community Services Center ~~—Aging Services Board~~
Culpeper, Virginia
Serves Culpeper, Fauquier, Madison, Orange, and Rappahannock counties.

Planning and Service Area 10
Jefferson Area Board for Aging
Charlottesville, Virginia

Serves Albemarle, Fluvanna, Greene, Louisa, and Nelson counties; the City of Charlottesville.

Planning and Service Area 11
Central Virginia ~~Commission~~ Area Agency on Aging, Inc.
Lynchburg, Virginia

Serves Amherst, Appomattox, Bedford, and Campbell counties; the cities of Bedford and Lynchburg.

Planning and Service Area 12
Southern Area Agency on Aging, Inc.
Martinsville, Virginia
Serves Franklin, Henry, Patrick, and Pittsylvania counties; the cities of Danville and Martinsville.

Planning and Service Area 13
Lake Country Area Agency on Aging
South Hill, Virginia
Serves Brunswick, Halifax, and Mecklenburg counties; ~~the City of South Boston.~~

Planning and Service Area 14
Piedmont Senior Resources Area Agency on Aging, Inc.
Burkeville, Virginia
Serves Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, and Prince Edward counties.

Planning and Service Area 15
~~Capital Area Agency on Aging, Senior Connections, The Capital Area Agency on Aging, Inc.~~
Richmond, Virginia
Serves Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan counties; the City of Richmond.

Planning and Service Area 16
Rappahannock Area Agency on Aging, Inc.
Fredericksburg, Virginia
Serves Caroline, King George, Spotsylvania, and Stafford counties; the City of Fredericksburg.

Planning and Service Area 17/18
~~Northern Neck-Middle Peninsula Agency on Aging, Inc. Bay Aging~~
Urbanna, Virginia
Serves Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland counties.

Planning and Service Area 19
Crater District Area Agency on Aging
Petersburg, Virginia
Serves Dinwiddie, Greensville, Prince George, Surry, and Sussex counties; the cities of Colonial Heights, Emporia, Hopewell, and Petersburg.

Planning and Service Area 20
Southeastern Virginia Areawide Model Program, Inc. *trading as Senior Services of Southeastern Virginia*
Norfolk, Virginia
Serves Isle of Wight and Southampton counties; the cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

Planning and Service Area 21
Peninsula Agency on Aging, Inc.

Newport News, Virginia
Serves James City and York counties; the cities of Hampton, Newport News, Poquoson, and Williamsburg.

Planning and Service Area 22
~~Eastern Shore Community Development Group, Area Agency on Aging/Community Action Agency, Inc.~~
Onancock, Virginia
Serves Accomack and Northampton counties.

B. Pursuant to ~~§§ 305(a)(1)(E) and 305(b)(1)~~ 42 USC § 3025(a)(1)(E) and (b)(1) of the Older Americans Act, as amended, the Department for the Aging, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that:

1. Within the boundaries of Planning District 8 the Department for the Aging has established five planning and service areas with the concurrence of the local governing bodies; and
2. The Department for the Aging has combined Planning Districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.
3. *Within the boundaries of Planning District 23, the Department for the Aging has established two planning and service areas that existed from the former Planning Districts 20 and 21.*

C. These boundaries shall be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

22 VAC 5-20-50. Application procedures to obtain designation as a new planning and service area or as a new Area Agency on Aging.

A. Applications of units of general purpose local government to serve as designated Area Agencies on Aging within established planning and service areas or to create a new planning and service area shall be made only by formal resolution of city councils or county boards of supervisors and must be submitted in writing to the Commissioner of the Department for the Aging. Such new entities, if approved, shall become effective with the beginning of the terms of their approved Area Plan for Aging Services and the contract incorporating such plan, upon execution of the contract. Any application for new Area Agency on Aging status or new planning and service area status shall be submitted prior to July 1 of the year preceding the year in which the new status would become effective.

B. The application for new Area Agency on Aging status or for new planning and service area status shall contain the proposed Area Plan for Aging Services and shall show the following:

1. All the city councils and county boards of supervisors in the planning and service area which would be affected have consented to the proposed change.
2. The proposed change will not result in creation of an Area Agency on Aging or new planning and service area

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which would receive less than 1.0% of the formula fund allocation for Virginia, according to the allocation method used by the Department for the Aging for the year in which the application is submitted.

3. Provision of services in a proposed new planning and service area or by a proposed new Area Agency on Aging shall be shown, by clear and convincing evidence, to assure more efficient and effective preparation and implementation of the Area Plan for Aging Services for the older Virginians within the planning and service area.

C. Upon receipt of an application which meets the foregoing requirements, the Commissioner of the Department for the Aging shall provide a public hearing in the planning and service area. At least a 30-day notice shall be provided through publication in a newspaper or newspapers of general circulation in the cities and counties to be affected by the proposed new entity and its submitted Area Plan for Aging Services. Notification shall be mailed to the local governments and all other interested Area Agencies on Aging. The public hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the hearing. At the public hearing, interested persons may speak for themselves or be represented by counsel, and written presentations may be submitted. Following the public hearing and for at least 30 days thereafter, the commissioner will receive any additional written information which citizens or organizations wish to submit.

D. In addition to the public hearing and reception of comments by the Virginia Department for the Aging and the commissioner, as provided above, the commissioner shall consult with the Department of Planning and Budget, pursuant to ~~§ 2.1-391-G~~ 2.2-1501(2) of the Code of Virginia, whenever a new planning and service area is proposed, and the approval of that department shall be persuasive.

E. Within 120 days of the public hearing, the commissioner shall issue written findings of fact, the consideration of the Department of Planning and Budget, and a particularized conclusion and decision. In the case of a new planning and service area, its effective date shall be determined and stated. The designation of Area Agencies on Aging becomes effective upon approval of their Area Plans for Aging Services and execution of the contract.

F. Any applicant for designation as a new entity whose application is denied may request an administrative hearing, pursuant to the Virginia Administrative Process Act, ~~§ 9-6.14:14~~ 2.2-4019 of the Code of Virginia, within 15 days of receipt of the written denial. If, after hearing, the applicant's request is still denied, the applicant may appeal the decision in writing within 30 days after receipt of the decision to the Commissioner of the U.S. Administration on Aging, pursuant to 45 CFR 1321.31.

22 VAC 5-20-60. Termination of the designation of an Area Agency on Aging.

A. The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

B. The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for the Aging for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.

2. Upon a request by formal resolution of all the city councils and county boards of supervisors within the planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on Aging, whose area plan is approved.

3. Upon a finding by the Virginia Department for the Aging, after reasonable notice and opportunity for a hearing, pursuant to 45 CFR 1321.35, that:

a. An area plan or plan amendment is not approved.

b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and regulations of the Department for the Aging.

c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for the Aging; licensing requirements of the Commonwealth of Virginia; and local ordinances.

d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act, as *amended*, and its implementing regulations.

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which shall lead to termination of the contract, include, but are not limited to, the following:

a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Virginia Department for the Aging, pursuant to ~~22 VAC 5-20-220~~, 22 VAC 5-20-460;

b. Failure to report promptly to the Virginia Department for the Aging and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for the Aging;

c. Failure to submit reports which meet the requirements (including due dates) established by the Virginia Department for the Aging;

d. Deliberate falsification of information in such reports.

5. Upon a decision pursuant to 22 VAC 5-20-50 creating a new Area Agency on Aging or new planning and service area, to the extent that such a decision makes performance on the existing contract impossible.

C. Upon notice by the Virginia Department for the Aging of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and shall be provided

an informal fact-finding conference pursuant to the Virginia Administrative Process Act, § ~~9-6.14:14~~ 2.2-4019 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in ~~22-VAC-5-20-60~~ subdivision B 4 of this section obtains or that a term or condition in the contract so permits, the contractual designation shall be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation shall terminate 30 days after receipt of the notice.

D. If the Commissioner of the Department for the Aging has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and shall state in writing the reasons therefor.

E. When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, shall contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for the Aging itself may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency in the planning and service area. With the consent of the Commissioner of the U.S. Administration on Aging, the Commissioner of the Virginia Department for the Aging may extend the 180-day period.

22 VAC 5-20-70. Designation of a new Area Agency on Aging.

A. When there is no designated Area Agency on Aging for a planning and service area, or when there has been a decision to create a new planning and service area, the commissioner shall solicit applications for a new Area Agency on Aging as soon as possible. Such applications shall be solicited by advertisement in the newspapers of general circulation serving the planning and service area and by notification mailed to the local governing bodies of cities and counties within the planning and service area. At least 30 days from the date of advertisement shall be provided for applicants to submit their applications to the commissioner. The application shall include the applicant's proposed Area Plan for Aging Services. The commissioner shall give the right of first refusal to a unit of general purpose local government, if such unit can meet the requirements of the Older Americans Act, as amended, and if the boundaries of such a unit and the boundaries of the planning and service area are reasonably contiguous. Applicants may be:

1. A city or county within the affected planning and service area;
2. All the cities and counties within the affected planning and service area, applying as a joint exercise of powers, pursuant to § ~~45.1-24~~ 15.2-3000 of the Code of Virginia;
3. A public agency or a private nonprofit corporation of Virginia, or any separate organizational unit within such

agency which can and shall engage only in the planning or provision of a broad range of supportive services for older persons within the planning and service area.

B. Within 30 days after the deadline set by the commissioner for submission of applications for designation as an Area Agency on Aging, the commissioner shall advertise a public hearing to receive comments on such designation. At least 30 days notice of the hearing shall be provided through advertisement in newspapers of general circulation serving the affected planning and service area and by notification mailed to the local governing bodies and all applicants. The hearing shall be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the public hearing. At the public hearing, interested parties may speak for themselves or be represented by counsel, and written presentations may be submitted. Upon conclusion of the hearing, the commissioner will continue to receive any additional written information which citizens or organizations may wish to provide.

C. Within 45 days after the public hearing, unless the applicants have agreed otherwise, the commissioner shall issue a written decision. The commissioner may designate a new Area Agency on Aging, subject to final approval of its Area Plan for Aging Services and execution of the contract. Such designation shall become effective upon execution of the contract or such other date as agreed upon therein. Or, if the commissioner finds that the applicant or applicants applying do not offer functions, services, and an Area Plan for Aging Services which will be in the best interests of the Commonwealth or of the persons to be served, the commissioner may reject all applications and recommence the designation process. Reasons for denial shall be set forth with reasonable particularity.

22 VAC 5-20-80. Preparation and submission of the area plan.

A. Any existing Area Agency on Aging or any applicant for area agency designation will prepare an Area Plan for Aging Services and submit it to the Virginia Department for the Aging for approval. The area plan will clearly detail the means of providing supportive and nutrition services and substantiation for the means selected. An approved area plan will be in effect for two, three, or four years, as determined by the Department for the Aging. Such plan, if approved, will become the scope of services in the contract executed between the Virginia Department for the Aging and the Area Agency on Aging as contractor.

B. The Area Agency on Aging shall submit to the Virginia Department for the Aging for approval all requests for, and reasonable documentation of and substantiation for, necessary changes, additions, or deletions in its area plan. The area agency shall submit a written amendment to the area plan if it intends to change the scope of a service or if it intends to change the arrangements by which a service is delivered (e.g., direct service or contracted service, the number or location of congregate meal sites). Any amendment shall be approved by the Virginia Department for the Aging and, when signed by both the Department for the Aging and

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the Area Agency on Aging as contractor, will be incorporated into the contract as part of the scope of services.

C. The area plan shall provide, through a comprehensive and coordinated system, for supportive and nutrition services and, where appropriate, for the establishment, maintenance, and construction of multipurpose senior centers within the planning and service area covered by the plan. Subject to the requirements in 22 VAC 5-20-100, such services may include:

1. Checking services. Calling or visiting older persons at their residence to check on them to make sure they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

2. Congregate meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a climate or atmosphere for socialization and opportunities to alleviate isolation and loneliness.

3. ~~Consolidated access services~~ *Information and Assistance. Identifying and locating*—Assess older persons in need of services and assessing and periodically reassessing their need persons' needs for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

4. Dental services. Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

5. Emergency services. Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 and older who have an emergency need for help. Area agencies must have approved policies established by their governing board for administration of this service.

6. Employment services. Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

7. Finance, tax, and consumer counseling. Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

8. ~~Geriatric Adult~~ day care services. Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

9. Health education. Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

10. Health screening. Provision of screening to determine current health status, including counseling, follow-up, and referral, as needed.

11. ~~Home care/companion~~ *Chore* services. Provision of light housekeeping, ~~companionship~~ and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

12. Home delivered meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current recommended dietary allowance for older persons. The meals must be delivered and received at the homes of the individuals.

13. Home health services. Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

14. Homemaker/personal care services. Provision of nonmedically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

15. Identification/discount program. Provision to older persons of a card which can be used as identification to cash checks and to obtain discounts for goods and services from participating merchants.

16. Legal assistance. Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

17. Long-term care coordinating activity. Provides for the participation of area agency staff on the local long-term care coordinating committee or committees and in the planning and implementation of a coordinated service delivery system.

18. Public information *and education*. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

19. Residential repair and renovation. Provision of home repairs or home maintenance to persons 60 years of age and older (includes weatherization provided with Older American Act funds).

20. Services to persons in institutions. Provision of consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for facility residents.

21. Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure

time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

22. Substate long-term care ombudsman program. Serves as a point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care and their families and friends and recommends changes in the long-term care system which will benefit these individuals as a group.

23. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

24. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising volunteers; and developing opportunities for older persons to do volunteer work in the community.

D. An Area Agency on Aging may provide a service, other than those listed above, under the following conditions:

1. The service is consistent with the goals and objectives of the Older Americans Act, *as amended*.
2. The area agency makes a written request to, and receives written approval from, the Virginia Department for the Aging.
3. Such written request includes at least the following:
 - a. A description of the service to be provided;
 - b. A budget for the service for the duration of the current Area Plan for Aging Services, including sources and amounts of all funding for the service; and
 - c. A summary of the process which the area agency used to obtain public comment on the service to be provided.
4. If the area agency plans to provide the service directly, the area agency must comply with 22 VAC 5-20-120.

E. If a citizen, organization, or local government should believe an Area Agency on Aging or its Area Plan for Aging Services substantially fails to comply with the provisions of the Older Americans Act, *as amended*, the complaint shall be addressed in writing to the Commissioner of the Virginia Department for the Aging, detailing the reasons and bases for the complaint.

F. In the alternative, a complaint can be initiated at the local level with the substate ombudsman program, under circumstances described in 22 VAC 5-20-590 D 2 and 22 VAC 5-20-590 D 3 for reporting complaints to the Virginia Department for the Aging.

G. If, after an investigation is conducted, the commissioner has cause to believe that there are substantial grounds for termination of the designation of the area agency which is the subject of the complaint, pursuant to 22 VAC 5-20-60 B 3 c, the commissioner shall provide notice to the area agency of intent to withdraw its area agency designation within 30 days, stating the bases, and shall provide an opportunity for a hearing if requested within 15 days of receipt of the notice by the area agency involved. Failure to request a hearing shall result in withdrawal of the area agency designation at the end of the 30th day after receipt of the notice by the area agency.

H. The hearing, if timely requested, shall be provided consistent with the provisions of the Virginia Administrative Process Act, § ~~9-6-14:14~~ 2.2-4019 of the Code of Virginia. Within 30 days of the close of the hearing, unless the case is disposed of by consent during the hearing process, the commissioner shall render a written decision. If the commissioner finds that the Area Plan for Aging Services of the Area Agency on Aging or the administration of the area plan by the area agency does not comply with the requirements and provisions of the Older Americans Act, *as amended*, the commissioner shall withdraw the designation, pursuant to 45 CFR 1321.35. If there are significant, correctable problems in the Area Plan for Aging Services or the administration thereof, the commissioner may allow the area agency to continue as such, contingent upon appropriate changes and attainment of compliance within a stated time period.

I. When the cause for termination endangers the health, safety and welfare of the population to be served or jeopardizes the financial or programmatic provision of functions and services, suspension of the area agency shall be immediate, and termination shall become final within 30 days, unless good cause is shown by clear and convincing evidence.

22 VAC 5-20-90. Population to be served.

A. All Virginians age 60 years or older are eligible to receive services provided under an Area Plan for Aging Services. An Area Agency on Aging shall give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals *and older individuals residing in rural areas*. Older Americans Act, *as amended*, funds and state funds shall be targeted to services which can assist older persons to function independently for as long as possible.

B. Any Virginian 60 years of age or older and his or her spouse, regardless of age, are eligible to receive congregate nutrition services.

1. The following individuals are also eligible to receive congregate nutrition services:

- a. A handicapped or disabled individual who is under the age of 60 years and who resides in a housing facility

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occupied primarily by older individuals at which congregate nutrition services are provided.

b. An individual, regardless of age, who provides volunteer services during the meal hours.

c. A disabled individual under age 60 who resides at home with and accompanies an older individual who is otherwise eligible.

C. Any Virginian 60 years of age or older, who is homebound by reason of illness or incapacitating disability or otherwise isolated, is unable to prepare his own meal, and has no one to prepare food for him is eligible to receive home-delivered nutrition services. 4. The following individuals are also eligible to receive home-delivered nutrition services:

a. The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if receipt of the meal is in the best interest of the homebound older person. Each Area Agency on Aging shall establish criteria for determining when receipt of the meal is in the best interest of the older person.

b. A nonelderly disabled individual who resides at home with an older individual who is otherwise eligible.

22 VAC 5-20-100. Priority services.

A. An Area Agency on Aging shall spend at least 15% of its Title III-B allotment for services associated with access to other services, as defined in 22 VAC 5-20-20.

B. An Area Agency on Aging shall spend at least 5.0% of its Title III-B allotment for in-home services, as defined in 22 VAC 5-20-20.

C. An Area Agency on Aging shall spend at least 1.0% of its Title III-B allotment for legal assistance for the elderly.

D. An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, shall spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

E. To the extent that the priority services and the proportional expenditure level to be allotted to them are prescribed by law and regulation of the federal government, this section is exempt from the procedural requirements of the Virginia Administrative Process Act, pursuant to § 9-6.14:4.1 2.2-4002 B 4 of the Code of Virginia.

F. The Virginia Department for the Aging may waive the requirement described in 22 VAC 5-20-100 A through 22 VAC 5-20-100 C subsections A through C of this section for any category of services described in that section if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in such area.

G. Before an Area Agency on Aging requests a waiver pursuant to 22 VAC 5-20-100 subsection F of this section, the Area Agency on Aging shall conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver shall notify all interested persons of the public hearing.

2. The area agency shall provide interested persons with an opportunity to be heard.

3. The Area Agency on Aging requesting the waiver shall receive, for a period of 30 days, any written comments submitted by interested persons.

H. The Area Agency on Aging shall furnish a complete record of the public comments with the request for the waiver to the Virginia Department for the Aging.

22 VAC 5-20-110. ~~In-home services for frail older individuals. (Repealed.)~~

~~A. The services to be provided under this section are those mandated by Title III-D of the Older Americans Act (42 USC § 3001 et seq.), and are expressly in addition to the in-home services and the expenditures for such category of services required pursuant to 22 VAC 5-20-100 B.~~

~~B. In order to determine the eligibility of a frail older person to receive in-home services under Title III-D of the Older Americans Act, as amended, an Area Agency on Aging shall take into account the following criteria:~~

~~1. The person is at least 60 years of age;~~

~~2. The person has an income at or below the poverty level established by the U.S. Office of Management and Budget;~~

~~3. The person is restricted in his ability to perform at least two activities of daily living; and~~

~~4. The person lacks community support mechanisms to assist in the provision of Title III-D services.~~

~~C. Title III-D funds shall be used in addition to, and not to supplant, any funds which are, or would otherwise be, expended under any other federal, state, or local program. As a new provision within the Older Americans Act, Title III-D has earmarked these funds to be applied exclusively for in-home services for eligible individuals as defined in 22 VAC 5-20-110 B.~~

~~D. An Area Agency on Aging expending funds under Title III-D shall consult and coordinate the provision of Title III-D services with other agencies and organizations which administer or provide health, social, rehabilitative, and mental health services to older persons in the planning and service area.~~

~~E. At a minimum, the area agency shall consult with the following agencies and organizations providing services to older persons:~~

~~1. Local long-term care coordinating committees established pursuant to § 2.1-373.7 of the Code of Virginia;~~

~~2. Local community services boards and community mental health centers;~~

~~3. Local health departments; and~~

~~4. Local departments of social services.~~

22 VAC 5-20-120. Direct services.

A. An Area Agency on Aging shall not provide directly any supportive services or nutrition services except where, in the

judgment of the Virginia Department for the Aging, pursuant to a request for waiver as set forth in ~~22 VAC 5-20-120 subsection B of this section~~, provision of such services by the area agency is necessary to assure an adequate supply of such services, or where such services are directly related to the area agency's administrative functions, or where such services of comparable quality can be provided more economically by the area agency.

B. An Area Agency on Aging shall request explicitly, in writing, a waiver to provide supportive services or nutrition services. The request for a waiver must include, at a minimum, the area agency's rationale for providing the service directly, including sufficient documentation that provision of such service by the area agency is necessary to assure an adequate supply of such service, or that such service is directly related to the area agency's administrative functions, or that such service of comparable quality can be provided more economically by the area agency.

C. Unless and until a waiver has been granted in writing by the Virginia Department for the Aging, an Area Agency on Aging shall not provide or begin to provide any supportive or nutrition service using Older Americans Act, as amended, or state funds.

22 VAC 5-20-140. Authority to expend federal and state funds.

A. By virtue of the Virginia Department for the Aging's approval of an Area Plan for Aging Services, issuance of a notice of approval, and execution of the contract, an Area Agency on Aging is granted authority to incur costs under its approved area plan for eligible activities, for the period covered by the area plan. This authorization to incur costs under its approved area plan is extended only for allowable and allocable costs which are also reasonable and net of all applicable credits.

B. An Area Agency on Aging receiving a contractual award pursuant to an approved area plan understands and agrees that the period of the contractual award is for one year. Prior to the renewal of the contractual award of any additional financial support for any subsequent period, the Virginia Department for the Aging may conduct an on-site evaluation of the Area Agency on Aging to determine if the objectives of the area plan are being met and whether continued financial support is indicated.

C. An Area Agency on Aging is to refer to the federal cost principles applicable to its type of organization to ascertain when prior approval is required from the Virginia Department for the Aging. In addition, prior approval may be required by the contractual award of funded support from the Virginia Department for the Aging or required by specific program legislation or regulation, including but not limited to the following:

1. Changes in the scope or objectives of the activities assured by the area plan, as approved and incorporated into the contractual award;
2. Undertaking any activities which are disapproved or restricted as a condition of the contractual award;

3. Any pending change of institutional affiliation of the Area Agency on Aging, any reassignment to a legal successor of interest, or any nominal or legal change in agency name. The Virginia Department for the Aging may in its discretion determine whether to approve such contractual modification and continue funding the existing project or projects under the new entity. Factors to be considered include assurances to continue the project or projects as approved and the acceptance of the new entity by the carrier of any surety bonds required for the project or projects;

4. Transferring to a third party, by contract or any other means, the actual performance of substantive responsibility for the management of the grant/contract. Generally, such changes may require the designation of a new Area Agency on Aging and the execution of a new contract;

5. Carrying over funds from one budget period to another;

6. Extending the budget/project period with or without additional funds;

7. Expending funds for the purchase of land or buildings;

8. Conveying, transferring, assigning, mortgaging, leasing, or otherwise encumbering property acquired under a grant/contract with the Virginia Department for the Aging;

9. Acquiring automatic data processing equipment (see ~~22 VAC 5-20-160~~ 22 VAC 5-20-280);

10. Incurring costs or liabilities prior to the effective date of any grant/contract award;

11. Paying fees to a consultant whenever the consulting agreement (i) constitutes a transfer of substantive management or administrative work to a third party, or (ii) results in a contract for management services that requires the Virginia Department for the Aging or the federal grantor agency's prior approval, as required by program regulations or other award terms;

12. Additional funding when clearly demonstrated to be essential;

13. Reallocating costs between closely related projects supported by two or more grant sources. Approval may be granted to charge costs to the Title III grant for which the costs are originally approved, or to another Department for the Aging project, when all of the following conditions are met:

- a. The projects are programmatically related;
- b. There is no change in the scope of the individual grants involved;
- c. The reallocation of costs is not detrimental to the conduct of work approved under each individual award; and
- d. The reallocation is not used to circumvent the terms and conditions of either individual award;

14. Indemnifying third parties;

15. Transferring funds between construction and nonconstruction;

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16. Traveling outside of the continental United States;
17. Contributing to a reserve fund for a self-insurance program;
18. Insuring any U.S. government-owned equipment; and
19. Meeting the costs of nonemergency patient care where other forms of medical cost reimbursement, such as but not limited to Medicaid, are available.

22 VAC 5-20-150. Chart of accounts.

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in 45 CFR ~~74.64~~ 74.21, an Area Agency on Aging shall adopt its own account structure based on its own external and internal reporting requirements.

22 VAC 5-20-170. ~~Use of Title III-C funds until USDA reimbursement funds.~~

~~Title III-C of the Older Americans Act, as amended (42 USC § 3001 et seq.), and incorporated by reference in this regulation, funds shall be given priority for reimbursement of the cost of nutrition services. Nutrition funding from USDA should be used to reimburse Title III-C at the time of receipt. Providers of nutrition services to older persons shall treat the USDA reimbursement funds as income upon receipt.~~

22 VAC 5-20-180. Reimbursement from other sources.

All reimbursement under Titles XIX and XX of the Social Security Act for services funded jointly by the Older Americans Act, *as amended* shall be considered "other federal funds" for budgeting and reporting purposes.

22 VAC 5-20-190. Liquidation of obligations.

A. Grantees/contractors of the Virginia Department for the Aging and subcontractors of the Area Agencies on Aging shall liquidate all obligations incurred under the Older Americans Act, *as amended* within 90 days of the end of the grant period. The Virginia Department for the Aging shall consider written requests for waivers of this rule in the case of any multiyear subcontracts involving construction or renovation.

B. All Virginia general fund moneys shall be spent by June 30 of the year covered by the award. No unliquidated obligations shall exist beyond June 30.

22 VAC 5-20-210. Authority to transfer funds between the titles of the Older Americans Act.

A. With the prior written approval of the Virginia Department for the Aging, an Area Agency on Aging may transfer funds between the titles of the Older Americans Act, *as amended*. Area agencies may request transfers of up to ~~15%~~ 25% ~~between~~ Title III-C(1) funds ~~to~~ and Title III-C(2) projects.

B. With the prior written approval of the department, area agencies may transfer up to 10% ~~of~~ *between* Title III-C funds ~~to~~ and Title III-B projects.

22 VAC 5-20-230. Taking security deposits and making payments on behalf of clients.

Unless an Area Agency on Aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents shall be prohibited from taking security deposits for clients or from making payments on behalf of participants of programs funded under the Older Americans Act, *as amended*. Where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be formally in place and the operation of the program periodically monitored by the Area Agency on Aging.

22 VAC 5-20-250. Up-to-date job descriptions for all Title III funded positions.

For each paid and volunteer position funded by Title III of the Older Americans Act, *as amended*, an Area Agency on Aging shall maintain:

1. A current and complete job description which shall cover the scope of each position-holder's duties and responsibilities and which shall be updated as often as required, and
2. A current description of the minimum entry-level standards of performance for each job.

22 VAC 5-20-300. Summary of procurement procedures.

A. Each Area Agency on Aging not subject by statute to the Virginia Public Procurement Act (§§ ~~41-35 through 41-80~~ 2.2-4300 *through* 2.2-4377 of the Code of Virginia) shall have written policies and procedures which are consistent with the provisions of the Virginia Public Procurement Act.

B. The Area Agency on Aging shall incorporate in any contract, grant, or purchase agreement of over ~~\$40,000~~ \$50,000 the conditions specified in the Virginia Public Procurement Act or those conditions provided in the written policies and procedures required in subsection A of this section.

22 VAC 5-20-310. Contract awards to Area Agencies on Aging.

The Virginia Department for the Aging is authorized under § ~~2.1-372~~ 2.2-703 of the Code of Virginia to award grants or contracts, or a combination of both, to a designated Area Agency on Aging to administer programs under an approved area plan. The Virginia Department for the Aging has determined that the contracts mechanism is the appropriate vehicle for making awards to Area Agencies on Aging in furtherance of its purpose under its approved area plan. Even though the procuring mechanism is called a contract, for purposes of interpreting federal regulations, the provisions for grants and grantees shall apply to an Area Agency on Aging rather than the provisions for contracts.

22 VAC 5-20-330. Authority for multiyear awards.

A. An Area Agency on Aging may enter into a multiyear subcontract provided such contract has a completion date, a binding schedule of costs for each year of the entire contract period, a satisfactory performance clause, and a funds-

availability clause. An optional-year contract is the preferred contracting mechanism for multiyear awards.

B. The maximum period of time for a multiyear subcontract from the effective date of the contract to close-out shall be ~~three~~ five years. Any subcontracts for periods longer than ~~three~~ five years shall be reprocured and renegotiated at the end of the ~~three~~ five-year period through normal competitive processes.

22 VAC 5-20-450. Carry-over funds.

Carry-over funds may represent obligated but unspent funds. For such funds to be available for expenditure in a subsequent fiscal year, the Virginia Department for the Aging must reauthorize in the subsequent area plan such funds for an area agency to obligate and expend. An Area Agency on Aging shall request authority for such reauthorization of funds. In general, carry-over balances from Titles III-B, III-C(1), III-C(2), and III-D should not exceed 10% of the federal/state obligation for the new fiscal year, computed separately. This 10% carry-over policy does not apply to Virginia general fund moneys; all of general fund moneys must be spent by June 30 of the fiscal year in which they have been awarded. Approval for the use of such federal carry-over funds shall be granted by the Virginia Department for the Aging only for specific uses and for a specified period of time.

22 VAC 5-20-460. Area Agencies on Aging retain own independent public accountants.

A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in ~~Chapter 3, Part 3, Amendment No. 3 of the Government Auditing Standards, as amended, (the Yellow Book) published by the U.S. Government General Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions.~~

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by minority individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor shall be required to conform to the requirements in ~~the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-128, or Attachment F, Audits of States, Local Governments, and Nonprofit Organizations, OMB Circular A-133; and the Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, OMB Circular A-110, as applicable.~~ This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for the Aging and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for the Aging or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for the Aging's standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

22 VAC 5-20-580. Office of the State Long-Term Care Ombudsman.

A. When handling complaints, the Office of the State Long-Term Care Ombudsman shall take the following steps:

1. Staff of the Office of the State Long-Term Care Ombudsman shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If the person alleging a reasonably specified complaint is unable or unwilling to resolve the complaint himself, staff of the Office of the State Long-Term Care Ombudsman will attempt to obtain reasonably specific information from the complainant, in accordance with which staff of the Office of the State Long-Term Care Ombudsman shall assess the complaint to determine the most appropriate means of investigating and resolving the complaint.

a. Staff of the Office of the State Long-Term Care Ombudsman shall investigate reasonably specified complaints reported to the office which allege action, inaction, or decisions of providers of long-term care services (or their representatives) which may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. Staff of the Office of the State Long-Term Care Ombudsman shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. Staff of the Office of the State Long-Term Care Ombudsman shall refer complaints concerning long-term care regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation, pursuant to §§ ~~2.1-373.1 through 2.1-373.3~~ 2.2-704 through 2.2-707 of the Code of Virginia.

d. When the complaint alleges abuse, neglect, or exploitation, staff of the Office of the State Long-Term Care Ombudsman shall make a referral by telephone immediately to the appropriate Adult Protective Services staff in the appropriate local Department of Social Services. "Appropriate local Department of Social Services" means the Department of Social Services (i) in the locality where the alleging person resides, or (ii) in the locality where the abuse, neglect, or exploitation is alleged to have occurred, or (iii) in the locality where the complaint is discovered.

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e. Staff of the Office of the State Long-Term Care Ombudsman shall forward a reasonably specified complaint to the appropriate regulatory agency or to the Adult Protective Services unit within three working days of the date on which the complaint is received.

f. Staff of the Office of the State Long-Term Care Ombudsman shall complete their investigation of a complaint handled by the office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any long-term care provider or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint under this regulation or for providing assistance to the complaining party.

B. Staff of the Office of the State Long-Term Care Ombudsman shall comply with the provisions of confidentiality required by ~~§ 2.1-373.2 and Chapter 26 (§ 2.3-377 et seq.) of Title 2.1~~ §§ 2.2-706 and 2.2-3800 et seq. of the Code of Virginia concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office.

C. Staff of the Office of the State Long-Term Care Ombudsman shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation.

D. Staff of the Office of the State Long-Term Care Ombudsman may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the State Ombudsman.

E. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be bound by the provisions of ~~22 VAC 5-20-580 subsections A through 22 VAC 5-20-580 C of this section.~~

F. Section ~~2.1-373.4~~ 2.2-705 of the Code of Virginia provides to the staff of the Office of the State Long-Term Care Ombudsman the right of access to long-term care facilities and to the residents and records of such facilities.

G. All substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be provided the same rights of access as those set forth in ~~22 VAC 5-20-580 subsection F of this section.~~

22 VAC 5-20-600. Conflict of interest.

Staff and representatives of the Office of the State Long-Term Care Ombudsman and staff and representatives of the substate ombudsman program shall have no conflicts of interest with regard to long-term care facilities, long-term care

providers, and long-term care issues, pursuant to ~~Chapter 40.1 (§ 2.1-639.4 § 2.2-3100 et seq.) of Title 2.1~~ of the Code of Virginia.

DOCUMENTS INCORPORATED BY REFERENCE

OMB Circular A-110, Attachment F.

Government Auditing Standards, Amendment No. 3, January 2002.

OMB Circular No. A-133, Revised 6/24/97.

~~OMB Circular A-128.~~

~~Standards for Audit of Governmental Organizations, Programs, Activities and Functions.~~

VA.R. Doc. No. R02-325; Filed August 2, 2002, 3:04 p.m.



EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: **4 VAC 20-754. Pertaining to Importation of Fish, Shellfish or Crustacea (amending 4 VAC 20-754-30).**

Statutory Authority: §§ 28.2-201, 28.2-210 and 28.2-825 of the Code of Virginia.

Effective Dates: August 28, 2002, through September 27, 2002.

Summary:

The emergency regulation specifies that importation of hatchery seed clams of the genus Mercenaria is prohibited for a period of 180 days.

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

4 VAC 20-754-30. Approved species and criteria for importation.

A. Pursuant to the provisions of § 28.2-825 of the Code of Virginia *and under the following conditions*, it shall be lawful to import into the Commonwealth, with the intent of placing such animals into the waters of the Commonwealth, any species listed below, *except as specified in subdivision 1 of this subsection*:

1. Any hard clam of the species *Mercenaria mercenaria* from the waters of any coastal area or state within the continental United States and which is absent of any known shellfish pathogen, *except that any importation of hatchery produced seed of the genus Mercenaria from Pacific coastal states or states south of Virginia shall be prohibited for a period of up to 180 days.*
2. Any American oyster shellstock of the species *Crassostrea virginica* greater than 25mm in shell height from the waters of New England, Mid-Atlantic, or South Atlantic coastal areas or states and which is absent of any known shellfish pathogen.
3. Any American oyster hatchery produced seed of the species *Crassostrea virginica* less than 25mm in shell height from the waters of any coastal area or state within the Continental United States and which is absent of any known shellfish pathogen.
4. Any bay scallop hatchery produced seed of the species *Argopecten irradians* less than 25mm in shell height from the waters of any coastal area or state within the continental United States and absent of any known shellfish pathogen.
5. Any surf clam hatchery produced seed of the species *Spisula solidissima* less than 25mm in shell length from the waters of any coastal area or state within the continental

United States and which is absent of any known shellfish pathogen.

6. Any soft shell clam-hatchery-produced-seed of the species *Mya arenaria* less than 25mm in shell length from the waters of any coastal area or state within the United States which is absent of any known shellfish pathogen.

7. Any pre-molt (peeler) blue crab of the species *Callinectes sapidus* from the waters of the states of New Jersey, Delaware, Maryland, North Carolina, South Carolina, or Georgia.

B. A certified statement from an approved shellfish pathologist as to the complete absence of known shellfish pathogens in a random sample shall be provided to the Virginia Marine Resources Commission, Fisheries Management Division, at least 10 days prior to the shipment of any molluscan shellfish specified above for introduction into the waters of the Commonwealth. The test for shellfish pathogens in all shellfish species except oysters shall be from a random sample of 60 individuals from the shipment or population in question that was examined by histological and fluid thioglycollate methods within 60 days of each importation. For oysters, samples shall be tested within 30 days of each importation.

C. Shipments of any molluscan shellfish specified above, upon entry into the Commonwealth for introduction into the waters of the Commonwealth, shall be accompanied by a certified statement from an approved shellfish pathologist as to the complete absence of known shellfish pathogens in a random sample of 60 individuals from the shipment or population in question and written acknowledgement from the Virginia Marine Resources Commission on the receipt of such statement.

D. Shipments of any species under the provisions of this chapter shall be accompanied by documentation of the quantity imported.

E. The provisions of the chapter shall not apply to the importation of any molluscan shellfish from the waters of the Delaware Bay or the Maryland portion of the Chesapeake Bay and its tributaries.

VA.R. Doc. No. R03-1; Filed September 3, 2002, 11:30 a.m.



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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services intends for the following emergency regulation titled, 12 VAC 30-141, Family Access to Medical Insurance Security Plan (FAMIS) to replace 12 VAC 30-141, Family Access to Medical Insurance Security Plan, which was published as an emergency regulation in 18:25 VA.R. 3580-3590 August 26, 2002.

Title of Regulation: 12 VAC 30-141. Family Access to Medical Insurance Security Plan (FAMIS) (adding 12 VAC 30-141-10 through 12 VAC 30-141-650).

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 324F of Chapter 899 of the 2002 Acts of Assembly.

Effective Dates: September 1, 2002, through August 31, 2003.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia and pursuant to Item 324F of Chapter 899 of the 2002 Virginia Acts of Assembly. This item provided that "[n]otwithstanding the provisions of § 2.2-4011, Code of Virginia, the authority of the Department to issue emergency regulations for the Family Access to Medical Insurance Security Plan (FAMIS) shall be extended through July 31, 2003."

This regulatory action amends the Family Access to Medical Insurance Security Plan (FAMIS) regulations consistent with discussions with advocacy groups. 12 VAC 30-141 has been substantially revised in its entirety to incorporate program changes. A discussion of the changes follows.

DEFINITIONS. The definitions have been revised as is appropriate to reflect other changes in the regulations.

ADMINISTRATION and OUTREACH/PUBLIC PARTICIPATION (12 VAC 30-141-20 and 12 VAC 30-141-30). Reference to premiums (other than with respect to ESHI) has been removed from the director's authority section because the FAMIS program will no longer be charging premiums to enrollees or their families.

REVIEW OF ADVERSE ACTIONS (12 VAC 30-141-40 through 12 VAC 30-141-70). These sections provide for the handling of reviews of adverse actions. In the current FAMIS program, these sections list the managed care entities, the Central Processing Unit, and DMAS as the entities that may take adverse actions and to which requests for review of such actions may be submitted. These sections also specify the timeframe for sending written notices of adverse action. The revised language adds local departments of social services to the list of entities that can take adverse actions and to which requests for review can be submitted. The revised language also provides for enrollees to have a timely review of their files and other applicable information, to fully participate in the review process, and to receive written final decisions within

90 calendar days unless the applicants/enrollees request or cause delays. Review procedures stipulate that a managed care entity's review policies and procedures must copy the Commonwealth's MCHIP regulations. This change is necessary to support standardized procedures for program enrollees in managed care.

ELIGIBILITY DETERMINATION AND APPLICATION REQUIREMENTS. (12 VAC 30-141-100 through 12 VAC 30-141-150). The following changes and clarifications have been made to facilitate the application and enrollment process for children's health insurance.

12 VAC 30-141-100. Eligibility requirements. This section has been revised to address the use of a single "Child Health Insurance Application" form that will be accepted by either the FAMIS Central Processing Unit or local departments of social services. Previously, separate application forms were required for FAMIS and for Medicaid and only the FAMIS CPU was permitted to determine FAMIS eligibility. Under these new regulations, local departments of social services will also determine eligibility for the FAMIS program. When a child health insurance application is received by a local department of social services, the local agency will first determine the child's eligibility for Medicaid and if the child is determined Medicaid ineligible, the local agency will proceed with a FAMIS eligibility determination and enroll eligible children in FAMIS.

Revisions have also been made to clarify that a child is considered to be uninsured if the child's insurance does not have a network of providers in the area where the child lives. The good cause reasons for allowing a child to be enrolled in FAMIS when child health insurance has been discontinued in the six-month period prior to the application month have been added. One of the good cause reasons addresses the discontinuance of insurance due to "affordability." Good cause reasons for discontinuing health insurance previously were not included in the regulations.

12 VAC 30-141-110. Duration of eligibility. Technical changes have been made to this section to include an adult relative caretaker among the persons who may be responsible for reporting changes that affect a child's eligibility.

12 VAC 30-141-120. Children ineligible for FAMIS. A previous provision that prohibited children from participation in FAMIS when their absent parent was eligible for coverage under the State Employee Health Insurance Plan has been eliminated. Under this regulatory action, absent parents are not included in the child's family unit and information on their employment status is not collected on the new application form. Technical changes have also been made to this section to permit the adult relative caretaker to file an application on behalf of a child under age 18.

12 VAC 30-141-150. Application requirements. This section has been revised to (i) allow Child Health Insurance applications to be accepted at the FAMIS CPU and at local departments of social services, (ii) allow eligibility determinations for FAMIS to occur at either local

departments of social services or at the FAMIS CPU, (iii) allow an adult relative caretaker to sign an application on behalf of a child, (iv) specify the time standards for processing applications received at local departments of social services and the FAMIS CPU, and (v) require that all FAMIS cases be maintained at the FAMIS CPU.

Medicaid Expansion of Eligibility to 133% of the Federal Poverty Level (FPL). The 2002 Acts of Assembly (Chapter 899, Item 324 D), increased the income limits for children ages six through 18 from 100% to 133% of the Federal Poverty Level (FPL). DMAS addressed this provision in its modification to 12 VAC 30-40-280, which was submitted to the Registrar of Regulations for publication in 18:23 VA.R. 3099 July 29, 2002.

COST SHARING and EMPLOYER-SPONSORED HEALTH INSURANCE (12 VAC 30-141-160 and 12 VAC 30-141-170). One of the DMAS goals is to enroll all eligible children in Virginia in the FAMIS and Medicaid programs so that all eligible children in Virginia will have health care coverage. It was determined that premiums constituted a hardship for FAMIS families and was serving as a barrier to children enrolling in the program. When the premiums were removed for FAMIS families, they were also removed for ESHI participants to ensure consistency across the program.

This section has been revised to eliminate the provision that required families with incomes above 150% of the Federal Poverty Level (FPL) to pay monthly premiums. In addition, because monthly premium payments will no longer be required, the provisions regarding disenrollment for failing to pay premiums has also been removed.

12 VAC 30-141-170. **Employer-Sponsored Health Insurance (ESHI)**. This section has been revised to eliminate the provision that required ESHI families with incomes above 150% of the FPL to pay monthly FAMIS premiums. Previously, DMAS took into account any monthly premium the family would have paid had they not opted to participate in the ESHI component, and this amount was subtracted from the premium assistance that DMAS paid to the family to enable the family to enroll in their employer's plan. Because the elimination of these FAMIS premiums requires a change in the formula used to calculate the cost-effectiveness of ESHI, this part of the regulations has been revised as well.

BENEFITS AND REIMBURSEMENT (12 VAC 30-141-200 through 12 VAC 30-141-500). 12 VAC 30-141-200. This VAC section establishes two benefit packages for FAMIS children. The first, based on the state employee plan under Title XXI, is available in areas where managed care entities (MCEs) operate. The second benefit package, based on modified Title XIX benefits, is available to primary care case management (PCCM) and fee-for-service areas. This section also states that FAMIS children not in an MCE area will be enrolled in the FAMIS PCCM or fee-for-service program and will receive modified Title XIX look-alike benefits. This change is needed to clarify the managed care delivery system in effect in areas of the state where an MCE is not a choice.

QUALITY ASSURANCE AND UTILIZATION CONTROL (12 VAC 30-141-560 through 12 VAC 30-141-650). This section establishes the legal liability for any adult who attempts to obtain benefits to which the enrollee is not entitled. Providers found to have billed DMAS inappropriately, to have failed to maintain records and documentation of delivered services, or to have billed DMAS for medically unnecessary services will be required to refund payments received. This section also establishes providers' right to appeal pursuant to the Administrative Process Act and the DMAS' provider appeals regulations.

DMAS has estimated that the fiscal impact of the most significant new items contained in this emergency regulation (waiting period exception, caretaker/relative signing applications) to be \$220,645 (\$76,202 GF) (\$144,443 NGF) in FY 2003. The estimated fiscal impact of the expansion of Medicaid eligibility to 133% of the Federal Poverty Level, as contained in a previously referenced regulatory action, is \$381,482 (\$131,922 GF) (\$249,560 NGF) in FY 2003.

Agency Contact: Cynthia B. Jones, Deputy Director, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 786-1680 or e-mail cjones@dmass.state.va.us.

CHAPTER 141.

FAMILY ACCESS TO MEDICAL INSURANCE SECURITY PLAN (FAMIS).

PART I. GENERAL PROVISIONS.

12 VAC 30-141-10. Definitions.

"Act" means the Social Security Act.

"Adult relative caretaker" means an individual who is age 18 or older, who is not the parent but who is related to the child by blood or marriage, and who lives with and assumes responsibility for day to day care of the child in a place of residence maintained as his or their own home.

"Adverse action" means the denial of eligibility; failure to make a timely determination of eligibility; suspension or termination of enrollment; or delay, denial, reduction, suspension, or termination of health services, in whole or in part.

"Agent" means an individual designated in writing to act on behalf of a FAMIS Plan applicant or enrollee during the administrative review process.

"Agency" means a local department of social services, the Central Processing Unit, or other entity designated by DMAS to make eligibility determinations for FAMIS.

"Agency error" means a person or persons received benefits to which they were not entitled as a result of an error on the part of an eligibility worker at a local department of social services or the Central Processing Unit.

"Applicant" means a child who has filed an application (or who has an application filed on his behalf) for child health insurance, who has been screened or determined to be ineligible for Medicaid and is awaiting a FAMIS eligibility

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determination. A child is an applicant until a child's eligibility has been determined for FAMIS.

"Authorized representative" means a person who is authorized to conduct the personal or financial affairs for an individual who is 18 years of age or older.

"Board" or "BMAS" means that policy board created by the Code of Virginia § 32.1-324 to administer the plans established by the Social Security Act.

"CMSIP" means that original child health insurance program that preceded FAMIS.

"Central Processing Unit or CPU" means the entity that will determine eligibility for and administer part of the Family Access to Medical Insurance Security Plan or FAMIS.

"Child" means an individual under the age of 19 years.

"Child health insurance application" means the form developed and approved by the Department of Medical Assistance Services that is used by local departments of social services and the FAMIS CPU for determining eligibility for Medicaid for poverty level children and for the Family Access to Medical Insurance Security Plan (FAMIS).

"Competent individual" means a person who has not been judged by a court to be legally incapacitated.

"Comprehensive health insurance coverage" means health benefits coverage, which includes the following categories of services at a minimum: inpatient and outpatient hospital services; physician's surgical and medical services; and laboratory and radiological services.

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person as defined in § 37.1-134.6 of the Code of Virginia.

"Continuation of enrollment" means ensuring an enrollee's benefits are continued until completion of the review process, with the condition that should the enrollee not prevail in the review process, the enrollee shall be liable for the repayment of all benefits received during the review process.

"COV" means Code of Virginia.

"Creditable health coverage" means that health coverage as defined in 42 USC 1397jj(c)(2).

"Director" means the individual, or his designee, specified in § 32.1-324 of the Code of Virginia with all of the attendant duties and responsibilities to administer the State Plan for Medical Assistance and the State Plan for FAMIS.

"DMAS" or "Department" means the Department of Medical Assistance Services.

"Employer-sponsored health insurance coverage" or "ESHI" means comprehensive employer-sponsored health insurance offered by the employer when the employer contributes at least 40 percent towards the cost of dependent or family coverage, or as otherwise approved by the Centers for Medicare and Medicaid Services (CMS). This component of FAMIS refers to the ability of DMAS to provide coverage to

FAMIS children by providing premium assistance to families who enroll the FAMIS children in their employer's health plan.

"Enrollee" means a child who has been determined eligible to participate in FAMIS and is enrolled in the FAMIS program.

"External Quality Review Organization" means the independent contractor assigned by DMAS to handle quality reviews and to conduct final review of MCE adverse actions for FAMIS.

"Family" (when determining financial eligibility) means parents, including adoptive and step-parents, and their children who are living in the same household. Family shall not mean grandparents or legal guardians. A child who is temporarily living outside the home while attending an educational or training program shall be considered to be living in the same household with his parents.

"Family" (when used in the context of the ESHI component) means a unit or group that has access to an employer's group health plan. Thus, it includes the employee and any dependents who can be covered under the employer's plan.

"FAMIS" means Family Access to Medical Insurance Security Plan.

"Federal Poverty Level" or "FPL" means that income standard as published annually by the U.S. Department of Health and Human Services in the Federal Register.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state laws.

"Gross family income" means the total income of all family members in a household. Income includes, but is not necessarily limited to, before-tax earnings from a job, including cash, wages, salary, commissions, and tips, self-employment net profits, Social Security, Retirement Survivor Disability Insurance (RSDI), veterans benefits, Railroad Retirement, disability workers' compensation, unemployment benefits, child support, alimony, spousal support, pensions, retirement benefits, settlement benefits, rental income, and lottery/bingo winnings. Income excludes public assistance program benefits such as SSI and TANF payments, foster care payments, general relief, loans, grants, or scholarships for educational expenses or earned income of a child who is a student.

"Group health plan" or "health insurance coverage" means that health care coverage as defined in 42 U.S.C. § 1397jj(c)(3).

"Guardian" means a person appointed by the court who is responsible for the personal affairs of an incapacitated person as defined in § 37.1-134.6 of the Code of Virginia.

"Incapacitated individual" means person who has been judged by a court to meet the criteria for being incapacitated as set forth in § 37.1-134.6 of the Code of Virginia and for whom a guardian or conservator as defined in § 37.1-134.6 has been appointed.

"LDSS" or "local department" means the local department of social services.

"Legal emancipation" means that the minor has been declared emancipated by a court following the procedures set forth in § 16.1-331 of the Code of Virginia and has been granted an order, pursuant to § 16.1-334, so stating. A married minor is not emancipated unless a court has declared the married minor emancipated from his parents.

"Managed care health insurance plan or "MCHIP" means an arrangement for the delivery of health care in which a health carrier undertakes to provide, arrange and pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis, which contains one or more incentive arrangements, including any credential requirements intended to influence the cost of the health care services between the health carrier and one or more providers, with respect to the delivery of health care services, and requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with or employed by the health carrier.

"MCE" means an entity that enters into a contract to provide services in a managed care delivery system, including but not limited to managed care organizations, prepaid health plans, and primary care case managers.

"Member of a family," for purposes of determining whether the child is eligible for coverage under a state employee health insurance plan, means a parent or parents, including stepparents or stepparents with whom the child is living, if the stepparent claims the child as a dependent on the employee's federal tax return .

"Premium assistance" means the portion of the family's cost of participating in the employer's plan that DMAS will pay to the family to cover the FAMIS children under the employer plan if DMAS determines it is cost-effective to do so.

"Primary care case management (PCCM)" means a system under which a primary care case manager contracts with DMAS to furnish case management services (which include the location, coordination, and monitoring of primary health care services) to FAMIS enrollees.

"Provider" means the individual, facility or other entity registered, licensed, or certified, as appropriate, and enrolled by an MCE or as a PCCM to render services to FAMIS enrollees eligible for services.

"Supplemental coverage" means additional coverage provided to FAMIS children covered under the ESHI component so that they can receive all of the FAMIS benefits and they are not required to pay any more cost sharing than they would have under FAMIS.

"Title XXI" means the federal State Children's Health Insurance Program as established by Subtitle J of the Balanced Budget Act of 1997.

"Virginia State Employee Health Insurance Plan" means a health insurance plan offered by the Commonwealth of Virginia to its employees and includes the Local Choice Program whereby local governmental entities elect to provide

local employees' enrollment in the State Employee Health Insurance Plan.

12 VAC 30-141-20. Administration and general background.

A. The state shall use funds provided under Title XXI for obtaining coverage that meets the requirements for a State Child Health Insurance Plan (also known as Title XXI).

B. The DMAS Director will have the authority to contract with entities for the purpose of establishing a centralized processing site, determining eligibility, enrolling eligible children into health plans, performing outreach, data collection, reporting, and other services necessary for the administration of the Family Access to Medical Insurance Security Plan and for employing state staff to perform Medicaid eligibility determinations on children referred by FAMIS staff.

C. Health care services under FAMIS shall be provided through managed care entities or fee-for-service providers.

12 VAC 30-141-30. Outreach and public participation. DMAS will work cooperatively with other state agencies and contractors to ensure that federal law and any applicable federal regulations are met.

A. Pursuant to § 32.1-351.2 of the Code of Virginia, DMAS shall maintain an Outreach Oversight Committee (the "Committee") to discuss strategies to improve outreach activities. The Committee members shall be selected by DMAS and shall be composed of representatives from community-based organizations engaged in outreach activities, social services eligibility workers, the provider community, health plans, and consumers. The Committee shall meet on a quarterly basis. As may be appropriate, the Committee shall make recommendations regarding state-level outreach activities, the coordination of regional and local outreach activities, and procedures for streamlining and simplifying the application process, brochures, other printed materials, forms, and applicant correspondence.

B. The Board, in consultation with the Committee, shall develop a comprehensive, statewide community-based outreach plan to enroll children in the FAMIS program or, if eligible, in Medicaid. The outreach plan shall include specific strategies for: (i) improving outreach and enrollment in those localities where enrollment is less than the statewide average, and (ii) enrolling uninsured children in either the FAMIS or Medicaid programs.

C. DMAS shall develop a comprehensive marketing and outreach effort. The marketing and outreach efforts will be aimed at promoting the FAMIS and Medicaid programs and increasing enrollment, and may include contracting with a public relations firm, coordination with other state agencies, coordination with the business community, and coordination with health care associations and providers.

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PART II.
REVIEW OF ADVERSE ACTIONS.

12 VAC 30-141-40. Review of adverse actions.

A. Upon written request, all FAMIS Plan applicants and enrollees shall have the right to a review of an adverse action made by the MCE, local department of social services, CPU or DMAS.

B. During review of a suspension or termination of enrollment the enrollee shall have a right to continuation of enrollment, if the enrollee requests review prior to the effective date of the suspension or termination of enrollment.

C. Review of an adverse action made by the local department of social services, CPU or DMAS shall be heard and decided by an agent of DMAS who has not been directly involved in the adverse action under review.

D. Review of an adverse action made by the MCE must be conducted by a person or agent of the MCE who has not been directly involved in the adverse action under review.

E. After final review by the MCE, there shall also be opportunity for final independent external review by the external review organization.

F. There will be no opportunity for review of an adverse action to the extent that such adverse action is based on a determination by the Director that funding for FAMIS has been terminated or exhausted.

G. The burden of proof shall be upon the applicant or enrollee to show that an adverse action is incorrect.

H. At no time shall the MCE's, local department's of social services, the CPU's, or DMAS' failure to meet the time frames set in this chapter or set in the MCE's or DMAS' written review procedures constitute a basis for granting the applicant or enrollee the relief sought.

I. Adverse actions related to health benefits covered under an employer sponsored health insurance (ESHI) plan shall be resolved between the employer's plan and the ESHI enrollee, and are not subject to further review by DMAS or its contractors. Adverse actions made by an MCE, the local department of social services, the CPU, or DMAS shall be subject to the review process set forth in this part of the regulations.

12 VAC 30-141-50. Notice of adverse action.

A. The local department of social services, the CPU, or DMAS shall send written notification to enrollees at least 10 calendar days prior to suspension or termination of enrollment.

B. The local department of social services, the CPU, DMAS or the MCE shall send written notification to applicants and enrollees of all other adverse actions within 10 calendar days of the adverse action.

C. Notice shall include the reasons for determination, an explanation of applicable rights to review of that determination, the standard and expedited time frames for review, the manner in which a review can be requested, and the circumstances under which enrollment may continue pending review.

12 VAC 30-141-60. Request for review.

A. Requests for review of MCE adverse actions shall be submitted in writing to the MCE.

B. Requests for review of adverse actions made by the local department of social services, the CPU or DMAS shall be submitted in writing to DMAS.

C. Any written communication clearly expressing a desire to have an adverse action reviewed shall be treated as a request for review.

D. To be timely, requests for review of a MCE determination shall be received by the MCE no later than 30 calendar days from the date of the MCE's notice of adverse action. Requests for review of a local department of social services, DMAS, or CPU determination shall be received by DMAS no later than 30 calendar days from the date of the CPU's, LDSS' or DMAS' notice of adverse action. Requests for review of a local department of social services, DMAS, or CPU determination shall be considered received by DMAS when the request is date stamped by the DMAS Appeals Division in Richmond, Virginia.

12 VAC 30-141-70. Review procedures.

A. The MCE review shall be conducted pursuant to written procedures developed by the MCE to replicate the Commonwealth's MCHIP regulations. The DMAS review shall be conducted pursuant to written procedures developed by DMAS.

B. The MCE's written procedures and any modifications thereto shall be reviewed and approved in writing by DMAS.

C. The procedures in effect on the date a particular request for review is received by the MCE or DMAS shall apply throughout the review.

D. Copies of the procedures shall be promptly mailed by the MCE or DMAS to applicants and enrollees upon receipt of timely requests for review.

E. The written procedures shall include but not be limited to the following:

1. The right to representation by an attorney or other agent of the applicant's or enrollee's choice, but at no time shall the MCE, local department of social services, DSS, or DMAS be required to obtain or compensate attorneys or other agents acting on behalf of applicants or enrollees;

2. The right to timely review their files and other applicable information relevant to the review of the decision;

3. The right to fully participate in the review process, whether the review is conducted in person or in writing, including the presentation of supplemental information during the review process;

4. The right to have personal and medical information and records maintained as confidential; and

5. The right to a written final decision within 90 calendar days of receipt of the request for review, unless the applicant or enrollee requests or causes a delay.

6. For eligibility and enrollment matters, if an individual's primary health provider or managed care organization determines that the 90 calendar day time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, an enrollee will have the opportunity to expedited review. Under these conditions, a review may take no longer than 3 business days from the date that DMAS receives the managed care organization's or primary health provider's case record, unless the individual or his authorized representative requests or causes a delay.

7. For health services matters for enrollee's receiving care through an MCE, if the enrollee's primary health provider or health plan determines that the 90 calendar day timeframe could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, an enrollee will have the opportunity to expedited review. Under these conditions, review by the MCE and review by the external quality review organization may each take no longer than 72 hours from the time an enrollee requests expedited review. Expedited review may be extended up to 14 calendar days, if the enrollee requests an extension.

8. For health services matters for enrollee's receiving care through fee-for-services, if the enrollee's primary health provider or health plan determines that the 90 calendar day timeframe could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, an enrollee will have the opportunity to expedited review. Under these conditions, review may take no longer than 72 hours from the time an enrollee requests expedited review. Expedited review may be extended up to 14 calendar days, if the enrollee requests an extension.

12 VAC 30-141-71 through 12 VAC 30-141-99. Reserved.

PART III.
ELIGIBILITY DETERMINATION AND APPLICATION
REQUIREMENTS.

12 VAC 30-141-100. Eligibility requirements.

A. This section shall be used to determine eligibility of children for FAMIS.

B. FAMIS shall be in effect statewide.

C. Eligible children must:

1. Be determined ineligible for Medicaid by a local department of social services or be screened by the FAMIS Central Processing Unit and determined not Medicaid likely,
2. Be under 19 years of age,
3. Be residents of the Commonwealth,
4. Be either U.S. citizens, U.S. nationals OR qualified non-citizens
5. Be uninsured, that is, not have comprehensive health insurance coverage,
6. Not be a member of a family eligible for subsidized dependent coverage under any Virginia State Employee Health Insurance Plan on the basis of the family member's employment with a State agency,

7. Not be a member of a family eligible for health benefits coverage on the basis of a family member's employment with an agency that participates in the Local Choice program where the employer contributes to the cost of dependent health insurance, and

8. Not be an inpatient in an institution for mental diseases (IMD), or an inmate in a public institution that is not a medical facility.

D. Income.

1. Screening. All child health insurance applications received at the FAMIS Central Processing Unit must be screened to identify applicants who are potentially eligible for Medicaid. Children screened and found potentially eligible for Medicaid cannot be enrolled in FAMIS until there has been a finding of ineligibility for Medicaid. Children who do not appear to be eligible for Medicaid shall have their eligibility for FAMIS determined. Children determined to be eligible for FAMIS will be enrolled in the FAMIS program. Child health insurance applications received at a local department of social services shall have a full Medicaid eligibility determination completed. Children determined to be ineligible for Medicaid due to excess income will have their eligibility for FAMIS determined. If a child is found to be eligible for FAMIS, the local department of social services will enroll the child in the FAMIS program.

2. Standards. Income standards for FAMIS are based on a comparison of gross family income to 200% of the Federal Poverty Level for the family size. Children who have gross family income at or below 200% of the Federal Poverty Level, but are ineligible for Medicaid due to excess income, will be income eligible to participate in FAMIS.

3. Grandfathered CMSIP children. Children who were enrolled in the Children's Medical Security Insurance Plan at the time of conversion from CMSIP to FAMIS and whose eligibility determination was based on the requirements of CMSIP shall continue to have their income eligibility determined using the CMSIP income methodology. If their gross family income exceeds the FAMIS standard, income eligibility will be based on countable income using the same income methodologies applied under the Virginia State Plan for Medical Assistance for children as set forth in 12 VAC 30-40-90. Income that would be excluded when determining Medicaid eligibility will be excluded when determining countable income for the former CMSIP children. Use of the Medicaid income methodologies shall only be applied in determining the financial eligibility of former CMSIP children for FAMIS and for only as long as the children meet the income eligibility requirements for CMSIP. When a former CMSIP child is determined to be ineligible for FAMIS, these income methodologies shall no longer apply and income eligibility will be based on the FAMIS income standards.

4. Spenddown. Deduction of incurred medical expenses from countable income (spenddown) shall not apply in FAMIS. If the family income exceeds the income limits described in this section, the individual shall be ineligible for FAMIS regardless of the amount of any incurred medical expenses.

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E. Residency. The requirements for residency, as set forth in 42 CFR §435.403, will be used when determining whether a child is a resident of Virginia for purposes of eligibility for FAMIS.

F. Qualified non-citizen. The requirements for qualified aliens set out in Public Law 104-193, as amended, and the requirements for non-citizens set out in 12 VAC 30-40-10 3 b and 3 c will be used when determining whether a child is a qualified non-citizen for purposes of FAMIS eligibility.

G. Coverage under other health plans.

1. Any child covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Services Act (42 USC § 300gg-91(a) and (b)(1)), shall not be eligible for FAMIS.

2. No substitution for private insurance.

a. Only uninsured children shall be eligible for FAMIS. Each application for child health insurance shall include an inquiry about health insurance the child currently has or had within the past six months. If the child had health insurance that ended in the past six months, inquiry as to why the health insurance ended is made. Each re-determination of eligibility shall also document inquiry about current health insurance or health insurance the child had within the past six months. If the child has been covered under a health insurance plan other than through the ESHI component of FAMIS within six months of application for or receipt of FAMIS services, the child will be ineligible, unless the child, if age 18 or if under the age of 18, the child's parent, caretaker relative, guardian, legal custodian or authorized representative demonstrates good cause for discontinuing the coverage.

b. Health insurance does not include Medicaid nor insurance for which DMAS paid premiums under Title XIX through the Health Insurance Premium Payment (HIPP) Program.

c. Good cause. A child shall not be ineligible for FAMIS if health insurance was discontinued within the six-month period prior to the month of application if one of the following good cause exceptions is met.

(1) The family member who carried insurance changed jobs or stopped employment and no other family member's employer contributes to the cost of family health insurance coverage.

(2) The employer stopped contributing to the cost of family coverage and no other family member's employer contributes to the cost of family health insurance coverage.

(3) The child's coverage was discontinued by an insurance company for reasons of uninsurability, e.g., the child has used up lifetime benefits or the child's coverage was discontinued for reasons unrelated to payment of premiums.

(4) Insurance was discontinued by a family member who was paying the full cost of the insurance premium under a COBRA policy and no other family member's

employer contributes to the cost of family health insurance coverage.

(5) Insurance on the child was discontinued by someone other than the child (if 18 years of age) or if under age 18, the child's parent, or step-parent, e.g., the insurance was discontinued by the child's grandparent, aunt, uncle, godmother, etc.

(6) Insurance on the child was discontinued because the cost of the premium exceeded 10% of the family's gross monthly income or exceeded 10% of the family's gross monthly income at the time the insurance was discontinued.

(7) Other good cause reasons as may be established by the DMAS Director.

12 VAC 30-141-110. Duration of eligibility.

A. The effective date of FAMIS eligibility shall be the first day of the month in which a signed application was received by either the FAMIS central processing unit or a local department of social services if the applicant met all eligibility requirements in that month. In no case shall a child's eligibility be effective earlier than the date of the child's birth.

B. Eligibility for FAMIS will continue for 12 months so long as the child meets all eligibility requirements. The parent, adult relative caretaker, legal guardian, or authorized representative of the child must report all changes affecting eligibility when such changes occur. A change in eligibility will be effective the first of the month following expiration of a ten-day advance notice. Eligibility will be re-determined no less often than annually.

C. Exception. If the child becomes an inpatient in an institution for mental disease or an inmate of a public institution, ineligibility will be effective the date that the child is admitted to the institution.

12 VAC 30-141-120. Children ineligible for FAMIS.

A. If a child is:

1. Eligible for Medicaid, or would be eligible if he applied for Medicaid, he shall be ineligible for coverage under FAMIS. A child found through the screening process to be potentially eligible for Medicaid but who fails to complete the Medicaid application process for any reason, cannot be enrolled in FAMIS.

2. A member of a family eligible for coverage under any Virginia State Employee Health Insurance Plan, including members of any family eligible for coverage under the Virginia State Employee Health Insurance Plan through the Local Choice Program where the employer contributes towards the cost of dependent coverage, shall be ineligible for FAMIS.

3. An inmate of a public institution as defined in 42 CFR § 435.1009, shall be ineligible for FAMIS; or

4. An inpatient in an institution for mental disease (IMD) as defined in 42 CFR § 435.1009, shall be ineligible for FAMIS.

B. If a child, if age 18, or if under age 18, a parent, adult relative caretaker, guardian, or legal custodian obtained

benefits for a child or children who would otherwise be ineligible by willfully misrepresenting material facts on the application or failing to report changes, the child or children for whom the application is made shall be ineligible for FAMIS. An administrative hearing shall be held to present the facts and upon a finding of intentional misrepresentation, the child or children shall be excluded from participation for 12 months from the date of the finding. The child, if age 18, or if under age 18, the parent, adult relative caretaker, guardian, or legal custodian who signed the application shall be liable for repayment of the cost of all benefits issued as the result of the misrepresentation.

12 VAC 30-141-130. Nondiscriminatory provisions.

A. FAMIS shall be conducted in compliance with all civil rights requirements.

B. FAMIS shall not:

1. Discriminate during the eligibility determination process on the basis of diagnosis;
2. Cover children of higher income without covering children with a lower family income within a defined group of covered targeted low-income children; and
3. Deny eligibility based on a child having a preexisting medical condition.

12 VAC 30-141-140. No entitlement.

In accordance with § 2102(b)(4) of the Social Security Act and § 32.1-353 of the COV, FAMIS shall not create any individual entitlement for, right to, or interest in payment of medical services on the part of any medically indigent child or any right or entitlement to participation.

12 VAC 30-141-150. Application requirements.

A. Availability of program information. DMAS or its designee shall furnish the following information in written form and orally as appropriate to all applicants and to other individuals who request it:

1. The eligibility requirements;
2. Summary of covered benefits;
3. Co-payment amounts required; and
4. The rights and responsibilities of applicants and enrollees.

B. Opportunity to apply. DMAS or its designee must afford an individual wishing to do so the opportunity to apply for Child Health Insurance. Child Health Insurance applications will be accepted at a central site designated by DMAS and at local departments of social services throughout the Commonwealth. Applicants may file an application for child health insurance by mail, by fax, or in person at local departments of social services. Applications filed at the FAMIS CPU can be submitted by mail, by fax or by phone. Face-to-face interviews for the program are not required. Eligibility determinations for FAMIS shall occur at either local departments of social services or at the DMAS designated central site.

C. Right to apply. A child shall not be refused the right to complete a child health insurance application for himself and shall not be discouraged from asking for assistance for himself under any circumstances.

D. Applicant's signature. The applicant must sign a state-approved official application form, even if another person fills out the form, unless the application is filed and signed by the applicant's parent, adult relative caretaker, legal guardian or conservator, attorney-in-fact or authorized representative.

E. Authorized representative for individuals 18 years of age or older.

1. The authorized representative of an incapacitated individual shall be the individual's legally appointed conservator or guardian.

2. A competent individual may sign an application on his own behalf where appropriate, or he may designate anyone to be his authorized representative to file a child health insurance application on his behalf. If a competent individual wants another person to file a child health insurance application for him, he must designate the authorized representative in a written statement that is signed by the individual applicant. The authorized representative statement is valid for the life of the child health insurance application or until the applicant changes or removes his authorized representative. If the child health insurance application is approved, the authorized representative statement is valid for any subsequent review and re-determination until the applicant's eligibility is cancelled. If the applicant reapplies for child health insurance, he must sign the application or provide a new authorized representative statement.

3. When an individual has given power-of-attorney to another person that includes the power to conduct the applicant's business affairs, the attorney-in-fact is considered the applicant's authorized representative.

4. For an individual who has not been determined by a court to be legally incapacitated, but who is reported to be physically unable to sign his name or to make a mark, an application may be signed under the following circumstances. When it is reported that an individual cannot sign the application and the individual does not have an attorney-in-fact, or authorized representative, the individual's inability to sign the application must be verified by a written statement from the individual's physician that the individual is physically unable to sign and file a child health insurance application because of the individual's diagnosis or condition.

F. Authorized representative for children under 18 years of age.

1. A minor child under 18 years of age who is a parent may apply for child health insurance for his or her own child.

2. An authorized employee of the public or private child placing agency that has custody of the child must sign the child health insurance application for a child under 18 years of age that is in foster care.

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3. A child applicant who is under 18 years of age is not legally able to sign a child health insurance application for himself unless he is legally emancipated from his parents. If the child applicant is not legally emancipated, his parents shall sign the application on the child applicant's behalf. If the child applicant is married and the child applicant's spouse is 18 years of age or older, the spouse may sign the application on the child applicant's behalf. If the child applicant does not live with a parent or spouse who is 18 years of age or older, the adult relative caretaker with whom the child lives or the adult who has legal custody or who is the legal guardian of the child applicant must sign the application. A child applicant's parent, adult relative caretaker, guardian or legal custodian may designate an authorized representative to complete a child health insurance application on behalf of the child applicant. The authorization must be in writing in accordance with this section.

G. If the child applicant has no adult guardian, adult relative caretaker, or legal custodian, then the caregiver for the child applicant shall be responsible for seeking custody or guardianship of the child applicant:

1. If a motion has been filed in court to appoint a guardian or seek legal custody of the child, the child health insurance application shall be held in a pending status. If verification is received within 10 working days that court action has been initiated, the application will be continued until the guardian is appointed or custody is awarded. When the guardian has been appointed or custody awarded, the eligibility worker must provide the child health insurance application to the guardian or custodian. The guardian or custodian must return the signed application and documentation of his appointment within 10 working days. If the application or documentation is not returned by either 10-day deadline, the child's eligibility shall be denied.

2. If guardianship or custody procedures have not been filed with the court, the eligibility worker must refer the child to the appropriate child welfare service worker. The child health insurance application shall be held in a pending status until the service investigation is completed and any court proceedings are completed. If the court emancipates the child, the child must sign the application and return it to the eligibility worker within 10 working days. If a guardian is appointed or custody awarded, the eligibility worker must provide the child health insurance application to the guardian or custodian. The guardian or custodian must return the signed application and documentation of his appointment within 10 working days. If the application or documentation is not returned by the deadline, eligibility shall be denied.

H. Persons prohibited from signing an application. An employee of, or an entity hired by, a medical service provider who could obtain Family Access to Medical Insurance Security payments shall not sign a child health insurance application on behalf of an individual who cannot designate an authorized representative.

I. Written application. DMAS or its designee shall require a written application from the applicant if at least 18 years of age or older, or from a parent, adult relative caretaker,

guardian, legal custodian, or authorized representative if the applicant is less than 18 years of age or the applicant is incapacitated. The application must be on a form prescribed by DMAS, and must be signed under a penalty of perjury. The application form shall contain information sufficient to determine Medicaid and FAMIS eligibility.

J. Assistance with application. DMAS or its designee shall allow an individual or individuals of the applicant's choice to assist and represent the applicant in the application process, or a re-determination process for eligibility.

K. Timely determination of eligibility. The time processing standards for determining eligibility for child health insurance begin with the date a signed application is received either at a local department of social services or the FAMIS CPU. Child health insurance applications received at local departments of social services must have a full Medicaid eligibility determination and, when a child is determined to be ineligible for Medicaid due to excess income, a FAMIS eligibility determination performed, within Medicaid case processing time standards.

Except in cases of unusual circumstances as described below, child health applications received at the FAMIS CPU and screened as ineligible for Medicaid shall have a FAMIS eligibility determination completed within 10 business days of the date the complete application was received at the CPU. Applications that are screened as Medicaid likely will be processed within Medicaid case processing time standards.

1. Unusual circumstances include: administrative or other emergency beyond the agency's control. In such case, DMAS, or its designee, or the LDSS must document, in the applicant's case record, the reasons for delay. DMAS or its designee or the local department of social services must not use the time standards as a waiting period before determining eligibility or as a reason for denying eligibility because it has not determined eligibility within the time standards.

2. Incomplete applications shall be held open for a period of 30 calendar days to enable applicants to provide outstanding information needed for an eligibility determination. Any applicant who fails to provide, within 30 calendar days of the receipt of the initial application, information or verifications necessary to determine eligibility, shall have his application for FAMIS eligibility denied.

L. Notice of DMAS', its designee's or the local department of social services' decision concerning eligibility. DMAS, its designee or the local department of social services must send each applicant a written notice of the agency's/designee's decision on his application, and, if approved, his obligations under the program. If eligibility for FAMIS is denied, notice must be given concerning the reasons for the action and an explanation of the applicant's right to request a review of adverse case actions.

M. Case documentation. DMAS, its designee or the local department of social services must include in each applicant's record all necessary facts to support the decision on his application, and must dispose of each application by a finding of eligibility or ineligibility, unless (i) there is an entry in the

case record that the applicant voluntarily withdrew the application and that the agency or its designee sent a notice confirming his decision; (ii) there is a supporting entry in the case record that the applicant has died; or (iii) there is a supporting entry in the case record that the applicant cannot be located.

N. Case maintenance. All cases approved for FAMIS shall be maintained at the FAMIS CPU. Children found by local departments of social services to be eligible for FAMIS shall have their cases transferred to the FAMIS CPU for ongoing case maintenance. The FAMIS CPU will be responsible for providing newly enrolled recipients with program information, benefits available, how to secure services under the program, a member handbook, and for processing changes in eligibility and annual renewals within established time frames.

O. Re-determination of eligibility. DMAS or the FAMIS CPU must re-determine the eligibility of enrollees with respect to circumstances that may change at least every 12 months. Enrollees must make timely and accurate reports of all changes in circumstances that may affect their eligibility. DMAS or the FAMIS CPU must promptly re-determine eligibility when it receives information about changes in a FAMIS enrollee's circumstances that may affect eligibility. If the FAMIS CPU has information about anticipated changes in a FAMIS enrollee's circumstances, it must re-determine eligibility at the appropriate time based on those changes.

P. Notice of decision concerning eligibility. DMAS or the FAMIS CPU must give enrollees timely notice of proposed action to terminate their eligibility under FAMIS. The notice must meet the requirements of 42 CFR §457.1180.

12 VAC 30-151 through 12 VAC 30-141-158. Reserved.

PART IV. COST SHARING.

12 VAC 30-141-160. Co-payments for families not participating in employer-sponsored health insurance (ESHI).

A. Co-payments. Co-payments shall apply to all enrollees in an MCE (above and below 150 percent of the Federal Poverty Level (FPL) Income Guidelines, as published by the U. S. Department of Health and Human Services in the Federal Register).

B. These cost-sharing provisions shall be implemented with the following restrictions:

1. Total cost sharing for each 12-month eligibility period shall be limited to: (a) for families with gross incomes equal to or less than 150 percent of FPL, the lesser of (i) \$180.00 and (ii) two and one-half percent of the family's income for the year (or 12-month eligibility period); and (b) for families with incomes greater than 150 percent of FPL, the lesser of (i) \$350.00 and (ii) five percent of the family's income for the year (or 12-month eligibility period).

2. The Commonwealth shall ensure that the annual aggregate cost sharing for all FAMIS enrollees in a family does not exceed the aforementioned caps.

3. Families will be required to submit documentation to DMAS or its designee, showing that their maximum co-payment amounts are met for the year.

4. Cost sharing will be monitored to ensure that maximum allowable cost sharing per family is not exceeded. Once the cap is met, DMAS or its designee will issue a new eligibility card excluding such families from paying additional co-pays.

C. Exceptions to the above cost-sharing provisions:

1. Co-payments shall not be required for well-child, other preventive services, and for families participating in ESHI. This shall include:

a. All healthy newborn inpatient physician visits, including routine screening (inpatient or outpatient);

b. Routine physical examinations, laboratory tests, immunizations, and related office visits; and,

c. Routine preventive and diagnostic dental services (i.e., oral examinations, prophylaxis and topical fluoride applications, sealants, and x-rays).

2. Enrollees are not held liable for any additional costs, beyond the standard co-payment amount, for emergency services furnished outside of the individual's managed care network. Only one co-payment charge will be imposed for a single office visit.

3. No cost sharing will be charged to American Indians and Alaska Natives.

12 VAC 30-141-161 through 12 VAC 30-141-169. Reserved.

12VAC 30-141-170. Employer-sponsored health insurance (ESHI). Enrollees in FAMIS who have access to employer-sponsored health insurance coverage may, but shall not be required to, enroll in an employer's health plan if DMAS or its designee determines that such enrollment is cost-effective, as defined below.

A. Eligibility determination. FAMIS children who have access to health insurance coverage under an employer-sponsored plan may elect to receive coverage under the employer plan and DMAS may elect to provide coverage by paying a portion of the premium if the following conditions are met:

1. The children are enrolled in FAMIS.

2. The employer's plan provides comprehensive health insurance coverage.

3. The employer contributes at least forty percent of the cost of family or dependent coverage.

4. The cost of coverage for the child or children under ESHI is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible targeted low-income children involved. The cost-effectiveness determination methodology is described below.

5. The family receives the full premium contribution from the employer.

6. The applicant agrees to assign rights to benefits under the employer's plan to DMAS to assist the Commonwealth

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in pursuing these third party payments. (When a child is provided coverage under an employer's plan, that plan becomes the primary payer for the services covered under that plan.)

B. When more than one employer plan is available to the family, the family shall enroll in the plan that DMAS has determined to be the most cost-effective for the Commonwealth.

C. DMAS will continually verify the child's or children's coverage under the employer's plan and will re-determine the eligibility of the child or children for the ESHI component when it receives information concerning an applicant's or enrollee's circumstances that may affect eligibility.

D. Application requirements.

1. DMAS shall furnish the following information in written form and orally as appropriate to the families of FAMIS children who have access to employer sponsored health insurance:

- a. The eligibility requirements;*
- b. Summary of covered benefits and supplementation of employer benefits;*
- c. Cost-sharing requirements; and*
- d. The rights and responsibilities of applicants and enrollees.*

2. Opportunity to apply. DMAS may elect to provide health insurance coverage to FAMIS children by having FAMIS children and their families enroll in ESHI. Families with access to employer coverage for family members will be identified through the Child Health Insurance application. DMAS will provide these families with applications for ESHI.

3. Written application. A written application for the ESHI component shall be required from interested families.

4. Timely determination of eligibility. DMAS shall determine eligibility for the ESHI component promptly within 45 calendar days from the date of receiving an application which contains all information and verifications necessary to determine eligibility except in unusual circumstances beyond the agency's control. Actual enrollment into the ESHI component may not occur for extended periods of time depending on the ability of the family to enroll in the employer's plan.

5. Incomplete ESHI applications shall be held for a period of 30 calendar days to enable applicants to provide outstanding information needed for an ESHI eligibility determination. Any applicant who, within 30 calendar days of the receipt of the initial application, fails to provide information or verifications necessary to determine ESHI eligibility, shall have his application denied.

6. DMAS must send each applicant a written notice of the agency's decision on his application, and, if approved, his obligations under the program. If eligibility is denied, notice will be given concerning the reasons for the action.

E. Cost-effectiveness. DMAS may elect to provide coverage to FAMIS children by paying a portion of the family's employer-

sponsored health insurance premium if the cost of family coverage under ESHI is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible targeted low-income child or children involved. To the extent readily determinable by DMAS from the employer's plan documents, the portion of the premium associated with covering the FAMIS child only under the employer's plan will be used in determining the cost-effectiveness. If DMAS is not able to fully isolate the cost of covering the FAMIS child only, premium assistance may result in the coverage of an adult or other relative/dependant; however, this coverage shall be solely incidental to covering the FAMIS child. The cost-effectiveness determination will be conducted for individual families on a case-by-case basis.

1. To determine whether it is cost-effective to cover the family, DMAS will compare the following two amounts:

- (a) The sum of the premium assistance amount plus the cost of supplemental coverage, plus the administrative cost; and*
- (b) The cost of covering the FAMIS child or children under FAMIS. The cost will be determined by using the capitated payment rate paid to managed care entities, or an average cost amount developed by DMAS.*

2. If (a) is less than or equal to (b), covering the child or children under the ESHI component is cost-effective.

F. Enrollment and Disenrollment.

1. FAMIS children with access to employer-sponsored health insurance will receive coverage under FAMIS until their eligibility for coverage under the ESHI component is established and until they are able to enroll in the employer-sponsored health plan.

2. The timing and procedures employed to transfer FAMIS children's coverage to the ESHI component will be coordinated between DMAS and the Central Processing Unit to ensure continuation of health plan coverage.

3. Participation by families in the ESHI component shall be voluntary. Families may dis-enroll their child or children from the ESHI component as long as the proper timing and procedures established by DMAS are followed to ensure continued health coverage.

G. Premium assistance. When a child is determined eligible for coverage under the ESHI component, premium assistance payments shall become effective the month in which the FAMIS child or children are enrolled in the employer's plan. Payment of premium assistance shall end:

- 1. On the last day of the month in which FAMIS eligibility ends;*
- 2. The last day of the month in which the child or children lose eligibility for coverage under the employer's plan;*
- 3. The last day of the month in which the family notifies DMAS that they wish to dis-enroll their child or children from the ESHI component; or*
- 4. The last day of the month in which adequate notice period expires (consistent with federal requirements) when*

DMAS has determined that the employer's plan is no longer cost-effective.

H. Supplemental health benefits coverage will be provided to ensure that FAMIS children enrolled in the ESHI component receive all of the FAMIS benefits. FAMIS children can obtain these supplemental benefits through DMAS providers.

I. Cost Sharing. ESHI families will not be responsible for co-payments for FAMIS Title XXI benefits. DMAS will instruct providers to submit billings to DMAS or its designee for payment of applicable co-payments. In situations where the provider refuses to bill DMAS for the co-payment amount, DMAS will reimburse the enrollee directly.

1. FAMIS children shall pay co-pays for any services covered under the employer's plan that are not FAMIS benefits. The cost sharing paid by families for these benefits do not count towards the cost-sharing cap.

2. ESHI families will pay deductibles, coinsurance, and enrollment fee amounts under their employers' plans up to the cost-sharing limits allowed for non-ESHI FAMIS families (\$180 annually for those equal to or less than 150 percent FPL and \$ 350 annually for those over 150 percent FPL). After the family has reached its cost-sharing cap, DMAS will reimburse the family for any additional deductibles or coinsurance they incur for the FAMIS-enrolled children in the family for FAMIS Title XXI benefits received. Families will need to track their deductibles and coinsurance. Once the cap is reached for a family, that family will submit Explanation of Benefits forms or other forms approved by DMAS for reimbursement each time the family incurs a deductible or coinsurance amount for a FAMIS child for a FAMIS Title XXI benefit.

12 VAC 30-141-180. Liability for excess benefits; liability for excess benefits or payments obtained without intent; recovery of FAMIS payments.

A. Any person who, without intent to violate this section obtains benefits or payments under FAMIS to which he is not entitled shall be liable for any excess benefits or payments received. If the enrollee knew or reasonably should have known that he was not entitled to the excess benefits, he may also be liable for interest on the amount of the excess benefits or payments at the judgment rate as defined in the § 6.1-330.53 of the Code of Virginia from the date upon which excess benefits or payments to the date on which repayment is made to the Commonwealth. No person shall be liable for payment of interest, however, when excess benefits or payments were obtained as a result of errors made solely by the DMAS.

B. Any payment erroneously made on behalf of a FAMIS enrollee or former enrollee may be recovered by DMAS from the enrollee or the enrollee's income, assets, or estate unless state or federal law or regulation otherwise exempts such property.

12VAC 30-141-181 through 12 VAC 30-141-199. Reserved.

PART V.
BENEFITS AND REIMBURSEMENT.

12 VAC 30-141-200.

A. The Commonwealth of Virginia's Title XXI State Plan utilizes two benefit packages within FAMIS. One coverage is a modified Medicaid look-alike component offered through a fee-for-service program and a Primary Care Case Management (PCCM) program; the other is modeled after the state employee health plan and delivered by contracted (Managed Care Entities) MCEs. These benefits shall be as described in the FAMIS State Plan, as may be amended from time to time.

B. The Title XIX look-alike Plan will also be used as a benchmark for the employer-sponsored health insurance component (ESHI) of FAMIS.

12 VAC 30-141-241 through 12 VAC 30-141-449. Reserved.

12 VAC 30-141-500. Benefits reimbursement.

Reimbursement for the services covered under FAMIS fee-for-service and PCCM shall be as specified below.

A. Reimbursement for physician services, surgical services, clinic services, prescription drugs, laboratory and radiological services, outpatient mental health services, early intervention services, emergency services, home health services, immunizations, mammograms, medical transportation, organ transplants, skilled nursing services, well baby and well child care, vision services, durable medical equipment, disposable medical supplies, dental services, case management services, physical therapy/occupational therapy/speech-language therapy services, hospice services, and vision services shall be based on the Title XIX rates in effect as of July 1 of each year for the subsequent state fiscal year.

B. Exceptions.

1. Reimbursement for inpatient hospital services will be based on the Title XIX rates in effect for each hospital as of July 1 each year for the subsequent state fiscal year. Reimbursement shall not include payments for disproportionate share or graduate medical education payments made to hospitals. Payments made shall be final and there shall be no retrospective cost settlements.

2. Reimbursement for outpatient hospital services shall be based on the Title XIX rates in effect for each hospital as of July 1 each year for the subsequent state fiscal year. Payments made will be final and there will be no retrospective cost settlements.

3. Reimbursement for inpatient mental health services other than by free standing psychiatric hospitals will be based on the Title XIX rates in effect for each hospital as of July 1 each year for the subsequent state fiscal year. Reimbursement will not include payments for disproportionate share or graduate medical education payments made to hospitals. Payments made will be final and there will be no retrospective cost settlements.

4. Reimbursement for outpatient rehabilitation services will be based on the Title XIX rates in effect for each rehabilitation agency as of July 1 each year for the

Emergency Regulations

subsequent state fiscal year. Payments made will be final and there will be no retrospective cost settlements.

5. Reimbursement for outpatient substance abuse treatment services will be based on rates determined by DMAS for children ages 6-18. Payments made will be final and there will be no retrospective cost settlements.

6. Reimbursement to managed care entities (MCEs) shall be determined on the basis of the estimated cost of providing similar services to an actuarially equivalent population. A managed care savings factor shall be applied to determine the final rates. The savings factor shall be determined annually and published 30 days prior to the effective date.

7. Reimbursement for prescription drugs will be based on the Title XIX rates in effect as of July 1 each year for the subsequent state fiscal year. Reimbursements for Title XXI do not receive drug rebates as under Title XIX.

12 VAC 30-141-501 through 12 VAC 30-141-559. Reserved.

PART VI.

QUALITY ASSURANCE AND UTILIZATION CONTROL.

12 VAC 30-141-560. Quality assurance.

A. Each provider entity shall meet the requirements for the following either as administered by DMAS or as determined by contract with DMAS: access to well-child health services, immunizations, clinical practice guidelines, provider network adequacy, a system to provide enrollees urgent care and emergency services, systems for complaints, grievances and reviews, and implementation of a data management system.

B. Each managed care entity shall meet requirements determined by the contract for the internal and external monitoring and reporting of access to services, timeliness of services, and appropriateness of services, as determined by DMAS.

12 VAC 30-141-570. Utilization control.

A. Each managed care entity shall implement a utilization review system as determined by contract with DMAS, or administered by DMAS.

B. For both the fee-for-service and PCCM programs, DMAS shall use the utilization controls already established and operational in the State Plan for Medical Assistance.

C. DMAS may collect and review comprehensive data to monitor utilization after receipt of services.

12 VAC 30-141-571 through 12 VAV 30-141-599. Reserved.

12 VAC 30-141-600. Recipient audit unit.

A. Pursuant to § 32.1-310 et seq. of the COV, the recipient audit unit shall investigate allegations of acts of fraud or abuse, committed by persons enrolled in the FAMIS program or the parent, adult relative caretaker, guardian, or legal custodian on behalf of a person or persons enrolled in the FAMIS program, which result in misspent funds.

B. Any FAMIS enrollee, parent, adult relative caretaker, guardian, or legal custodian of a FAMIS enrollee who, on the

behalf of others, attempts to obtain benefits to which the enrollee is not entitled by means of a willful false statement or by willful misrepresentation, or by willful concealment of any material facts, shall be liable for repayment of any excess benefits received and the appropriate interest charges.

C. Upon the determination that the enrollee has committed fraud or abuse, criminal or civil action may be initiated.

D. When determining the amount of misspent funds to be recovered, capitation fees shall be included for FAMIS enrollees who are in managed care.

E. Access to FAMIS enrollees' eligibility records by authorized DMAS representatives will be permitted upon request.

12 VAC 30-141-601 through 12 VAC 30-141-649. Reserved.

12 VAC 30-141-650. Provider review.

A. The provider review unit shall be responsible for reviewing enrolled FAMIS providers to identify potential inappropriate utilization of services and potential billing errors.

B. Providers agree to keep such records as DMAS determines necessary. The providers will furnish DMAS upon request information regarding payments claimed for providing services under the State Plan for Title XXI.

C. Access to records and facilities by authorized DMAS representatives will be permitted upon reasonable request.

D. Providers will be required to refund payments made by DMAS if they are found to have billed DMAS contrary to policy, failed to maintain any record or adequate documentation to support their claims, or billed for medically unnecessary services.

E. A review of adverse actions concerning provider reimbursement shall be heard in accordance with the Administrative Process Act (Section 2.2-4000 et seq. of the Code of Virginia) and the Virginia Administrative Code, 12 VAC 30-10-1000 and 12 VAC 30-20-500 through 12 VAC 30-20-560.

F. Managed Care entities will be reviewed by the managed care unit of DMAS.

/s/ Mark R. Warner

Governor

Date: August 28, 2002

VA.R. Doc. No. R02-315; Filed August 28, 2002, 4:17 p.m.



GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

August 27, 2002

Administrative Letter 2002-10

TO: All Companies Licensed under Article 8 (§ 38.2-1347 et seq.) of Chapter 13 of Title 38.2 or Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2 of the Code of Virginia

RE: Licensing of Reinsurance Intermediaries
The provisions of this administrative letter, effective September 1, 2002, replace the provisions of Administrative Letter 1992-15.

Effective September 1, 2002, Article 5 (§ 38.2-1846 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia (requiring the licensing of certain reinsurance intermediaries and the submission of certain broker/agency contracts for approval) is repealed and replaced in its entirety by Article 8 (§ 38.2-1347 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia. All references in this letter to a section, chapter or title shall be to the cited portion of the Code of Virginia.

Definitions

The following terms as used in this letter shall have the following meanings:

A. **Reinsurance intermediary** means a reinsurance intermediary broker or a reinsurance intermediary manager.

B. **Reinsurance intermediary broker** means any person, other than an officer or employee of the ceding insurer, who, without the power to bind the ceding insurer, solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer or otherwise negotiates with a ceding insurer concerning reinsurance cessions or retrocessions.

C. **Reinsurance intermediary manager** means any person who:

1. has authority to bind reinsurance risks; **or**
2. manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, **and**

acts as an agent for such reinsurer whether known as a reinsurance intermediary manager or other similar term. Notwithstanding the foregoing, the following persons shall **not** be considered a reinsurance intermediary manager provided such persons are acting in the capacity of employee or agent, as described herein, and properly discharging the duties of such employment or agency:

- a. An employee of the reinsurer;
- b. A United States manager of the United States branch of an alien reinsurer;
- c. An underwriting manager who, pursuant to a contract, manages all or part of the reinsurance

operations of the reinsurer, is under common control with the reinsurer, subject to Article 5 (§ 38.2-1322 et seq.) of Chapter 13 or Article 2 (§ 38.2-4230 et seq.) of Chapter 42 of Title 38.2, and whose compensation is not based on the volume of premiums written;

d. The manager of a group, association, pool or organization of insurers that engages in joint underwriting or joint reinsurance and that is subject to examination by the supervising insurance official of the state, as defined in § 38.2-100, in which the manager's principal business office is located; or

e. A licensed managing general agent who binds facultative reinsurance contracts by placing individual risks pursuant to obligatory facultative agreements and subdivision 10 of § 38.2-1360.

D. **Insurer** means any person duly licensed in Virginia pursuant to Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2.

E. **Reinsurer** means any insurer licensed in Virginia with the authority to cede or accept from any insurer reinsurance pursuant to § 38.2-136.

License Requirements

The following persons (individuals, partnerships, limited partnerships, limited liability companies, and corporations) are required to be licensed as a **Reinsurance Intermediary Broker**:

1. A person who acts as a reinsurance intermediary broker in Virginia and maintains an office in Virginia either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation.
2. A person who acts as a reinsurance intermediary broker in Virginia without maintaining an office in Virginia, unless such reinsurance intermediary broker is licensed as a reinsurance intermediary in another state under a law substantially similar to Virginia law.

The following persons are required to be licensed as a **Reinsurance Intermediary Manager**:

1. A person acting as a reinsurance intermediary manager for a reinsurer domiciled in Virginia.
2. A person acting as a reinsurance intermediary manager in Virginia while such person maintains an office in Virginia.
3. A person acting as a reinsurance intermediary manager in another state for an insurer licensed but not domiciled in Virginia, unless such reinsurance intermediary manager is licensed as a reinsurance intermediary in another state under a law substantially similar to Virginia law.

Sections 38.2-1349 through 38.2-1354 pertain to required contract provisions, books and records, and duties of the insurer or reinsurer. An insurer is subject to the provisions set forth in §§ 38.2-1349, 38.2-1350, and 38.2-1351 **even if its reinsurance intermediary broker is not subject to licensing in Virginia**. Also, a reinsurer is subject to the provisions set forth in §§ 38.2-1352, 38.2-1353, and 38.2-

General Notices/Errata

1354 **even if its reinsurance intermediary manager is not subject to licensing in Virginia.**

Approval of Contracts

A contract between a reinsurer and a reinsurance intermediary manager must be approved by the reinsurer's board of directors and by the Bureau of Insurance (the "Bureau") regardless of whether the reinsurance intermediary manager is subject to licensing in Virginia. Pursuant to § 38.2-1352, at least 30 days before a reinsurer assumes or cedes business through a reinsurance intermediary manager, a true copy of the contract must be filed with the Bureau for approval. Also, any amendment to the contract must be filed with the Bureau for approval at least 30 days prior to its effective date. Within 30 days of termination of a contract with a reinsurance intermediary manager, the reinsurer is required to provide written notification of such termination to the Bureau pursuant to § 38.2-1354.

Licensing Procedures

Any **insurer** or **reinsurer** that uses the services of a reinsurance intermediary broker or manager who is subject to licensing in Virginia **is responsible for notifying each of its reinsurance intermediaries that they must request a license application package** from the Bureau and be licensed.

A license issued to a reinsurance intermediary will be good for up to two years and will expire every other June 30. A renewal application and a renewal fee of \$500 must be submitted between May 1 and June 1 of the year in which the license will expire. The following items must be submitted to the Bureau as part of the initial application:

1. A \$500 nonrefundable application fee;
2. A completed application form;
3. A statement identifying the reinsurance intermediary's principal place of business and organizational structure;
4. A plan of operation;
5. A completed biographical affidavit for each individual to be authorized to act as a reinsurance intermediary under the license pursuant to § 38.2-1348;
6. A current audited financial statement certified by a certified public accountant;
7. A certified copy of the reinsurance intermediary's organizational documents;
8. A certification or attestation of a fidelity bond for the protection of each reinsurer the reinsurance intermediary represents in an amount acceptable to the Bureau, if the reinsurance intermediary is a reinsurance intermediary manager;
9. A certification or attestation of an errors and omissions policy with limits acceptable to the Bureau, if the reinsurance intermediary is a reinsurance intermediary manager; and

10. A copy of any contract in force between the reinsurance intermediary and any reinsurer, if the reinsurance intermediary is a reinsurance intermediary manager.

Domestic insurers may be required to submit information concerning their reinsurance intermediaries as a supplement to the annual statement. If such information is required, the form for providing such information will be mailed in December to each domestic insurer with the annual license renewal information.

A copy of Article 8 may be obtained from the Virginia Legislative Information System's website at: <http://leg1.state.va.us/lis.htm>. Questions regarding the contents of this letter, requests for a copy of Article 8, reinsurance intermediary application packages, and reinsurance intermediary manager contracts subject to approval by the Bureau should be directed to the attention of: Gregory S. Yeatts, Financial Regulation Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, (804) 371-9391.

/s/ Alfred W. Gross
Commissioner of Insurance

* * * * *

August 27, 2002

Administrative Letter 2002 -11

TO: All Companies Licensed under Article 9 (§ 38.2-1358 et seq.) of Chapter 13 of Title 38.2 or Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2 of the Code of Virginia

RE: Licensing of Managing General Agents

The provisions of this administrative letter, effective September 1, 2002, replace the provisions of Administrative Letter 1992-14.

Effective September 1, 2002, Article 6 (§ 38.2-1858 et seq.) of Chapter 18 of Title 38.2 of the Code of Virginia (requiring the licensing of managing general agents) is repealed and replaced in its entirety by Article 9 (§ 38.2-1358 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia. All references in this letter to a section, chapter or title shall be to the cited portion of the Code of Virginia.

Definitions

The following terms as used in this letter shall have the following meanings:

A. **Managing general agent** means any person (individual, partnership, limited partnership, limited liability company or corporation) who:

1. **manages** all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office; **and**
2. acts as an agent for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, **produces, directly or indirectly, and underwrites an amount of gross direct written**

premium equal to or exceeding five percent of the surplus of policyholders of the insurer as reported in the last annual statement of the insurer in any one quarter or year **together with one or more of the following:**

- a. adjusts or pays claims in excess of \$1,000; or
- b. negotiates reinsurance on behalf of the insurer.

B. Insurer means any person duly licensed in Virginia pursuant to Chapters 10, 11, 12, 25, 26, 38 through 46 or 51 of Title 38.2.

C. Underwrite means the authority to accept or reject risk on behalf of the insurer.

The following persons shall **not** be considered a managing general agent:

1. An employee of the insurer;
2. A United States manager of the United States branch of an alien insurer;
3. An underwriting manager who, pursuant to a contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, subject to Article 5 (§ 38.2-1322 et seq.) of Chapter 13 or Article 2 (§ 38.2-4230 et seq.) of Chapter 42 of Title 38.2, and whose compensation is not based on the volume of premiums written; or
4. The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer.

Managing General Agent License Requirements

The following persons (individuals, partnerships, limited partnerships, limited liability companies, and corporations) are required to be licensed as a managing general agent:

1. A managing general agent who represents domestic insurers.
2. A managing general agent who represents foreign or alien insurers, unless the managing general agent is licensed in another state under a law substantially similar to Virginia law.

Section 38.2-1361 specifies the duties of insurers utilizing managing general agents, and § 38.2-1360 sets forth the minimum provisions that must be contained in the contract between the insurer and the managing general agent. An insurer is subject to the provisions set forth in §§ 38.2-1360 and 38.2-1361 even if its managing general agent is not subject to licensing in Virginia.

Managing General Agent Licensing Procedures

Any insurer that uses the services of a managing general agent who is subject to licensing in Virginia **is responsible for notifying each of its managing general agents that they must request a licensing application package** from the Bureau of Insurance (the "Bureau") and be licensed.

A license issued to a managing general agent will be good for up to two years and will expire every other June 30. A renewal application and a renewal fee of \$500 must be submitted between May 1 and June 1 of the year in which the license will

expire. The following items must be submitted to the Bureau as part of the initial application:

1. A \$500 nonrefundable application fee;
2. A completed application form;
3. A completed biographical affidavit for each individual to be authorized to act as a managing general agent under the license pursuant to § 38.2-1358;
4. A current audited financial statement certified by a certified public accountant;
5. A certified copy of the managing general agent's organizational documents;
6. A certification or attestation of a fidelity bond for the protection of each insurer the managing general agent represents in an amount equal to at least 10% of the annual gross direct written premium produced by the managing general agent;
7. A certification or attestation of an errors and omissions policy with limits set at \$1,000,000 or 25% of the annual gross direct written premium produced by the managing general agent, whichever is greater; and
8. A copy of any appointments or contracts the managing general agent has with any insurer.

Agent Appointment Procedure

In order for a managing general agent to be authorized to appoint **agents** (as such term is defined in Chapter 18 of Title 38.2 of the Code of Virginia) on behalf of an insurer, an insurer must submit a PIN1100 (Individuals Authorized to Appoint Agents in Virginia) Form. You may obtain the PIN1100 Form by calling the Bureau's Interactive Voice Response (IVR) number, (804)371-9631, or accessing the Bureau's website at:

<http://www.state.va.us/scc/division/boi/webpages/formsapplications.htm>.

Contact Information

A copy of Article 9 may be obtained from the Virginia Legislative Information System's website at: <http://leg1.state.va.us/lis.htm>. Questions regarding the contents of this letter, and requests for a copy of Article 9 and for managing general agent application packages should be directed to the attention of: Janis R. Bunce, Financial Regulation Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, (804) 371-9063.

/s/ Alfred W. Gross
Commissioner of Insurance

General Notices/Errata

STATE WATER CONTROL BOARD

Proposed Consent Special Order Shannon, Inc. D/b/a Al's Market

The State Water Control Board proposes to issue a consent special order to Shannon, Inc. d/b/a Al's Market to resolve certain alleged violations of environmental laws and regulations occurring at Al's Market in Powhatan, Virginia. The proposed order requires Shannon, Inc. to complete remediation of the site due to a petroleum release and pay a \$900 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Vernon Williams, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://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
PETITION FOR RULEMAKING - RR13

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

September 24, 2002 - 11 a.m. -- Open Meeting
September 25, 2002 - 9 a.m. -- Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A two-day general business meeting to discuss matters requiring board action including regulatory review. A public comment period will be held at the beginning of the meeting. All meetings are subject to change and cancellation. Persons desiring to attend the meeting and requiring special accommodations or interpretative services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.state.va.us.

STATE BOARD OF AGRICULTURE AND CONSUMER SERVICES

† **October 10, 2002 - 9 a.m.** -- Open Meeting
The Randolph Farm, Virginia State University, Petersburg, Virginia.♿

A meeting to discuss issues related to Virginia agriculture and consumer services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100

Bank St., Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail jknight@vdacs.state.va.us.

* * * * *

March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-320. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including the following: amending the regulation to (i) remove the currently named plants that are no longer considered globally rare and (ii) add those threatened or endangered plant and insect species that are considered rare both globally and in Virginia.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-360. Regulations for the Enforcement of the**

Calendar of Events

Virginia Commercial Feed Act. The purpose of the proposed action is to amend the current regulation to incorporate the changes made to the commercial feed industry standards by the Association of American Feed Control Officials in the last decade and statutory changes made to Virginia's Commercial Feed Law in 1994.

Statutory Authority: § 3.1-828.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476, FAX (804) 371-1571 or e-mail jrogers@vdacs.state.va.us.

* * * * *

March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-440. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.** The purpose of the proposed regulatory action is to amend the regulation to (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessment, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from \$10 to \$5.00 per acre, and (iii) eliminate the mandate for destruction of the cotton crop for nonpayment of fees and assessments by farm operators.

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

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to **repeal** regulations entitled: **2 VAC 5-500. Rules and Regulations Governing the Cooling, Storing, Sampling, and Transporting of Milk or Milk Samples from the Farm to the Processing Plant or Laboratory** and **adopt** regulations entitled: **2 VAC 5-501. Regulations Governing the Cooling, Storing, Sampling, and Transporting of Milk.** The purpose of the proposed action is to (i) make the regulations applicable to the milk of goats, sheep, water buffalo, and other mammals if the milk or dairy products are intended for human consumption and

(ii) require permits for milk pickup trucks, milk transport tanks, laboratories, persons testing milk samples for pay purposes, persons collecting official milk samples in dairy plants, and milk tank truck cleaning facilities.

Statutory Authority: §§ 3.1-530.1, 3.1-530.2, 3.1-535, and 3.1-535.1 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, Department of Agriculture and Consumer Services, 1100 Bank St., Room 505, Richmond, VA 23219, telephone (804) 786-1453, FAX (804) 371-7792 or e-mail jbeers@vdacs.state.va.us.

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March 13, 2003 - 10 a.m. -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

December 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to **repeal** regulations entitled: **2 VAC 5-530. Rules and Regulations Governing the Production, Handling and Processing of Milk for Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food** and **adopt** regulations entitled: **2 VAC 5-531. Regulations Governing Milk for Manufacturing Purposes.** The purpose of the proposed action is to adopt regulations consistent with the most recent USDA recommendations on milk for manufacturing purposes and regulate manufactured milk and milk products from goats, sheep, water buffalo and other noncow sources in the interest of public health and safety.

Statutory Authority: §§ 3.1-530.1 and 3.1-530.2 of the Code of Virginia.

Contact: John A. Beers, Program Supervisor, Department of Agriculture and Consumer Services, 1100 Bank St., Room 505, Richmond, VA 23219, telephone (804) 786-1453, FAX (804) 371-7792 or e-mail jbeers@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

September 24, 2002 - 7 p.m. -- Public Hearing
Clearview Elementary School, 800 Ainsley Street, Martinsville, Virginia. ☎

A public hearing to receive comments on an air permit application from Cinergy Capital and Trading to construct and operate an electrical power generation facility at 600 Commerce Court in Martinsville. The comment period on the proposed permit closes on October 9, 2002.


Contact: Gale Taber Steele, State Air Pollution Control Board, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6761, e-mail gtsteele@deq.state.va.us.

† **October 3, 2002 - 9 a.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. ☎

A public hearing under federal regulations to receive comments on proposed amendments to the SIP to conform provisions concerning visible emissions and fugitive dust/emissions to state law.

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.state.va.us.

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October 10, 2002 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. 

November 8, 2002 -- Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40. Existing Stationary Sources (Rev. J00)**. The purpose of the proposed action is to establish emission standards that will require the owners of commercial/industrial solid waste incinerators (CISWIs) 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 §§ 111(d) and 129 of the federal Clean Air Act and 40 CFR Part 60, Subpart DDDD, of federal regulations.

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

Public comments may be submitted until 4:30 p.m. on November 8, 2002, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, (804) 698-4021/TTY , or e-mail kgsabastea@deq.state.va.us.

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October 10, 2002 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. 

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40. Existing Stationary Sources (Rev. K00)**. The purpose of the proposed action is to control emissions from small municipal waste combustors as required by §§ 111(d) and 129 of the Clean Air Act.

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

Public comments may be submitted until 4:30 p.m. on November 8, 2002, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Regulatory Development, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, (804) 698-4021/TTY , or e-mail kgsabastea@deq.state.va.us.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 23, 2002 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities. Other matters are not yet determined.


Contact: W. Curtis Coleburn, Secretary to the Board, Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442.

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

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to amend regulations entitled: **18 VAC 10-10. Public Participation Guidelines**. The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via electronic means and to make necessary grammatical changes and update references to recodified provisions of the APA

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

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail apelsla@dpor.state.va.us.


ART AND ARCHITECTURAL REVIEW BOARD

NOTE: CHANGE IN MEETING TIME

October 4, 2002 - 10:30 a.m. -- Open Meeting

November 1, 2002 - 10 a.m. -- Open Meeting

December 6, 2002 - 10 a.m. -- Open Meeting

Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request submittal form DGS-30-905 or submittal instructions form DGS-30-906.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

October 8, 2002 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-40. Virginia Certified Home Inspectors Regulations.** The purpose of the proposed regulation is to establish entry, renewal, and reinstatement requirements for certification by the board for a voluntary certification program for home inspectors established by House Bill 2174 of the 2001 Session of the General Assembly. The proposed regulations also establish minimum standards for conducting certified home inspections as well as standards for conduct and practice.

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

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October 8, 2002 - 2 p.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Board for Asbestos, Lead, and Home Inspectors intends to adopt regulations entitled: **18 VAC 15-30. Virginia Lead-Based Paint Activities Regulations.** The purpose of the proposed amendments is to deregulate lead-based paint activities in public building, commercial buildings, and superstructures, and begin regulating these activities in child-occupied facilities. The deregulation is a direct result of the EPA not finalizing certain portions of its proposed regulations, and Virginia's statutory mandate to be no more stringent than the federal regulations. Extensions of interim licenses have been eliminated. The Supervisor and Project Designer training

courses have been redefined as two separate and distinct courses. Individuals applying for a second interim license will be required to retake the initial training instead of an eight-hour refresher. Licensure through "grandfathering" has been eliminated. The Inspector Technician discipline has been replaced with Lead Inspector, and the Inspector/Risk Assessor discipline has been replaced with Lead Risk Assessor. Specific degree fields have been added to the option for Risk Assessors to substitute one year of experience with a bachelor's degree. Interim approval will no longer be granted to lead training courses. An on-site audit must be conducted prior to approval.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Contact: Tom Perry, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or (804) 367-9753/TTY ☎

October 29, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 5 West,
Richmond, Virginia.

A meeting to conduct routine business and review and respond to comments received on the proposed regulations for certified home inspectors during the 60-day public comment period and public hearing, and adopt final regulations. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

OFFICE OF THE ATTORNEY GENERAL

September 24, 2002 - 7 p.m. -- Open Meeting
Roanoke Higher Education Center, Room 212, 108 North
Jefferson Street, Roanoke, Virginia.

A meeting of the Identity Theft Task Force.

Contact: Nicole Riley, Legislative Policy Analyst, Office of the Attorney General, 900 E. Main St., Richmond, VA 23219, telephone (804) 371-2417.

AUCTIONEERS BOARD

October 17, 2002 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia.

October 18, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Auctioneers Board intends to amend regulations entitled: **18 VAC 25-10. Public Participation Guidelines.** The purpose of the proposed action is to allow the board to accept requests to be placed on a notification list, and to notify PPG list members, via

electronic means and to update references to recodified provisions of the Administrative Process Act.

Statutory Authority: §§ 2.2-4007 and 54.1-602 of the Code of Virginia.

Contact: Marian H. Brooks, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail Auctioneers@dpor.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **November 7, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia ♿

A general business meeting, including regulatory and disciplinary actions as may be included on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

BOARD FOR BARBERS AND COSMETOLOGY

September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-10. Public Participation Guidelines.** The purpose of the proposed action is to promulgate guidelines governing public participation.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

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

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September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-20. Barbering and Cosmetology Regulations.** The proposed regulatory changes will promulgate regulations for the newly combined Board for Barbers and Cosmetology as directed by Acts of Assembly 2000, c. 726, cl.3.; clarify and standardize requirements for licensure; provide for and ensure that health, sanitation standards, and safety are

adequate in facilities where barbering and cosmetology are practiced; extend the temporary work permit from 30 to 45 days to allow sufficient time for posting examination scores and avoid interruption of employment, and adjust licensing fees for regulants of the Board for Barbers and Cosmetology.

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

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

BOARD FOR THE BLIND AND VISION IMPAIRED

† **October 7, 2002 - 7 p.m.** -- Open Meeting
Lions Sight Foundation, 501 Elm Avenue, SW, Roanoke, Virginia ♿ (Interpreter for the deaf provided upon request)

† **October 22, 2002 - 6:30 p.m.** -- Open Meeting
Virginia Rehabilitation Center for the Blind and Vision Impaired, 401 Azalea Avenue, Richmond, Virginia ♿ (Interpreter for the deaf provided upon request)

A meeting to obtain input from blind and visually impaired consumers, vendors of services, and other interested parties regarding vocational rehabilitation services provided by the Department for the Blind and Vision Impaired.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA, telephone (804) 371-3111, FAX (804) 371-3190, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail taylorjg@dbvi.state.va.us.

October 15, 2002 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia ♿ (Interpreter for the deaf provided upon request)

A meeting to review information regarding activities and operations, review expenditures from board endowment fund, and discuss other issues raised for the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail proffikc@dbvi.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

† **October 11, 2002 - 10 a.m.** -- Open Meeting
† **November 8, 2002 - 10 a.m.** -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia ♿

A business meeting. At 10:30 a.m. the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, State Child Fatality Review Team, Office of the Chief Medical Examiner, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-6047,

Calendar of Events

FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

COMPENSATION BOARD

September 24, 2002 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

† October 2, 2002 - 7 p.m. -- Open Meeting
Emmanuel Episcopal-Delaplane Church, 9668 Maidstone Drive, Delaplane, Virginia. (Interpreter for the deaf provided upon request)

The draft state park master plan for Sky Meadows State Park will be presented, and public input will be received on proposed developments.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

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† October 8, 2002 - 7 p.m. -- Public Hearing
Chesterfield County Administration Building, 9901 Lori Road, Conference Room, Chesterfield, Virginia. (Interpreter for the deaf provided upon request)

† October 15, 2002 - 7 p.m. -- Public Hearing
Samuel L. Bland Memorial Building, 6600 Courthouse Road, Prince George, Virginia. (Interpreter for the deaf provided upon request)

The public is invited to comment on the request of Chesterfield County to separate from the James River Soil and Water Conservation District and form a new district named the Chesterfield Soil and Water Conservation District with its boundaries lying solely within Chesterfield County. On July 18, 2002, the Virginia Soil and Water Conservation Board approved a petition from the Chesterfield County Board of Supervisors suggesting the need for establishing a new Soil and Water Conservation District. State law empowers the board to review and decide about the formation of districts and resolve changes with district boundaries. Virginia's 47 Soil and Water Conservation Districts promote natural resource conservation and stewardship, and work directly with landowners, property managers and other citizens. Among the reasons presented by the Chesterfield County Board of Supervisors are the rapidly expanding conservation programs and the desire to better serve county constituents;

the need to minimize logistical difficulties currently experienced by members of the district as they serve a two county district; and the need for a local district board with greater accessibility by local people voicing local concerns. Currently, the James River Soil and Water Conservation District consists of Chesterfield and Prince George counties. Verbal and written comments provided to the board will be considered as the board makes its decision. The board reserves the right to limit the comment time period for each speaker to a reasonable time period. The board will accept written comments received by close of business October 22, 2002, from all interested parties. Forward comments to VSWCB Chair, 203 Governor Street, Suit 206, Richmond, VA 23219.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

Falls of the James Scenic River Advisory Board

† October 3, 2002 - Noon -- Open Meeting
† November 7, 2002 - Noon -- Open Meeting
† December 5, 2002 - Noon -- Open Meeting
Richmond City Hall, 900 East Broad Street, 5th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A discussion of river issues.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.

BOARD FOR CONTRACTORS

† October 9, 2002 - 9 a.m. -- Open Meeting
† December 4, 2002 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regularly scheduled meeting to address policy and procedural issues; review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY, e-mail olsone@dpor.state.va.us.

† November 13, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Tradesman/Education Committee to consider items of interest relating to the tradesmen,

backflow workers, education and other appropriate matters relating to tradesmen and the Board for Contractors.

Contact: Karen Feagin, Regulatory Boards Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2961, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail feagin@dpor.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

† **September 23, 2002 - 10 a.m.** -- Open Meeting
5655-C General Washington Drive, Alexandria, Virginia.

A general business meeting of the Private Security Services Advisory Board Legislative Committee.

Contact: Judith Kirkendall, Regulatory Coordinator, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, e-mail jkirkendall@dcjs.state.va.us.

September 26, 2002 - 11 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

This meeting was originally scheduled for September 12, but the date was changed to accommodate more time for the localities that wish to submit Byrne grants. The agenda will include a Director's Report, a report from the Committee on Training, an ICJIS Update Report, a discussion on one vacancy for the Private Security Services Advisory Board (PSSAB), a discussion on the regulations for the implementation of the new arrestee law and how it impacts on the DCJS Division of Forensic Science, and grant reviews/recommendations (including Byrne grants).

Contact: Christine Wiedemer, Administrative Staff Assistant to the Director, Criminal Justice Services Board, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8718, FAX (804) 371-8981, e-mail cwiedemer@dcjs.state.va.us.

BOARD OF DENTISTRY

† **September 26, 2002 - 2 p.m.** -- Open Meeting
MCV School of Dentistry, 520 North 12th St, Richmond, Virginia. ♿

Members of the Board of Dentistry will meet with representatives of the MCV School of Dentistry.

Contact: Senita Booker, Administrative Staff Assistant, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail denbd@dhp.state.va.us.

† **September 27, 2002 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia ♿

The task force will consider issues related to the shortage of dental hygienists. Public comment will be received at the beginning of the meeting.

Contact: Senita Booker, Administrative Staff Assistant, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail denbd@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

October 17, 2002 - 11 a.m. -- Open Meeting
November 21, 2002 - 11 a.m. -- Open Meeting
† **December 19, 2002 - 11 a.m.** -- Open Meeting
Virginia War Memorial, 601 South Belvidere Street, Auditorium, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management-type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

September 26, 2002 - 9 a.m. -- Open Meeting
October 16, 2002 - 9 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING DATE
† **November 21, 2002 - 9 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 business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

September 26, 2002 - 1 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. ♿

October 2, 2002 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to adopt regulations entitled: **8 VAC 20-650. Regulations Governing the Determination of Critical Teacher Shortage Areas for Awarding the Virginia Teaching**

Calendar of Events

Scholarship Loan Program. The purpose of the proposed action is to collect the supply and demand information from school divisions and provide a reasonable and scientific procedure to identify critical teacher shortage areas in Virginia.


Statutory Authority: § 22.1-290.01 of the Code of Virginia.


Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail telliott@mail.vak.12ed.edu.


September 26, 2002 - 1 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

During the 2002 Session of the Virginia General Assembly, Senate Bill 606 (Marye), regarding the regulation of vending machines in public schools, was continued to the 2003 Session with the recommendation that the use and regulation of vending machines in schools be referred to the Board of Education for examination. This hearing is open to the public, and all interested persons are invited to attend. Persons wishing to speak are asked to register, beginning at 12:45 p.m. Sign-up sheets will be available at that time. Speakers are asked to limit their remarks to three minutes each and to provide a written copy of their remarks, if possible. Persons requesting the services of an interpreter for the deaf are asked to do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

October 4, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


November 6, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

December 4, 2002 - 10 a.m. -- Open Meeting
State Capitol, House Room 2, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A working session of the Committee to Implement NCLB. Public comment will not be received. Persons requesting services of an interpreter for the deaf are asked to do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

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† **October 16, 2002 - 1 p.m.** -- Public Hearing
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

November 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **8 VAC 20-70. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.** The current regulations are being amended in order to comport with federal and state laws and regulations.

Statutory Authority: §§ 2.2-16, 2.2-177 and 2.2-178 of the Code of Virginia.


Contact: June Eanes, Director of Pupil Transportation, Department of Education, P.O. Box 2120, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail jeanes@mail.vak12ed.edu.

October 17, 2002 - 8:30 a.m. -- Open Meeting
October 18, 2002 - 8:30 a.m. -- Open Meeting
Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A working session of the State Special Education Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.


Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

DEPARTMENT OF ENVIRONMENTAL QUALITY

September 26, 2002 - 3:30 p.m. -- Open Meeting
Linville-Edom Elementary School, 3653 Linville Edom Road, Library, Linville, Virginia. 


The first public meeting on the development of TMDLs for fecal coliform and benthics for Linville Creek located in Rockingham County.

Contact: Sandra Mueller, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail stmuller@deq.state.va.us.

September 26, 2002 - 7 p.m. -- Open Meeting
New River Valley Competitiveness Center, 6580 Valley Center Drive, Radford, Virginia. 


The third public meeting of the New River PCB Source Study Citizen's Committee to discuss efforts to locate current or historical sources of PCBs and the status of PCBs in the New River.

Contact: Jay Roberts, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6785, FAX (804) 698-4032, e-mail jaroberts@deq.state.va.us.

October 9, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. 


A meeting of the air impact study group.

Contact: James E. Sydnor, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4424, e-mail jesydnor@deq.state.va.us.

October 10, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, Virginia. 


A meeting of the water impact study group.

Contact: Allan Brockenbrough, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4147, e-mail abrockenb@deq.state.va.us.

October 10, 2002 - 7 p.m. -- Public Hearing
Stafford County Board of Supervisors Room, 1300
Courthouse Road, Stafford, Virginia. 

A public hearing to receive comments on a draft permit
amendment for the Rappahannock Regional Solid Waste
Management Board sanitary landfill located in Stafford
County. The permit amendment would incorporate
modifications to the facility's groundwater monitoring plan
and incorporate an old closed disposal unit into the current
permit. The comment period on the draft permit amendment
closes on October 25, 2002.


Contact: Donald H. Brunson, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4239, e-mail dhbrunson@deq.state.va.us.

October 21, 2002 - 10 a.m. -- Open Meeting
Clarion Hotel and Conference Center, 500 Merrimac Trail,
Williamsburg, Virginia. 

A meeting of the Virginia Recycling Markets Development
Council in conjunction with the first day of the annual
Virginia Recycling Association Conference and Tradeshow.

Contact: William K. Norris, Department of Environmental
Quality, P.O. Box 10009, Richmond, VA 23240, telephone
(804) 698-4022, e-mail wknorris@deq.state.va.us.


VIRGINIA FIRE SERVICES BOARD

October 3, 2002 - 9 a.m. -- Open Meeting
Loudoun County Department of Fire and Rescue, 16600
Courage Court, Leesburg, Virginia.  (Interpreter for the deaf
provided upon request)

Committees will meet as follows:

- Fire Education and Training Committee (FEandT) at
9 a.m.
- Administration and Policy (AandP) - 10 minutes after
conclusion of FEandT.
- Fire Prevention and Control (FPandC) at 9 a.m.
- Finance - 10 minutes after the conclusion of BOTH
AandP and FPandC.
- Fire Prevention and Control will be holding a work
session to determine VFIRS awards.


Contact: Christy L. King, Clerk to the Virginia Fire Services
Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219,
telephone (804) 371-0220, FAX (804) 371-0219, e-mail
cking@vdfp.state.va.us.

October 4, 2002 - 9 a.m. -- Open Meeting
Loudoun County Department of Fire and Rescue, 16600
Courage Court, Leesburg, Virginia.  (Interpreter for the deaf
provided upon request)

A regular meeting.

Contact: Christy King, Clerk to the Virginia Fire Services
Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219,
telephone (804) 371-0220, FAX (804) 371-0219, e-mail
cking@vdfp.state.va.us.

BOARD OF FORESTRY

September 23, 2002 - 1 p.m. -- Public Hearing
Department of Forestry, 210 Riverland Drive, Salem,
Virginia.  (Interpreter for the deaf provided upon request)


The department will receive comments on its draft Forest
Land Enhancement, State Priority Plan. Please see
Department of Forestry website for draft of the plan
(www.dof.state.va.us).

Contact: James Starr, Forest Management, Board of
Forestry, 900 Natural Resources Drive, Suite 800,
Charlottesville, VA 22903, telephone (434) 977-6555, FAX
(434) 296-2369, e-mail starrj@dof.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

September 24, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
4th Floor, Richmond, Virginia. 

The Special Conference Committee of the Board of Funeral
Directors and Embalmers will convene to hear possible
violations of the laws and regulations governing the practice
of funeral directors and embalmers.

Contact: Elizabeth Young, Executive Director, Board of
Funeral Directors and Embalmers, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230-1717, telephone (804) 662-9907,
FAX (804) 662-9523, (804) 662-7197/TTY , e-mail
elizabeth.young@dhp.state.va.us.

October 11, 2002 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Board of Funeral Directors and
Embalmers intends to amend regulations entitled: **18 VAC
65-30. Regulations for Preneed Funeral Planning.** The
purpose of the proposed action is to clarify and eliminate an
unnecessary requirement for a contract number.

Statutory Authority: §§ 54.1-2400 and 54.1-2480 of the Code
of Virginia.

Calendar of Events

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40. Regulations for the Resident Trainee Program in Funeral Service.** The purpose of the proposed action is to ensure that the trainee receives training in preneed funeral arrangements.


Statutory Authority: Chapter 38 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.


November 19, 2002 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

The board will hear possible violations of the laws and regulations governing the practice of funeral service.


Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.


† **December 3, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A general business meeting, including disciplinary and regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.


BOARD OF GAME AND INLAND FISHERIES

September 23, 2002 - 7 p.m. -- Open Meeting
Department of Game and Inland Fisheries, Verona (Staunton) Regional Office, 127 Lee Highway, Verona, Virginia  (Interpreter for the deaf provided upon request)

September 24, 2002 - 7 p.m. -- Open Meeting
Bedford Public Library, Forest Branch, 15583 Forest Road (Route 221), Forest, Virginia.  (Interpreter for the deaf provided upon request)

September 24, 2002 - 7 p.m. -- Open Meeting
Orange High School, 201 Selma Road, Orange, Virginia.  (Interpreter for the deaf provided upon request)

September 25, 2002 - 7 p.m. -- Open Meeting
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

September 25, 2002 - 7 p.m. -- Open Meeting
James City County Government Complex, 101-C Mounts Bay Road, Building C, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

September 25, 2002 - 7 p.m. -- Open Meeting
Smyth-Bland Regional Library, 118 South Sheffey Street, Copenhaver Meeting Room, Marion, Virginia.  (Interpreter for the deaf provided upon request)

Public input meetings on hunting and trapping programs and regulations. The Virginia Department of Game and Inland Fisheries is hosting open meetings to receive comments from the public on agency programs, regulations, and management of Virginia's game species, hunting and trapping. All interested citizens are invited to attend. The comments and suggestions received will be considered by staff as they refine current programs and develop staff recommendations for amendments to regulations. Agency staff will present such recommendations to the Virginia Board of Game and Inland Fisheries at its March 2003 meeting as part of the regular biennial review of applicable Virginia Administrative Code regulations.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail RegComments@dgif.state.va.us.

† **October 24, 2002 - 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 meet and intends to consider for final adoption amendments to regulations governing fish and fishing, and wildlife diversity (i.e., wildlife other than in the contexts of hunting, trapping, or fishing). This is the regular biennial review for these regulations, with the resulting amended regulations intended to be in effect 2003 through 2004. The board also intends to adopt final regulations or regulation amendments governing boating. Under board procedures, regulatory actions occur over two sequential board meetings. At the October 24, 2002, meeting, the board will determine whether the regulations and

amendments that were proposed at its August 22, 2002, meeting will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the meeting on October 24, at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments that may be more liberal than, or more stringent than, the regulations currently in effect or the regulation amendments proposed at the August 22, 2002, meeting, as necessary for the proper management of wildlife resources and boating. The board is exempted from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia; it promulgates boating regulations under the authority of § 29.1-701(E) of the Code of Virginia. The board is required by § 2.2-4031 to publish all proposed and final regulations. The board also may discuss general and administrative issues; hold a closed session at some time during the meeting; and elect to hold a dinner Wednesday evening, October 23, 2002, at a location and time to be determined.

Contact: Phil Smith, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail RegComments@dgif.state.va.us.

CHARITABLE GAMING COMMISSION

† **September 25, 2002 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, First Floor, Conference Room B, Richmond, Virginia. ♿

† **November 13, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

† **December 4, 2002 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, First Floor, Conference Room E, Richmond, Virginia. ♿

A meeting to discuss standard agenda items.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail jones@cgc.state.va.us.

OFFICE OF THE GOVERNOR

October 2, 2002 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Conference 3 East, Richmond, Virginia. ♿

A meeting to consider a study being chaired by Secretary Jane Woods regarding: An Examination of the Role and Responsibility of the Office of the Inspector General for the Department of Mental Health, Mental Retardation and Substance Abuse Services. This study is being conducted pursuant to Item 298C of the Appropriations Act.

Contact: Heather Glissman, Operations Manager, Office of Governor, PO Box 1475, Richmond, VA 23218, telephone

(804) 692-0276, FAX (804) 786-3400, e-mail hglissman@gov.state.va.us.

"One Virginia-One Future"

September 26, 2002 - 9:30 a.m. -- Open Meeting
Criminal Justice Training Center, Weyers Cave, Virginia. ♿

September 27, 2002 - 9:30 a.m. -- Open Meeting
Central Virginia Community College, Lynchburg, Virginia. ♿

A regional meeting of Governor Warner's Economic Development Strategic Plan to gather input from the business community and those interested and/or involved in the economic development process. Each meeting will be held from 9:30 a.m. to 12:30 p.m. Please RSVP at least one week in advance to register to attend.

Contact: Mara Hilliar, Secretary of Commerce and Trade, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8106, e-mail strategicplansvp@yesvirginia.org.

DEPARTMENT OF HEALTH

† **September 26, 2002 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 4 West Conference Room, Richmond, Virginia. ♿

The goal of the workgroup is to solicit information regarding and to discuss the prevalence of methylphenidate and amphetamine prescriptions in the Commonwealth.

Contact: Susan Tlusty, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 371-4104, e-mail tlusty@vdh.state.va.us.

STATE BOARD OF HEALTH

October 1, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **12 VAC 5-610. Sewage Handling and Disposal Regulations.** The purpose of the proposed action is to regulate mass sewage disposal systems (systems larger than 1,200 gallons per day per acre) that have a greater potential for failure than domestic and small commercial onsite systems. These large systems also pose a higher risk of ground water contamination than smaller systems. The amendments include standards for proper siting, design, construction, operation, and monitoring of mass sewage disposal systems. A second amendment is to regulate the amount of rock fragments surrounding a subsurface soil absorption system.


Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003 or e-mail dalexander@vdh.state.va.us.

Calendar of Events

DEPARTMENT OF HEALTH PROFESSIONS


Intervention Program Committee

† **October 18, 2002 - 9 a.m.** -- Open Meeting
† **December 13, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 3, Richmond, Virginia. 


A bimonthly meeting of the Intervention Program Committee
for the Health Practitioners' Intervention Program.


Contact: Donna P. Whitney, Intervention Program Manager,
Department of Health Professions, 6606 W. Broad St., 4th
Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX
(804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

BOARD FOR HEARING AID SPECIALISTS

October 7, 2002 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

General business meeting.

Contact: William H. Ferguson, II, Assistant Director,
Department of Professional and Occupational Regulation,
3600 W. Broad St. Richmond, VA 23230, telephone (804)
367-8575, FAX (804) 367-2474, (804) 367-9753/TTY , e-
mail hearingaidspec@dpor.state.va.us

October 7, 2002 - 9 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

October 25, 2002 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Board for Hearing Aid Specialists
intends to amend regulations entitled: **18 VAC 80-20.**
Board for Hearing Aid Specialists Regulations. The
purpose of the proposed action is to clarify entry
requirements for licensure, modify the procedures and
provisions regarding renewal and reinstatement, and ensure
that the standards of practice and conduct meet statutory
requirements.

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

Contact: William H. Ferguson, II, Assistant Director,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230, telephone (804)
367-8575, FAX (804) 367-2474, or e-mail
hearingaidspec@dpor.state.va.us.


STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **October 2, 2002 - 7:30 p.m.** -- Conference Call
Contact SCHEV for conference call locations.

A conference call to review items for the October meeting
due to short turnaround time between the September and
October meetings.

Contact: Lee Ann Rung, State Council of Higher Education
for Virginia, 101 N. 14th St., Richmond, VA, telephone (804)
225-2602, FAX (804) 371-7911, e-mail lrung@schev.edu.


DEPARTMENT OF HISTORIC RESOURCES

October 1, 2002 - 6 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House
Room C, Richmond, Virginia. 

November 8, 2002 -- Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Department of Historic Resources
intends to adopt regulations entitled: **17 VAC 10-30.**
Historic Rehabilitation Tax Credits Regulations. The
purpose of the proposed action is to promulgate regulations
for state historic rehabilitation tax credits.

Statutory Authority: §§ 10.1-2202 and 58.1-339.2 of the Code
of Virginia.

Contact: Virginia E. McConnell, Manager, Office of
Preservation Incentives, Department of Historic Resources,
2801 Kensington Ave., Richmond, VA 23221, telephone (804)
367-2323, FAX (804) 367-2391, (804) 367-2386/TTY , e-
mail gmconnell@dhr.state.va.us.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT


State Building Code Technical Review Board

October 18, 2002 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501
North 2nd Street, Richmond, Virginia.

A general meeting to hear administrative appeals
concerning building and fire codes and other regulations of
the department.

Contact: Vernon W. Hodge, Secretary, Department of
Housing and Community Development, 501 N. 2nd St.,
Richmond, VA 23219, telephone (804) 371-7150.

INNOVATIVE TECHNOLOGY AUTHORITY

October 9, 2002 - 10 a.m. -- Open Meeting
Virginia Center for Innovative Technology, 2214 Rock Hill
Road, CIT Tower, Suite 600, Herndon, Virginia. 

A meeting of the Board of Directors to elect officers.

Contact: June Portch, Operations Manager, Innovative
Technology Authority, 2214 Rock Hill Rd., Herndon, VA
20170, telephone (804) 689-3049, FAX (804) 464-1708, e-
mail jportch@cit.org.

VIRGINIA ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

October 21, 2002 - 1:30 p.m. -- Open Meeting
Waterside Convention Center, Norfolk, Virginia. ♿

November 11, 2002 - 3:30 p.m. -- Open Meeting
The Homestead, Hot Springs (Bath County), Virginia. ♿

A regular meeting. Contact the commission for an agenda.

Contact: Alda Wilkinson, Secretary, Virginia Advisory Commission on Intergovernmental Relations, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (804) 828-1120/TTY ♿, e-mail awilkinson@clg.state.va.us

JAMESTOWN-YORKTOWN FOUNDATION

October 10, 2002 - Noon -- Open Meeting
McGuire Woods, One James Center, 901 East Cary Street, Room 7A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

November 7, 2002 - Noon -- Open Meeting
McGuire Woods, One James Center, 901 East Cary Street, Room 7B, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ♿, e-mail lwbailey@jyf.state.va.us.

November 18, 2002 - Noon -- Open Meeting
November 19, 2002 - 8 a.m. -- Open Meeting
Radisson Fort Magruder Inn, 6945 Pocahontas Trail, Williamsburg, Virginia. ♿ (Interpreter for the deaf provided upon request)

Semiannual board meeting. Agenda to be determined. No public comment will be heard.

Contact: Laura W. Bailey, Executive Assistant to the Board, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (804) 253-4840, FAX (804) 253-5299, (804) 253-7236/TTY ♿, e-mail lwbailey@jyf.state.va.us.

† **December 12, 2002 - Noon** -- Open Meeting
The Library of Virginia, 800 East Broad Street, Room A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A Jamestown 2007 Steering Committee meeting. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX

(757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ♿, e-mail lwbailey@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **16 VAC 15-10. Public Participation Guidelines**. The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements; include references to agency website and Virginia Regulatory Town Hall; and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-6(3) of the Code of Virginia

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

Apprenticeship Council

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: **16 VAC 20-10. Public Participation Guidelines**. The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements, include references to agency website and Virginia Regulatory Town Hall, and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-117 of the Code of Virginia.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

NOTE: DATE AND LOCATION CHANGE.


October 17, 2002 - 10 a.m. -- Open Meeting
† **December 19, 2002 - 10 a.m.** -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting of the council.


Contact: Beverley Donati, Assistant Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St. Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ♿, e-mail bgd@doli.state.va.us.

Calendar of Events


Virginia Migrant and Seasonal Farmworkers Board

† **October 23, 2002 - 10 a.m.** -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY , e-mail bbj@doli.state.va.us.

Safety and Health Codes Board

September 24, 2002 - 1 p.m. -- Public Hearing
State Corporation Commission, Tyler Building, 1300 East Main Street, Court Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-50. Boiler and Pressure Vessel Rules and Regulations.** The purpose of the proposed action is to eliminate possible conflicts with the Code of Virginia, allow fees to be paid by credit card, adopt current Part CW provisions for burner controls and safety devices, and update references in the Documents Incorporated by Reference.

Statutory Authority: §§ 40.1-51.6 through 40.1-51.10 of the Code of Virginia.

Contact: Fred P. Barton, Boiler Safety Compliance Director/Chief Boiler Inspector, Department of Labor and Industry, Powers-Taylor Building, 13 S. Thirteenth St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-2324, or e-mail fpb@doli.state.va.us.


October 25, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-10. Public Participation Guidelines.** The purpose of the proposed action is to conform the regulation language to current Administrative Process Act requirements; include references to agency website and Virginia Regulatory Town Hall; and remove redundant language.

Statutory Authority: §§ 2.2-4007 and 40.1-22(5) of the Code of Virginia.

Contact: Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-2631, FAX (804) 371-6524 or e-mail brh@doli.state.va.us.

STATE LIBRARY BOARD


September 23, 2002 - 8:15 a.m. -- Open Meeting
November 18, 2002 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:


8:15 a.m. - Public Library Development Committee, Orientation Room;
Publications and Educational Services Committee, Conference Room B;
Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;
Collection Management Services Committee, Conference Room B;
Legislative and Finance Committee, Conference Room C.

10:30 a.m. - Library Board, Conference Room 2M.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.

MARINE RESOURCES COMMISSION


September 24, 2002 - 9:30 a.m. -- Open Meeting
† **October 22, 2002 - 9:30 a.m.** -- Open Meeting
† **November 19, 2002 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. 

A monthly commission meeting.


Contact: Stephanie Montgomery, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Suite 107, Newport News, VA 23607, telephone (757) 247-8088, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail smont@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

NOTE: CHANGE IN MEETING DATE

October 1, 2002 - 10 a.m. -- Open Meeting
† **December 10, 2002 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. 

A routine business meeting. An agenda will be posted.

Contact: Nancy Malczewski, Communications Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail nmalczewski@dmas.state.va.us.


DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

October 25, 2002 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-120. Waivered Services.** The current regulations for the Elderly and Disabled Waiver program describe the criteria that must be met in order for providers to be reimbursed for the services rendered. The current services offered in this waiver include personal emergency response systems (PERS) to the waiver. The changes to the regulation include the following: (i) the addition of PERS as a permanent covered service; (ii) the addition of language regarding waiver desk reviews, which the Centers for Medicare and Medicaid Services require DMAS to perform; (iii) the addition of language referencing the Code of Virginia regarding criminal records checks for all compensated employees of personal care, respite care and adult day health care agencies; (iv) the addition of language that states that personal care recipients may continue to work and attend post-secondary school while receiving services under this waiver; (v) a change in the requirement of supervisory visits from every 30 days in general to every 30 days for recipients with a cognitive impairment, and up to every 90 days for recipients who do not have a cognitive impairment; (vi) the addition of "some family members" to the definition of who is qualified to perform personal care services; (vii) the addition of the required qualifications for LPNs for respite care; and (viii) clarifications and corrections to the existing language.

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


Contact: Vivian Horn, Policy Analyst, Division of LTC, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527 or vhorn@dmass.state.va.us.

November 7, 2002 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Board Room, Richmond, Virginia. 

A meeting to conduct routine business of the Medicaid Drug Utilization Review Board.


Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY , e-mail mrollings@dmass.state.va.us.

BOARD OF MEDICINE


September 27, 2002 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A meeting of the Legislative Committee to receive reports from the advisory boards and consider regulatory and


legislative items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail wharp@dhp.state.va.us.


September 27, 2002 - 1 p.m. -- Open Meeting

October 2, 2002 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. 


A panel of the board will convene a formal hearing to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.


Contact: Peggy Sadler/Renee Dixson, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail peggy.sadler@dhp.state.va.us.

October 10, 2002 - 8 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A general business meeting including the adoption of amendments to regulations and other items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail wharp@dhp.state.va.us.

† **October 10, 2002 - 11 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic.** The purpose of the proposed action is to promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices in accordance with Chapter 324 of the 2002 Acts of Assembly.


Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Public comments may be submitted until November 22, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, VA 23230.

Calendar of Events

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

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† **October 10, 2002 - 11 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists.** The purpose of the proposed action is to amend regulations in response to a periodic review of regulations to provide consistency in the educational requirements with the national certifying body and to address concerns about the unnecessary burden placed on applicants with a foreign education in acupuncture. Other amendments are recommended to clarify certain provisions of the regulations.


Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Public comments may be submitted until November 22, 2002, to William L. Harp, M.D., Executive Director, Board of Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Informal Conference Committee

October 24, 2002 - 8:45 a.m. -- Open Meeting

November 14, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. 


October 30, 2002 - 9:30 a.m. -- Open Meeting
Williamsburg Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

September 25, 2002 - 9:30 a.m. -- Open Meeting
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.


November 13, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.


Contact: Peggy Sadler or Renee Dixson, Staff, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230,

telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail Peggy.Sadler@dhp.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES


† **September 26, 2002 - 1 p.m.** -- Open Meeting
John Tyler Community College, 13101 Jefferson Davis Highway, Nicholas Student Center, Chester, Virginia. 
(Interpreter for the deaf provided upon request)

The Olmstead Task Force will hold its second meeting.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY , e-mail fsadler@dmhmrsas.state.va.us.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

October 3, 2002 - 1 p.m. -- Open Meeting

October 4, 2002 - 1 p.m. -- Open Meeting
Hanover Community Services Board, 12300 Washington Highway, Ashland, Virginia. 
(Interpreter for the deaf provided upon request)

A quarterly meeting of the board. A public comment period will be scheduled.

Contact: Marlene Butler, Executive Secretary to the State Board, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 371-2308, e-mail mbutler@dmhmrsas.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

September 26, 2002 - 9 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, 900 Natural Resources Drive, Training Room 1224, Charlottesville, Virginia.


October 26, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to repeal regulations entitled: **4 VAC 25-30. Minerals Other than Coal Surface Mining Regulations,** and adopt regulations entitled: **4 VAC 25-31. Reclamation Regulations for Mineral Mining.** The purpose of the proposed regulation is to provide for the beneficial development of mineral resources and to minimize the effects of mining on the environment. The regulation will replace the present reclamation regulations, 4 VAC 25-30, Minerals Other Than Coal Surface Mining Regulations.


Statutory Authority: §§ 45.1-161.3 and 45.1-180.3 of the Code of Virginia.

Contact: William Lassetter, Environmental Engineer Consultant, Department of Mines, Minerals and Energy, Fontaine Research Park, 900 Natural Resources Dr., P.O. Box 3727, Charlottesville, VA 22903, telephone (804) 951-6310, FAX (804) 951-6325, or e-mail cts@mme.state.va.us.


Coal Surface Mining Reclamation Fund Advisory Board

† **October 3, 2002 - 10 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, 3405 Mountain Empire Road, Route 23 South, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to review and discuss the current status and administration of the Reclamation Fund. Special accommodations for the disabled will be made available on request. Anyone needing special accommodations for the meeting should contact the Department of Mines, Minerals and Energy at 276/523-8208 or the Virginia Relay Center at 1-800-828-1120 or 1140/TTY by September 26, 2002. Public comments will be received as the last item of the meeting.

Contact: Roger L. Williams, AML Services Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8208, FAX (276) 523-8247, (800) 828-1120/TTY , e-mail rlw@mme.state.va.us.


Governor's Mined Land Reclamation Advisory Committee

† **October 17, 2002 - 10 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, 3405 Mountain Empire Road, Route 23 South, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review and discuss recent Interstate Mining Compact Commission (IMCC) issues with the coal industry. Special accommodations for the disabled will be made available on request. Anyone needing special accommodations for the meeting should contact the Department of Mines, Minerals and Energy at 276/523-8156 or the Virginia Relay Center at 1-800-828-1120 or 1140/TTY by October 10, 2002. Public comments will be received as the last item of this meeting.

Contact: Leslie S. Vincent, Customer Services Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8156, FAX (276) 523-8163, (800) 828-1120/TTY , e-mail lsv@mme.state.va.us.

DEPARTMENT OF MOTOR VEHICLES


September 24, 2002 - 5:30 p.m. -- Public Hearing
Northside Middle School Auditorium, 6810 Northside High School Road, Roanoke, Virginia. 


November 9, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Motor Vehicles intends to repeal regulations entitled: **24 VAC 20-70. Requirements for Proof of Residency to Obtain a Virginia Driver's License or Photo Identification Card.** The purpose of the proposed action is to repeal the residency regulations governing requirements for proof of residency to obtain a Virginia driver's license or photo identification card.

The hearing will also address issues surrounding incorporation of a biometric identifier(s) as part of the driver's license/identification card issuance process.

Statutory Authority: §§ 46.2-203, 46.2-323, and 46.2-345 of the Code of Virginia.


Contact: Maxine Carter, Special Assistant for Outreach, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1417, FAX (804) 367-6631, toll-free 1-800-435-5137, (800) 272-9268/TTY , e-mail dmvmwc@dmv.state.va.us.

October 10, 2002 - 9 a.m. -- Open Meeting
December 12, 2002 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. 


A meeting of the Digital Signature Implementation Workgroup. Meetings will be held on the second Thursday of every other month from 9 a.m. until noon at the location noted above unless otherwise noted. The room will be open for coffee and pre-session business at 8:30 a.m.; the business session will begin at 9 a.m.

Contact: Vivian Cheatham, Executive Staff Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6870, FAX (804) 367-6631 or e-mail dmvrc@dmv.state.va.us.


Medical Advisory Board

October 9, 2002 - 8 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: J.C. Branche, R.N., Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 367-0531, FAX (804) 367-1604, toll-free (800) 435-5137, (800) 272-9268/TTY , e-mail dmvj3b@dmv.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

October 1, 2002 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Main Lobby Conference Room, 2800 Grove Avenue, Richmond, Virginia. 

A monthly meeting for staff to update the Executive Committee. Public comment will not be received.

Calendar of Events

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

NOTE: CHANGE IN MEETING DATE

† **October 16, 2002 - 10 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO Building, 2800 Grove Avenue, Parlor, Richmond, Virginia. ♿

A meeting to update the Museum Expansion Committee on the expansion planning. Most of the meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

COMMONWEALTH NEUROTRAUMA INITIATIVE ADVISORY BOARD

September 23, 2002 - 9:30 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

Contact: Sandra Prince, Program Specialist, Brain Injury/Spinal Cord Injury Services, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7021, FAX (804) 662-7122, toll-free (800) 552-5019, (804) 662-9040/TTY ☎, e-mail princesw@drs.state.va.us.

BOARD OF NURSING

September 23, 2002 - 9 a.m. -- Open Meeting
September 25, 2002 - 9 a.m. -- Open Meeting
November 18, 2002 - 9 a.m. -- Open Meeting
November 21, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

September 24, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting including regulatory and disciplinary actions as may be presented on the agenda. Public comment will be received at 11 a.m.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX

(804) 662-9512, (804) 662-7197/TTY ☎, e-mail ndurrett@dhp.state.va.us.

* * * * *

September 24, 2002 - 1:30 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-20. Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to establish qualifications and renewal requirements for advanced certification for certified nurse aides and the criteria for an approved education and training program.

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

Public comments may be submitted until October 11, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.


Special Conference Committee

October 8, 2002 - 9 a.m. -- Open Meeting
October 10, 2002 - 9 a.m. -- Open Meeting
October 16, 2002 - 9 a.m. -- Open Meeting
October 17, 2002 - 9 a.m. -- Open Meeting
October 21, 2002 - 9 a.m. -- Open Meeting
October 22, 2002 - 9 a.m. -- Open Meeting
October 29, 2002 - 9 a.m. -- Open Meeting
December 4, 2002 - 9 a.m. -- Open Meeting
December 9, 2002 - 9 a.m. -- Open Meeting
† **December 10, 2002 - 9 a.m.** -- Open Meeting
† **December 16, 2002 - 9 a.m.** -- Open Meeting
† **December 18, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

BOARDS OF NURSING AND MEDICINE

† **September 24, 2002 - 1:30 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 

November 22, 2002 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine intend to amend regulations entitled: **18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to ensure that certifying agencies providing professional certification necessary for licensure as a nurse practitioner are accredited by an accrediting agency recognized by the U.S. Department of Education or are deemed acceptable to the National Council of State Boards of Nursing. An amendment is also proposed to add a specialty category of nurse practitioner.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public comments may be submitted until November 22, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

October 9, 2002 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 


October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to amend regulations entitled: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to increase certain fees charged to nursing home administrators.


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

Public comments may be submitted until October 11, 2002, to Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **October 9, 2002 - 10:15 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. 


A general business meeting, including consideration of disciplinary and regulator matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra_reen@dhp.state.va.us.

OLD DOMINION UNIVERSITY

October 21, 2002 - 3 p.m. -- Open Meeting


November 18, 2002 - 3 p.m. -- Open Meeting

† **December 13, 2002 - 1:15 p.m.** -- Open Meeting
Old Dominion University, Webb University Center, Norfolk,
Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president.


Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5678, e-mail dmeeks@odu.edu.

BOARD OF OPTOMETRY


September 27, 2002 - 9 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 conference hearings. This is a public meeting; however, public comment will not be received.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail carol.stamey@dhp.state.va.us.

† **September 27, 2002 - 11 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)

A meeting to consider comments on proposed regulations and adopt final amendments to 18 VAC 105-20 and 18 VAC 105-30 pursuant to regulatory review recommendations. Other items related to regulatory, disciplinary and administrative matters may be considered. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

Calendar of Events

VIRGINIA OUTDOORS FOUNDATION

October 1, 2002 - 9 a.m. -- Open Meeting

October 2, 2002 - 9 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room 2, Richmond, Virginia. ☎

A regularly scheduled meeting of the Board of Trustees to discuss business of the foundation and accept conservation easements. Public input session will begin at 1 p.m.

Contact: Tamara Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Richmond VA 23219, telephone (804) 225-2147, e-mail tvance@aol.com.

BOARD OF PHARMACY

September 30, 2002 - 9 a.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ☎

November 8, 2002 -- Public comments may be submitted until 9 a.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20, Virginia Board of Pharmacy Regulations**. The purpose of the proposed action is to comply with Chapter 317 of the 2001 Acts of Assembly requiring the board to promulgate regulations for the registration of pharmacy technicians. The statute requires regulations to specify criteria for the training program, examination, and evidence of continued competency. It further specifies that current certification from the Pharmacy Technician Certification Board qualifies a person for registration.

Statutory Authority: §§ 54.1-2400, 54.1-3321, and 54.1-3322 of the Code of Virginia.

Public comments may be submitted until 9 a.m. on November 8, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

September 30, 2002 - 9:15 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

The board will conduct a general business meeting including consideration of regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail erussell@dhp.state.va.us.

November 4, 2002 - 2 p.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A meeting of the Informal Conference Committee to discuss disciplinary matters.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313, e-mail pharmbd@dhp.state.va.us.

BOARD OF PHYSICAL THERAPY

September 23, 2002 - 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 begin a review of its regulations to identify issues that may need to be addressed in a regulatory action. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Southern States Bldg., 4th Floor, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Polygraph Examiners Board intends to amend regulations entitled: **18 VAC 120-30. Regulations Governing Polygraph Examiners**. The purpose of the proposed action is to clarify current policy in several areas, make grammatical improvements, and expand requirements regarding polygraphy schools and the procedures for renewing or withdrawing department approval.

Statutory Authority: §§ 54.1-201 and 54.1-1802 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, FAX (804) 367-2475 or e-mail APELSLA@dpor.state.va.us.

† **November 1, 2002 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A general business meeting including consideration of regulatory and disciplinary issues as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Southern States Bldg., 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us

VIRGINIA PORT AUTHORITY

† **September 24, 2002 - 11 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk,
Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Commissioners.

Contact: Debbie McNulty, Clerk to the Board, Virginia Port Authority, 600 World Trade Center, Norfolk, VA, telephone (757) 683-8000, FAX (757) 683-8500, toll-free (800) 446-8098, e-mail dmcnulty@vpa.vit.org.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

September 23, 2002 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general board meeting.

Contact: Karen O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.

September 23, 2002 - 11 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

October 4, 2002 - 1:30 p.m. -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and appropriateness of regulating roller skating rinks in Virginia. The public hearing is being held pursuant to Senate Bill 436 of the 2002 General Assembly Session.

Contact: Karen O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.

NOTE: CHANGE IN MEETING TIME

September 23, 2002 - 1:30 p.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

September 26, 2002 - 9 a.m. -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

October 12, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Professional and Occupational Regulations intends to amend regulations entitled: **18 VAC 120-40. Virginia Professional Boxing**

and Wrestling Events Regulations. The purpose of the proposed action is to achieve consistency with the federal Muhammad Ali Boxing Reform Act, to ensure consistency with state law and to amend the wrestling event license fee.

Statutory Authority: § 54.1-831 of the Code of Virginia and 15 USC 6301 et seq.

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

October 4, 2002 - 10 a.m. -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and appropriateness of regulating estheticians and electrologists in Virginia.

Contact: Karen O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.

BOARD OF PSYCHOLOGY

October 8, 2002 - 9:45 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Psychology intends to amend regulations entitled: **18 VAC 125-20. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is increase renewal and other fees charged to licensees and change the renewal cycle from biennial to annual.

Statutory Authority: Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until November 8, 2002, to Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

REAL ESTATE APPRAISER BOARD

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Appraiser Board intends to amend regulations entitled: **18 VAC 130-20. Real Estate Board Regulations.** The purpose of the proposed action is to incorporate changes to criteria set forth by the Appraiser Qualifications Board and standards set by the

Calendar of Events

Appraisal Standards Board of the Appraisal Foundation, permit renewal on inactive status, and make clarifying changes.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

REAL ESTATE BOARD

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-20. Real Estate Board Rules and Regulations**. The purpose of the proposed action is to make general clarifying changes; impose less burdensome requirements for reciprocal applicants; clarify language regarding applicants with criminal convictions; revise language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office; add clarifying language to the escrow provisions; revise the advertising provisions to incorporate Internet advertising; and combine Parts V and VI, Standards of Practice and Conduct.

Statutory Authority: § 54.1-2105 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-40. Real Estate Board Time-Share Regulations**. The purpose of the proposed action is to ensure that the regulations remain consistent with the Time-Share Act and to create a regulatory framework to protect the public when purchasing or utilizing a time-share project.

Statutory Authority: §§ 54.1-2105 and 55-396 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-50. Real Estate Board Fair Housing Regulations**. The purpose of the proposed action is to amend existing fair housing regulations to reflect changes in the Code of Virginia and federal law.

Statutory Authority: §§ 36-96.20 and 54.1-2105 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

October 23, 2002 - 3 p.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

November 9, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-60. Common Interest Community Management Information Fund Regulations**. The purpose of the proposed action is to implement the provisions of § 55-529 of the Code of Virginia relating to the Common Interest Community Management Information Fund.

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

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

October 24, 2002 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regular meeting.

Contact: Karen W. O'Neal, Deputy Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

November 13, 2002 - 9 a.m. -- Open Meeting

November 14, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences. Persons desiring to participate in the meeting and requiring

special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Debbie Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail amaker@dpor.state.va.us.

DEPARTMENT OF REHABILITATIVE SERVICES

† **November 7, 2002 - 4 p.m.** -- Open Meeting
Department of Rehabilitative Services, Fairfax Office, 11150 Main Street, Suite 300, Fairfax, Virginia ♿ (Interpreter for the deaf provided upon request)

† **November 13, 2002 - 4 p.m.** -- Open Meeting
Department of Rehabilitative Services, Tidewater Regional Office, 5700 Thurston Avenue, Suite 107, Portsmouth, Virginia ♿ (Interpreter for the deaf provided upon request)

† **November 18, 2002 - 4 p.m.** -- Open Meeting
Woodrow Wilson Rehabilitation Center, William Cashett Chapel, State Route 250, Fishersville, Virginia ♿ (Interpreter for the deaf provided upon request)

The Virginia Department of Rehabilitative Services will hold public forums to seek input regarding vocational rehabilitation and supported employment services provided to Virginians with disabilities. The state plan is available for review at www.vadrs.org, the Department of Rehabilitative Services sponsored website, or at www.va-src.org, the website sponsored by the State Rehabilitation Council.

Contact: Elizabeth Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7071, FAX (804) 662-7696, toll-free (800) 552-5019, (800) 464-9950/TTY ☎, e-mail smithee@drs.state.va.us.

VIRGINIA RESOURCES AUTHORITY

October 15, 2002 - 9 a.m. -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia ♿

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee

meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R.C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcræ@vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

October 23, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A meeting to hear appeals of Department of Health denials of septic tank permits.

Contact: Susan C. Sherertz, Business Manager, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

September 24, 2002 - 10 a.m. -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia ♿

A meeting to review applications for loans submitted to the authority for approval and to address general business of the board. Time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

October 11, 2002 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-680. Virginia Energy Assistance Program - Low Income Home Energy Assistance Program (LIHEAP)**. The purpose of the proposed action is to provide flexibility to adjust the maximum eligibility income limit in response to federal funding fluctuations, and to assist households with summer energy needs by establishing a cooling assistance component and requiring participation by localities.


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

Contact: Margaret Friedenbergh, Energy Assistance Program Manager, Department of Social Services, 730 E. Broad St.,


Calendar of Events

Richmond, VA 23219, telephone (804) 692-1728, FAX (804) 692-1469 or e-mail mjf900@dcse.dss.state.va.us.

† **October 16, 2002 - 9 a.m.** -- Open Meeting
† **October 17, 2002 - 9 a.m.** -- Open Meeting
Holiday Inn-Bristol, 3005 Linden Drive, Bristol, Virginia. 

† **December 18, 2002 - 9 a.m.** -- Open Meeting
† **December 19, 2002 - 9 a.m.** -- Open Meeting
Ramada Inn 1776, 725 Bypass Road, Williamsburg, Virginia. 

A formal business meeting of the board.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, 730 E. Broad St., Suite 812, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, (800) 828-1120/TTY , e-mail pvr2@email1.dss.state.va.us.

November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-375. Economic and Employment Improvement Program for Disadvantaged Persons.** The purpose of the proposed action is to establish a regulation that implements the Economic and Employment Improvement Program for Disadvantaged Persons.

Statutory Authority: §§ 63.2-217 and 63.2-700 et seq. of the Code of Virginia.

Contact: Faye Palmer, Manager, Job Readiness and Employment, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1065, FAX (804) 225-2202 or e-mail afp900@email1.dss.state.va.us.


November 22, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-700. Child Protective Services Central Registry Information.** The purpose of the proposed action is to ensure that the regulation is consistent with the regulation entitled Child Protective Services, 22 VAC 40-705, which requires preponderance of the evidence for founded disposition; and to ensure consistency with the Virginia Court of Appeals decision of Jackson v. Marshall, which determined that only categories of "founded" and "unfounded" are allowed under § 63.1-248 of the Code of Virginia. The department officially ceased use of the Reason to Suspect category on March 9, 1995.

Statutory Authority: §§ 63.2-217 and 63.2-1515 of the Code of Virginia.

Contact: Jesslyn Cobb, Program Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219-1849,


telephone (804) 692-1255, FAX (804) 692-2215 or e-mail jqc900@email1.dss.state.va.us.

December 6, 2002 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia. 


A regular business meeting of the Family and Children's Trust Fund Board of Trustees.

Contact: Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS


† **October 1, 2002 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: Mark N. Courtney, Assistant Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail soilscientist@dpor.state.va.us.

DEPARTMENT OF TECHNOLOGY PLANNING


VGIN Advisory Board

† **November 7, 2002 - 1:30 p.m.** -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia. 

A regular meeting.

Contact: Bill Shinar, VGIN Coordinator, Department of Technology Planning, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bshinar@vgin.state.va.us.

Wireless E-911 Services Board

November 13, 2002 - 9 a.m. -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

The CMRS subcommittee will meet in closed session at 9 a.m. A regular meeting of the board will begin at 10 a.m.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.


COUNCIL ON TECHNOLOGY SERVICES

September 24, 2002 - 12:30 p.m. -- Open Meeting
Virginia Military Institute, Lexington, Virginia.

A bimonthly meeting in conjunction with the Commonwealth of Virginia Information Technology Symposium (COVITS) 2002. For more information about the conference, visit www.covits.org. For more information about the COTS meeting, visit www.cots.state.va.us.


Contact: Jenny Hunter, COTS Executive Director, Department of Technology Planning, 110 S. 7th St., Suite 13S Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

† **October 16, 2002 - 1 p.m.** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. 

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Larry D. Jones, Agency Regulatory Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-7712, FAX (804) 371-0074, e-mail jones_ld@vdot.state.va.us.

† **October 16, 2002 - 2 p.m.** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. 

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Sandra M. Mills, Assistant Legislative Liaison, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Sandee.Mills@VirginiaDOT.org.

BOARD OF VETERINARY MEDICINE

October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to revise requirements in order to update facility requirements and to clarify certain provisions that have been confusing or problematic to licensees, especially related to the appropriate delegation of veterinary tasks to licensed technicians or unlicensed assistants.

Statutory Authority: Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.


October 11, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to increase renewal and other fees charged to applicants and licensees.


Statutory Authority: § 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 11, 2002, to Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 West Broad Street, Richmond, VA 23230.


Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

† **November 7, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A general business meeting, including regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

VIRGINIA VOLUNTARY FORMULARY

† **October 22, 2002 - 10 a.m.** -- Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. 

A public hearing to consider the adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Virginia Voluntary Formulary add drugs to the Formulary that became effective April 9, 2001, and the most recent supplement to that revision. Copies of the proposed revisions to the Formulary are available for inspection at the Bureau of Pharmacy Services. Written comments received by the bureau prior to 5 p.m. on October 22, 2002, will be made a part of the hearing record and considered by the board.

Calendar of Events

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 North 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

† **November 12, 2002 - 10:30 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ☎

A meeting to consider public hearing comments and evaluate data submitted by pharmaceutical manufacturers and distributors for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 North 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

October 24, 2002 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

November 8, 2002 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-110. Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed action is to revise definitions as necessary for consistency with federal regulations, update references to cite current federal regulations, remove obsolete sections and revise, as necessary, requirements for registration of shippers.

Statutory Authority: § 10.1-1450 of the Code of Virginia.

Contact: Melissa Porterfield, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4238, e-mail msporterfi@deq.state.va.us.

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

October 3, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail wastemgt@dpor.state.va.us.

STATE WATER CONTROL BOARD

September 26, 2002 - 10 a.m. -- Open Meeting
Department of Environmental Quality Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ☎

A public meeting to receive comments on the State Water Control Board's notice of intent to consider amending the Aboveground Storage Tank Regulation (9 VAC 25-91) and the Underground Storage Tank Financial and Technical Regulations (9 VAC 25-580 and 9 VAC 25-590).

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cberndt@deq.state.va.us.

September 27, 2002 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

November 12, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **9 VAC 25-70. Regulation No. 5 - Control of Pollution from Boats** and **9 VAC 25-730. Smith Mountain Lake No-Discharge Zone** and adopt regulations entitled: **9 VAC 25-71. Regulations Governing the Discharge of Sewage and Other Wastes from Boats.** The purpose of the proposed action is to repeal 9 VAC 25-70 and 9 VAC 25-730 and concurrently adopt 9 VAC 25-71 in order to provide a state regulation to address discharges of sewage and other wastes (decayed wood, sawdust, oil, etc.) from boats, especially with regard to implementation of no discharge zones.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.33 of the Code of Virginia.

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory@deq.state.va.us.

September 27, 2002 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

October 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-120. General Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites and Hydrostatic Tests.** The purpose of the proposed action is to receive public comment on the draft General VPDES Regulation for Discharges from Petroleum Contaminated Sites and Hydrostatic Tests and the proposed reissuance of the General VPDES Permit (VAG83) to discharge to state waters.

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

Contact: Jon van Soestbergen, P.E., Environmental Manager II, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

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September 27, 2002 - 10 a.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

October 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-196. General Pollutant Discharge Elimination System (VPDES) Permit Regulation for Cooling Water Discharges.** The purpose of the proposed action is to receive public comment on the draft General VPDES Regulation for Cooling Water Discharges and the proposed reissuance of the General VPDES Permit (VAG25) to discharge to state waters.

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

Contact: Jon van Soestbergen, P.E., Environmental Manager II, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117, FAX (804) 698-4032 or e-mail jvansoest@deq.state.va.us.

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October 1, 2002 - 2 p.m. -- Public Hearing
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

October 2, 2002 - 2 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

October 3, 2002 - 7 p.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

November 1, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-260. Water Quality Standards** and adopt regulations entitled: **9 VAC 25-280. Groundwater Quality Standards.** The purpose of the proposed action is to include updates and revisions to water quality criteria, use designations, mixing zones and the antidegradation policy. Substantive changes include the addition of secondary contact bacteria criteria, the revision of approximately 30 existing numerical criteria and the addition of approximately 33 new numerical criteria and the placement of several waters in the Class VII "swamp waters" classification along with a new pH criteria for those streams. The changes are based on EPA requirements and recommendations, the Department of Environmental Quality staff requests, and public comments. The amendments also move the groundwater standards into a separate regulation

(9 VAC 25-280). This regulation contains the existing groundwater standards, criteria and antidegradation policy as well as pertinent definitions, general requirements, requirements for modification, amendment, and cancellation of standards and designations of authority.

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


Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or e-mail: emdaub@deq.state.va.us.

† **October 7, 2002 - 7:30 p.m.** -- Public Hearing
City of Chesapeake, City Council Chambers, 306 Cedar Road, Chesapeake, Virginia. 

A public hearing to receive comments on a proposed Virginia water protection permit for surface water impacts associated with the development of a master-planned mixed use community on the Centerville Properties located in Chesapeake.

Contact: Sheri Kattan, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2156, e-mail sakattan@deq.state.va.us.


VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **December 12, 2002 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 


The board will conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.state.va.us.

VIRGINIA WORKFORCE COUNCIL

† **October 1, 2002 - 10 a.m.** -- Open Meeting
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Agenda: WIA Incentive Awards; 5-year local strategic planning instructions; 5-year USDOL Unified State Plan instructions; Census and LMI data presentation; workforce training annual report; Layoff Aversion/Incumbent Worker Policy; and Council 2002-2005 Workforce Development Strategic Plan. Public comment will be received at 11 a.m. Commenters are requested to limit remarks to five minutes per person and to provide a written copy of comments.

Contact: Gail Robinson, Virginia Workforce Council Liaison, Virginia Employment Commission, P.O. Box 1358, Richmond, VA 23218-1358, telephone (804) 225-3070, FAX (804) 225-2190, (800) 828-1120/TTY , e-mail grobinson@vec.state.va.us.

Calendar of Events


INDEPENDENT

VIRGINIA RETIREMENT SYSTEM


October 16, 2002 - Noon -- Open Meeting

November 19, 2002 - Noon -- Open Meeting

† **December 18, 2002 - Noon** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Optional Retirement Plan Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.


October 17, 2002 - 9 a.m. -- Open Meeting

November 21, 2002 - 9 a.m. -- Open Meeting


† **December 19, 2002 - 9 a.m.** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received.


Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

November 20, 2002 - Noon -- Open Meeting


VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

Committees will meet as follows:


- Noon - Audit and Compliance Committee
- 1 p.m. - Benefits and Actuarial Committee
- 2:30 p.m. - Administrative and Personnel Committee
- 3 p.m. - Investment Advisory Committee

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.

† **December 18, 2002 - 3 p.m.** -- Open Meeting

Bank of America Building, 1111 East Main Street, 4th Floor Conference Room, Richmond, Virginia. 


A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Phyllis Henderson, Virginia Retirement System, 1111 E. Main St., Richmond, Virginia 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail phenderson@vrs.state.va.us.

LEGISLATIVE

VIRGINIA CODE COMMISSION

October 2, 2002 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia 

A meeting to continue with the recodification of Title 25, Eminent Domain. A task force to assist staff with the recodification of Title 37.1, Institutions for the Mentally Ill; Mental Health Generally, will be considered. Public comments will be received at the end of the meeting.

Contact: Jane D. Chaffin, Registrar of Regulations, Virginia Code Commission, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

DR. MARTIN LUTHER KING, JR. MEMORIAL COMMISSION


October 24, 2002 - 10 a.m. -- Open Meeting

November 15, 2002 - 10 a.m. -- Open Meeting

December 17, 2002 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. 

A regular meeting. Questions about the agenda should be addressed to Brenda Edwards or Norma Szakal, Division of Legislative Services, (804) 786-3591.


Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRICAL UTILITY RESTRUCTURING ACT

October 10, 2002 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

COMMISSION ON THE FUTURE OF VIRGINIA'S ENVIRONMENT

October 15, 2002 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Patty Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

JOINT SUBCOMMITTEE STUDYING THE EFFECTIVENESS AND COSTS OF THE GUARDIAN AD LITEM PROGRAM

September 25, 2002 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 📍

A regular meeting. Questions about the agenda should be addressed to Robie Ingram, Division of Legislative Services, (804) 786-3591.

Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT SUBCOMMITTEE STUDYING LEAD POISONING PREVENTION

October 1, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

STATE WATER COMMISSION

† **October 1, 2002 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 📍

A regular meeting. Questions about the agenda should be addressed to Marty Farber, Division of Legislative Services, (804) 786-3591.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

CHRONOLOGICAL LIST

OPEN MEETINGS

September 23

- Alcoholic Beverage Control Board
- † Criminal Justice Services Board
 - Private Security Services Advisory Board
- Game and Inland Fisheries, Department of Library Board, State
 - Archival and Information Systems
 - Collection Management Services Committee

- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
- Neurotrauma Initiative Advisory Board, Commonwealth Nursing, Board of Physical Therapy, Board of
 - Legislative/Regulatory Committee
- Professional and Occupational Regulation, Board for

September 24

- Accountancy, Board of
- Attorney General, Office of the
 - Identity Theft Task Force
- Compensation Board
- Funeral Directors and Embalmers, Board of Game and Inland Fisheries, Department of Marine Resources Commission
- Nursing, Board of
- † Port Authority, Virginia
- Small Business Financing Authority, Virginia
- Technology Services, Council on

September 25

- Accountancy, Board of
- Game and Inland Fisheries, Department of
- † Gaming Commission, Charitable
- Guardian Ad Litem Program, Joint Subcommittee to Study the Effectiveness and Costs of the
- Medicine, Board of
- Nursing, Board of

September 26

- Criminal Justice Services Board
- † Dentistry, Board of
- Education, Board of
- Environmental Quality, Department of Governor, Office of the
 - "One Virginia-One Future" Governor Warner's Economic Development Strategic Plan Regional Meeting
- † Health, Department of
- Medicine, Board of
- † Mental Health, Mental Retardation and Substance Abuse Services
 - Olmstead Task Force
- Water Control Board, State

September 27

- † Dentistry, Board of
- Governor, Office of the
 - "One Virginia-One Future" Governor Warner's Economic Development Strategic Plan Regional Meeting
- Medicine, Board of
 - Legislative Committee
- Optometry, Board of

September 30

- Pharmacy, Board of

October 1

- Lead Poison Prevention, Joint Subcommittee Studying Medical Assistance Services, Board of
- Museum of Fine Arts, Virginia
 - Executive Committee
- Outdoors Foundation, Virginia
- † Soil Scientists and Wetland Professionals, Board for
- † Water Commission, State
- † Workforce Council, Virginia

Calendar of Events

October 2

Code Commission, Virginia
† Conservation and Recreation, Department of Governor, Office of the
- GA Study Pursuant to Item 298C of the Appropriations Act
† Higher Education for Virginia, State Council of Medicine, Board of
Outdoors Foundation, Virginia

October 3

† Conservation and Recreation, Department of
- Falls of the Jams Scenic River Advisory Board
Fire Services Board, Virginia
- Administration and Policy Committee
- Finance Committee
- Fire Education and Training Committee
- Fire Prevention and Control Committee
Mental Health, Mental Retardation, and Substance Abuse Services, State Board of
† Mines, Minerals and Energy, Department of
- Coal Surface Mining Reclamation Fund Advisory Board
Waste Management Facility Operators, Virginia Board for

October 4

Art and Architectural Review Board
Education, Board of
- Committee to Implement NCLB
Fire Services Board, Virginia
Mental Health, Mental Retardation, and Substance Abuse Services, State Board of

October 7

† Blind and Vision Impaired, Board for the
Hearing Aid Specialists, Board for

October 8

Nursing, Board of
- Special Conference Committee

October 9

† Contractors, Board for
Environmental Quality, Department of
Innovative Technology Authority
Motor Vehicles, Department of
- Medical Advisory Board
† Nursing Home Administrators, Board of

October 10

† Agriculture and Consumer Services, Board of
Electrical Utility Restructuring Act, Virginia
- Consumer Advisory Board
Environmental Quality, Department of
Jamestown-Yorktown Foundation
Medicine, Board of
Motor Vehicles, Department of
- Digital Signature Implementation Workgroup
Nursing, Board of
- Special Conference Committee

October 11

† Child Fatality Review Team, State

October 15

Blind and Vision Impaired, Board for the
Future of Virginia's Environment, Commission on the
Resources Authority, Virginia

October 16

Education, Board of
† Museum of Fine Arts, Virginia

- Expansion Committee
Nursing, Board of
- Special Conference Committee
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee
† Social Services, State Board of
† Transportation Board, Commonwealth

October 17

Design-Build/Construction Management Review Board
Education, Board of
- State Special Education Advisory Committee
Labor and Industry, Department of
- Virginia Apprenticeship Council
† Mines, Minerals and Energy, Department of
- Governor's Mined Land Reclamation Advisory Committee
† Nursing, Board of
- Special Conference Committee
Retirement System, Virginia
- Board of Trustees
† Social Services, State Board of

October 18

Education, Board of
- State Special Education Advisory Committee
† Health Professions, Department of
- Intervention Program Committee
Housing and Community Development, Department of
- State Building Code Technical Review Board

October 21

Environmental Quality, Department of
Intergovernmental Relations, Virginia Advisory Commission
on
Nursing, Board of
- Special Conference Committee
Old Dominion University
- Executive Committee

October 22

† Blind and Vision Impaired, Board for the
† Marine Resources Commission
Nursing, Board of
- Special Conference Committee
† Voluntary Formulary Board, Virginia

October 23

† Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board
Sewage Handling and Disposal Appeal Review Board

October 24

† Game and Inland Fisheries, Department of
Dr. Martin Luther King, Jr. Memorial Commission
Medicine, Board of
Real Estate Board

October 29

Asbestos, Lead, and Home Inspectors, Virginia Board for
Nursing, Board of
- Special Conference Committee

October 30

Medicine, Board of

November 1

Art and Architectural Review Board
† Physical Therapy, Board of

November 4

Pharmacy, Board of

- Informal Conference Committee

November 6

Education, Board of
- Committee to Implement NCLB

November 7

† Audiology and Speech-Language Pathology, Board of
† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Jamestown-Yorktown Foundation
Medical Assistance Services, Department of
- Medicaid Drug Utilization Review Board
† Rehabilitative Services, Department of
† Technology Planning, Department of
- VGIN Advisory Board
† Veterinary Medicine, Board of

November 8

† Child Fatality Review Team, State

November 11

Intergovernmental Relations, Virginia Advisory Commission
on

November 12

† Voluntary Formulary Board, Virginia

November 13

† Contractors, Board for
- Tradesman/Education Committee
† Gaming Commission, Charitable
Medicine, Board of
Real Estate Board
† Rehabilitative Services, Department of
Technology Planning, Department of
- Wireless E-911 Services Board

November 14

Medicine, Board of
Real Estate Board

November 15

Dr. Martin Luther King, Jr. Memorial Commission

November 18

Jamestown-Yorktown Foundation
Library Board, State
- Archival and Information Systems
- Collection Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
Nursing, Board of
Old Dominion University
- Executive Committee
† Rehabilitative Services, Department of

November 19

Funeral Directors and Embalmers, Board of
Jamestown-Yorktown Foundation
† Marine Resources Commission
Retirement System, Virginia
- Optional Retirement Plan Advisory Committee

November 20

Retirement System, Virginia
- Administration and Personnel Committee
- Audit and Compliance Committee
- Benefits and Actuarial Committee
- Investment Advisory Committee

November 21

Design-Build/Construction Management Review Board
† Education, Board of
Nursing, Board of
Retirement System, Virginia
- Board of Trustees

December 3

† Funeral Directors and Embalmers, Board of

December 4

† Contractors, Board for
Education, Board of
- Committee to Implement NCLB
† Gaming Commission, Charitable
Nursing, Board of
- Special Conference Committee

December 5

† Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board

December 6

Art and Architectural Review Board
† Social Services, State Board of
- Family and Children's Trust Fund Board

December 9

Nursing, Board of
Special Conference Committee

December 10

† Medical Assistance Services, Board of
† Nursing, Board of
- Special Conference Committee

December 12

† Jamestown-Yorktown Foundation
- Jamestown 2007 Steering Committee
Motor Vehicles, Department of
- Digital Signature Implementation Workgroup
† Waterworks and Wastewater Works Operators, Virginia
Board for

December 13

† Health Professions, Department of
- Intervention Program Committee
† Old Dominion University
- Executive Committee

December 16

† Nursing, Board of
- Special Conference Committee

December 17

Dr. Martin Luther King, Jr. Memorial Commission

December 18

† Nursing, Board of
- Special Conference Committee
† Retirement System, Virginia
- Investment Advisory Committee
- Optional Retirement Plan Advisory Committee
† Social Services, State Board of

December 19

† Labor and Industry, Department of
- Virginia Apprenticeship Council
† Retirement System, Virginia
- Board of Trustees
† Social Services, State Board of

Calendar of Events

PUBLIC HEARINGS

September 23

Forestry, Board of
Professional and Occupational Regulation, Board for

September 24

Air Pollution Control Board, State
Labor and Industry, Department of
- Safety and Health Codes Board
Motor Vehicles, Department of
Nursing, Board of
† Nursing and Medicine, Boards of

September 26

Education, Board of
Mines, Minerals and Energy, Department of
Professional and Occupational Regulation, Board for

September 27

Water Control Board, State

September 30

Pharmacy, Board of

October 1

Historic Resources, Department of
Water Control Board, State

October 2

Water Control Board, State

October 3

† Air Pollution Control Board, State
Water Control Board, State

October 4

Professional and Occupational Regulation, Board for

October 7

Hearing Aid Specialists, Board for
† Water Control Board, State

October 8

Asbestos, Lead, and Home Inspectors, Virginia Board for
† Conservation and Recreation, Department of
Psychology, Board of

October 9

Nursing Home Administrators, Board of

October 10

Air Pollution Control Board, State
Environmental Quality, Department of
† Medicine, Board of

October 15

† Conservation and Recreation, Department of

October 16

† Education, Board of

October 17

Auctioneers Board

October 23

Real Estate Board

October 24

Waste Management Board, Virginia

March 13, 2003

Agriculture and Consumer Services, State Board of