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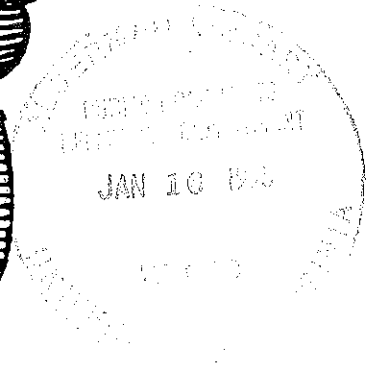
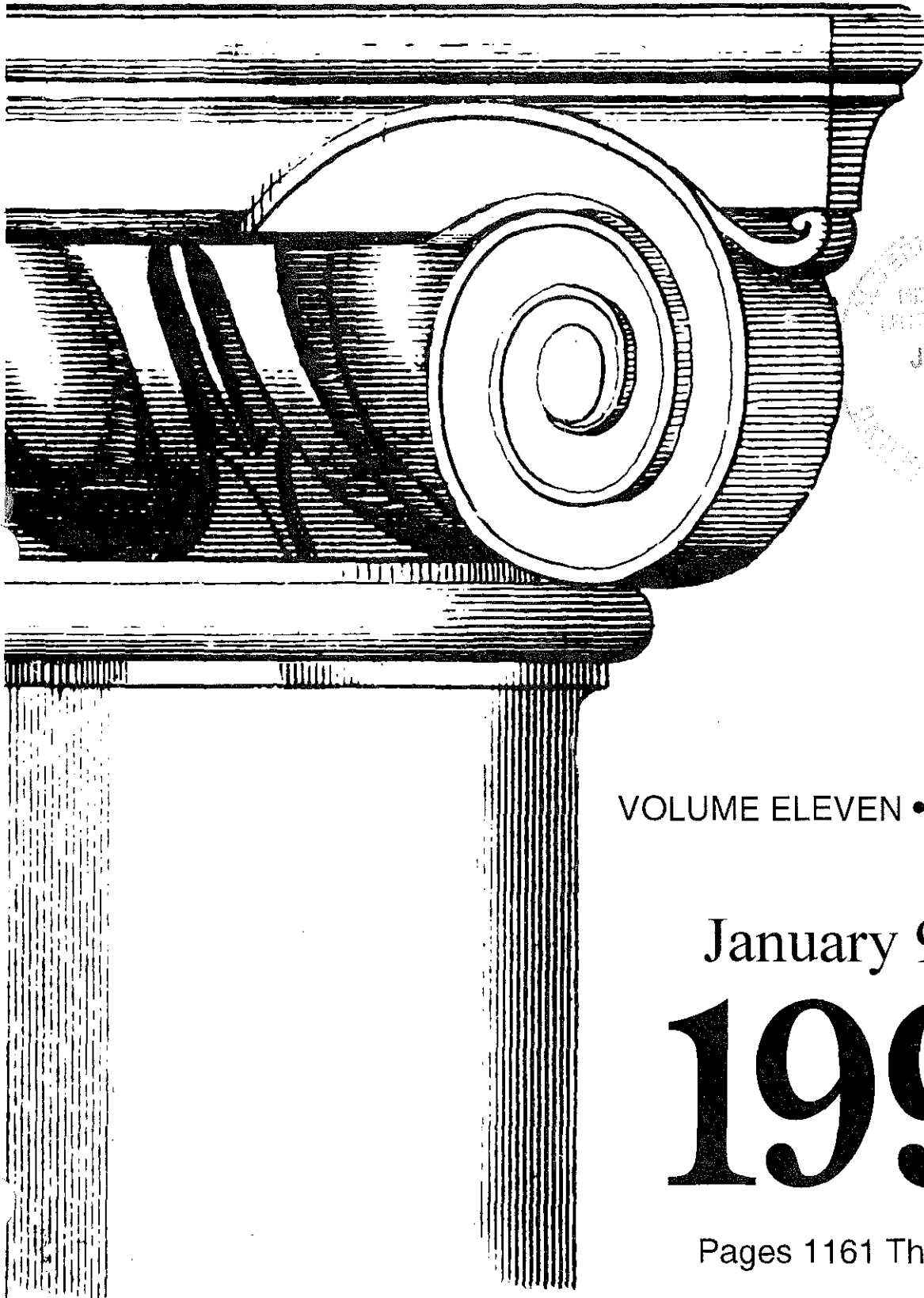
REGULATIONS

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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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NOTICES OF INTENDED REGULATORY ACTION

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STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider promulgating regulations entitled: **VR 120-50-04. Regulations for Emissions Trading and Banking.** The purpose of the proposed action is to develop the regulatory basis for a program under which the creation, trading (buying and selling) and banking of emission reduction credits can occur.

Public Meeting: A public meeting will be held by the department in the Board Room, Department of Environmental Quality Office Building, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia, at 1:30 p.m. on January 25, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Deborah Pegram at the Office of Regulatory Services, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 762-4041 or TDD (804) 762-4021. Persons needing interpreter services for the deaf must notify Ms. Pegram no later than January 18, 1995.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on January 26, 1995, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above.

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

Need: Among the primary goals of the Clean Air Act are the attainment and maintenance of the National Ambient

Air Quality Standards (NAAQS) and the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS. The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the outside ambient air. The EPA requires that each state submit a plan (called a State Implementation Plan or SIP), including any laws and regulations necessary to enforce the plan, showing how the air pollution concentrations will be reduced to levels at or below these standards (i.e., attainment). Once the pollution levels are within the standards, the plan must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (i.e., maintenance). The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures are directed at limiting emissions primarily from commercial/industrial facilities and operations. Mobile source control measures are directed at limiting tail pipe and other emissions primarily from motor vehicles and include the following: Federal Motor Vehicle Emission Standards, fuel volatility limits, reformulated gasoline, emissions control system anti-tampering program, and inspection and maintenance program. Transportation source control measures are directed at limiting the location and use of motor vehicles and include the following: carpools, special bus lanes, rapid transit systems, commuter park and ride lots, bicycle lanes, signal system improvements, and many others.

The Clean Air Act requires that states include a New Source Review (NSR) program in the SIP as a control strategy. NSR requires owners of new sources and existing sources which modify their operations to obtain a preconstruction permit. In areas not in compliance with the National Ambient Air Quality Standards (i.e., nonattainment areas), one of the NSR requirements is that the source obtain sufficient surplus emissions reductions to more than "offset" their new emissions. Depending on the nonattainment classification of the area, these "offsets" must be secured at a minimum ratio of 1.1 to 1. Offsets are also required in attainment areas if the new emissions would create a nonattainment situation. The amount of offset would be that necessary to correct the nonattainment situation. These requirements are designed to allow industrial growth without interfering with attainment and maintenance of NAAQS. Emissions trading would facilitate new sources in obtaining these offsets.

The Act requires that states include RACT in the SIP as a

Notices of Intended Regulatory Action

control strategy for existing sources. RACT, or Reasonably Available Control Technology, is a type and level of emissions control, currently technologically and economically feasible, which is required to meet a specific emission limit and which will assist in meeting the air quality standards. Sources required to meet RACT emission limits may install certain control technologies in order to comply. Another method for sources to meet emission limits is bubbling. Bubbling, which allows existing sources to increase emissions at one or more emission sources in exchange for decreases in emissions at other emission sources, can be done through emissions trading. Bubbling gives facilities the ability to implement less costly ways of meeting air pollution control requirements. To be approved, each bubble must achieve an emission level equivalent to or better than the total emission level of the facility prior to the bubble.

Emissions trading and banking can be used to meet the above requirements, as well as additional future requirements. Trading can also be used by sources for exemption from NSR or other process; this is known as netting. Trading and banking involves the creation of surplus emissions reduction credits at sources of air pollution for use to meet SIP air pollution control requirements by the same or other sources. The source creating the emission reduction credit could either sell (trade) the credit to another source or store (bank) the credit for later use or sale. Such a program can provide more flexibility to meet environmental requirements, thus reducing costs and encouraging faster compliance.

Moreover, the development of generic trading rules enables states to expedite the attainment of SIP goals and eliminates the need for case-by-case review of emission trading projects. Credits can be created by both stationary and mobile sources. New and existing sources can take advantage of emissions trading.

Alternatives:

1. Draft a regulation which will provide for the implementation of an emissions trading and banking program for mobile and stationary sources which meets the provisions of the state code, the Clean Air Act and associated EPA policies and guidance.
2. Take no action to implement a trading and banking program. Failure to develop an emissions trading program would create less opportunity for the creation and trade of credits and no banking could occur. In addition, the requirements of the state code would not be met.

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

Applicable statutory requirements: Section 10.1-1322.3 of the Virginia Air Pollution Control Law states that the State Air Pollution Control Board shall promulgate regulations to

create a voluntary air emissions trading and banking program for the Commonwealth. The regulations are to provide for market-based programs to achieve and maintain the NAAQS. The regulations are to create an emissions banking and trading program, to the full extent not prohibited by federal law, that results in net air emission reductions, creates an economic incentive for reducing air emissions, and allows for continued economic growth through a voluntary program of banking and trading credits. In promulgating the regulations consideration shall be given, but not be limited to, the inclusion of provisions concerning: (i) the definition and use of emissions reduction credits from mobile and stationary sources, (ii) the role of offsets in emissions trading, (iii) interstate or regional emissions trading, and (iv) the mechanisms needed to facilitate voluntary emissions trading and banking. The regulations are not to prohibit the direct trading of air emissions credits between private industries.

The 1990 Amendments to the Clean Air Act represent the most comprehensive piece of clean air legislation ever enacted and for the first time delineates nonattainment areas as to the severity of the pollution problem. Nonattainment areas are now classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification is subject to successively more stringent control measures. Areas with higher classification of nonattainment must meet the requirements of all the areas in lower classifications plus the additional, more stringent requirements of their class. The classifications for Virginia's nonattainment areas are marginal for the Hampton Roads Nonattainment Area, moderate for the Richmond Nonattainment Area, and serious for the Northern Virginia Nonattainment Area. Section 110(a)(2)(A) of the Act requires that State Implementation Plans contain enforceable emission limitations and other control measures or techniques, including economic incentives such as fees, marketable permits, and auctions of emission rights as well as schedules and timetables for compliance.

Section 182(a)(2)(C) of the Act sets out the general requirements for new source review programs in all nonattainment areas and mandates a new and modified major stationary source permit program that meets the requirements of Sections 172 and 173 of the Act. Section 172 contains the basic requirement for a permit program, while Section 173 contains the specifics some of which cover emissions trading and are summarized below.

Section 173(a) provides that a permit may be issued if offsets have been obtained for the new or expanding sources from existing sources so that total allowable emissions (i) from existing sources in the region, (ii) from new or modified sources which are not major emitting facilities, and (iii) from the proposed new source will be sufficiently less than total emissions from existing sources prior to the application for the permit so as to represent reasonable further progress.

Notices of Intended Regulatory Action

Section 173(c) provides that the owner of the proposed new or modified source may obtain offsets only from the nonattainment area in which the proposed source is to be located. However, the permit program may provide that offsets may be obtained from other nonattainment areas whose emissions impact in the area where the proposed source is to be located, provided the other nonattainment area has an equal or higher classification and the offsets are based on actual emissions.

Section 173(e) provides that the permit program must allow the use of alternative or innovative means to achieve offsets for emission increases due to rocket engine and motor firing and cleaning related to the firing.

A major stationary source is defined for general application in Section 302 of the Act as "any facility or source of air pollutants which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant." For nonattainment areas defined as serious or worse, Section 182(c) specifically defines a major stationary source as a facility emitting 50 tons per year or more. Section 182(f) provides that requirements which apply to major stationary sources of volatile organic compounds (VOCs) under the Act shall also apply to major stationary sources of nitrogen oxides (NOX).

Section 182(a)(4) of the Act sets out the requirements for marginal areas (Hampton Roads) with respect to offset ratios, providing for a minimum ratio of total emissions reduction of VOCs to total increased emissions of VOCs of 1.1 to 1. Likewise Section 182(b)(5) sets out the offset requirements for moderate nonattainment areas (Richmond), specifying the ratio to be at least 1.15 to 1. Finally, Section 182(c)(10) sets out the offset requirements for serious nonattainment areas (Northern Virginia), specifying the ratio to be at least 1.2 to 1.

Sections 182(c)(6) through (c)(8) contain some additional specifics for serious or worse nonattainment areas concerning the establishment of a de minimis level for expanding existing sources and the allowance of internal offsets as an alternative to the permit requirements. New source permit programs must include provisions to require permits for modifications of all existing sources unless the increase in net emissions from the source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years, including the calendar year in which the increase occurs. The program must also include provisions concerning internal offsets as alternatives to the permit requirements. For sources emitting less than 100 tons per year and applying for a permit to expand, a permit will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner does not choose the option of an internal offset, a permit will be required but the control technology level required will be best available control technology (BACT) instead of lowest achievable emission

rate (LAER). For sources emitting 100 tons or more per year and applying for a permit to expand, control technology requirements which constitute LAER will be required unless the owner elects to offset the increase by a greater reduction in emissions of the same pollutant from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

Section 182(g)(4) of the Act sets out the requirements for economic incentive programs. If a state fails to meet a milestone as required for serious and severe nonattainment areas in Section 182(g), it must adopt an economic incentive program. This applies to extreme areas as set forth in Section 182(g)(5). States may also adopt an economic incentive program on a voluntary basis. Economic incentive programs must meet guidelines as established in the Economic Incentive Program Rules and in Section 182(g)(4). A state program may include emissions fees, marketable permits, a system of state fees on sale or manufacture of products the use of which contributes to ozone formation or any combination. The program may also include incentives to reduce vehicle miles traveled, consistent with Section 108(f). Any revenues generated by such a program can be used by states to (i) provide incentives for achieving emission reductions, (ii) provide assistance for the development of innovation technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings but not more than 75% of costs for the development of technology and (iii) fund not more than 50% of administrative costs of the program.

To provide guidance in the development of emissions trading and banking programs, EPA has promulgated the following:

1. Economic Incentive Program Rules (59 FR 16690, April 7, 1994).
2. Interim Guidance on the Generation of Mobile Source Emission Reduction Credits (58 FR 11134, February 23, 1993).
3. Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits; Final Policy Statement and Accompanying Technical Issues Document (51 FR 43814, December 4, 1986).
4. Emission Offset Interpretive Ruling (40 CFR, Part 51, Appendix S).
5. NOX Supplement to the General Preamble Providing EPA Policy Concerning Air Quality Planning Under the Act (57 FR 55620, November 25, 1992).

Written comments may be submitted until 4:30 p.m. January 26, 1995, to the Manager, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

Statutory Authority: § 10.1-1322.3 of the Code of Virginia.

Contact: Shawn S. King, Environmental Engineer Senior, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4433.

VA.R. Doc. No. R95-173; Filed December 6, 1994, 10:12 a.m.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.** The purpose of the proposed action is to provide the minimum and least intrusive standards for reducing noise levels in residential buildings located in areas adjacent to airports. The board will hold a public hearing regarding this regulatory action to replace the existing emergency regulation with the permanent regulation.

Statutory Authority: § 36-99.10:1 of the Code of Virginia.

Written comments may be submitted until January 13, 1995.

Contact: Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. Second St., Richmond, VA 23219, telephone (804) 371-7170.

VA.R. Doc. No. R95-146; Filed November 22, 1994, 11:35 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-02-4.1940, Methods and Standards for Establishing Payment Rates - Long Term Care Services** and **VR 460-04-4.1940:1, Nursing Home Payment System (Smaller Nursing Facility Reimbursement).** The purpose of the proposed action is to comply with the mandate of Chapter 966 of the 1994 Acts of Assembly, Item 396(K), which required DMAS to effect an increase in the indirect patient care operating per diem ceiling for small nursing facilities. The agency does not intend to hold public hearings on this issue.

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

Written comments may be submitted until January 11,

1995, to Richard Weinstein, Manager, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

VA.R. Doc. No. R95-134; Filed November 17, 1994, 11:53 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-04-8.5. Home and Community Based Care Services for Technology Assisted Individuals.** The purpose of the proposed action is to revise the regulations to reflect recent changes in HCFA's interpretation of federal guidelines. The agency does not intend to conduct public hearings regarding this regulatory change.

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

Written comments may be submitted until January 25, 1995, to Michelle Baker, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

VA.R. Doc. No. R95-168; Filed December 5, 1994, 3:18 p.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations.** The purpose of the proposed action is to modify requirements for backfilling highwalls on coal mine sites. The department will hold a public hearing for the purpose of receiving comments on the proposed regulations.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Written comments may be submitted until January 11, 1995.

Contact: Danny R. Brown, Director, Division of Mined Land Reclamation, Department of Mines, Minerals and

Notices of Intended Regulatory Action

Energy, P.O. Drawer 900, Big Stone Gap, VA 24219,
telephone (703) 523-8100.

VA.R. Doc. No. R95-144; Filed November 22, 1994, 11:24 a.m.

BOARD OF PROFESSIONAL COUNSELORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Professional Counselors intends to consider amending regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed regulation is to establish an application and prescribed fee for the certification of any person who was actively engaged in providing rehabilitation services on January 1, 1994, and to establish grounds for disciplinary action against the certificate of a provider. There will be a public hearing during the 60-day comment period following the publication of the proposed regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3514 of the Code of Virginia.

Written comments may be submitted until January 12, 1995.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9912.

VA.R. Doc. No. R95-145; Filed November 22, 1994, 11:01 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF EDUCATION (BOARD OF)

Title of Regulation: VR 270-01-0014. **Management of the Student's Scholastic Record in the Public Schools of Virginia .**

Statutory Authority: § 4 of Article VIII of the Constitution of Virginia and §§ 22.1-16, 22.1-287.1, 22.1-288.2 and 22.1-289 of the Code of Virginia.

Public Hearing Date: February 1, 1995 - 6 p.m.

Public comments may be submitted through March 10, 1995.

(See Calendar of Events section for additional information)

Basis: Section 22.1-16 of the Code of Virginia and § 22.1-289 of the Code of Virginia, which authorizes the board to adopt regulations concerning the transfer and management of scholastic records from one school division to another.

Purpose: This regulation sets requirements for the management of student education records by local education agencies as required by §§ 22.1-288.2 and 22.1-289 of the Code of Virginia. Local education agencies have the responsibility of protecting the rights and privacy of students and their parents regarding these records. Additionally, local education agencies are charged with providing a safe environment conducive to learning for all students.

Substance: Adherence to certain procedures in the collection and maintenance of student records is required by federal law. The Family Educational Rights and Privacy Act, 34 CFR 99, specifically provides for the management of these records. Additionally, certain confidentiality requirements regarding the education records of special education students are mandated by the regulations implementing the Individuals with Disabilities Education Act, 34 CFR 300. Finally, § 22.1-289 E of the Code of Virginia requires that the Board of Education "adopt regulations concerning the transfer and management of scholastic records," § 22.1-288.2 refers to parental notification in accordance with the regulations of the Board of Education governing the management of scholastic records, and § 22.1-287.1 refers to release of directory information in accordance with regulations of the Board of Education. This regulation mandates adherence to applicable federal and state laws and does not set any requirements beyond those embodied in those laws.

The proposed regulation has three requirements:

1. Adherence to applicable state and federal laws and regulations, including the Family Educational Rights and Privacy Act, 34 CFR 99; Individuals with Disabilities Education Act, 34 CFR 300; and the following sections of the Code of Virginia: §§ 22.1-287, 22.1-287.1, 22.1-288, 22.1-288.2, 22.1-289, 16.1-305.1, and 32.1-36.1.

2. Maintenance of a notice of adjudication or conviction received by a local superintendent.

3. Notification of parents of their right to review and request an amendment of a student's scholastic record in accord with the procedures set forth in 34 CFR 99.

Issues: Student scholastic records are written and maintained by all local education agencies for the purpose of enhancing educational programming consistent with high professional standards. As such, local education agencies have the responsibility of protecting the rights and privacy of students and their parents regarding these records. Additionally, local education agencies are charged with providing a safe environment conducive to learning for all students. Through proper management of the student's record, essential information is collected and maintained and transferred when a student moves to another local education agency. The proposed regulation seeks to provide for both the protection of the privacy of students and their parents, while enabling local education agencies to develop local policies and procedures responsive to their own needs. The agency does not foresee any disadvantages to the agency or the state at this point.

Impact: This regulation applies to all local education agencies, including 133 school divisions. However, implementation and compliance would impose no additional costs on those agencies or the public since it reduces requirements.

Summary:

Federal law, specifically the Family Educational Rights and Privacy Act, 34 CFR 99 mandates the management of scholastic records. Certain confidentiality requirements regarding the records of special education students are also mandated by the regulations implementing the Individuals with Disabilities Education Act, 34 CFR 300. In addition, Regulations Governing Special Education Programs for Children with Disabilities in Virginia (VR 270-01-0007) incorporate the requirements of this regulation by reference. Finally, § 22.1-289 E of the Code of Virginia requires that the Board of Education "adopt

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regulations concerning the transfer and management of scholastic records," § 22.1-288.2 refers to parental notification in accordance with the regulations of the Board of Education governing the management of scholastic records, and § 22.1-287.1 refers to release of directory information in accordance with regulations of the Board of Education.

The proposed regulation has three requirements:

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2. Maintenance of a notice of adjudication or conviction received by a local superintendent.

3. Notification of parents of their right to review and request an amendment of a student's scholastic record in accord with the procedures set forth in 34 CFR 99.

Preamble:

The data in the individual student's scholastic record, and the legal and ethical maintenance and the use of such data, have become a matter of concern to students, parents, and school and community personnel. This concern stems from the increasing number of nonschool individuals and agencies requesting access to and information from these records. Because scholastic records are written and maintained for the purpose of enhancing educational programming consistent with high professional standards, the local education agency (LEA) has a responsibility to protect the rights and privacy of the student and his parents. The LEA, therefore, must adhere to state and federal statutes designed to safeguard information in scholastic records.

VR 270-01-0014. Management of the Student's Scholastic Record in the Public Schools of Virginia.

PART I. DEFINITIONS.

§ 1-1. Definitions.

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

"Access to records" - See definition of "Disclosure."

"Days" are specified as either "calendar days" or "administrative working days." "Administrative working days" means days exclusive of Saturdays, Sundays, and officially designated holidays of the local school division.

"Calendar days" means consecutive days, inclusive of Saturdays, Sundays, and officially designated holidays at the local school division level. Whenever any period of time fixed by this procedure shall expire on a Saturday, Sunday or school holiday, the period of time of taking such action under this procedure shall be extended to the next day, not a Saturday, Sunday or school holiday.

"Destruction" means physical destruction or the removal of personal identifiers from information so that information is no longer personally identifiable.

"Disclosure" means permitting access or the release, transfer, or other communication of education (scholastic) records of the student or the personally identifiable information contained therein, orally or in writing, or by electric means, or by any other means to any party.

1. Disclosure, through access, means the right to inspect, review and copy.

2. Disclosure, through release, means the surrender of specific information, orally or in writing, or electronically, upon receipt of a proper request.

3. Disclosures, through transfer, means the surrender of the entire record when transfer occurs within a local school division. It may also mean the surrender of a transcript of the record when transfer occurs between local school divisions or between a local school division and a postsecondary institution or another educational agency or institution.

"Educational records" - See definition of "Scholastic Records."

"Eligible student" means a student who has attained 18 years of age or is attending an institution of postsecondary education. The permission or consent required of and the rights accorded to parents relative to scholastic records shall be accorded to said students.

"Financial aid" means payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual which is conditioned on the individual's attendance at an educational agency or institution.

"Local Education Agency" or "LEA" means the local school division or other public agencies responsible for providing educational services to students.

"Parent" includes a parent, a guardian, or an individual acting as a parent of a student in the absence of a parent or guardian. An educational agency or institution may presume the parent has the authority to exercise the rights inherent in the Act unless the agency or institution has been provided with evidence that there is a state law or court order governing such matters as divorce, separation or custody, or a legally binding instrument which provides to the contrary.

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"Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained.

"Party" means an individual, agency, institution or organization.

"Personally identifiable data" means (i) name of student; the student's parent(s), or other family member; (ii) the address of the student; (iii) personal identifier, such as the student's social security number or student number; (iv) a list of personal characteristics which would make it possible to identify the student with reasonable certainty; or (v) other information which would permit reasonably certain identification of the student.

"Public notice" means the process by which certain information is made available to the general public. Public notice procedures may include, but not be limited to, newspaper advertisements, radio announcements, television features and announcements, handbills, brochures and other methods which are likely to succeed in providing information to the public.

"Release of data from records" - See definition of "Disclosure."

"Scholastic records," identified in federal legislation as "education records," means those records that are:

1. Directly related to another student; and
2. Maintained by an educational agency or institution or by a party acting for the agency or institution.

The term does not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Such information or data may be recorded in any medium including, but not limited to, handwriting, print, tapes, film, microfilm, and microfiche. Such records are classified in two categories:

"Category I (Cumulative)" means continuous and current records of significant factual information pertinent to the educational growth and development of individual students as they progress through school.

"Category II (Confidential)" means reports written by professional staff of the local school division for the express use of other professionals within the local school division; appropriate confidential information from the records of such cooperating individuals or agencies as psychiatrists, child welfare agencies, hospitals, or juvenile courts; and other confidential information.

"Student" means any individual for whom the LEA

maintains scholastic records. The term does not include an individual who has not been in attendance at an LEA.

"Substitutes" means an individual who performs on a temporary basis the duties of the individual who made the record.

"Third party" means any person other than the first party (subject of the record) or the second party (custodian of the record).

"Transfer of record data" - See definition of "Disclosure."

"Written notice" means direct communication to the student's home in the form of written statements in English and in the primary language of the home.

PART II: RESPONSIBILITIES OF LOCAL EDUCATIONAL AGENCY.

§ 2.1. Establishment of policies and procedures.

Each local educational agency shall adopt a written policy and establish procedures for management of scholastic records consistent with minimum state and federal requirements.

PART III: MANAGEMENT OF SCHOLASTIC RECORD.

§ 3.1. Management procedures; generally.

The management procedures adopted by each local educational agency (LEA) shall relate specifically to the collection, maintenance, security, use, disclosure and content of the individual student's scholastic record.

§ 3.2. Scholastic record.

A. The LEA shall require that all records (cumulative and confidential) maintained on an individual student be considered the student's official school record. Such record shall hereinafter be called scholastic record(s) or educational record(s).

1. The LEA shall require that an accurate and complete individual, permanent, and cumulative record be maintained for each student enrolled in the LEA. Such record shall be called the Category I (cumulative) file.

2. The LEA shall require that a separate confidential record be developed and maintained apart from the cumulative record for certain students (i.e., those requiring differentiated programs or special services, such as gifted, handicapped, and students with special needs). Such records shall be called the Category II (confidential) file.

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B. The LEA shall ensure the protection of confidentiality of personally identifiable information of the scholastic records during collection, storage, disclosure and destruction.

C. The LEA shall require that a notation be made in the Category I (cumulative) file to indicate the location of the Category II (confidential) file. Notations in the Category I (cumulative) file indicating the location of the Category II (confidential) file shall not contain personally identifiable information (such as "File located in Office of Special Education Administrator" is not permissible).

D. The LEA shall maintain a Category II (confidential) file for those handicapped children who have not yet become students, i.e., preschool or unserved.

E. The LEA should maintain all scholastic records in a central location accessible to professional personnel within the school or LEA, or both, who have legitimate educational interests in the student(s).

F. The LEA shall require that the superintendent or designee be responsible for the collection, maintenance, security, use, disclosure and content of the scholastic record.

§ 3.3. Management procedures.

A. The LEA management procedure for scholastic records shall:

1. Specify the types of student data to be collected and recorded;
2. Establish responsibilities for collection, maintenance and security of scholastic records;
3. Identify the parties to whom scholastic record data may be disclosed, the types of data to be disclosed, and the circumstances for disclosure;
4. Specify the criteria for determining which of the above parties are "school officials" and what is considered to be "legitimate educational interest";
5. Specify methods to challenge, amend, correct and expunge information found in scholastic record(s);
6. Provide for the periodic evaluation of scholastic records by professional personnel and the removal of data no longer educationally useful;
7. Require the superintendent or designee to be present for scholastic record interpretation and explanation as follows:
 - a. When all parties have access to Category I (cumulative) file, with the exception of professional (see § 8.6 13 and adult clerical (see § 8.6 2) personnel of the LEA.

b. When all parties have access to Category II (confidential) file with the exception of adult clerical personnel (see § 8.6 2) of the LEA.

8. Specify a schedule of fees for disclosure of scholastic records as follows:

a. The LEA may charge a fee for copies of the scholastic record(s) at reasonable cost, not to exceed the cost of reproduction.

b. Such fee shall not effectively prevent the parents, or their designee, from exercising their right to inspect and review said records. However, no fee may be charged for a copy of the Individualized Education Program (IEP).

c. The LEA may not charge a fee for search and retrieval.

9. Apply to each public and private agency providing educational or related services, or both, to handicapped children and to any other participating agency which collects, maintains, or uses personally identifiable information or from which such information is obtained.

10. Require all LEA personnel to be informed of such policy and procedures.

11. Ensure that all persons collecting or using personally identifiable information in scholastic records receive training or instruction regarding state's policies and procedures.

12. Require notification to all parents and students of their rights relative to the scholastic record. Parents and eligible students shall have an opportunity for a hearing to challenge the content of their child's records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to provide in opportunity for the correction or deletion of inaccurate, misleading, or inappropriate information therein and for the insertion of a written explanation of the parents respecting the content of the records. Conditions and procedures for amending the content of the student's scholastic record are outlined in the Amendment Procedure (see Part VI).

13. Require notification at least annually, to the parents of students in attendance (including those parents identified as having primary or home language other than English) and eligible students in attendance by such means as are reasonably likely to inform them of their rights as follows:

a. The types and location of scholastic records and information maintained therein;

b. The title and address of the official responsible

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for the maintenance of scholastic records; the parties to whom data may be disclosed; and the purpose for disclosure;

- e. The policies for reviewing and expunging scholastic records;
- d. The policy and procedures for disclosure of data from scholastic records;
- e. The right of parents and eligible students to challenge the content of scholastic records and to file with the Family Educational Rights and Privacy Act Office a complaint concerning an alleged failure by the LEA to comply with 20 U.S.C. 1232g;

f. The fee, if any, to the parent of eligible student for reproducing copies of scholastic records;

g. The data designated as directory information; and

h. The right of parents and eligible students to obtain, upon request, a copy of the LEA written policy and procedure on the management of the scholastic records and the location of same.

14. Inform local agencies cooperating with the LEA in the student's educational development of such policy and procedures.

15. Maintain for the public inspection a current listing of names and positions of employees within the LEA who have access to personally identifiable data in scholastic records.

PART IV. CONTENT OF THE SCHOLASTIC RECORD.

§ 4.1. The content of the scholastic record shall be limited to data needed by the LEA to assist the student in his personal, social, educational, and career development and his educational and vocational placement.

§ 4.2. The content of the scholastic record shall not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

§ 4.3. The specific types of data to be included in the Category I (cumulative) and the requirements for collection, maintenance and disposition are charted as follows:

A. Required:

DATA	COLLECTION	MAINTENANCE/ DISPOSITION
1. Record Data	All students	Retain permanently

1. Record Data All students Retain permanently

Disclosure Form	All students	Retain permanently
2. Name and address of student	All students	Retain permanently
3. Birth date	All students	Retain permanently
4. Name and address of parent	All students	Retain permanently
5. Program of studies plan	All students	Retain permanently
6. Scholastic work completed	All students	Retain permanently
7. Level of achievement	All students	Retain permanently
8. Grades	All students	Retain permanently
9. Grade point average	Secondary students, as appropriate	Retain permanently
10. Type of diploma	Secondary students, as appropriate	Retain permanently
11. Attendance	All students	Retain permanently
12. Test data	All students	Retain permanently
13. Results of Normative Tests, such as achievement batteries from a secondary school, completes a program adopted by the Board of Education	All students, as required by the State and/or local school division	Retain state- required test scores permanently; destroy test profiles and results of inventories five years after student graduates and leaves school
14. Results of Literacy Testing Program prescribed by the Board of Education	Required students as appropriate	Retain permanently
15. Cumulative Health record, including preschool physical examination report, and school entrance examination report	All students	Destroy when no longer educationally useful or five years after student graduates or leaves school
16. Certificate of Immunization	All students	Retain permanently
17. Record of employment counseling and placement	All secondary students	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education, or leaves school.
18. Social Security Number (unless waiver is granted)	All students	Retain permanently
19. Recommended:		

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- 1- Results of other standardized group tests and inventories
- 2- School-community activities experience
- 3- Employment evaluations
- 4- Record of counseling interviews (date, reason, etc., not content)
- 5- Citizenship status if other than United States

- as follows:
 - a- Destroy when no longer educationally useful or five years after graduates from a secondary school.
 - b- Destroy when no longer educationally useful or five years after student graduates from a secondary school.
 - c- Destroy when no longer educationally useful or five years after student graduates from a secondary school.
 - d- Destroy when no longer educationally useful or five years after student graduates from a secondary school.
 - e- Destroy when no longer educationally useful or five years after student graduates from a secondary school.

§ 4.4. The specific types of data to be included in the Category II (confidential) file and the requirements for collection, maintenance and disposition are charted as follows:

A. Required (all students as appropriate):

DATA	COLLECTION	MAINTENANCE/ DISPOSITION
1- Record of referral	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
2- Reports of assessment - both initial and periodic	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school.

- 3- Other pertinent reports as follows:
 - a- Permission for initial testing
 - All students as appropriate
 - b- Permission for initial placement
 - All students as appropriate

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c. Record of parent conference to discuss special education placement (if policy of LEA)	of Education or leaves school.		program adopted by the Board of Education or leaves school.
d. Summary of minutes of eligibility committee for special education students	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
e. Permission for release of information if appropriate	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
f. Report of annual review of placement (if policy of LEA)	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
g. Reports of appeals, if appropriate	All students as appropriate	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
4. Individualized Education Program (IEP)	All students as appropriate	Review annually. Expired IEPs must be retained for five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a program adopted by the Board of Education or leaves school.
b. Recommended (students requiring differentiated programs or special needs students):	DATA COLLECTION	Students with such reports	Students with such reports
t. Social histories	MAYINVENANCE/ DISPOSITION	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a	Destroy when no longer educationally useful or five years after student graduates from a secondary school, completes a

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DIRECTORY INFORMATION.

§ 5.1. Personally identifiable information in a student's scholastic record may be classified as directory information. Data which may be directory information is as follows:

1. Name of student in attendance or no longer in attendance;
2. Address;
3. Date and place of birth;
4. Telephone listing;
5. Dates of attendance;
6. Participation in officially recognized activities and sports;
7. Height and weight, if member of athletic team;
8. Awards and honors received; and
9. Other similar information.

§ 5.2. Should the LEA elect to designate and make public directory information, it shall give annual written and public notice indicating those categories of data designated as directory information for its students and the right of refusal for the disclosure of such data.

§ 5.3. After such notice has been given, a reasonable time—not more than 15 days—shall be allowed for a parent or eligible student to notify the LEA in writing that any part of or all such information about the student shall not be disclosed without prior consent.

§ 5.4. In the absence of parent or eligible student request for nondisclosure, the LEA may disclose directory information in accordance with the LEA policy.

§ 5.5. The LEA is not required to maintain a record of the disclosure of directory information.

PART VI. AMENDMENT PROCEDURE.

§ 6.1. The parent or eligible student who believes that information in the scholastic record of the student is inaccurate or misleading or violates the privacy or other rights of the student may request that the LEA which maintains the record amend it regardless of when the information was entered in the record.

§ 6.2. The LEA shall decide whether to amend the scholastic record in accordance with the request within a reasonable period of time—no more than 15 days after the receipt of the request. If the LEA agrees to amend, then the amendment shall be made in writing, inserted in the

student's scholastic record, and maintained in accordance with maintenance and disposition.

§ 6.3. The LEA may utilize informal attempts to reconcile differences; however, the parent or eligible student may exercise the right to a hearing without benefit of the decision from any informal proceeding.

§ 6.4. If the LEA decides to refuse to amend the scholastic record of the student in accordance with the request, it shall, within 15 days inform the parent or eligible student of the refusal and advise of the right to a hearing.

§ 6.5. The LEA shall on written request provide an opportunity for a hearing to enable the parent or eligible student to challenge information in the scholastic record to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student.

§ 6.6. If, as a result of the hearing, the LEA decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the scholastic record of the student accordingly and so inform the parent or eligible student in writing.

§ 6.7. If, as a result of the hearing, the LEA decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place in the scholastic record of the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the LEA.

§ 6.8. Any such explanation placed in the scholastic record of the student shall:

1. Be maintained by the LEA as part of the scholastic record of the student as long as the record or contested portion thereof is maintained; and
2. Be disclosed by the LEA when the scholastic record of the student or the contested portion thereof is disclosed to any party.

§ 6.9. A hearing held under § 6.5 shall be conducted according to the procedures as follows:

1. The hearing shall be held within 45 calendar days after the LEA has received the written request. The parent or the eligible student shall be given written notice by the LEA of the date, place, and time of the hearing;
2. The hearing may be conducted by any party, including an official of the LEA who does not have a direct interest in the outcome of the hearing;
3. The parent or the eligible student shall be afforded a full and fair opportunity to present evidence

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relevant to the issues and to question the person(s) who have entered the information;

4. The parent or eligible student may be assisted or represented by individuals of his choice at his expense, including an attorney;

5. The LEA shall make its decision in writing within a reasonable period of time after the conclusion of the hearing;

6. The decision of the LEA shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision; and

7. The evidence shall become a permanent part of the student's scholastic record.

PART VII: ACCESS:

§ 7.1. Each The LEA shall permit parents or eligible student to inspect and review scholastic records relating to the student which are collected, maintained or used by the LEA. The LEA shall comply with a request without unnecessary delay and in no case more than 14 calendar days after the request has been made.

§ 7.2. The LEA shall comply with a request to inspect and review scholastic records before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or educational placement of the student or provision of a free appropriate public education.

§ 7.3. The right to inspect and review scholastic records includes:

1. The right to a response from the LEA to reasonable requests for explanations and interpretations of the scholastic records;

2. The right to request that the LEA provide copies of the scholastic records containing the information, if failure to provide the copies would effectively prevent the parent from exercising the right to inspect and review the scholastic records; and

3. The right to have a representative of the parent inspect and review the scholastic records.

§ 7.4. An LEA may presume that both parents have the authority to inspect and review records relating to the student unless the LEA has been advised that both parents do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

§ 7.5. Each LEA shall keep a record of parties obtaining access to scholastic records collected, maintained, or used. (See § 8.3 and Record Data Disclosure Form)

§ 7.6. If any scholastic record includes information on more than one student, the parents of those students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

§ 7.7. When requested, each LEA shall provide parents or eligible student with a list of the types and locations of scholastic records collected, maintained, or used by the LEA.

PART VIII: DISCLOSURE:

§ 8.1. When a request for disclosure of scholastic record data is made, such a request shall be granted immediately, if practicable, but in no case more than five administrative working days after the date of the request. If the LEA determines that it is practically impossible to provide the requested records or to determine whether they are available within the five administrative working days, the LEA shall inform the requesting party and shall have an additional seven administrative working days to provide the requested records.

§ 8.2. An LEA may disclose, upon student transfer, information from scholastic records to another LEA without parental consent, unless prohibited by other applicable law.

§ 8.3. The LEA shall keep permanently with the student's cumulative and confidential files a Record Data Disclosure Form showing:

1. The parties who have requested or obtained scholastic record data disclosure, with the exception of adult clerical and professional personnel within LEA; the parent or eligible student; and the parties receiving directory information;

2. The agency or institution represented, if appropriate;

3. The date of the disclosure;

4. The specific legitimate interest of such disclosure and the purpose for which the data will be used; and

5. The signature of the superintendent or designee.

§ 8.4. The record data disclosure form shall be available to the parent or eligible student, to school officials responsible for record maintenance, and to parties authorized.

§ 8.5. Personally identifiable information from scholastic records, with the exception of directory information shall be disclosed to a third party only on the condition that such party will not redisclose such information without the written consent of the parent or eligible student. Such disclosure shall be accompanied by a written statement

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explaining the above stated condition.

If the third party is an institution, agency, or organization, the disclosed personal information may be used by its officers, employees and agents, but only for purposes for which the disclosure was made.

§ 8.6. When parental consent is required in order to release a student's records, and the parent refuses to give such consent, the LEA must use informal means to secure the consent. If the parent continues to refuse to give consent, the LEA must provide written notification to the person/agency requesting the information that parental consent is required and has been refused. If the LEA wishes to disclose information and has been unable to secure the necessary consent through informal means, the LEA may use more formal measures, as appropriate, to effect the release of the information.

§ 8.7. Parties to whom scholastic record data shall be disclosed, upon request, and the conditions of such disclosures are charted as follows: (x indicates disclosure is permitted)

Category	Party	Category	if (confidential) file
	1- Accrediting Organization:	x	x
	Without prior written consent of the parent or eligible student, data shall be disclosed to accrediting organizations in order to carry out their accrediting functions.		
	2- Adult Clerical Personnel:	x	x
	Without prior written consent of the parent or eligible student, adult clerical personnel charged with record maintenance responsibility shall have access to scholastic records for maintenance purposes only.		
	3- Eligible Student Who is Subject of Record:	x	x
	Without prior written consent of the parent, data shall be disclosed to the eligible student, subject to the following limitations:		
a.	Following eligible student notification of the right to disclosure of data from his record, if a waiver of his right to disclosure of confidential letters and statements of recommendation has been obtained, the eligible student shall not have access to confidential letters and statements of recommendation relative to admission to an educational agency or institution, applications for employment, and the receipt of an honor or honorary recognition.		
b.	Where the waiver is applied, the eligible student shall, upon request,		
	be notified of the names of all persons making confidential recommendations and such recommendations shall be used solely for the purpose for which they were specifically intended. Said waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.		
c.	If any record includes data on more than one student, the eligible student shall have the right to inspect and review only that data relating to himself, or to be informed of that specific data.		
4- Emergency=Appropriate Persons in Connection With:	x	x	x
	Without prior written consent of the parent or eligible student, data shall be disclosed to appropriate persons in connection with emergency and subject to regulations of the U.S. Secretary of Education, if the knowledge of such information is necessary to protect the health or safety of the student or other persons. The factors to be taken into account in determining whether record data may be disclosed are the following:		
a.	The seriousness of the threat to the health or safety of the student or other persons.		
b.	The need for such records to meet the emergency.		
c.	Whether the persons to whom such records are released are in a position to deal with the emergency; and		
d.	The extent to which time is of the essence in dealing with the emergency.		
5- Financial Aid=Appropriate Persons:	x	x	x
	Concerned with Student's Application. Without prior written consent of the parent or eligible student, personally identifiable information from the student's record shall be disclosed to appropriate persons concerned with the student's application for financial aid only for such purposes as may be necessary for the following:		
a.	To determine the student's eligibility for financial aid, the amount of such aid, and the conditions to be imposed regarding the aid; and		
b.	To enforce the terms or conditions of financial aid.		
6- Governmental and Educational Auditors, Evaluators and Researchers:	x	x	x
	Without prior written consent of the parent or eligible student, disclosure of record data shall be made to authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, the LEA superintendent, and state educational authorities needing information for the audit and evaluation of state and federally supported		

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- education programs or the enforcement of federal legal requirements related to such programs. Data collected shall exclude identifiable information on students or parents unless such information is authorized by federal law or is needed by the Board of Education for such projects as student follow-up studies. Personally identifiable data collected shall be destroyed when no longer needed for the purposes stated above.
7. Officer, United States. x
Without prior written consent of the parent or eligible student, record data about a student who is a veteran of military service with the United States, or an orphan or dependent of such veteran, or an alien shall be disclosed to an officer or employee of the U.S. seeking such information in the course of his duties. The school may furnish the following information about such student: name and address, daily attendance record, grades received in school subjects, parent's name, date and place of birth, names and addresses of other school attended.
8. Officials, Authorities--State and Local. x
a. Without prior written consent of the parent or eligible student, record data shall be disclosed to state and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974.
- b. Data shall be disclosed to the State Department of Corrections. x
c. Without prior written consent of the parent or eligible student, record data shall be disclosed to a state or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board seeking information in the course of his duties. (The local law enforcement agency and the BSA should designate specific law enforcement personnel to whom such information will be disclosed.) x
d. An employee or official of the state or local health department shall have access to the preschool physical examination report, the immunization record and the school entrance health examination form. x
e. Without prior written consent of the parent or eligible student, record data shall be disclosed to an officer or employee of a city or county agency responsible for protective services to children, as to a student referred to that agency as a minor requiring investigation or supervision by that agency. (The city or county agency and the BSA should designate specific agency personnel to whom such information will be disclosed.) x
f. Without prior written consent of the

parent or eligible student, the record of a student's daily attendance shall be open for inspection and reproduction to an employee of a local department of welfare or social services who needs the record to determine the eligibility of the student's family for public assistance.

9. Organizations, Agencies Conducting Studies. x
a. Without prior written consent of the parent or eligible student, data shall be disclosed to organizations conducting studies for, or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed with no longer needed for the purpose for which it was collected. The term "organization" includes, but is not limited to federal, state, and local agencies and independent organizations. x
b. At the discretion of the BSA superintendent, record data shall be released to the staff of a college, university, or educational research and development organization or laboratory without prior written consent of the parent or eligible student under the following conditions. x
(1) if such information is necessary to a research project or study conducted, sponsored or approved by the college, university, or educational development organization or laboratory, and
(2) if no student will be identified by name in the information submitted for research. x
10. Parent. x
Data shall be disclosed to the parent or guardian of the student including a non-custodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access until the student is 18 years of age or is enrolled in an institution of post-secondary education subject to the following limitations. x
a. Following parental notification of right to disclosure of data from student's record, if a waiver of this right to access to confidential letters and statements of recommendation has been obtained, the parent shall not have access to confidential letters and statements of recommendation relative to admission to an educational agency or institution, applications for employment, and the receipt of an honor or honorary recognition. x
b. Where the waiver is applied, the parent shall, upon request, be notified of the names of all persons making

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confidential recommendations and such recommendations shall be used solely for the purpose for which they were specifically intended.

c. This waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.

d. If any record includes data on more than one student, the parent shall have the right to inspect and review only that data relating to his child, or to be informed of that specific data.

11. Parents of Dependent Student (See Internal Revenue Code) Data shall be disclosed. No prior written consent is required. x

12. Principal/Designee of School Student Plans to Attend and/or Appropriate Official of Post-Secondary Institution Student Plans to Attend. x

a. Transfer of Record Data within a School Division: When a student moves from grade to grade or school to school within the LEA, his entire record shall follow him to indicate educational/developmental patterns. Prior written consent of parent or eligible student is not required for this transfer. x

b. Other Transfer: When a student transfers to another LEA, or post-secondary education, a transcript of his records to include academic achievement, standardized test data, cumulative health-physical fitness record, medical records, other pertinent information, etc., where appropriate, shall be sent promptly upon request, to the appropriate official of the LEA or school in which he seeks or intends to enroll. The LEA transferring the data shall make a reasonable effort to notify the parent or eligible student of such a transfer and shall provide him with a copy of the record, if desired, and an opportunity for a hearing to challenge the content of the record. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child if any enrolled pupil whose cumulative record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child. x

13. Professional Personnel Within School or School Division: Without prior written consent of the parent of eligible student, data shall be disclosed to those professionals determined by the LEA to have legitimate educational interests in

the student: (Professional personnel who copy data shall protect the confidentiality of such data.)

14. Public, Private School, College, University, Military. x

Without prior consent of the parent or eligible student, names and addresses of present and former students may be disclosed to the following for the purpose of informing students and former students of available educational and career opportunities.

a. Any officer or employee of a public or private school, college or university.

b. Any official of a private business or professional school or college; and

c. Any official recruiting representative of the military forces of the Commonwealth and the United States. x

All school divisions electing to disclose the aforementioned information to parties named in 14-a and 14-b shall provide disclosure on the same basis to the parties named in 14.

15. State Superintendent of Public Instruction or Member of his Staff. See Governmental and Educational Auditors, Evaluators, and Researchers. x

16. Student (under eighteen) Who is x

Subject of Record: Record data shall be disclosed to the student (under eighteen) who is the subject of the record with these limitations:

a. Written consent of the parent may be required by the LEA for access of the students under eighteen years of age except in instances where the student is an emancipated minor or is enrolled in an institution of higher education.

b. Students, including those enrolled in institutions of postsecondary education, shall not have access to financial records of the parents.

c. Following student notification of right of access to his record, the student may waive his right to inspect and review confidential letters and confidential statements for admission to an educational agency or institution; application for employment; and/or the receipt of an honor.

d. An educational agency or institution may request, but may not require that a parent or a student waive his rights.

e. To be valid, a waiver must be in writing and signed by the parent or student, as appropriate.

(f) Where the waiver is applied the student shall, upon request, be notified of the names of all persons making confidential recommendations and such recommendations shall be used solely for the purpose for which

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they were specifically intended. Should such recommendations be used for a different purpose, the waiver becomes void and the student has the right to inspect and review the recommendation.

(2) The waiver may be revoked at any time with the understanding that confidential letters and statements of recommendation submitted in reliance upon the waiver shall remain confidential.

17. Other Parties.

a. With prior written consent of the parent or eligible student, disclosure shall be made to a party or class of parties other than those listed in the foregoing paragraphs 1 through 16 subject to the following conditions:

(1) The written consent must specify records to be disclosed, the reasons for such disclosure, and the party or class of parties to which information shall be disclosed, and shall be signed and dated by the parent or eligible student.

(2) A copy of the records shall be made available, upon request, to the parent or eligible student, and to the student who is not an eligible student if so requested by the student's parents.

b. Following reasonable effort to notify, in advance, the parent or eligible student, disclosure shall be made in compliance with judicial order or pursuant to any lawfully issued subpoena.

c. Unless the parent or eligible student has submitted a written request for nondisclosure, directory information may be disclosed to other upon request at the option of the LEA.

PART IX. DESTRUCTION.

§ 9.1. The LEA shall inform parents or eligible student when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student;

§ 9.2. When personally identifiable information concerning a student with disabilities is no longer needed, it must be destroyed at the request of the parents (except that the student's name, address, telephone number, grades, attendance record, classes attended, grade-level completed, and year completed may be maintained without time limitation). If parents do not request the destruction of the personally identifiable information, it may be retained permanently.

Destruction of scholastic records is the best protection against improper and unauthorized disclosure; however, the

scholastic records may be needed for other purposes. When informing parents or eligible student about their rights under this section, the LEA should remind them that the scholastic records may be needed by the student or the parents for social security benefits or other purposes. If the parents or eligible student request that the information be destroyed, then the LEA shall retain only that information required under state law and regulations.

§ 9.3. Prior to destruction of data, a reasonable effort shall be made by the LEA to notify parents or eligible student that they have a right to be provided with a copy of data.

§ 1. Definitions.

The terms used in these regulations, except as otherwise defined herein, shall be in accord with the definitions contained in the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1485, 34 CFR 300; and § 22.1-289 of the Code of Virginia.

§ 2. Management of scholastic record.

A. Local education agencies shall manage the scholastic records of all students in compliance with applicable law, including the Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, 34 CFR 99; the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1485, 34 CFR 300; and §§ 22.1-287, 22.1-287.1, 22.1-288, 22.1-288.2, 22.1-289, 16.1-305.1, and 32.1-36.1 of the Code of Virginia.

B. Every notice of adjudication or conviction received by a local superintendent, and information contained in the notice, which is not a disciplinary record, shall be maintained by him and by any others to whom he disseminates it, separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against the student based upon an incident which formed the basis for the adjudication or conviction, the notice shall become a part of the student's disciplinary record. As used herein, "disciplinary record" means a record which is directly related to a student and any disciplinary action taken against that student for violation of school rules or policies occurring on school property or at school-sponsored events.

§ 3. Access.

A parent, guardian or other person having control or charge of a student shall be notified of his right to review, and to request an amendment of, the student's scholastic record in accordance with the procedures set forth in 34 CFR 99.

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VIRGINIA COMMONWEALTH UNIVERSITY

REGISTRAR'S NOTICE: The following proposed regulations filed by Virginia Commonwealth University are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: VR 649-01-01. Rules and Procedures of Virginia Commonwealth University.

Statutory Authority: § 23-50.10 of the Code of Virginia.

Summary:

These regulations govern the conduct of all persons on the university premises, that is, the campuses of VCU and other property or facilities owned, controlled, or being used by VCU. Statutes of the Commonwealth of Virginia, city or county codes, and federal laws apply on university premises and violators will be subject to these provisions in addition to any sanctions of the university. Further, in those situations where behavior of a member of the university community significantly impairs university-related functions or gives rise to danger to the university, the provisions of the law, in addition to the sanctions of these regulations, will apply to the violator.

Introduction:

Virginia Commonwealth University is an academic community given meaning through the mutual respect and trust of the individuals who learn, teach, and work within it. Each member of this community is entitled to certain rights and privileges which must be protected through fair and orderly processes and which are best safeguarded when members act in an orderly and responsible manner. Each member of the university community is equally entitled to the protection of this document.

VR 649-01-01. Rules and Procedures of Virginia Commonwealth University.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"University" or "VCU" means Virginia Commonwealth University.

§ 1.2. Application.

This regulation governs the conduct of all persons on

university premises; that is, on the campuses of VCU, and other property or facilities owned, controlled, or being used by the university. The provisions of this regulation are applicable to all members of the university community composed of faculty, administrators, staff, and students, as well as licensees and invitees. Statutes of the Commonwealth of Virginia, city or county codes, and federal laws apply on university premises, and violators of such laws will be subject to the provisions thereof, in addition to the sanctions of this regulation. In general, it is the policy of Virginia Commonwealth University not to become involved in adjudicating off-campus conduct of members of the university community. However, the institution also has a commitment to protect its own welfare and that of its members. Thus in those circumstances where the off-campus behavior of a member of the university community significantly impairs the university-related functioning of another member or gives rise to serious danger to the university community, the provisions of this regulation will apply to off-campus behavior of members of the university community. Such conduct may subject the violator to the provisions of law, in addition to the sanctions of this regulation.

§ 1.3. Relationship to other university policies and regulations.

All duly-constituted university regulations issued pursuant to university activities and functions remain in force and effect and will be observed. Consequently, members of the university community may be charged for a single incident under such regulations and under provisions of this regulation as well, except that charges for a single incident may not be brought under Rules and Procedures, if a charge has been, or is in the process of being, brought under the Grievance Procedures for State Employees, the Faculty Grievance and Appeal Procedures, or the Promotion and Tenure Policies and Procedures.

PART II. RIGHTS AND PROHIBITED CONDUCT.

§ 2.1. General.

Free inquiry and free expression are indispensable to the objectives of an institution of higher education. To this end, peaceful, reasonable, and lawful picketing and other orderly demonstrations in approved areas shall not be subject to interference by the members of the university community, nor shall any member of the university community be subject to limitation or penalty solely because of the lawful exercise of these freedoms. However, those involved in picketing and demonstrations may not engage in conduct that violates the rights of any member of the university community.

These rules shall not be construed to restrain controversy or dissent, or to prevent, discourage, or limit communication between and among faculty, students, staff, and administrators. The purpose of these rules is to prevent abuse of the rights of others and to maintain

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public order appropriate to the university.

§ 2.2. *The right to academic freedom and to equal educational and occupational access.*

The university is committed to providing an environment conducive to academic freedom, free inquiry, and equal access to educational and occupational opportunities. The principle of academic freedom requires all persons to respect another's dignity, to acknowledge another's right to express differing opinions, to cultivate and to cherish intellectual honesty, and to promote freedom of inquiry and expression. It is therefore the policy of the university that no act of any member of the university community shall serve to restrain or inhibit access to opportunities or the exercise of these freedoms. To that end, no person, either singly or in concert with others, shall willfully:

- 1. Discriminate against another person on a basis not reasonably related to the educational or job functions involved on the basis of race, ethnicity, sex, religion, color, creed, disability, sexual orientation, marital status, and age.*
- 2. Harass or intimidate any person.*
- 3. Cause physical injury or threaten any person with force or violence.*
- 4. Have in his possession any firearm, other weapon, or explosive, regardless of whether a license to possess the same has been issued, without the written authorization of the president of the university. This restriction does not apply to persons whose duties lawfully require the possession of firearms or other weapons.*
- 5. Disrupt or prevent the peaceful or orderly conduct of classes, lectures, meetings, or other university functions, or interfere with the lawful freedom of other persons, including invited speakers, to express their views.*
- 6. Falsify or forge an official university record or document, or file documents with the university with the intent to mislead.*
- 7. Lie, cheat, steal, or plagiarize. Violations of lying, cheating, plagiarism, and stealing will be adjudicated through this regulation or other applicable documents. Student academic violations of lying, cheating, plagiarism, and stealing will be referred to the VCU Honor System for adjudication.*
- 8. Violate any duly authorized university rule or regulation issued pursuant to a specific university function, for example, regulations applicable to social events, the library, or university hospitals.*
- 9. Incite others to commit any act which has been*

herein prohibited.

10. Bring charges against a member of the university community that are spurious, or that are intended primarily to harass or maliciously defame, or that are designed to intentionally overburden the adjudicatory system.

§ 2.3. *The right to appropriate use of university premises in the pursuit of educational goals, occupational endeavors, and recreational activities.*

No person, either singly or in concert with others, shall willfully:

- 1. Unreasonably stop or obstruct the free movement of any person or vehicle, or unreasonably obstruct a passageway, entrance, or exit.*
- 2. Refuse to leave any university premise after being ordered to do so by an authorized member of the university community.*
- 3. Destroy or damage land, buildings, or equipment owned or controlled by the university, the personal possessions of any individual, or without proper authorization, use, remove, or fail to return such property.*
- 4. Without permission, expressed or implied by the duly assigned occupant, enter any office of an administrative officer, faculty member, or employee, or student office or room. This does not prohibit the right of university law-enforcement officers or maintenance personnel to enter private rooms, offices, or any other university facility to prevent damage to, or protect, persons or property.*
- 5. Enter into, or remain in, any university premise for other than an authorized purpose, or remain beyond the prescribed hours for utilization of the facility, without written permission from a university community member authorized to give such permission.*

§ 2.4. *Prohibitions from other policies.*

There are a number of separate policies that specify further prohibitions and that refer to the procedures and penalties of this document. A list of such policies can be obtained from the office of the senior vice president for administration.

PART III.

PENALTIES AND OTHER DISCIPLINARY ACTIONS.

§ 3.1. *General.*

Any person who violates the provisions of this regulation is subject to one or more of the following penalties or disciplinary actions, or both, described in §§

3.2 through 3.9. Classified employees and faculty may also be subject to penalties under other university policies.

§ 3.2. Censure.

Censure may be imposed by the University Hearing Board, or by the president upon the recommendation of the University Appeal Board, or in the event the accused waives the right to a hearing, by the administrator receiving the charges. Censure is a written warning advising that the individual has been judged guilty of conduct which violates the provisions of this regulation and that the individual must avoid a recurrence of conduct which violates the provisions of this document. Censure is an official warning and is not reported to external agencies as a university disciplinary action.

§ 3.3. Probation.

Probation may be imposed by the University Hearing Board or by the president upon the recommendation of the University Appeal Board, or in the event the accused waives the right to a hearing, by the administrator receiving the charges. Probation is a written warning indicating that the individual has been judged guilty of conduct which violates the provisions of this regulation. An individual on probation who is charged with another violation of this regulation will be required to appear before the University Hearing Board or appropriate administrator for consideration of separation or dismissal from the university (see § 3.5). Probation is an official warning and is not reported to external agencies as a university disciplinary action.

§ 3.4. Public service and educational experience.

Assignment of hours of public service or educational experience may be imposed by the University Hearing Board, or by the president upon the recommendation of the University Appeal Board, or by the administrator receiving the charges. Public service or educational experience may be within the university, or in the larger community. Such public service or educational experience should ideally bear some relationship to the offense committed. Documentation of successful completion of the assigned hours of public service or educational experience must be provided by the accused within a specified time period in the form of a written certification from the supervisor of the community or university organization or office where the service or educational experience was performed. An individual assigned public service or educational experience or both who fails to complete the assignment and provide documentation will be required to appear before the University Hearing Board or appropriate administrator for this violation and may be considered for separation or dismissal from the university. Public service or educational experience is not reported to external agencies as a university disciplinary action.

§ 3.5. Separation and dismissal.

Separation or dismissal may be imposed by the University Hearing Board or by the president upon the recommendation of the University Appeal Board, or in the event the accused waives the right to a hearing, by the administrator receiving the charges (see § 4.4 2 b). Separation or dismissal may be imposed even though the violator has not previously received a censure or been placed on probation. Separation can be given for a definite period of time up to two years. A dismissal will be for an indefinite period (see § 3.7). If the accused is a faculty member, an administrator, or a classified or hourly employee, the separation or dismissal will be effected according to the conditions stipulated in the policies and contract under which the accused member is employed. Separation and dismissal are university disciplinary actions which may be reported to external agencies.

§ 3.6. Interim suspension.

Interim suspension may be imposed as described in subdivision 3 of § 4.4.

§ 3.7. Reinstatement after separation or dismissal.

Only when a penalty of separation has been removed by expiration or when dismissal has been removed by action of the University Appeal Board may an individual petition the appropriate admissions committee or hiring agency for reinstatement. Faculty members and administrators separated for eight months or less will be automatically reinstated. In cases of dismissal, the individual may, after two years, annually request the University Appeal Board to alter the penalty so as to allow the individual to apply for reinstatement to the university. Such individuals must meet all other university requirements and be judged competitively with other applicants before being reinstated (see § 5.1 C).

§ 3.8. Penalties against a licensee or invitee.

When the accused is a licensee, invitee, or visitor, authorization to remain on the campus or other facilities used by the university may be withdrawn, and he may be directed to leave the premises. Failure to leave or unauthorized return may subject the individual to applicable penalties under city, county, or state laws. A licensee, invitee, or visitor may petition the president of the university in writing to authorize a hearing before the University Hearing Board to determine whether there are proper and sufficient grounds for being excluded from university premises. The University Hearing Board shall present its recommendations directly to the president. There will be no further appeal.

§ 3.9. Restitution.

Restitution by the violator to the university or to members of the university community may serve, in certain instances, in lieu of or in addition to the application of the above penalties.

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PART IV. PROCEDURES.

§ 4.1. Informal Complaint Option.

A. The Informal Complaint Option is intended to provide an opportunity for an informal resolution of a complaint by a member of the university community or a department or unit of the university against other member(s) of the university community. The administrator receiving the informal complaint serves as a neutral mediator to resolve the complaint, although the administrator receiving the informal complaint is authorized to take several actions against the accused as specified below. Action taken through the Informal Complaint Option does not negate the right of the complainant to file a formal charge under the procedures specified in § 4.2.

B. Any member of the university community or a department or unit of the university may make an informal complaint about any other member(s) of the university community. All informal complaints involving charges of discrimination (§ 2.2 1) or harassment (§ 2.2 2) must be in writing and are filed with the assistant vice president for human resources. Informal complaints not involving charges of discrimination or harassment must be in writing and are filed as follows:

1. Informal complaints against the president shall be filed with the rector of the Board of Visitors.
2. Informal complaints against a student shall be filed with the dean of student affairs.
3. Informal complaints against a faculty member (including academic department chairs) shall be filed with the academic dean of the accused faculty member.
4. Informal complaints against a classified or hourly employee shall be filed with the assistant vice president for human resources.
5. Informal complaints against an administrator shall be filed with the appropriate vice president or provost.
6. Informal complaints against an administrator reporting to the president shall be filed with the president.

C. The administrator receiving the informal complaint shall conduct a confidential investigation by interviewing the individual(s) bringing the complaint and the individual(s) accused in the complaint. When necessary, the administrator also may interview other individuals who have direct and specific information regarding the behavior alleged in the complaint. At the discretion of the administrator receiving the informal complaint, staff members from other areas may assist with the

investigation interviews. (e.g., a female staff member from the Division of Human Resources could assist with a complaint related to sexual harassment).

D. As soon as reasonably possible after the conclusion of the interviews, the administrator shall schedule a joint conference involving the administrator, the individual(s) bringing the complaint and the individual(s) accused in the complaint. As appropriate, the administrator may suggest one or more of the following options to resolve the complaint, such as:

1. Apologies, written or verbal.
2. Specific understandings for future contact and behavior between and among the parties involved in the informal complaint.
3. Specific actions intended to correct or compensate for the behavior alleged in the complaint.

If all parties to the complaint agree to the conditions of the options offered by the administrator, the complaint shall be considered resolved, notwithstanding the option of the complainant to bring charges as noted in § 4.1 A. The administrator shall prepare and maintain a memorandum to the file which summarizes the results of the investigation and the terms of the agreement to resolve the complaint.

E. If the options suggested in § 4.1 D are not accepted by all parties to the complaint, or if the administrator determines that the circumstances warrant further action, the administrator is authorized to take actions or penalties such as, but not limited to, the following:

1. Issue a verbal or written warning to the accused member of the University community. Such a warning would inform the accused formally of the nature of the complaint, provide the name of the individual(s) bringing the complaint, provide an explanation as to why the behavior in question was unacceptable, and caution that further complaints could lead to more serious penalties.
2. Assign a censure as described under § 3.2.
3. Assign public service or educational experience as described under § 3.4.
4. Require restitution as described under § 3.9.

F. If the accused disagrees that an action or penalty is warranted, he may request in writing, within 10 days, excluding weekends and official university holidays, of receipt of the notification of the decision of the administrator, that the administrator refer the case to the University Hearing Board. The administrator shall honor this request. During the hearing process, the accused has the same status as held prior to the action of the administrator.

G. Unless a penalty as specified under § 4.1 E is assigned, or unless the accused requests that the case be referred to the University Hearing Board, there will be no formal records maintained by the administrator regarding any informal complaint, except as provided in § 4.1 D 3.

§ 4.2. Formal charges.

A. Charges against an invitee, licensee, or any other person who is not a member of the university campus. Any member of the university community may bring charges against an invitee, licensee, or any other violator who is not a member of the university community. Upon notification of such charge, the president of the university or a designee may inform the charged person that he is not authorized to remain on the university premises and may direct that person to leave. If the charged person refuses to leave, the president or designee may cause ejection from the university premises.

B. Charges against the president. Any member of the university community may bring charges against the president of the university. These charges shall be in writing and directed to the Board of Visitors of the university. The Board of Visitors shall adjudicate the charges as it deems proper.

C. Charges against other members of the university community. Any member of the university community may bring charges against any other members of the university community. Such charges must be in writing and filed as follows:

1. Charges against a student shall be filed with the dean of student affairs, except as provided in § 4.7 D.
2. Charges against a faculty member, including an academic department chair, shall be filed with the academic dean of the accused faculty member.
3. Charges against a classified or hourly employee shall be filed with the assistant vice president for human resources.
4. Charges against an administrator shall be filed with the appropriate vice-president or provost.
5. Charges against an administrator reporting to the president shall be filed with the president.

D. Charges may be brought by a department or unit of the university (for example, police department, university libraries, University Enrollment Services, etc.). In such cases, the unit head will designate a representative to act as accuser.

E. In order to be considered, a charge shall be brought within two years of the incident for which the charge is being brought.

§ 4.3. Preliminary evaluation of charges.

The administrator with whom the charge is filed will determine within 30 calendar days of receiving a charge whether the charge warrants further investigation. If the administrator decides that the accusation should be dropped, he shall notify the individual who filed the charge. Should the individual filing the charge disagree with the administrator, he may request, in writing, within 10 working days, that the administrator refer the charge to a panel of three administrators designated to receive charges in § 4.2, one each to be selected by the administrator with whom the charge was filed, the accused, and the accuser. All such requests will be granted. Within 30 calendar days of the charge being referred to the panel, the panel shall review the charge and information, and direct the administrator either to terminate further action or proceed with an investigation in accordance with § 4.4.

§ 4.4. Action by the administrator.

If the administrator determines that the charge warrants investigation, he will appoint a designee to conduct one. The administrator shall provide written notification to both the accused and the accuser of the name of the appointed investigator. The accused, and the accuser, may request once each that the investigator be disqualified for bias or conflict of interest. To be considered, this request must be in writing and delivered to the administrator within seven working days of notification. The administrator will then decide whether the investigator is to be disqualified, and his judgment is final. If a new investigator is appointed, the administrator shall provide written notification to both the accused and the accuser of the name of the new investigator. The administrator shall also provide written notification to the accused of the charges and who filed them. The investigator shall then consult with the accused and perform such fact-finding activities as might be necessary. Both the accused and the accuser have the right to be accompanied by an adviser when meeting with the investigator and throughout the procedures described in this regulation. The administrator shall ensure that the investigator's report is received, and one of the following actions is taken, within a reasonable period, and no later than one year, of decision to investigate:

1. If the administrator determines that action is not warranted, he shall, in writing, notify both the accused and the accuser. Should the accuser disagree with this decision, the accuser may request, in writing, that the administrator refer the charge and all information obtained by the investigator to a panel of three administrators designated to receive charges in § 4.2 C, one each to be selected by the administrator, the accused, and the accuser. All such requests will be granted. Within a reasonable period, and no later than six months, of the charge being referred to the panel, the panel shall review the charge and information obtained upon investigation by the administrator or by the panel, if it deems further investigation desirable, and direct the

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administrator either to terminate any action or proceed under subdivision 2 of this section.

2. If the administrator decides that the charge warrants further action, he shall proceed by one of the following alternatives:

a. If the administrator determines that the charge has been substantiated, but is insufficient to cause separation or dismissal, he shall censure, assign public service or educational experience or both, place the accused member on probation, or any combination of these actions. If the accused member disagrees the penalty is warranted, he may request, in writing within 10 days of receipt of notification of the action, that the administrator refer the case to the University Hearing Board. The administrator shall honor this request.

b. If the administrator determines that the charge is of such nature that conviction would subject the accused member to possible separation or dismissal from the university, the administrator shall, except as immediately noted, refer the case to the University Hearing Board. If the accused states in writing that he waives the right to a hearing and agrees to accept the decision of the administrator without appeal, then the administrator will decide the case and appropriate penalty.

3. Interim suspension.

a. If the university president or designee determines that the presence of an accused member of the university community presents a serious and immediate threat to the university, the president or designee may immediately suspend that member, if this is permitted by the policies and contracts governing the accused.

b. The president or designee shall cause a hearing to be conducted within five days, excluding weekends and official university holidays, to determine the validity of the interim suspension and to determine if it should continue. Such hearing will be conducted within the University Hearing Board guidelines contained in §§ 4.6 and 4.7. If the interim suspension is determined to be not valid, the accused shall be allowed to resume a customary and usual role within the university community without penalty.

c. If the interim suspension is continued, another hearing shall be held to adjudicate the case no sooner than five days nor later than 10 days, excluding weekends and official university holidays, of the date of the interim suspension hearing. If the interim suspension is not continued, another hearing shall be held to adjudicate the case as soon as possible.

§ 4.5. University Hearing Board.

A. The University Hearing Board will be constituted annually at the beginning of the academic year and will consist of the following members:

1. A chair appointed annually by the president of the university. The chair shall be nonvoting, except in the case of a tie vote.

2. Two students, only one of whom shall serve on a given case, as outlined below:

a. A student from the Academic Campus appointed annually by the Appointments Committee of the Student Government Association.

b. A student from the Health Sciences Campus appointed annually by the MCV Honor Council.

c. If the accused has greater responsibility on the Academic Campus, the student from the Academic Campus will serve. If the accused has greater responsibility on the Health Sciences Campus, the student from the Health Sciences Campus will serve. Should the accused have equal responsibility on both campuses, either student will serve as decided by lot.

3. The president of the University Faculty Senate or his annually appointed designee from the Faculty Senate.

4. An administrator appointed annually by the president of the university.

5. A classified employee appointed by the senior vice president for administration.

6. Each appointing party will annually designate at least two alternates for each appointee.

B. Although every reasonable effort shall be made to have all members present, four members shall constitute a quorum provided that the representative of the peer group of the accused is present. The chair shall be counted in determining whether a quorum is present.

C. Annually, the chair of the University Hearing Board shall, at the beginning of the academic year and before hearings are conducted, schedule an orientation and training session for all members and alternates appointed to the University Hearing Board. Such training shall include a review of the procedures to be followed by the University Hearing Board in conducting hearings, together with such issues as confidentiality, sensitivity required for charges of sexual assault or rape, and other duties of board members.

D. The administrator overseeing the investigation, or his designee, and the investigator shall present to the

University Hearing Board the findings and evidence establishing the charges against the accused.

E. Each member of the University Hearing Board, excluding the chair, except in the case of a tie (see § 4.5 A 1) will have one vote as to the guilt or innocence of the accused on each charge and the decision will be determined by a simple majority.

F. On a finding of guilty, the University Hearing Board shall determine the punishment of the accused by majority vote.

G. At the conclusion of the hearing, the chair shall, in writing, notify the accused, the accuser, and the administrator receiving the charge of the decision of the University Hearing Board and return to the administrator all records and documents of the case and hearing.

H. In the case of an appeal, the chair of the University Hearing Board will have access to all records and documents and copies when needed to prepare and present the findings of the University Hearing Board to the University Appeal Board.

I. Service on the University Hearing Board.

1. If any one of the members of the University Hearing Board cannot continue in that position, the alternate shall serve as a replacement, and a new alternate shall be appointed by the appointing party.

2. If a member of a University Hearing Board cannot serve on a particular case, his alternate will serve. If the alternate cannot serve, the chair of the University Hearing Board must ask the appointing party to appoint a substitute for that particular case. (See § 4.5 B.)

3. If the chair cannot serve on a particular case, the alternate chair will serve.

§ 4.6. Hearings and procedural due process.

Preparations and hearings shall proceed as follows:

1. The chair of the University Hearing Board shall notify the accused and the accuser, in writing, of the nature of the charge(s), who filed the charge(s), a brief description of the circumstances of the charge(s), and the penalties to which the accused may be subject if found guilty. The chair shall also provide written notification to both the accused and the accuser of the names of the University Hearing Board members that will hear the case.

2. The accused and the accuser upon request will each be permitted to review the evidence and obtain copies of the records and documents at a reasonable cost.

3. The hearing shall be held no sooner than five days and no later than 10 days, excluding weekends and official university holidays, from the date of notification of the hearing. At the request of the accused and with the agreement of the chair of the University Hearing Board, a hearing may be held sooner than five days.

4. Either the accused or the accuser may request postponement of the hearing. The chair of the University Hearing Board may grant postponement for a reasonable period of time, but is not required to do so.

5. The University Hearing Board will develop a hearing format and the accused and the accuser shall be informed of such at the time of notification of the hearing.

6. The hearing format shall provide for the following:

a. The hearing will be open to the university community (open hearings do not require that a large number of persons be accommodated) unless:

(1) The accused requests a closed hearing.

(2) The accused requests a closed hearing except for a few observers of his choice. The number shall be determined by the chair.

(3) The chair closes the hearing because of disruptions.

b. The accused and the accuser each may be accompanied in the hearing, even if closed, by an adviser of his choice and may consult with the adviser throughout the hearing. The role of the adviser is limited to consultation with the advisee (e.g., the adviser may not call or question witnesses).

c. The accused and the accuser each will be given the opportunity to hear the evidence presented, to present witnesses (including themselves) and to cross-examine all witnesses who testify. For cause, the chair may permit both the accuser and the accused to provide testimony in closed session.

d. The accused may reserve the right to remain silent.

7. Within five days, excluding weekends and official university holidays, of the conclusion of the hearing, the chair of the University Hearing Board, shall, in writing, notify the accused, the accuser, and the administrator receiving the charges of the decision. Other notifications shall be made in accordance with § 5.2.

8. A record will be made of the proceedings.

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9. Upon request, the accused and the accuser shall have the right to view all records and documents pertaining to the hearing and shall be furnished copies of such records and documents at a reasonable cost.

10. The accused, but not the accuser, may appeal the University Hearing Board decision to the University Appeal Board. (See § 4.8 D.)

11. Members of the University Hearing Board shall hold all specific information regarding hearings and deliberations confidential.

§ 4.7. Other considerations for university hearings.

A. If the accused refuses to participate or fails to appear at a hearing, the University Hearing Board will hear the case on the basis of the evidence accumulated as a result of the investigation.

B. If the accused refuses to participate or fails to appear, the accused's adviser shall not be permitted to participate beyond a brief opening statement.

C. If the accused member terminates his relationship with the university prior to the hearing, the University Hearing Board shall have the option of conducting a hearing, with the accused present if possible.

D. If the accused is a faculty member, the academic dean involved, in consultation with the chair of the University Hearing Board, may determine that the charges are more appropriate to resolution by the Faculty Grievance Procedure.

E. If the accuser is a nonprobationary classified employee and the issue raised is one that would qualify as "grievable" under the state's Employee Grievance Procedure, the assistant vice president for human resources, with the consent of the accuser, may refer the case through the state's Standards of Conduct or Employee Grievance Procedure. Actions and procedures under this regulation shall not limit the employee's rights as provided by the Virginia Personnel Act (§ 2.1-110 et seq. of the Code of Virginia) and the Employee Grievance Procedure.

F. The president of the university shall appoint additional ad hoc hearing boards and appeal boards if required in emergency situations. Such boards shall follow the same procedures and have the same representative composition as the annually constituted boards.

§ 4.8. Appeal.

A. The accused has a right to appeal a University Hearing Board finding of guilt as per subsection D of this section. A written appeal must be delivered in person or by certified mail to the chair of the University Appeal Board, or designee, within 10 days, excluding weekends

and official university holidays, of receipt of the notification of the action of the University Hearing Board. The appellant shall state as clearly and as fully as possible the reasons for seeking modification of the decision.

B. The chair of the University Appeal Board shall provide written notification to both the accused and the accuser of the names of the University Appeal Board members who will hear the case.

C. In considering an appeal, the University Appeal Board shall consider only the following issues:

1. Whether the original board's process was conducted fairly and in accordance with prescribed procedures;

2. Whether there is new evidence or relevant information not available at the time of the original hearing that, if consequential, shall result in a remanding of the case to the original board;

3. Whether the original decision is supported by substantial evidence;

4. Whether the university regulations alleged to have been violated were properly interpreted or applied by the original board; and

5. Whether the sanction imposed was proportionate to the gravity of the misconduct.

D. During the appeal process the accused has the same status as he had prior to the finding of guilty. An individual on Interim Suspension will remain on Interim Suspension during the appeal process. An individual who has been separated (suspended) or dismissed by the University Hearing Board or other duly authorized board or Honor Council shall, following a recommendation to the University Appeal Board and a decision by the president to uphold said penalty, be separated or dismissed from the university effective as of the date of the initial decision of the University Hearing Board or other duly authorized board or Honor Council.

E. The University Appeal Board will be constituted and shall consist of the following:

1. A student. If the case arises from the Health Sciences Campus, a student annually appointed by the Executive Council of the Health Sciences Student Government Association will serve. If the case arises from the Academic Campus, a student annually appointed by the University Appointments Committee of the Student Government Association will serve.

2. A faculty member. The Faculty Senate will choose one faculty member from the Health Sciences Campus and one faculty member from the Academic Campus. Only the member from the campus of the accuser

will serve at the appeal hearing.

3. A classified or hourly employee appointed by the senior vice president for administration.

4. An administrative officer jointly appointed by the vice-president for academic affairs and the vice-president for health sciences.

5. A chair appointed by the president of the university from among the full-time faculty. The chair shall vote only in case of a tie.

6. The administrative officer, the classified or hourly employee, and the chair must provide representation from both campuses.

7. No one who serves on a University Hearing Board, or the Honor Councils, shall also serve on the University Appeal Board. Nor shall an University Appeal Board for faculty, administrators, or staff include any division chair, departmental chair, dean, or vice-president under whom the accused serves.

8. Each appointing party shall annually designate at least two alternates for each appointee who will serve when the appointee is not available or has disqualified himself.

9. Although every reasonable effort shall be made to have all members present, three members plus the chair shall constitute a quorum, provided that a representative of the peer group of the accused is present.

10. If a member cannot continue to serve, the chair of the University Appeal Board shall request the original appointing party to make a new appointment. If a member of the University Appeal Board cannot serve on a particular case, an alternate will serve. If no alternate can serve, the chair will ask the appointing party to appoint a substitute for that particular case. If the chair or alternate cannot serve on a particular appeal, the president shall appoint a substitute.

11. Annually, the chair of the University Appeal Board shall, before appeals are considered, schedule an orientation session for all members and alternates appointed to the University Appeal Board. Such orientation shall include a review of the procedures to be followed by the University Appeal Board in conducting appeals, together with such issues as confidentiality and other duties of board members.

F. The University Appeal Board may remand a case, dismiss some or all of the charges, affirm the decision of the University Hearing Board, other duly authorized board, or the Honor Councils, or reduce the penalty imposed. In no event may an appeal result in the imposition of a more severe penalty for the accused.

G. When hearing an appeal from the Honor Council or an all-Academic Campus judicial system or other procedures authorizing such appeal, the University Appeal Board shall take into consideration the provisions, procedures, and sanctions of the document from which the appeal arose.

H. The decisions of the University Appeal Board will be reached by a simple majority vote and shall be presented to the president, or designee, as a recommendation within three days, excluding weekends and official university holidays, from the completion of the appeal hearing. The president, or designee, shall make his decision after reviewing the recommendations and supporting material. The decision of the president, or designee, is final. The decision will be relayed to the accused member, the University Hearing Board, or Honor Council, and the accused member's dean or supervisor within 10 days, excluding weekends and official university holidays, after receipt of the recommendation of the University Appeal Board.

I. Members of the University Appeal Board shall hold all specific information regarding appeals and deliberations confidential.

§ 4.9. Additional appeals.

A. Actions and procedures under this regulation shall not limit the classified or hourly employees' rights as stated in the Virginia Personnel Act (§ 2.1-110 et seq. of the Code of Virginia).

B. A tenured faculty member may appeal a decision of dismissal by the University Hearing Board to the University Promotion and Tenure Appeal Panel as provided in Section VII.B.2. of the Faculty Promotion and Tenure Policies and Procedures. Appeals shall be filed within 15 working days of notification.

PART V. RECORDS AND RELEASE OF INFORMATION.

§ 5.1. Records.

A. If the administrator who initially received a charge determines that no action is warranted, and if after a reasonable period there is no appeal of this decision, all records and documents shall be returned to the individuals or agencies which supplied them. The administrator shall destroy all remaining records pertaining to the charge and its description. The same will be done if a hearing or an appeal results in an acquittal.

B. All records of censure and probation will be kept for five years and then destroyed except as provided in § 5.1
C. If an individual receives additional sanctions (censure and probation) during this five-year period, records of all violations of these provisions will be retained until there is a period of five years following the most recent

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sanction. They shall be retained by the administrator who initially received the charges, with sufficient safeguards to ensure confidentiality.

C. If an individual is separated or dismissed, complete records of the proceedings and all pertinent documents, including any records of previous censures or probations, shall be permanently maintained by the administrator who initially received the charges with sufficient safeguards to ensure their confidentiality.

D. A student's academic transcript will indicate any action which prohibits readmission as long as the prohibition is in effect. This means that once a penalty of separation has been removed by expiration or a dismissal by action of the University Appeal Board, the notation will be removed from the academic transcript by action of the administrator who initially received the charges. The records for classified employees will be dealt with in accordance with applicable state policies. All records for faculty will be dealt with in accordance with the Promotion and Tenure Policies and Procedures and the Faculty Grievance Procedures (see § 3.7).

§ 5.2. Release of information.

A. Information relative to a case or subsequent penalties shall be released to members of the university on a need-to-know basis. The administrator directly in charge of the above records (see § 5.1 C) shall determine need to know.

B. When a student is found guilty, the dean of the school in which the student is enrolled will be notified of the action taken. When the student is separated, or is dismissed, the director of academic records will be notified to withdraw the student and make an appropriate notation on the academic transcript.

C. When an employee is found guilty, the assistant vice president for human resources will be notified of the action taken.

D. The individual or agency which initiated a charge under this document will be notified of subsequent acquittals or penalties. Notices of such actions shall include a statement of confidentiality and a request for care in the security of the information.

E. Release of information not covered under § 5.2 shall be only with written consent of the member adjudicated, or as required by law.

PART VI. IMPLEMENTATION.

§ 6.1. Coordination and orientation.

The president or his designee shall be responsible for coordinating the provisions of this regulation and will provide orientation and training for those with identified

functions under this regulation.

§ 6.2. Enabling clause.

This regulation replaces and supersedes the Virginia Commonwealth University Rules and Procedures effective January 8, 1979. Records created or sanctions imposed under previous documents will be continued, amended, stored, or destroyed as appropriate to conform to the provisions of this regulation.

§ 6.3. Revisions.

The president of the University may establish an ad hoc committee to recommend specific changes or to undertake a general revision of this regulation. Any member of the university community, either singly or in concert with others, has the right to petition the president in this regard.

V.A.R. Doc. No. R95-189; Filed December 9, 1994, 2:46 p.m.

* * * * *

Title of Regulation: VR 649-01-02. Parking Information.

Statutory Authority: § 23-50.10 of the Code of Virginia.

Summary:

Operating and parking motor vehicles in university controlled areas is permitted only in accordance with these regulations. Parking in university controlled areas is by permit only, except at meters and in attended lots/decks. Citations are issued for the listed violations.

Preamble:

The mission of the university Parking and Transportation Program is to effectively manage the inventory of parking spaces, while accommodating the needs of students, patients, visitors, faculty and staff to reach their destinations with minimal inconvenience.

The intent of the Parking Office is to facilitate those people whose parking needs are in accordance with the fulfillment of the university's mission. However, environmental constraints necessitate the creation and enforcement of rules, regulations and guidelines. The cooperation of all parkers is needed to make the parking program effective.

VR 649-01-02. Parking Information.

§ 1. Parking administration.

The Parking and Transportation Program is administered by the Office of Parking and Transportation Services. Questions and comments about the program may

be directed to this office:

Parking Administrator
Parking and Transportation
1000 East Clay Street
Box 235
Richmond, Virginia 23298-0235
(804) 786-0501

§ 2. Governance.

The parking program is defined by the Office of the Provost on the Academic Campus and by the Office of the Vice President for Health Sciences on the Medical College of Virginia (MCV) Campus. Suggestions relative to the program may be submitted through the parking administrator for referral to the appropriate office for review.

§ 3. Assignment of parking inventory.

The Parking Office provides parking assignments to institutional employees and students through a "permit" program, based on the availability of space.

The roles of certain employees may necessitate an exception to the established parking assignment policy. In such a case, the employee should ask his respective vice president, dean or director to request an exception. The Office of the Provost will take action on exceptions for the Academic Campus and the Office of the Vice President for Health Sciences will take action for the MCV Campus, based on the recommendation of the appropriate vice president.

§ 4. Restricted decks and lots.

A few parking areas on both campuses are restricted to specific parkers. These areas are:

1. *Visitors Deck.* This deck serves as the primary parking location for all patients and visitors on the MCV Campus and is restricted for their exclusive use between the hours of 7 a.m. and midnight daily. Anyone conducting university business may use this facility during unrestricted hours.

2. *D Deck.* Because of its proximity to the hospital, this is reserved for certain occupational classes as defined by the MCV Campus Parking Advisory Committee.

3. *X, HH, OO Lots.* These lots are restricted at all times to designated parkers.

4. *Academic Deck.* Parking is prohibited between the hours of midnight and 7 a.m.

§ 5. How to apply for a parking permit.

Applications for parking permits are available in the

Office of Parking and Transportation Services. Staff will determine space assignment based on availability and established criteria. Permits will only be issued for vehicles owned by the applicant or another person living at the same address as the applicant.

§ 6. Parking fee payment.

Full-time faculty and classified employees are encouraged to pay semi-monthly through payroll deduction. Hourly employees must pay in advance, on a quarterly, semi-annual or annual basis. A supplemental fee is required for each additional vehicle registered.

If an employee takes an authorized leave of absence and wishes to maintain parking subscription, payment arrangements must be made in advance of permit expiration. Failure to make advance arrangements may result in termination of parking subscription.

If an employee on an authorized leave of absence wishes to terminate parking subscription, the permit(s) must be returned to the Parking Office. Payment will be due until the permit(s) is returned.

§ 7. Permit placement.

Parkers are requested to display their permits on the extreme lower left side (driver's side) of the rear window glass. If the vehicle is equipped with a rear window defogger, the permit may be placed on the farthest left rear window. Motorcyclists are requested to place permits on the back of the right side view mirror. Temporary permits should be displayed in full view, inside the front windshield, on top of the driver's side of the dashboard. Parkers are requested to remove expired permits.

Persons cancelling their subscriptions (e.g., separating from university service) are required to return all current permits to the Parking Office. Additionally, if a vehicle is disposed of, a substantial (50%+) and recognizable portion of the permit must be returned to the Parking Office for a free replacement. If the decal is not returned, a \$10 fee will be assessed.

§ 8. Parking.

Valid day permits allow subscribers to access assigned lots/decks between the hours of 7:30 a.m. and 4 p.m. After 4 p.m. but before 7:30 a.m., and on weekends and holidays any valid University parking permit allows university-wide parking in any lot/deck except X, OO and HH lots and the Academic Deck. Evening decals (EV) are honored in all lots/decks after 3:30 p.m. and until 7:30 a.m. excluding X, OO and HH lots and the Academic Deck.

Subscribers with more than one vehicle registered may park a maximum of two vehicles in university lots/decks after 5 p.m. but before 7:30 a.m., excluding X, OO and HH lots and the Academic Deck.

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To facilitate the travel of those attending classes or conducting business between campuses, reciprocal parking is available in addition to shuttle service. (The East/West Shuttle schedule is located in the Information Section of the University Directory as well as from the Parking Office.) Reciprocal parking may be accessed by any subscriber with a valid day decal.

Reciprocal parking locations are:

1. Academic Campus - Academic Deck at Main and Cherry Streets - 7:30 a.m. - midnight

2. MCV Campus - N Deck at 10th and Leigh Streets

Reciprocal parkers using the Academic Campus Deck are reminded to retain the parking coupon issued upon entry. When exiting, submit the coupon to the attendant and indicate your decal for fee waiver.

§ 9. Loading zones/service areas.

Persons using loading zones are required to show evidence of loading/unloading (e.g., emergency flashers should be in use).

Vehicles parking in designated service areas must display a university permit authorizing use of these areas. Permits for service vehicles may be obtained at the Parking Office. Permits should be used only while the operator of the vehicle is performing service functions.

§ 10. Parking for mobility-impaired persons.

All subscribers parking in mobility impaired designated spaces in controlled lots/decks must display both:

1. A university parking permit, and
2. A permit or license plate, issued by either the Virginia Department of Motor Vehicles or the state in which the car is registered, indicating that the driver is permitted to park in a mobility impaired parking space.

All faculty, staff and students with temporary disabilities may request permission to park in designated mobility impaired parking spaces. When the period of disability is expected to last less than six weeks, a letter from a physician is required stating that mobility impaired parking is necessary during the term of the disability. When the period of disability is expected to last six weeks or longer, a mobility impaired permit issued by the Department of Motor Vehicles is required. The forms necessary to obtain this permit are available in the Parking Office. In all cases, the parker must pay the applicable fee to park in any university controlled parking space.

§ 11. Substitute vehicles.

In the event an unregistered (substitute) vehicle is used, subscribers are required to notify the Parking Office. Notification should occur prior to parking or within 30 minutes of parking. An answering machine is available outside of office hours. Please provide your name, campus phone number, the license number of the substitute vehicle, the lot/deck assigned and the number of days you will be driving the substitute vehicle. A staff member will call you with a control number.

Subscribers calling during office hours will be given a control number. If your substitute vehicle is ticketed, please write the control number on the ticket and return it to the Parking Office within five days. If returned within five days, the Parking Office will void the citation.

§ 12. Disabled vehicles.

Should a vehicle become disabled in an unauthorized area or in a university controlled parking facility without the proper permit, the Parking Office requests that you remove the vehicle as quickly as possible. If it becomes necessary to seek assistance or leave the vehicle unattended while making arrangements for its removal, please call the Parking Office and provide your name, license number, campus telephone number and the area in which the vehicle is parked. After regular business hours, callers may leave a message on the office answering machine.

Any vehicle parked in a designated emergency zone will be towed at the owner's expense.

§ 13. Driver responsibility.

A. Finding authorized space. Drivers are responsible for finding an authorized parking space. Lack of parking space, mechanical problems or other disabilities do not justify violations of the rules and guidelines.

B. Permit display. Parking permits must be displayed according to the parking regulations or special instructions provided by the Parking Office at the time of issuance.

C. Payment of fines. All fines shall be paid in full and in a timely manner. Vehicles with three or more unpaid citations are subject to being towed or immobilized. Parking permits will not be issued or renewed until all outstanding fines are paid.

D. Lost or stolen permits. Lost or stolen permits shall be reported to the VCU Police. The Parking Office will reissue a parking permit without charge if documentation of the police report is provided.

E. Update of information. Drivers shall keep the Parking Office advised of any changes in personal or vehicle data (i.e., name, address, department, shift change, make of vehicle, license number, etc.).

F. Termination of employment. Drivers shall return their permits and pay all outstanding fines before their separation clearance forms will be signed by the Parking Office.

G. Knowledge of rules and regulations. Drivers shall be knowledgeable of all parking rules and regulations as published in these regulations. Lack of awareness of these regulations does not constitute a valid excuse for parking violations.

H. Refund policy. No refunds will be made without the return of the parking permit(s). Refunds are calculated from the date of return to the Parking Office.

§ 14. Parking regulations.

A. There are several regulations that permit holders should note. Parking citations are issued for the following violations.

- 1. Parking in prohibited zones;*
- 2. Parking in loading zones;*
- 3. Parking in a service area;*
- 4. Parking on sidewalks or lawns;*
- 5. Failure to display a valid permit;*
- 6. Blocking driveways or roadways;*
- 7. Double parking;*
- 8. Occupying more than one space;*
- 9. Improperly displaying a parking permit;*
- 10. Employee/student use of patient/visitor spaces;*
- 11. Exceeding meter times;*
- 12. Failure to obey posted traffic patterns.*

B. In addition, there are three regulations that may subject a violator to larger fines, towing or revocation, or both, of parking privileges. These are:

- 1. Altering, forging, copying or falsely acquiring a permit or parking pass;*
- 2. Parking more than one vehicle in university controlled parking facilities. Permits for additional vehicles are issued with the understanding that only one vehicle will use the parking facilities at any given time;*
- 3. Parking in handicapped parking spaces without displaying HP or DV license plates, a DMV issued pass or an appropriate university permit;*

C. Vehicles may be towed for violation of any of the parking regulations if, in the opinion of the enforcement supervisor, the circumstances warrant.

§ 15. Permit renewal.

Permits will expire at the end of the period indicated on the permit or when otherwise designated by the Parking Office. Unless otherwise notified by the Parking Office, renewal of the permit must take place within two weeks of the expiration date of the permit in order for the holder to retain parking subscription. Otherwise, the parking space may be reassigned. Holders of expired permits are reminded that their vehicles are subject to ticketing or towing, or both.

§ 16. Parking passes.

Parking passes are issued by the Parking Office on a space available basis, to accommodate the short-term needs of visitors. To acquire a pass, call the Parking Office, inform them of the date of the visit and the location requested. If it is determined that space is available, a pass will be issued. Consistent with university policy, a fee will be charged for each pass issued.

Annual passes are also issued to members of the university's 1838 and President's Clubs. These programs, administered by the university's Advancement Office, are designed to recognize donors making significant financial contributions to the university. The intent of these passes is to show the university's appreciation by allowing members to park in designated areas during their occasional visits to the university. They are not intended as a substitute for faculty and staff parking decals.

§ 17. Summary.

Operating and parking motor vehicles in university controlled areas is permitted only in accordance with these regulations. Knowledge of these regulations is assumed.

Parking in university controlled areas is by permit only, except at meters and in attended lots and decks. The responsibility for finding a proper parking space rests with the vehicle operator. These regulations apply to all vehicles driven or parked on university property, regardless of who is operating the vehicle. The individual to whom the vehicle is registered will be held responsible, along with the operator of the vehicle, for violation of these regulations.

Virginia Commonwealth University assumes no responsibility for the care or protection of any vehicle, or its contents, at any time while parked in a university controlled area, regardless of whether a parking fee has been paid.

Possession of a parking permit does not imply that a parking space will always be available in the designated

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parking facility. The university reserves the right to set aside areas in all parking facilities for special events, as it deems necessary.

VA.R. Doc. No. R95-191; Filed December 9, 1994, 2:46 p.m.

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Title of Regulation: VR 649-01-03. Guidelines for Demonstrations on the Campuses of Virginia Commonwealth University.

Statutory Authority: § 23-50.10 of the Code of Virginia.

Summary:

These guidelines apply to all persons, both students and nonstudents, who demonstrate on the campuses of the university. These apply to scheduled and planned in advance demonstrations, as well as those which are spontaneous. Demonstrations that cease to be orderly or cause damage can bring legal actions.

VR 649-01-03. Guidelines for Demonstrations on the Campuses of Virginia Commonwealth University.

§ 1. Application.

It is assumed that most demonstrations that occur on the campuses of Virginia Commonwealth University will be organized and conducted by students at the university. However, it is recognized that nonstudents may, from time to time, desire to come on the campuses to demonstrate or participate in a demonstration being organized by students. These guidelines are applicable to all persons, both students and nonstudents, who demonstrate on the campuses of Virginia Commonwealth University.

The campuses of Virginia Commonwealth University are very different in their composition in that there are several spaces on the Academic Campus where demonstrations could be held without causing undue interference to classes and the normal operations of the campus. There are fewer such locations on the Medical College of Virginia (MCV) Campus, which is located in the midst of downtown Richmond. Thus, these guidelines will vary somewhat for the respective campuses in order to accommodate differences in physical spaces and the locations of the campuses within the City of Richmond.

§ 2. Demonstration categories.

There are two types of demonstrations: those which are scheduled and planned in advance and those which are more spontaneous and are not scheduled in advance.

Demonstrations in progress may fall into one of four categories:

1. *Orderly. There is no impact on normal university*

operations and classes.

2. *Inconvenience. There is some inconvenience caused to normal university operations and classes as a result of the presence of the demonstration on the campus; however, operations and classes are able to continue.*

3. *Disruption. Normal operations and classes are disrupted by the demonstration to the extent that some operations or classes may cease or be cancelled.*

4. *Destruction. Persons participating in the demonstration are responsible for damage or injury to university property or the property of university students, faculty, or staff members, or cause injury to university students, faculty, staff, or visitors to the university.*

§ 3. Planned demonstrations.

A representative from the registered student organization, ad hoc student group, or nonstudent group should contact the Assigned University Official to discuss a date, time, and location for the demonstration. The Assigned University Official for the Academic Campus is the Director of Student Activities, located on the second floor of the University Student Commons. The Assigned University Official for the MCV Campus is the Dean of Student Affairs for the MCV Campus, located in Bear Hall. The Assigned University Official or designee will continue to serve as a staff liaison with the representative(s) from the group desiring to have a demonstration until the demonstration has been held. This liaison staff member will:

1. *Schedule a date, space, and time for the demonstration. Preferred outdoor locations for demonstrations on the Academic Campus are the Commons Plaza, Shafer Court, unless classes are in session in the Hibbs Building, and the plaza between the Hibbs Building and the Performing Arts Center. Preferred outdoor locations for demonstrations on the MCV Campus are the grassy areas around the residence halls and the Larrick Student Center. Demonstrations on property under the jurisdiction of the City of Richmond, such as sidewalks and Monroe Park, shall meet the requirements of the city and are under the jurisdiction of the Richmond Police Department.*

2. *Review, as appropriate for each campus, all applicable provisions of the "Guidelines for Non-Instructional Use of Space on the Academic Campus of Virginia Commonwealth University," or "Guidelines for Non-Instructional Use of Space on the MCV Campus of Virginia Commonwealth University," including applicable costs for space, police coverage, use of alcohol, use of loudspeakers, etc.*

3. *Inform the Vice Provost for Student Affairs. VCL*

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Police, and the Assistant Vice President for University Relations of the plans for a demonstration.

4. Be present at the time of the demonstration to monitor the demonstration.

5. Contact the demonstration leader during the event if problems arise:

a. If the demonstration ceases to be orderly, the demonstration leader will be informed by the staff liaison that the VCU Police will be called to the scene if the disorderly behavior does not cease.

b. If the demonstration causes inconvenience, the demonstration leader will be informed by the staff liaison that the VCU Police will be called to end the demonstration if the behavior causing the inconvenience does not cease.

c. If the demonstration causes disruption, the demonstration leader will be informed by the staff liaison that those persons responsible for the disruption will be subject to arrest by the VCU Police.

d. If the demonstration causes destruction, the demonstration leader will be informed by the staff liaison that those persons responsible for the destruction will be subject to arrest by the VCU Police.

6. Bring charges against individuals and student organizations under applicable university policies and procedures in the event a demonstration causes disruption or destruction.

§ 4. Demonstrations not scheduled in advance.

Although all student organizations, ad hoc student groups, or nonstudent groups are urged to contact the Assigned University Official (see § 3) to discuss a date, time, and location in advance of the demonstration, it is recognized that there will be rare occasions when this does not occur.

Demonstrations on property under the jurisdiction of the City of Richmond, such as sidewalks and Monroe Park, shall meet the requirements of the city and are under the jurisdiction of the Richmond Police Department. Any spontaneous or unscheduled demonstration which occurs on the campuses of Virginia Commonwealth University is subject to the following:

1. The Assigned University Official or designee will, upon learning of the presence of a spontaneous demonstration, report to the scene of the demonstration and make contact with the apparent leader of the demonstration or with a representative group from the demonstration. The VCU Police, the Vice Provost for Student Affairs, and the Assistant

Vice President for University Relations will be notified of the presence of the demonstration by the Assigned University Official or designee.

2. If the demonstration is not in one of the preferred locations (see subdivision 1 of § 3), the group participating in the demonstration will be asked by the Assigned University Official to move to one of these locations. If the group refuses to move, the demonstrators may be allowed to continue at the location, providing the demonstration is being conducted within the intent of the definition of "Orderly" as described in § 2.

3. The Assigned University Official will monitor the demonstration.

4. The Assigned University Official will contact the demonstration leader during the demonstration if problems arise:

a. If the demonstration ceases to be orderly, the demonstration leader will be informed by the Assigned University Official that the VCU Police will be called to the scene if the disorderly behavior does not cease.

b. If the demonstration causes inconvenience, the demonstration leader will be informed by the Assigned University Official that the VCU Police will be called to end the demonstration if the behavior causing the inconvenience does not cease.

c. If the demonstration causes disruption, the demonstration leader will be informed by the staff liaison that those persons responsible for the disruption will be subject to arrest by the VCU Police.

d. If the demonstration causes destruction, the demonstration leader will be informed by the Assigned University Official that those persons responsible for the destruction will be subject to arrest by the VCU Police.

5. The Assigned University Official will bring charges against individuals and organizations under applicable university policies and procedures in the event a demonstration causes disruption or destruction.

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Title of Regulation: VR 649-01-04. Ethics Policy on Computing.

Statutory Authority: § 23-50.10 of the Code of Virginia.

Summary:

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This policy governs the use of all university computing resources. The resource is restricted to authorized individuals for university-related computing. Steps are described to handle violations.

VR 649-01-04. Ethics Policy on Computing.

PART I. GENERAL PROVISIONS.

§ 1.1. Definition.

Computing resources include mainframe computers, minicomputers, microcomputers, networks, software, data, computer rooms and computer-related supplies. Access to some university computing resources is controlled through the use of assigned accounts with an access ID. Details of obtaining an account can be obtained from the users department or from the department supplying the computing resources.

§ 1.2. Policies.

The following shall govern the use of all VCU computing resources:

- 1. The use of computing resources is restricted to those appropriately authorized individuals. On computing resources where access is controlled through the use of an access ID, eligible users are authorized to use only the access ID assigned to them.*
- 2. Use of the computing resources shall be university related. The authorized ID holder is responsible for both the use and contents of the account.*
- 3. Persons authorized to use university computing resources shall ensure that any safeguards available to them are in place to guard against inappropriate use.*
- 4. Intentional abuse of the computing resources, intentional interference with the operation of computing resources, intentional interference with the work of other users, violation of confidentiality, copyrights, or license agreements, and intentional wasting of computer resources are prohibited.*
- 5. Actions which attempt to circumvent prescribed channels to obtain computer privileges and resources are prohibited.*

PART II. ENFORCEMENT PROCEDURE.

§ 2.1. Classified employees.

Alleged violations by classified employees shall be referred to the director of the employee's department and be dealt with in accordance with the Employee Standards

of Conduct and Performance.

§ 2.2. All other users.

Alleged violations of this policy by all users, other than classified employees, shall first be reported, reviewed and disposed of through Step One of the procedure outlined in § 2.3. However, at any point during Step One any of the parties may invoke Step Two as described in § 2.4. Reasons for invoking Step Two may include, but are not limited to, the following: the judgment that the matter is of a nature that it should be handled by the judicial system, the view of the individual reporting the violation that the matter is not being handled effectively, the desire of the alleged violator that the matter be considered by the Assistant Vice President for Administrative Services, or a judgment that state law has been violated.

§ 2.3. Step One.

A. Violations of the policy shall be reported by faculty, staff, or students to the head of the appropriate computing support division. Charges of violations shall be presented immediately upon discovery thereof.

B. The division head will collect the facts of the case and attempt to identify the offender as quickly as possible. If the division head believes disciplinary action is necessary, the charge and any information related to the charge will be presented to the head of the alleged violator's department.

C. The head of the alleged violator's department will identify the appropriate response and action to be taken, subject to the agreement of all parties, including the accused. If any of the parties do not agree, Step Two is invoked. The actions may include, but are not limited to, the following:

- 1. Temporary restriction of the alleged violator's computing resources access for a fixed period of time, generally not more than six months.*
- 2. Requiring restitution for the damages caused, material consumed, machine time, and the like on an actual-cost basis. Such restitution may include the costs associated with determining the facts of the case.*

§ 2.4. Step Two.

A. Written charges which describe the violation shall be provided to the Assistant Vice President for Administrative Services within 30 days of the date on which Step Two is invoked.

B. The Assistant Vice President for Administrative Services will refer the statement of written charges to the appropriate administrator in compliance with the provisions of the Rules and Procedures of Virginia Commonwealth University (VR 649-01-01). The usual

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procedures and provisions of the Rules and Procedures shall be observed from this point forward.

C. Violations of state law will be reported to the Director of Campus Police or his designee.

VA.R. Doc. No. R95-190; Filed December 9, 1994, 2:45 p.m.

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Title of Regulation: VR 649-01-05. Posting Materials Policy.

Statutory Authority: § 23-50.10 of the Code of Virginia.

Summary:

This policy establishes procedures for the posting of advertising and all other types of printed matter on the campuses of the university. Violations will be subject to the provisions of the university's Rules and Procedures.

VR 649-01-05. Posting Materials Policy.

§ 1. Purpose.

Virginia Commonwealth University recognizes the rights of all individuals to freedom of expression. This policy establishes procedures for the posting of advertising and all other types of printed matter on the Academic Campus of Virginia Commonwealth University.

§ 2. Types of bulletin boards.

All printed materials are to be posted on bulletin boards. There are two basic types of bulletin boards on the Academic Campus:

1. Official bulletin boards include all boards which are specifically marked as belonging to a university department or office. All university departments and offices who maintain a bulletin board are required to label the bulletin board with a prominent sign indicating "Official Notices Only - Department of (office)."

No printed materials of any type may be posted on an official bulletin board without the permission of the department or office which controls the board. The department or office will be responsible for posting appropriate materials on the bulletin board and for removing outdated materials on a regular basis.

2. General use bulletin boards include all bulletin boards not specifically identified and marked as belonging to a university department or office and will be identified by a label indicating "General Use."

General use bulletin boards are open for the posting

of printed materials by any member of the university community and the general public without prior approval. All printed materials shall conform to all applicable local, state, and federal laws.

University housekeeping personnel will clear all general use bulletin boards on the first working Monday of each month. Persons desiring to post materials on general use bulletin boards should take note of this date as all materials will be cleared from boards at that time.

§ 3. Posting in other areas; prohibited areas; banners; special restrictions.

A. No posters, flyers, or printed materials of any type may be posted on the walls, windows, doors, stairwells, or any location on the interior or exterior of all campus buildings. General use bulletin boards are the only location for posting of materials in campus buildings. University housekeeping personnel will be instructed to immediately remove and destroy all improperly posted materials.

Similarly, no posting of any type of printed materials is permitted on trees, utility poles, sign posts, building exteriors, or any other structure on the campus. Any materials which are posted in such areas will be removed and destroyed by university groundskeepers.

B. Arrangements may be made with the director of Student Activities/University Student Commons for hanging banners.

C. There are special restrictions applicable to posting of all types of printed materials in the University Student Commons Building and the Cary Street Recreational Complex. Information related to posting of materials in the Commons is available at the Commons Office and the Cary Street Gym Office.

D. There are special restrictions applicable to the posting of all types of printed materials in the residence halls. Information related to posting materials in the residence halls is available through the director of Residence Education in the Housing Office.

§ 4. Violations.

Students and nonstudents who violate the provisions of this policy will be subject to the provisions of the Rules and Procedures of Virginia Commonwealth University (VR 649-01-01).

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FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision JJ – Federal Operating Permits for Stationary Sources).

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

Effective Date: April 1, 1995.

Summary:

The regulation concerns federal operating permits for stationary sources and is summarized below:

1. The regulation covers major stationary sources of volatile organic compounds, nitrogen oxides, sulfur dioxide, particulate matter, and lead; and major stationary sources and nonmajor or area sources subject to either the hazardous air pollutant provisions of § 112 of the federal Clean Air Act (the Act) or to the new source performance standards requirements of § 111 of the Act. Federal requirements specify that sources emitting pollutants that cause acid rain must also be covered by the requirements of this operating permit program. Because an operating permit program that manages these sources of acid rain pollutants must meet the requirements of both Title IV and Title V of the Act and the federal regulations implementing these titles, the department will write a separate regulation that will affect only these sources.
2. The proposed regulation requires that permits for all major sources subject to the program and solid waste incineration units covered by § 129(e) of the Act and subject to new source performance standards that have been incorporated by reference into the state's regulations must be issued within three years of federal approval of the state program. Nonmajor or area sources are deferred from obtaining a permit until the federal Environmental Protection Agency (EPA) decides which of these sources must be permitted.
3. The regulation provides an exemption for sources that are subject only to (i) the new source performance standard for new residential wood heaters, (ii) the national emission standard for hazardous air pollutant on asbestos demolition and renovation, or (iii) the requirement to file a risk management plan under § 112(r) of the Act.
4. The regulation exempts insignificant activities from the requirements of the regulation. Insignificant activities include both a small number of emissions units or activities that are exempt completely and emissions units that are exempt from the requirements for a particular pollutant because of the level of the emissions produced.
5. The pollutants covered by the regulation are the criteria pollutants such as nitrogen oxides, volatile organic compounds and sulfur dioxide; the hazardous air pollutants listed in § 112(b) of the Act and any other list of pollutants promulgated under § 112 including those for which risk management plans have to be filed under § 112(r); the pollutants designated under § 111 of the Act and regulated by the new source performance standards such as total reduced sulfur and sulfuric acid mist; the ozone depleting substances regulated by Title VI of the Act; and the toxic pollutants listed as priority pollutants in the state's Air Toxics Program Priority Implementation Policy.
6. In applying for a permit under the regulation, the source must submit information on all regulated pollutants emitted from all emission units not exempted as insignificant. In issuing permits, the department must include, for major sources, permit terms and conditions for all emissions units not exempted as insignificant. The department must include, for nonmajor or area sources, permit terms and conditions for emissions units that cause the source to be subject to the rule.
7. Applications for sources that are not deferred under the regulation will be due between September 15, 1994, and November 15, 1995. Approximately 1,900 sources will have to submit applications for initial permits. The department must issue permits to these sources during the three years following EPA approval, presumably between November 15, 1994, and November 15, 1997. One-third of the permits must be issued by the end of each of the three years.
8. In applying for a permit under the regulation, the applicant must provide all pertinent emissions and operation information sufficient for the department to determine the applicable requirements for the source and to write terms and conditions that pertain to the emissions units which must be covered in the permit. The regulation also requires both the applicant and the department to identify completely the regulatory requirements applicable to the stationary source. Furthermore, the applicant and the department must distinguish between applicable federal requirements

and applicable state requirements contained in the state's air regulations.

9. Applicable federal requirements include only those requirements that are federally enforceable prior to inclusion in the permit, essentially (i) federal requirements of EPA regulatory programs and (ii) state requirements that are already federally enforceable (because they have been approved as part of Virginia's State Implementation Plan or are otherwise federally required to implement the Clean Air Act). The permit may not make any requirement federally enforceable that is not already federally enforceable prior to issuance of the permit. Applicable state requirements include only those regulatory requirements that are specifically required by state code but are not required by EPA.

10. The regulation requires the applicant to submit a compliance plan and schedule as part of the application. The plan must state that the applicant is in compliance with all the requirements applicable to the stationary source. For requirements with which the applicant is not in compliance, the applicant must provide an explanation of what is being done to come into compliance and a schedule for attaining compliance with those requirements. The plan and any schedules, once verified by the department, must be included as part of the permit.

11. The regulation requires the inclusion of a permit shield for all terms and conditions specified in the permit, including any requirements that are specifically identified as not being applicable. The permit shield specifies that a source is not in violation of its permit as long as it is in compliance with the terms and conditions of the permit.

12. The regulation requires a public comment period of 30 days for draft permits for initial permits, significant modifications, and permit renewals following notice in a local newspaper and to persons on the mailing list for such purposes. Certain local officials and states within 50 miles of the facility or whose air quality may be affected by the facility must also be notified of the draft permit. The notice must describe the facility for which a permit has been drafted, the emissions from the facility, and where and from whom additional information can be obtained. A public hearing can be held either at the department's or the public's request if the department finds that there is a significant air quality issue pertinent to the draft permit.

13. The regulation requires the department, after review of the comments and the development of a proposed final permit, to send the proposed permit to EPA. EPA has 45 days during which it can object to the permit. EPA can object if a proposed permit is not in compliance with the applicable requirements or if the requirements of the operating permit regulation

have not been carried out. If EPA objects to issuance of a permit, the department has 90 days to revise and issue the permit. EPA can issue the permit if the department fails to revise and issue the permit within the 90-day period. This review process is limited to initial permits, renewal permits, reopened permits and significant permit modifications.

14. Several mechanisms are provided in the proposed regulation to modify the permit: administrative permit amendments, minor permit modifications and significant permit modifications. Administrative permit amendments cover only administrative changes to the permit such as correction of typographical errors, name changes or changes in ownership. Minor permit modifications cover a limited number of operational or emissions changes that occur at the source and that do not require reanalysis of permit terms or conditions, such as a case-by-case determination of an emissions limitation. Significant permit modifications are those modifications that require significant change and reanalysis of the permit to establish the new permit term or condition.

15. The regulation provides operational flexibility for the source through several mechanisms: alternative operating scenarios, changes that contravene an express permit term, and changes that are not addressed or prohibited by the permit. Alternative operating scenarios can be submitted as part of the application and permit terms and conditions can be written to cover those scenarios. A change that expressly contravenes a permit term or condition can be made as long as the change does not exceed emissions allowed under the permit, violate applicable requirements, trigger new source review or federal hazardous air pollutant modification requirements, or involve monitoring, record keeping, reporting or compliance certification requirements. A change that is not addressed or prohibited by the permit can be made as long as the change does not violate applicable requirements or any permit term or condition.

16. The regulation provides that the department may develop a general permit for a category of sources where the sources in the category are generally the same in terms of operations and processes and emit either the same or similar pollutants or pollutants with similar characteristics. To be eligible for a general permit, the sources in the category may not be subject to case-by-case standards or requirements and they must be subject to the same requirements with regard to their operation, emissions, monitoring, reporting, or record keeping. The proposed regulation provides that the public, affected states and EPA must be given an opportunity to review and comment on a general permit before permits are issued to the sources in the category it covers.

Summary of Public Comment and Agency Response: A

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summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Nancy S. Saylor, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4421.

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision JJ – Federal Operating Permits for Stationary Sources).

PART VIII.

FEDERAL OPERATING PERMITS FOR STATIONARY SOURCES (RULE 8-5).

§ 120-08-0501. Applicability.

A. Except as provided in subsection C [~~and E~~] of this section, the provisions of this rule apply to the following stationary sources:

1. Any major source.
2. Any source, including an area source, subject to the provisions of Parts IV and V as adopted pursuant to § 111 of the federal Clean Air Act.
3. Any source, including an area source, subject to the provisions of Part VI as adopted pursuant to § 112 of the federal Clean Air Act.

[4. Any affected source or any portion thereof not subject to Rule 8-7.]

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

C. The provisions of this rule shall not apply to the following:

1. Any source that would be subject to this rule solely because it is subject to the provisions of 40 CFR Part 60, Subpart AAA (Standards of Performance for New Residential Wood Heaters), as prescribed in Rule 5-5.
2. Any source that would be subject to this rule solely because it is subject to the provisions of 40 CFR Part 61, Subpart M (National Emission Standard for Hazardous Air Pollutants for Asbestos), § 61.145 (Standard for Demolition and Renovation), as prescribed in Rule 6-1.
3. Any source that would be subject to this rule solely because it is subject to regulations or requirements concerning prevention of accidental releases under § 112(r) of the federal Clean Air Act.
4. Any emissions unit that is determined to be

shutdown under the provisions of [§§ 120-08-01, 120-08-02, 120-08-03, 120-08-04 or] § 120-08-0514.

D. Deferral from initial applicability.

1. Sources deferred from initial applicability. Area sources subject to [a standard, limitation, or other requirement under Parts IV, V or VI this rule under subdivision A 2 or subdivision A 3 of this section] shall be deferred from the obligation to obtain a permit under this rule. The decision to require a permit for these sources shall be made at the time that a new standard is promulgated and shall be incorporated into Parts IV, V or VI along with the listing of the new standard.

2. Sources not deferred from initial applicability. The following sources shall not be deferred from the obligation to obtain a permit under this rule:

a. Major sources.

b. Solid waste incineration units subject to the provisions of Parts IV and V as adopted pursuant to § 129(e) of the federal Clean Air Act.

3. Any source deferred under subdivision D 1 of this section may apply for a permit. The board may issue the permit if the issuance of the permit does not interfere with the issuance of permits for sources that are not deferred under this section or otherwise interfere with the implementation of this rule.

[4. Review and determination of compliance with Rule 4-3 and Rule 5-3 concerning toxic pollutants.

a. If the review under Rule 4-3 or Rule 5-3 has not been completed for all toxic pollutants, the permit may be issued if the permit contains a schedule for the source to submit emissions information sufficient to allow the board to evaluate the toxic pollutants emitted by the source. The schedule may include deferral of review under Rule 4-3 or Rule 5-3 until the first or second renewal of the permit issued under this rule but shall not extend beyond the second renewal.

b. If the source is subject to the provisions of an emissions standard or requirement (i) in Parts V or VI adopted pursuant to § 112(d) of the federal Clean Air Act or (ii) established by the board pursuant to § 112(g) or § 112(j) of the federal Clean Air Act, the review under Rule 4-3 or Rule 5-3 shall be completed for the toxic pollutant subject to the standard or requirement before a permit may be issued under this rule.]

E. [Affected sources subject to the requirements of the acid rain program under 40 CFR Parts 72, 73, 75, 77 and 78 are exempt from the provisions of this rule but are subject to the provisions of Rule 8-7.

F.] Regardless of the exemptions provided in this section, permits shall be required of owners who circumvent the requirements of this rule by causing or allowing a pattern of ownership or development of a source which, except for the pattern of ownership or development, would otherwise require a permit.

[F. The provisions of § 120-08-0505 concerning application requirements shall not apply to insignificant activities designated in Section II of Appendix W with the exception of the requirements of § 120-08-0505 D 1 and Section I of Appendix W.]

§ 120-08-0502. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

["Actual emissions" means the actual rate of emissions of a pollutant from any stationary source. In general, actual emissions as of a particular date shall equal the highest annual rate, in tons per calendar year, at which the source actually emitted a pollutant during the consecutive five-year period which precedes the particular date and which is representative of normal source operation. The board may allow the use of a different historical time period upon a determination that it is more representative of normal source operation. Actual emissions may be calculated according to a method acceptable to the board and may use the source's actual operating hours, production rates, in-place control equipment and types of materials processed, stored, or combusted during the selected time period.]

"Affected source" means a source that includes one or more affected units.

"Affected states" means all states (i) whose air quality may be affected by the permitted source and that are contiguous to Virginia or (ii) that are within 50 miles of the permitted source.

"Affected unit" means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation under 40 CFR Parts 72, 73, 75, [76,] 77 or 78.

["Allowable emissions" means the emission rates of a stationary source calculated by using the maximum rated capacity of the emissions units within the source (unless the source is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:

a. Applicable emission standards.

b. The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date.

c. Any other applicable emission limitation, including those with a future compliance date.]

"Applicable federal requirement" means all of the following as they apply to emissions units in a source subject to this rule (including requirements that have been promulgated or approved [by the administrator] through rulemaking at the time of permit issuance but have future effective compliance dates):

a. Any standard or other requirement provided for in the State Implementation Plan [or the Federal Implementation Plan] , including any source-specific provisions such as consent agreements or orders.

b. Any term or condition of any preconstruction permit issued pursuant to §§ 120-08-01, 120-08-02, or § 120-08-03 or of any operating permit issued pursuant to § 120-08-04, except for terms or conditions derived from applicable state requirements [or from any requirement of these regulations not included in the definition of applicable requirement] .

c. Any standard or other requirement prescribed under these regulations, particularly the provisions of Parts IV, V or VI, adopted pursuant to requirements of the federal Clean Air Act [or under § 111, 112 or 129 of the federal Clean Air Act] .

d. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

e. Any compliance monitoring requirements established pursuant to [either § 504(b) or § 114(a)(3) of the federal Clean Air Act or] these regulations [; with the exception of applicable state requirements] .

f. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

g. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

h. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

i. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such

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requirements need not be contained in a permit issued under this rule.

j. With regard to temporary sources subject to § 120-08-0509, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in § 120-08-02.

"Applicable requirement" means any applicable federal requirement or applicable state requirement.

"Applicable state requirement" means all of the following as they apply to emissions units in a source subject to this rule (including requirements that have been promulgated or approved through rulemaking at the time of permit issuance but have future effective compliance dates):

[a. Any standard or other requirement provided for in Rules 4-2, 4-3, 5-2, or 5-3.

b. Any term or condition of any fuel variance issued pursuant to § 120-02-05 B.

c. Any ambient air quality standard prescribed under § 120-03-02.

d. Any standard or other requirement prescribed under these regulations, other than Rules 4-40 and 4-41, not qualifying as an applicable federal requirement.

a. Any standard or other requirement prescribed by any regulation adopted pursuant to a requirement of the Code of Virginia governing a specific subject or category of sources.]

[e. b.] Any regulatory provision or definition directly associated with or related to any of the specific state requirements listed in this definition.

["Allowable emissions" means the emission rates of a stationary source calculated by using the maximum rated capacity of the emissions units within the source (unless the source is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:

a. Applicable emission standards.

b. The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date.

c. Any other applicable emission limitation, including those with a future compliance date.]

"Area source" means any stationary source that is not a major source. For purposes of this rule, the phrase "area source" shall not include motor vehicles or nonroad

vehicles.

"Complete application" means an application that contains all the information required pursuant to §§ 120-08-0504 and 120-08-0505 sufficient to determine all applicable requirements and to evaluate the source and its application. Designating an application complete does not preclude the board from requesting or accepting additional information.

["Designated representative" means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 CFR Part 72, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term "responsible official" is used in this regulation, it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program. Whenever the term "designated representative" is used in this regulation, the term shall be construed to include the alternate designated representative.]

"Draft permit" means the version of a permit for which the board offers public participation under § 120-08-0523 or affected state review under § 120-08-0525.

"Emissions allowable under the permit" means a federally [or and] state enforceable [or state-only enforceable] permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally and state enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant. This term is not meant to alter or affect the definition of the term "unit" in 40 CFR Part 72.

["Federal implementation plan" means the plan, including any revision thereof, which has been promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.]

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including the following:

a. Requirements [developed approved by the administrator] pursuant to the provisions of § 111 or § 112 of the federal Clean Air Act [and adopted into the provisions of Parts IV, V or VI] ;

b. Requirements [~~adopted by the board and approved by the administrator into in~~] the State Implementation Plan;

c. Any permit requirements established pursuant to (i) 40 CFR 52.21 or (ii) Part VIII, with the exception of terms and conditions established to address applicable state requirements; and

d. Any other applicable federal requirement.

"Final permit" means the version of a permit issued by the board under this rule that has completed all review procedures required by §§ 120-08-0523 and 120-08-0525.

"Fugitive emissions" are those emissions which cannot reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this rule that meets the requirements of § 120-08-0508.

"Hazardous air pollutant" means [~~an air pollutant to which no ambient air quality standard is applicable, which causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; and which is designated as such in Appendix U; any pollutant listed in § 112(b)(1) of the federal Clean Air Act.~~]

"Locality particularly affected" means any locality which bears any identified disproportionate material air quality impact which would not be experienced by other localities.

"Major source" means:

a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

- (1) Coal cleaning plants (with thermal dryers).
- (2) Kraft pulp mills.
- (3) Portland cement plants.
- (4) Primary zinc smelters.
- (5) Iron and steel mills.
- (6) Primary aluminum ore reduction plants.
- (7) Primary copper smelters.
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (9) Hydrofluoric, sulfuric, or nitric acid plants.
- (10) Petroleum refineries.
- (11) Lime plants.
- (12) Phosphate rock processing plants.
- (13) Coke oven batteries.
- (14) Sulfur recovery plants.
- (15) Carbon black plants (furnace process).
- (16) Primary lead smelters.
- (17) Fuel conversion plant.
- (18) Sintering plants.
- (19) Secondary metal production plants.
- (20) Chemical process plants.
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (23) Taconite ore processing plants.
- (24) Glass fiber processing plants.
- (25) Charcoal production plants.
- (26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
- (27) All other stationary source categories [~~subject to the provisions of Rule 5-5 or Rule 6-1~~ regulated by a standard promulgated under § 111 or 112 of

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the federal Clean Air Act], but only with respect to those air pollutants that are regulated for that category.

c. For ozone nonattainment areas, any [stationary] source with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under § 182(f) of the federal Clean Air Act (NOx requirements for ozone nonattainment areas) do not apply.

[d. For attainment areas in ozone transport regions, any stationary source with the potential to emit 50 tons per year or more of volatile organic compounds.]

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that (i) arises from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, (ii) causes an exceedance of a technology-based emission limitation under the permit due to unavoidable increases in emissions attributable to the failure and (iii) requires immediate corrective action to restore normal operation. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

["Nonattainment condition" means a condition where any area is shown by air quality monitoring data or by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or predicted emissions data.]

"Permit," unless the context suggests otherwise, means any permit or group of permits covering a source subject to this rule that is issued, renewed, amended, or revised pursuant to this rule.

"Permit modification" means a revision to a permit issued under this rule that meets the requirements of § 120-08-0517 on minor permit modifications, § 120-08-0518 on group processing of minor permit modifications, or § 120-08-0519 on significant modifications.

"Permit revision" means any permit modification that meets the requirements of §§ 120-08-0517, 120-08-0518 or § 120-08-0519 or any administrative permit amendment that

meets the requirements of § 120-08-0516.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

"Proposed permit" means the version of a permit that the board proposes to issue and forwards to the administrator for review in compliance with § 120-08-0525.

"Regulated air pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound.
- b. Any pollutant for which an ambient air quality standard has been promulgated.
- c. Any pollutant subject to any standard promulgated under [Parts IV or V as adopted pursuant to the requirements of] § 111 of the federal Clean Air Act.
- d. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act concerning stratospheric ozone protection.
- e. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants [and any pollutant regulated under Subpart C of 40 CFR Part 68] .
- f. Any [toxic pollutant subject to a regulation adopted pursuant to a requirement of the Code of Virginia governing a specific subject or category of sources] .

"Renewal" means the process by which a permit is reissued at the end of its term.

["Research and development facility" means all the following as applied to any stationary source:

- a. The primary purpose of the source is the conduct of either (i) research and development into new products or processes or into new uses for existing products or processes or into refining and improving existing products or processes or (ii) basic research to provide for education or the general advancement of technology or knowledge.
- b. The source is operated under the close supervision of technically trained personnel.

c. The source is not engaged in the manufacture of products for commercial sale.

An analytical laboratory that primarily supports a research and development facility is considered to be part of that facility.]

"Responsible official" means one of the following:

a. For a business entity, such as a corporation, association or cooperative:

(1) The president, secretary, treasurer, or vice-president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision making functions for the business entity, or

(2) A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity and the delegation of authority is approved in advance by the board;

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA).

[d. For affected sources:

(1) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the federal Clean Air Act or the regulations promulgated thereunder are concerned; and

(2) The designated representative or any other person specified in this definition for any other purposes under this rule.]

"State enforceable" means all limitations and conditions which are enforceable by the board, including those requirements developed pursuant to § 120-02-11, requirements within any applicable order or variance, and any permit requirements established pursuant to Part VIII.

["State implementation plan" means the plan, including any revision thereof, which has been submitted by the

Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.]

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) [except the activities of any vessel] . Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M). [At the request of the applicant, any research and development facility may be considered a separate stationary source from the manufacturing or other facility with which it is co-located.]

["Toxic pollutant" means any air pollutant for which no ambient air quality standard has been established and which is designated as such in Appendix V. Particulate matter and volatile organic compounds are not toxic pollutants as generic classes of substances but individual substances within these classes may be toxic pollutants because of their toxic properties.

"Uncontrolled emissions" means the emissions from a source when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment which is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emissions of a source. Secondary emissions do not count in determining the uncontrolled emissions of a stationary source.]

§ 120-08-0503. General.

A. No permit may be issued pursuant to this rule until the rule has been approved by the administrator, whether full, interim, partial or otherwise.

[B. Except for subsection A of this section, no provision of these regulations shall limit the power of the board to issue an operating permit pursuant to this rule in order to remedy a condition that may cause or contribute to the endangerment of human health or welfare or to remedy a nonattainment condition or both.

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~~C. The B.~~ If requested in the application for a permit or permit renewal submitted pursuant to this rule, the] board may combine the requirements of and the permit for a source subject to § 120-08-04 with the requirements of and the permit for a source subject to this rule [provided the application contains the necessary information required for a permit under § 120-08-04] .

[C. For the purpose of this rule, the phrase "these regulations" means the entire Regulations for the Control and Abatement of Air Pollution (VR 120-01). For purposes of applicable federal requirements, the phrase "these regulations" means only those provisions of VR 120-01 that have been approved by EPA as part of the State Implementation Plan or otherwise have been approved by or found to be acceptable by EPA for the purpose of implementing requirements of the federal Clean Air Act. For the purpose of this rule, terms and conditions relating to applicable federal requirements shall be derived only from provisions of VR 120-01 that qualify as applicable federal requirements.]

§ 120-08-0504. Applications.

A. A single application is required identifying each emission unit subject to this rule. The application shall be submitted according to the requirements of this section, § 120-08-0505 and procedures approved by the board. Where several units are included in one stationary source, a single application covering all units in the source shall be submitted. A separate application is required for each stationary source subject to this rule.

B. For each stationary source, the owner shall submit a timely and complete permit application in accordance with subsections C and D of this section.

C. Timely application.

1. The owner of a stationary source applying for a permit under this rule for the first time shall submit an application within 12 months after the source becomes subject to this rule, except that stationary sources not deferred under § 120-08-0501 D shall submit their applications [~~between September 15, 1994, and November 15, 1995,~~] on a schedule to be determined by the department [but no later than 12 months following the effective date of approval of this rule by the administrator] . [~~A notice of the availability of the list of sources or source categories required to file applications shall be published by January 15, 1994.~~]

2. New source review.

a. The owner of a source subject to the requirements of § 112(g)(2) (construction, reconstruction or modification of sources of hazardous air pollutants) of the federal Clean Air Act or to the provisions of §§ 120-08-01, 120-08-02, or § 120-08-03 shall file a complete application to

obtain the permit or permit revision within 12 months after commencing operation. Where an existing permit issued under this rule would prohibit such construction or change in operation, the owner shall obtain a permit revision before commencing operation.

b. The owner of a source may file a complete application to obtain the permit or permit revision under this rule on the same date the permit application is submitted under the requirements of § 112(g)(2) of the federal Clean Air Act or under §§ 120-08-01, 120-08-02, or § 120-08-03.

3. For purposes of permit renewal, the owner shall submit an application at least six months [but no earlier than 18 months] prior to the date of permit expiration.

D. Complete application.

1. To be determined complete, an application shall contain all information required pursuant to § 120-08-0505.

2. Applications for permit revision or for permit reopening shall supply information required under § 120-08-0505 only if the information is related to the proposed change.

3. Within [~~45~~ 60] days of receipt of the application, the board shall notify the applicant in writing either that the application is or is not complete. If the application is determined not to be complete, the board shall provide (i) a list of the deficiencies in the notice and (ii) a determination as to whether the application contains sufficient information to begin a review of the application.

4. If the board does not notify the applicant in writing within 60 days of receipt of the application, the application shall be deemed to be complete.

5. For minor permit modifications, a completeness determination shall not be required.

6. If, while processing an application that has been determined to be complete, the board finds that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response.

7. The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under §§ 120-08-01, 120-08-02, or § 120-08-03.

8. Upon notification by the board that the application is complete or after 60 days following receipt of the application by the board, the applicant shall submit

three additional copies of the complete application to the board.

E. Duty to supplement or correct application.

1. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

2. An applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date a complete application was filed but prior to release of a draft permit.

F. Application shield.

1. If an applicant submits a timely and complete application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of this rule until the board takes final action on the application under § 120-08-0511.

2. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of this section for a renewal permit, except in compliance with a permit issued under this rule.

3. If the source applies for a minor permit modification and wants to make the change proposed under the provisions of either § 120-08-0517 F or § 120-08-0518 E, the failure of the source to have a permit modification or the operation of the source without a permit modification shall not be a violation of this rule until the board takes final action on the application under § 120-08-0511.

4. If the source notifies the board that it wants to make an operational flexibility permit change under § 120-08-0524 A, the failure of the source to have a permit modification or operation of the source without a permit modification for the permit change shall not be a violation of this rule unless the board notifies the source that the change is not a permit change as specified in § 120-08-0524 A 1 a.

5. If an applicant submits a timely and complete application under this section for a permit renewal but the board fails to issue or deny the renewal permit before the end of the term of the previous permit, (i) the previous permit shall not expire until the renewal permit has been issued or denied and (ii) all the terms and conditions of the previous permit, including any permit shield granted pursuant to § 120-08-0510, shall remain in effect from the date the application is determined to be complete until the renewal permit is issued or denied.

6. The protection under subdivisions F 1 and F 5 (ii) of this section shall cease to apply if, subsequent to the completeness determination made pursuant to subsection D of this section, the applicant fails to submit by the deadline specified in writing by the board any additional information identified as being needed to process the application.

G. Signatory and certification requirements.

1. Any application form, report, compliance certification, or other document required to be submitted to the board under this rule shall be signed by a responsible official.

2. Any person signing a document required to be submitted to the board under this rule shall make the following certification:

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

§ 120-08-0505. Application information required.

A. The board shall furnish application forms to applicants.

B. Each application for a permit shall include, but not be limited to, the information listed in subsections C through K of this section.

C. Identifying information.

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.

2. A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

D. Emissions-related information.

1. All emissions of pollutants for which the source is major and all emissions of regulated air pollutants.

a. A permit application shall describe all emissions

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of regulated air pollutants emitted from any emissions unit [~~except for those emissions units and emissions levels listed as insignificant activities in Section II of Appendix W with the following exceptions~~] .

(1) Any emissions unit exempted from the requirements of this subsection because the emissions level [or size] of the unit is deemed to be insignificant under Section II B [or II C] of Appendix W shall be listed in the permit application and identified as an insignificant activity. This requirement shall not apply to emissions units listed in Section II A of Appendix W.

(2) Regardless of [the emissions units designated in Section II A or II C of Appendix W or] the emissions levels listed in Section II B of Appendix W, the emissions from any emissions unit shall be included in the permit application if the omission of those [~~levels emissions units~~] from the application would interfere with the determination or imposition of any applicable requirement or the calculation of permit fees.

b. Emissions shall be calculated [~~for uncontrolled, potential or actual emissions~~] as required [~~by the board in the permit application form or instructions~~] .

c. Fugitive emissions shall be included in the permit application [to the extent quantifiable] regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

2. Additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to Rule 8-6 as required by the board. Identification and description of all points of emissions described in subdivision D 1 of this section in sufficient detail to establish the basis for fees and applicability of requirements of these regulations and the federal Clean Air Act.

3. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

4. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, [loading rates,] and operating schedules.

5. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

6. Limitations on source operation affecting emissions

or any work practice standards, where applicable, for all regulated air pollutants at the source.

7. Other information required by any applicable requirement (including information related to stack height limitations required under § 120-04-02 I or § 120-05-02 H).

8. Calculations on which the information in subdivisions D 1 through 7 of this section is based. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations.

[~~9. Any information or analysis that the board deems necessary to review the air quality impact of the source.~~]

E. Air pollution control requirements.

1. Citation and description of all applicable requirements.

2. Description of or reference to any applicable test method for determining compliance with each applicable requirement.

F. [~~Additional information.~~

~~1. Other specific Additional]~~ information that may be necessary to implement and enforce other requirements of these regulations and the federal Clean Air Act or to determine the applicability of such requirements.

[~~2. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the source.~~]

G. An explanation of any proposed exemptions from otherwise applicable requirements.

H. Additional information as determined to be necessary by the board to define alternative operating scenarios identified by the source pursuant to § 120-08-0507 J or to define permit terms and conditions implementing operational flexibility under § 120-08-0524.

I. Compliance plan.

1. A description of the compliance status of the source with respect to all applicable requirements.

2. A description as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely

basis.

c. For applicable requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

3. A compliance schedule as follows:

a. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

b. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement or by the board if no specific requirement exists.

c. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or board order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

4. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.

J. Compliance certification.

1. A certification of compliance with all applicable requirements by a responsible official or a plan and schedule to come into compliance or both as required by subsection I of this section.

2. A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods.

3. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the board.

4. A statement indicating the source is in compliance with any applicable federal requirements concerning enhanced monitoring and compliance certification.

K. If applicable, a statement indicating that the source has complied with the applicable federal requirement to register a risk management plan under § 112 (r)(7) of the federal Clean Air Act or, as required under subsection I of this section, has made a statement in the source's compliance plan that the source intends to comply with this applicable federal requirement and has set a compliance schedule for registering the plan.

L. Regardless of any other provision of this section, an application shall contain all information needed to determine or to impose any applicable requirement or to evaluate the fee amount required under the schedule approved pursuant to Rule 8-6.

§ 120-08-0506. Emission caps.

A. The board may establish an emission cap for sources or emissions units applicable under this rule [~~for the following reasons:~~

1.] when the applicant requests that a cap be established.

[2. When the board determines that the source emitting at allowable levels under these regulations results or will result in a violation of an ambient air quality standard.

3. When the board determines it necessary to correct a nonattainment condition.]

B. The criteria in subdivisions B 1 through B 5 of this section shall be met in establishing emission standards for emission caps to the extent necessary to assure that emissions levels are met permanently.

1. If an emissions unit was subject to emission standards prescribed in these regulations prior to the date the permit is issued, a standard covering the emissions unit and pollutants subject to the emission standards shall be incorporated into the permit issued under this rule.

2. A permit issued under this rule may also contain emission standards for emissions units or pollutants that were not subject to emission standards prescribed in these regulations prior to the issuance of the permit.

3. Each standard shall be based on averaging time periods for the standards as appropriate based on applicable air quality standards, any emission standard applicable to the emissions unit prior to the date the permit is issued, or the operation of the emissions unit, or any combination thereof. The emission standards may include the level, quantity, rate, or

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concentration or any combination thereof for each affected pollutant.

4. In no case shall a standard result in emissions which would exceed the lesser of the following:

a. Allowable emissions for the emissions unit based on emission standards applicable prior to the date the permit is issued.

b. The emissions rate based on the potential to emit of the emissions unit.

5. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination thereof.

C. [Using the significant modification procedures of § 120-08-0519,] ~~an~~ emissions standard may be changed to allow an increase in emissions level provided the amended standard meets the requirements of subdivisions B 1 and B 4 of this section and provided the increased emission levels would not make the source subject to §§ 120-08-01, 120-08-02 or § 120-08-03, as appropriate.

§ 120-08-0507. Permit content.

A. General.

1. For major sources subject to this rule, the board shall include in the permit all applicable requirements for all emissions units in the major source except those deemed insignificant in Appendix W.

2. For any source other than a major source subject to this rule, the board shall include in the permit all applicable requirements that apply to emissions units that cause the source to be subject to this rule.

3. [For all sources subject to this rule, the board shall include in the permit applicable requirements that apply to] fugitive emissions [~~shall be included in the permit~~] regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

4. Each permit issued under this rule shall include [; ~~but not be limited to,~~] the elements listed in subsections B through N of this section.

B. Emission limitations and standards.

Each permit shall contain terms and conditions setting out the following requirements with respect to emission limitations and standards:

1. [The permit shall specify and reference applicable] emission limitations and standards, including those operational requirements and limitations that assure

compliance with all applicable requirements at the time of permit issuance.

[~~a.~~ 2.] The permit shall specify and reference the origin of and authority for each term or condition and shall identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

[~~b.~~ 3.] If applicable requirements contained in these regulations allow a determination of an alternative emission limit at a source, equivalent to that contained in these regulations, to be made in the permit issuance, renewal, or significant modification process, any permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

[2. Provisions relating to emission limitations and standards as follows:

a. The source shall operate without causing a violation of the applicable provisions of these regulations.

b. The source shall not cause or contribute to a violation of any applicable ambient air quality standard.

c. The source shall operate in conformance with any applicable control strategy, including any emissions standards or limitations in the State Implementation Plan in effect at the time that a complete application is submitted so as not to prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.]

C. Equipment specifications and operating parameters.

Each permit shall contain terms and conditions setting out the following [requirements with respect to elements identifying] equipment specifications and operating parameters:

1. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size.

2. Specifications for air pollution control equipment installed or to be installed and the circumstances under which such equipment shall be operated.

3. Specifications for air pollution control equipment operating parameters, where necessary to ensure that the required overall control efficiency is achieved.

D. Duration.

Each permit shall contain a condition setting out the expiration date, reflecting a fixed term of five years.

E. Monitoring.

Each permit shall contain terms and conditions setting out the following requirements with respect to monitoring:

1. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to § 504(b) or § 114(a)(3) of the federal Clean Air Act concerning compliance monitoring, including enhanced compliance monitoring.

2. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to subdivision F 1 a of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of subdivision E 2 of this section.

3. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

F. Record keeping and reporting.

1. To meet the requirements of subsection E of this section with respect to record keeping, the permit shall contain terms and conditions setting out all applicable record keeping requirements and requiring, where applicable, the following:

a. Records of monitoring information that include the following:

(1) The date, place as defined in the permit, and time of sampling or measurements.

(2) The date(s) analyses were performed.

(3) The company or entity that performed the analyses.

(4) The analytical techniques or methods used.

(5) The results of such analyses.

(6) The operating conditions existing at the time of sampling or measurement.

b. Retention of records of all monitoring data and support information for at least five years from the

date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

2. To meet the requirements of subsection E of this section with respect to reporting, the permit shall contain terms and conditions setting out all applicable reporting requirements and requiring the following:

a. Submittal of reports of any required monitoring at least every six months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with § 120-08-0504 G.

b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The board shall define "prompt" in the permit condition in relation to (i) the degree and type of deviation likely to occur and (ii) the applicable requirements.

G. Enforcement.

Each permit shall contain terms and conditions with respect to enforcement that state the following:

1. If any condition, requirement or portion of the permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

2. The permittee shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act or the Virginia Air Pollution Control Law or both and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

3. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. The permit may be modified, revoked, reopened, and reissued, or terminated for cause as specified in §§ 120-08-0507 L, 120-08-0520 and 120-08-0522. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

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5. The permit does not convey any property rights of any sort, or any exclusive privilege.

6. The permittee shall furnish to the board, within a reasonable time, any information that the board may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the board copies of records required to be kept by the permit and, for information claimed to be confidential, the permittee shall furnish such records to the board along with a claim of confidentiality.

H. Permit fees.

Each permit shall contain a condition setting out the requirement to pay permit fees consistent with the fee schedule approved pursuant to Rule 8-6.

I. Emissions trading.

1. Each permit shall contain a condition with respect to emissions trading that states the following:

No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

2. Each permit shall contain the following terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases within the permitted facility, to the extent that these regulations provide for trading such increases and decreases without a case-by-case approval of each emissions trade:

a. All terms and conditions required under this section except subsection N shall be included to determine compliance.

b. The permit shield described in § 120-08-0510 shall extend to all terms and conditions that allow such increases and decreases in emissions.

c. The owner shall meet all applicable requirements including the requirements of this rule.

J. Alternative operating scenarios.

Each permit shall contain terms and conditions setting out requirements with respect to reasonably anticipated operating scenarios when identified by the source in its application and approved by the board. Such requirements shall include but not be limited to the following:

1. Contemporaneously with making a change from one operating scenario to another, the source shall record in a log at the permitted facility a record of the

scenario under which it is operating.

2. The permit shield described in § 120-08-0510 shall extend to all terms and conditions under each such operating scenario.

3. The terms and conditions of each such alternative scenario shall meet all applicable requirements including the requirements of this rule.

K. Compliance.

[Consistent with subsections E and F of this section,] each permit shall contain terms and conditions setting out the following requirements with respect to compliance:

1. Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required in a permit condition to be submitted to the board shall contain a certification by a responsible official that meets the requirements of § 120-08-0504 G.

2. Inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the owner shall allow the board to perform the following:

a. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.

b. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.

c. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

d. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

3. A schedule of compliance consistent with § 120-08-0505 I.

4. Progress reports consistent with an applicable schedule of compliance and § 120-08-0505 I to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the board. Such progress reports shall contain the following:

a. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or

compliance were achieved.

b. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

5. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

a. The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the board) of submissions of compliance certifications.

b. In accordance with subsection E of this section, a means for assessing or monitoring the compliance of the source with its emissions limitations, standards, and work practices.

c. A requirement that the compliance certification include the following:

(1) The identification of each term or condition of the permit that is the basis of the certification.

(2) The compliance status.

(3) Whether compliance was continuous or intermittent.

(4) Consistent with subsection E of this section, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.

(5) Such other facts as the board may require to determine the compliance status of the source.

d. All compliance certifications shall be submitted by the permittee to the administrator as well as to the board.

e. Such additional requirements as may be specified pursuant to §§ 114(a)(3) and 504(b) of the federal Clean Air Act.

6. Such other provisions as the board may require.

L. Reopening.

Each permit shall contain terms and conditions setting out the following requirements with respect to reopening the permit prior to expiration:

1. The permit shall be reopened [by the board] if additional applicable [federal] requirements become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after

promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to § 120-08-0504 F.

2. The permit shall be reopened if the board or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

3. The permit shall be reopened if the administrator or the board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

[4. The permit shall not be reopened by the board if additional applicable state requirements become applicable to a major source prior to the expiration date established under subsection D of this section.]

M. Miscellaneous.

The permit shall contain terms and conditions pertaining to other requirements as may be necessary to ensure compliance with these regulations, the Virginia Air Pollution Control Law and the federal Clean Air Act.

N. Federal enforceability.

1. All terms and conditions in a permit, including any provisions designed to limit a source's potential to emit, are enforceable by the administrator and citizens under the federal Clean Air Act, except as provided in subdivision N 2 of this section.

2. The board shall specifically designate as being only state-enforceable any terms and conditions included in the permit that are not required under the federal Clean Air Act or under any of its applicable federal requirements. Terms and conditions so designated are not subject to the requirements of § 120-08-0525 concerning review of proposed permits by EPA and draft permits by affected states.

3. [The board may include as federally enforceable any provisions of the regulations that have been submitted to the administrator for review to be approved under the State Implementation Plan and that have not yet been approved. The board shall specifically designate as state enforceable any applicable state requirement that has been submitted to the administrator for review to be approved as part of the State Implementation Plan and that has not yet been approved. The permit shall specify that the provisions will become federally enforceable upon approval of the provision by the administrator and through an administrative permit amendment.]

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§ 120-08-0508. General permits.

A. Requirements for board issuance of a general permit.

1. The board may issue a general permit covering a source category containing numerous similar sources that meet the following criteria:

a. All sources in the category shall be [~~generally~~ essentially] the same in terms of operations and processes and emit either the same pollutants or those with similar characteristics.

b. Sources shall not be subject to case-by-case standards or requirements.

c. Sources shall be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or record keeping.

2. [~~Any general permit~~ Sources subject to a general permit] shall comply with all requirements applicable to other permits issued under this rule.

3. General permits shall (i) identify the criteria by which sources may qualify for the general permit and (ii) describe the process to use in applying for the general permit.

4. The board shall not issue a general permit until the requirements concerning notice and opportunity for public participation under § 120-08-0523 and affected state and EPA review under § 120-08-0525 have been met. However, requirements concerning content of the notice shall replace those specified in § 120-08-0523 C and shall include, but not be limited to, the following:

a. The name, address and telephone number of a department contact from whom interested persons may obtain additional information including copies of the draft general permit.

b. The criteria to be used in determining which sources qualify for the general permit.

c. A brief description of the source category that the department believes qualifies for the general permit including, but not limited to, an estimate of the number of individual sources in the category.

d. A narrative statement of the estimated air quality impact contributed by the source category covered by the general permit including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used, if applicable.

e. A brief description of the application process to be used by sources to request coverage under the general permit.

f. A brief description of the comment procedures required by § 120-08-0523.

g. A brief description of the procedures to be used to request a hearing as required by § 120-08-0523 or the time and place of the public hearing if the board determines to hold a hearing under § 120-08-0523 E 9.

B. Application for a general permit.

1. Sources that would qualify for a general permit shall apply to the board for coverage under the terms of the general permit. [Sources that do not qualify for a general permit shall apply for coverage under a permit issued under the other provisions of this rule.]

2. The application shall meet the requirements of this rule and include all information necessary to determine qualification for and to assure compliance with the general permit.

3. Sources that become subject to the general permit after it is issued to other sources in the category addressed by the general permit shall file an application with the board using the application process described in the general permit. The board shall issue the general permit to the source if it determines that the source meets the criteria set out in the general permit.

C. Issuance of a general permit.

1. The board shall grant the conditions and terms of the general permit to sources that meet the criteria set out in the general permit covering the specific source category.

2. The issuance of a permit to a source covered by a general permit shall not require compliance with the public participation procedures under § 120-08-0523 and affected state and EPA review under § 120-08-0525.

3. A response to each general permit application may not be provided. The general permit may specify a reasonable time period after which a source that has submitted an application shall be deemed to be authorized to operate under the general permit.

4. Sources covered under a general permit may be issued [~~an individual permit, letter or certification~~ a letter, a certificate, or a summary of the general permit provisions, limits, and requirements, or any other document which would attest that the source is covered by the general permit] .

5. Provided the [~~individual permit, letter or certification~~ letter, certificate, summary or other document] is located at the source, the source [~~shall~~ may] not be required to have a copy of the general

permit. [~~However~~ In this case] , a copy of the general permit shall be retained by the board or at the source's corporate headquarters in the case of franchise operations.

D. Enforcement.

1. Regardless of the permit shield provisions in § 120-08-0510, the source shall be subject to enforcement action under § 120-08-0522 for operation without a permit issued under this rule if the source is later determined by the board or the administrator not to qualify for the conditions and terms of the general permit.

2. The act of granting or denying a request for authorization to operate under a general permit shall not be subject to judicial review.

§ 120-08-0509. Temporary sources.

A. The board may issue a single permit authorizing emissions from similar operations by the same owner at multiple temporary locations.

B. The operation shall be temporary and involve at least one change of location during the term of the permit.

C. Permits for temporary sources shall include the following:

1. Conditions that assure compliance with all applicable requirements at all authorized locations.

2. A condition that the owner shall notify the board not less than 15 days in advance of each change in location.

3. Conditions that ensure compliance with all other provisions of this rule.

§ 120-08-0510. Permit shield.

A. The board shall expressly include in a permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with all applicable requirements in effect as of the date of permit issuance and as specifically identified in the permit.

B. The permit shield shall cover only the following:

1. Applicable requirements that are covered by terms and conditions of the permit.

2. Any [other] applicable requirement specifically identified as being not applicable to the source, provided that the permit includes that determination.

C. Nothing in this section or in any permit issued under this rule shall alter or affect the following:

1. The provisions of § 303 of the federal Clean Air Act (emergency orders), including the authority of the administrator under that section.

2. The liability of an owner for any violation of applicable requirements prior to or at the time of permit issuance.

3. The ability [~~of~~ to obtain information from a source by] the [(i)] administrator [~~to obtain information from a source~~] pursuant to § 114 of the federal Clean Air Act (inspections, monitoring, and entry) [~~or the~~ ; (ii)] board pursuant to § 10.1-1315 of the Virginia Air Pollution Control Law [or (iii) department pursuant to § 10.1-1307.3 of the Virginia Air Pollution Control Law] .

§ 120-08-0511. Action on permit application.

A. A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

1. The board has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under § 120-08-0508.

2. Except for modifications qualifying for minor permit modification procedures under § 120-08-0517 or § 120-08-0518, the board has complied with the requirements for public participation under § 120-08-0523.

3. [~~Except for minor permit modification procedures under § 120-08-0517 or § 120-08-0518,~~] The board has complied with the requirements for notifying and responding to affected states under § 120-08-0525.

4. The conditions of the permit provide for compliance with all applicable requirements [, the requirements of Rule 8-6,] and the requirements of this rule.

5. The administrator has received a copy of the proposed permit and any notices required under §§ 120-08-0525 A and 120-08-0525 B and has not objected to issuance of the permit under § 120-08-0525 C within the time period specified therein.

B. The board shall take final action on each permit application (including a request for permit modification or renewal) no later than 18 months after [~~an~~ a complete] application is [~~determined~~ received] by the board [~~to be complete~~] , with the following exceptions:

1. For sources not deferred under § 120-08-0501 D, one-third of the initial permits shall be issued in each of the three years following the administrator's approval of this rule.

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2. For permit revisions, as required by the provisions of §§ 120-08-0516, 120-08-0517, 120-08-0518 or § 120-08-0519.

C. Issuance of permits under this rule shall not take precedence over or interfere with the issuance of preconstruction permits under §§ 120-08-01, 120-08-02, or § 120-08-03.

D. The board shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The board shall send this statement to the administrator and to any other person who requests it.

E. Within five days after receipt of the issued permit, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

§ 120-08-0512. Transfer of permits.

A. No person shall transfer a permit from one location to another, unless authorized under § 120-08-0509, or from one piece of equipment to another.

B. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any current permit issued to the previous owner. The new owner shall notify the board of the change in ownership within 30 days of the transfer [and shall comply with the requirements of § 120-08-0516] .

C. In the case of a name change of a stationary source, the owner shall comply with any current permit issued under the previous source name. The owner shall notify the board of the change in source name within 30 days of the name change [and shall comply with the requirements of § 120-08-0516] .

§ 120-08-0513. Permit renewal and expiration.

A. Permits being renewed shall be subject to the same [procedural] requirements, including those for public participation, affected state and EPA review, that apply to initial permit issuance under this rule.

B. Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with § 120-08-0504.

C. If the board fails to act in a timely way on a permit renewal, the administrator may invoke his authority under § 505(e) of the federal Clean Air Act to terminate or revoke and reissue the permit.

§ 120-08-0514. Permanent shutdown for emissions trading.

A. The shutdown of an emissions unit is not creditable for purposes of emissions trading [or exempt under §

120-08-0501 C 4] unless a decision concerning shutdown has been made pursuant to the pertinent provisions of Part VIII, including subsections B through D of this section.

B. Upon a final decision by the board that an emissions unit is shut down permanently, the board shall revoke any applicable permit by written notification to the owner and remove the unit from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the unit shall not commence operation without a permit being issued under the applicable new source review and operating permit provisions of Part VIII.

C. The final decision shall be rendered as follows:

1. Upon a determination that the emissions unit has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the unit is considered to be shut down permanently; (ii) that the decision shall become final if the owner fails to provide, within three months of the notice, written response to the board that the shutdown is not to be considered permanent; and (iii) that the owner has a right to a formal hearing on this issue before the board makes a final decision. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent, a projected date for restart-up of the emissions unit and a request for a formal hearing if the owner wishes to exercise that right.

2. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the board shall hold a formal hearing on the issue if one is requested. If no hearing is requested, the decision to consider the shutdown permanent shall become final.

D. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that an emissions unit is shutdown permanently prior to any final decision rendered under subsection C of this section.

§ 120-08-0515. Changes to permits.

[A. Applicability.

1. Changes to emissions units that pertain to applicable federal requirements at a source with a permit issued under this rule shall be made as specified under subsections B through D of this section and §§ 120-08-0516 through 120-08-0520 of this rule.

2. Changes to emissions units that pertain to applicable state requirements at a source with a permit issued under this rule shall be made as specified under

subsection E of this section.

A. 3.] Changes to a permit issued under this rule and during its five-year term [that pertain to applicable federal requirements] may be initiated by the permittee as specified in subsection B of this section or by the board or administrator as specified in subsection C of this section.

B. Changes initiated by the permittee.

1. The permittee may initiate a change to a permit by requesting an administrative permit amendment, a minor permit modification or a significant permit modification. The requirements for these permit revisions can be found in §§ 120-08-0516 through 120-08-0519.

2. A request for a change by a permittee shall include a statement of the reason for the proposed change.

C. Changes initiated by the administrator or the board.

The administrator or the board may initiate a change to a permit through the use of permit reopenings as specified in § 120-08-0520.

D. Permit term.

Changes to permits shall not be used to extend the term of the permit.

[E. Changes at a source and applicable state requirements.

1. Exemption from permit revision and reopening requirements. Changes at a source that pertain only to applicable state requirements shall be exempt from the requirements of §§ 120-08-0516 through 120-08-0520.

2. Criteria for making the change. The permittee may initiate a change pertaining only to applicable state requirements (i) if the change does not violate applicable requirements and (ii) if applicable, the requirements of §§ 120-08-01, 120-08-02 or § 120-08-03 have been met.

3. Incorporation of permit terms and conditions into a permit issued under this rule.

a. Permit terms and conditions pertaining only to applicable state requirements and issued under §§ 120-08-01, 120-08-02 or § 120-08-03 shall be incorporated into a permit issued under this rule at the time of permit renewal or at an earlier time, if the applicant requests it.

b. Permit terms and conditions for changes to emissions units pertaining only to applicable state requirements and exempt from the requirements of §§ 120-08-01, 120-08-02 or § 120-08-03 shall be

incorporated into a permit issued under this rule at the time of permit renewal or at an earlier time, if the applicant requests it.

4. Notification. The source shall provide contemporaneous written notice to the board of the change. Such written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable state requirement that would apply as a result of the change.

5. Permit shield. The change shall not qualify for the permit shield under § 120-08-0510.]

§ 120-08-0516. Administrative permit amendments.

A. Administrative permit amendments shall be required for and limited to the following:

1. Correction of typographical or [other harmless errors any error, defect or irregularity which does not substantially affect the permit] .

2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.

3. Requirement for more frequent monitoring or reporting by the permittee.

4. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of § 120-08-0512 have been fulfilled.

5. Incorporation into the permit of the requirements of permits issued under §§ 120-08-01, 120-08-02, and 120-08-03 when §§ 120-08-01, 120-08-02, and 120-08-03 meet (i) procedural requirements substantially equivalent to the requirements of §§ 120-08-0523 and 120-08-0525 that would be applicable to the change if it were subject to review as a [significant] permit modification, and (ii) compliance requirements substantially equivalent to those contained in § 120-08-0507.

[6. Change in the enforceability status from state-only requirements to federally enforceable requirements for provisions that have been approved through rulemaking by the administrator to be a part of the State Implementation Plan.]

B. Administrative permit amendment procedures.

1. The board shall take final action on a request for

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an administrative permit amendment no more than 60 days from receipt of the request.

2. The board shall incorporate the changes without providing notice to the public or affected states under §§ 120-08-0523 and 120-08-0525 [; ~~except as provided in § 120-08-0523 A 2~~] . However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.

3. The board shall submit a copy of the revised permit to the administrator.

4. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

C. The board shall [, upon taking final action granting a request for an administrative permit amendment,] allow coverage by the permit shield provisions of § 120-08-0510 for amendments made pursuant to subdivision A 5 of this section.

§ 120-08-0517. Minor permit modifications.

A. Minor permit modification procedures shall be used only for those permit modifications that:

1. Do not violate any applicable requirement;

2. Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or record keeping requirements;

3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable [federal] requirement and that the source has assumed to avoid an applicable [federal] requirement to which the source would otherwise be subject. Such terms and conditions include:

a. A federally enforceable emissions cap assumed to avoid classification as a modification under §§ 120-08-01, 120-08-02, 120-08-03 or § 112 of the federal Clean Air Act; and

b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;

5. Are not modifications under §§ 120-08-01, 120-08-02,

120-08-03 or under § 112 of the federal Clean Air Act; and

6. Are not required to be processed as a significant modification under § 120-08-0519 or as an administrative permit amendment under § 120-08-0516.

B. Notwithstanding subsection A of this section and § 120-08-0518 A, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in these regulations [or a federally-approved program] .

C. Application.

An application requesting the use of minor permit modification procedures shall meet the requirements of § 120-08-0505 for the modification proposed and shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable [federal] requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

3. Certification by a responsible official, consistent with § 120-08-0504 G, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used.

[4. Completed forms for the board to use to notify the administrator and affected states as required under § 120-08-0525.]

D. Public participation and EPA and affected state notification.

1. Within five working days of receipt of a [complete permit modification application that meets the requirements of § 120-08-0517 C of this section] , the board shall meet its obligation under § 120-08-0525 A 1 and B 1 to notify the administrator and affected states of the requested permit modification. The board shall promptly send any notice required under § 120-08-0525 B 2 to the administrator.

2. The public participation requirements of § 120-08-0523 shall not extend to minor permit modifications [except as provided in § 120-08-0523 A 2] .

E. Timetable for issuance.

1. The board may not issue a final permit modification until after the administrator's 45-day review period or until the administrator has notified

the board that he will not object to issuance of the permit modification, whichever occurs first, although the board can approve the permit modification prior to that time.

2. Within 90 days of receipt by the board of an application under minor permit modification procedures or 15 days after the end of the 45-day review period under § 120-08-0525 C, whichever is later, the board shall do one of the following:

- a. Issue the permit modification as proposed.
- b. Deny the permit modification application.
- c. Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures.
- d. Revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by § 120-08-0525 A.

F. Ability of owner to make change.

1. The owner may make the change proposed in the minor permit modification application immediately after the application is filed.
2. After the change under subdivision F 1 of this section is made, and until the board takes any of the actions specified in subsection E of this section, the source shall comply with both the applicable [federal] requirements governing the change and the proposed permit terms and conditions.
3. During the time period specified in subdivision F 2 of this section, the owner need not comply with the existing permit terms and conditions he seeks to modify. However, if the owner fails to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions he seeks to modify may be enforced against him.

G. Permit shield.

The permit shield under § 120-08-0510 shall not extend to minor permit modifications.

§ 120-08-0518. Group processing of minor permit modifications.

A. Criteria.

Group processing of modifications may be used only for those permit modifications that meet both of the following:

1. Permit modifications that meet the criteria for minor permit modification procedures under § 120-08-0517 A.

2. Permit modifications that collectively are below the threshold level as follows: 10% of the emissions allowed by the permit for the emissions unit for which the change is requested, 20% of the applicable definition of major source in § 120-08-0502, or five tons per year, whichever is least.

B. Application.

An application requesting the use of group processing procedures shall meet the requirements of § 120-08-0505 for the proposed modifications and shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable [federal] requirements that will apply if the change occurs.
2. A suggested draft permit prepared by the applicant.
3. Certification by a responsible official, consistent with § 120-08-0504 G, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
4. A list of the source's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subdivision A 2 of this section.
5. Certification, consistent with § 120-08-0504 G, that the source has notified the administrator of the proposed modification. Such notification need contain only a brief description of the requested modification.
6. Completed forms for the board to use to notify the administrator and affected states as required under § 120-08-0525.

C. Public participation and EPA and affected state notification.

1. On a quarterly basis or within five business days of receipt of an application demonstrating that the aggregate of the pending applications for the source equals or exceeds the threshold level set under subdivision A 2 of this section, whichever is earlier, the board promptly shall meet its obligation under § 120-08-0525 A 1 and B 1 to notify the administrator and affected states of the requested permit modifications. The board shall send any notice required under § 120-08-0525 B 2 to the administrator.
2. The public participation requirements of § 120-08-0523 shall not extend to group processing of minor permit modifications [except as provided in § 120-08-0523 A 2] .

D. Timetable for issuance.

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The provisions of § 120-08-0517 E shall apply to modifications eligible for group processing, except that the board shall take one of the actions specified in § 120-08-0517 E 1 through E 4 within 180 days of receipt of the application or 15 days after the end of the 45-day review period under § 120-08-0525 C, whichever is later.

E. Ability of owner to make change.

The provisions of § 120-08-0517 F shall apply to modifications eligible for group processing.

F. Permit shield.

The permit shield under § 120-08-0510 shall not extend to minor permit modifications.

§ 120-08-0519. Significant modification procedures.

A. Criteria.

1. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications under § 120-08-0517 or § 120-08-0518 or as administrative amendments under § 120-08-0516.

2. Significant modification procedures shall be used for those permit modifications that:

a. Involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or record keeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts made under Parts IV, V or VI, or a visibility or increment analysis carried out under Part VIII of these regulations.

c. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable [federal] requirement and that the source has assumed to avoid an applicable [federal] requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) A federally enforceable emissions cap assumed to avoid classification as a modification under §§ 120-08-01, 120-08-02, 120-08-03 or § 112 of the federal Clean Air Act.

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act (early reduction of hazardous air pollutants).

B. Application.

An application for a significant permit modification shall meet the requirements of §§ 120-08-0504 and 120-08-0505 for permit issuance and renewal for the modification proposed and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable [federal] requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

3. Completed forms for the board to use to notify the administrator and affected states as required under § 120-08-0525.

C. EPA and affected state notification.

The provisions of § 120-08-0525 shall be carried out for significant permit modifications in the same manner as they would be for initial permit issuance and renewal.

D. Public participation.

The provisions of § 120-08-0523 shall apply to applications made under this section.

E. Timetable for issuance.

The board shall take final action on significant permit modifications within nine months after receipt of a complete application.

F. Ability of owner to make change.

The owner shall not make the change applied for in the significant modification application until the modification is approved by the board under subsection E of this section.

G. Permit shield.

The provisions of § 120-08-0510 shall apply to changes made under this section.

§ 120-08-0520. Reopening for cause.

A. A permit shall be reopened and revised under any of the conditions stated in § 120-08-0507 L.

B. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

D. Reopenings for cause by EPA.

1. If the administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to subsection A of this section, the administrator shall notify the board and the permittee of such finding in writing.

2. The board shall, within 90 days after receipt of such notification, forward to the administrator a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The administrator may extend this 90-day period for an additional 90 days if he finds that a new or revised permit application is necessary or that the board must require the permittee to submit additional information.

3. The administrator shall review the proposed determination from the board within 90 days of receipt.

4. The board shall have 90 days from receipt of an objection by the administrator to resolve any objection that he makes and to terminate, modify, or revoke and reissue the permit in accordance with the objection.

5. If the board fails to submit a proposed determination pursuant to subdivision D 2 of this section or fails to resolve any objection pursuant to subdivision D 4 of this section, the administrator shall terminate, modify, or revoke and reissue the permit after taking the following actions:

a. Providing at least 30 days' notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in subdivisions D 1 through D 4 of this section.

b. Providing the permittee an opportunity for comment on the administrator's proposed action and an opportunity for a hearing.

§ 120-08-0521. Malfunction.

A. Effect of a malfunction.

A malfunction constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of subsection B of this section are met.

B. Affirmative defense of malfunction.

The affirmative defense of malfunction shall be demonstrated by the permittee through properly signed, contemporaneous operating logs, or other relevant evidence that show the following:

1. A malfunction occurred and the permittee can identify the cause or causes of the malfunction.

2. The permitted facility was at the time being properly operated.

3. During the period of the malfunction the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.

4. [For malfunctions that occurred for one hour or more,] the permittee submitted to the board by the deadlines established in subdivisions B 4 a and B 4 b of this section a notice and written statement containing a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken. The notice fulfills the requirement of § 120-08-0507 F 2 b to report promptly deviations from permit requirements.

a. A notice of the malfunction by facsimile transmission, telephone or telegraph as soon as practicable but no later than four daytime business hours of the time when the emission limitations were exceeded due to the malfunction.

b. A written statement describing the malfunction no later than [seven business days two weeks] following the day the malfunction occurred.

C. In any enforcement proceeding, the permittee seeking to establish the occurrence of a malfunction shall have the burden of proof.

D. The provisions of this section are in addition to any malfunction, emergency or upset provision contained in any applicable requirement.

§ 120-08-0522. Enforcement.

A. General.

1. Pursuant to § 10.1-1322 of the Code of Virginia, failure to comply with any condition of a permit shall be considered a violation of the Virginia Air Pollution Control Law.

2. A permit may be revoked or terminated prior to its expiration date if the owner does any of the following:

a. Knowingly makes material misstatements in the permit application or any amendments thereto.

b. Violates, fails, neglects or refuses to comply with (i) the terms or conditions of the permit, (ii) any applicable requirements, or (iii) the applicable provisions of this rule.

[e. Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any

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~~emission standards or emission limitations, in the State Implementation Plan in effect at the time that a complete application is submitted.]~~

3. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation or termination contained in subdivision A 2 of this section or for any other violations of these regulations.

B. Penalties.

1. An owner who violates, fails, neglects or refuses to obey any provision of this rule or the Virginia Air Pollution Control Law, any applicable requirement, or any permit condition shall be subject to the provisions of § 10.1-1316 of the Virginia Air Pollution Control Law.

2. Any owner who knowingly violates, fails, neglects or refuses to obey any provision of this rule or the Virginia Air Pollution Control Law, any applicable requirement, or any permit condition shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

3. Any owner who knowingly makes any false statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

C. Appeals.

1. The board shall notify the applicant in writing of its decision, with its reasons, to suspend, revoke or terminate a permit.

2. Appeal from any decision of the board under subdivision C 1 of this section may be taken pursuant to § 120-02-09, § 10.1-1318 of the Virginia Air Pollution Control Law, and the Administrative Process Act.

D. The existence of a permit under this rule shall constitute a defense ~~[of to]~~ a violation of any applicable ~~[provision of the Virginia Air Pollution Control Law or these regulations requirement]~~ if the permit contains a condition providing the permit shield as specified in § 120-08-0510 and if the requirements of § 120-08-0510 have been met. The existence of a permit shield condition shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of other governmental entities having jurisdiction. Otherwise, the existence of a permit under this rule shall not constitute a defense of a violation of the Virginia Air Pollution Control Law or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

E. Inspections and right of entry.

1. The ~~[executive]~~ director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law and § 120-02-30, has the authority to require that air pollution records and reports be made available upon request and to require owners to develop, maintain, and make available such other records and information as are deemed necessary for the proper enforcement of the permits issued under this rule.

2. The ~~[executive]~~ director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law, has the authority, upon presenting appropriate credentials to the owner, to do the following:

a. Enter without delay and at reasonable times any business establishment, construction site, or other area, workplace, or environment in the Commonwealth; and

b. Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the board or its representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited, or otherwise interfered with, the board shall have the power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

F. Other enforcement mechanisms.

The board may enforce permits issued under this rule through the use of other enforcement mechanisms such as consent orders and special orders. The procedures for using these mechanisms are contained in §§ 120-02-02 and 120-02-03 and in §§ 10.1-1307 D, 10.1-1309, and 10.1-1309.1 of the Virginia Air Pollution Control Law.

§ 120-08-0523. Public participation.

A. Required public comment and public notice.

~~[1.]~~ Except for modifications qualifying for minor permit modification procedures and administrative permit amendments, draft permits for initial permit issuance, significant modifications, and renewals shall be subject to a public comment period of at least 30 days. The board shall notify the public using the procedures in subsection B of this section.

~~[2. The board shall provide periodic notification no less frequently than semi-annually to persons on a permit mailing list who have requested such information on applications for and board decisions on~~

any of the following:

- a. *Minor permit modifications.*
- b. *Administrative permit amendments.*
- c. *Operational flexibility changes under § 120-08-0524 A and B.*

B. Notification.

1. The board shall notify the public of the draft permit or draft permit modification [(i)] by advertisement in [~~at least one~~ a] local newspaper of general circulation in the locality particularly affected [and in a newspaper of general circulation in the affected air quality control region] and [(ii)] through a notice] to persons on a permit mailing list who have requested such information of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section.

2. For major sources subject to this rule, the notice shall be mailed to the chief elected official and chief administrative officer and the planning district commission for the locality particularly affected.

C. Content of the public notice and availability of information.

1. The notice shall include but not be limited to the following:

- a. The source name, address and description of specific location.
- b. The name and address of the permittee.
- c. The name and address of the regional office processing the permit.
- d. The activity or activities for which the permit action is sought.
- e. The emissions change that would result from the permit issuance or modification.
- f. A statement of estimated local impact of the activity for which the permit is sought, including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used.
- g. The name, address, and telephone number of a department contact from whom interested persons may obtain additional information, including copies of the draft permit or draft permit modification, the application, air quality impact information if an ambient air dispersion analysis was performed and all relevant supporting materials, including the

compliance plan.

h. A brief description of the comment procedures required by this section.

i. A brief description of the procedures to be used to request a hearing or the time and place of the public hearing if the board determines to hold a hearing under subdivision [E 9 E 3] of this section.

2. Information on the permit application (exclusive of confidential information under § 120-02-30), as well as the draft permit or draft permit modification, shall be available for public inspection during the entire public comment period at the regional office.

D. Affected states review.

The board shall provide such notice and opportunity for participation by affected states as is provided for by § 120-08-0525.

E. Opportunity for public hearing.

1. The board shall provide an opportunity for a public hearing as described in subdivisions E 2 through E 6 of this section.

2. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to consider the draft permit or draft permit modification. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

- a. The name, mailing address and telephone number of the requester.
- b. The names and addresses of all persons for whom the requester is acting as a representative.
- c. The reason why a hearing is requested, including the air quality concern that forms the basis for the request.
- d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including information on how the operation of the facility under consideration affects the requester.

3. The board shall review all requests for public hearing filed as required under subdivision E 2 of this section and, within 30 calendar days following the expiration of the public comment period, shall grant a public hearing if it finds both of the following:

- a. There is significant public interest in the air

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quality issues raised by the permit application in question.

b. There are substantial, disputed air quality issues relevant to the permit application in question.

4. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain the basis for the decision to grant or deny a public hearing. If the public hearing is granted, the notice shall contain a description of procedures for the public hearing.

5. If the board decides to hold a public hearing, the hearing shall be scheduled at least 30 and no later than 60 days after mailing the notification required in subdivision E 4 of this section.

6. The procedures for notification to the public and availability of information used for the public comment period as provided in subsection C of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.

7. As an alternative to the requirements of subdivisions E 1 through E 6 of this section, the board may hold a public hearing if an applicant requests that a public hearing be held or if, prior to the public comment period, the board determines that the conditions in subdivisions E 3 a and b of this section pertain to the permit application in question.

8. The board may hold a public hearing for more than one draft permit or draft permit modification if the location for the public hearing is appropriate for the sources under consideration and if the public hearing time expected for each draft permit or draft permit modification will provide sufficient time for public concerns to be heard.

9. Written comments shall be accepted by the board for at least fifteen days after the hearing.

F. Public comment record.

1. The board shall keep two records of public participation as follows:

a. A record of the commenters.

b. A record of the issues raised during the public participation process so that the administrator may fulfill his obligation under § 505(b)(2) of the federal Clean Air Act to determine whether a citizen petition may be granted.

2. Such records shall be made available to the public upon request.

§ 120-08-0524. Operational flexibility.

[A.] The board shall allow, under conditions specified in this section, operational flexibility changes at a source that do not require a revision to be made to the permit in order for the changes to occur. Such changes shall be classified as follows: (i) those that contravene an express permit term, or (ii) those that are not addressed or prohibited by the permit. The conditions under which the board shall allow these changes to be made are specified in subsections A and B of this section, respectively.

[~~A~~. B.] Changes that contravene an express permit term.

1. General.

a. The board shall allow a change at a stationary source that changes a permit condition with the exception of the following:

(1) A modification under §§ 120-08-01, 120-08-02 or § 120-08-03.

(2) A modification under the provisions of or regulations promulgated pursuant to § 112 of the federal Clean Air Act.

(3) A change that would exceed the emissions allowable under the permit.

(4) A change that would violate applicable requirements.

(5) A change that would contravene federally or state enforceable permit terms or conditions or both that are monitoring (including test methods), record keeping, reporting, [compliance schedule dates,] or compliance certification requirements.

b. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

[c. The owner, board and the administrator shall attach the notice described in subdivision B 1 b of this section to their copy of the relevant permit.]

[~~e~~. d.] The permit shield under § 120-08-0510 shall not extend to any change made pursuant to subsection A of this section.

2. Emission trades within [stationary sources permitted facilities] provided for in [the State Implementation Plan these regulations] .

a. With the exception of the changes listed in subdivision B 1 a of this section, the board shall allow permitted sources to trade increases and decreases in emissions within the permitted facility (i) where these regulations [~~or the State Implementation Plan provides~~ provide] for such emissions trades without requiring a permit revision and (ii) where the permit does not already provide for such emissions trading.

b. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall include such information as may be required by the provision in these regulations [~~or the State Implementation Plan~~] authorizing the emissions trade, including at a minimum the name and location of the facility, when the proposed change will occur, a description of the proposed change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of these regulations [~~or the State Implementation Plan,~~] and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in [~~the these~~] regulations [~~or State Implementation Plan~~] and which provide for the emissions trade.

c. The permit shield described in § 120-08-0510 shall not extend to any change made under subdivision B 2 of this section. Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of these regulations [~~and the State Implementation Plan~~] .

3. Emission trades within stationary sources to comply with an emissions cap in the permit.

a. If a permit applicant requests it, the board shall issue permits that contain terms and conditions, including all terms required under § 120-08-0507 to determine compliance, allowing for the trading of emissions increases and decreases within the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable [federal] requirements. The permit applicant shall include in [~~his the~~] application proposed replicable procedures and permit terms that ensure [that] the emissions trades are quantifiable and enforceable. The board shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

b. The board shall not allow an on-permit change to

be made under subsection C of this section if it is a change listed in subdivision B 1 of this section.

c. The owner shall provide written notification to the administrator and the board at least seven days in advance of the proposed change. The written notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

d. The permit shield under § 120-08-0510 shall extend to terms and conditions that allow such increases and decreases in emissions.

[~~B. C.~~] Changes that are not addressed or prohibited by the permit.

1. The board shall allow the owner to make changes that are not addressed or prohibited by the permit unless the changes are subject to the following requirements:

a. Modifications under §§ 120-08-01, 120-08-02 or § 120-08-03.

b. Modifications under § 112 of the federal Clean Air Act or the regulations promulgated under § 112.

2. Each change shall meet all applicable requirements and shall not violate any existing permit term or condition [which is based on applicable federal requirements] .

3. Sources shall provide contemporaneous written notice to the board and the administrator of each change, except for changes to emissions units deemed insignificant and listed in Section II A of Appendix W. Such written notice shall describe each change, including the date, any change in emissions, pollutants emitted, and any applicable [federal] requirement that would apply as a result of the change.

4. The change shall not qualify for the permit shield under § 120-08-0510.

5. The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable [federal] requirement but not otherwise regulated under the permit, and the emissions resulting from those changes.

§ 120-08-0525. Permit review by EPA and affected states.

A. Transmission of information to the administrator.

1. The board shall provide to the administrator a copy of each permit application (including any application for permit modification), each proposed permit, and

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each final permit issued under this rule.

2. The board shall keep for five years such records and submit to the administrator such information as [~~he~~ the administrator] may reasonably require to ascertain whether the Virginia program complies with the requirements of the federal Clean Air Act or of 40 CFR Part 70.

B. Review by affected states.

1. The board shall give notice of each draft permit to any affected state on or before the time that the board provides this notice to the public under § 120-08-0523, except to the extent that § 120-08-0517 or § 120-08-0518 requires the timing of the notice to be different.

2. The board, as part of the submittal of the proposed permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under § 120-08-0517 or § 120-08-0518), shall notify the administrator and any affected state in writing of any refusal by the board to accept recommendations for the proposed permit that the affected state submitted during the public or affected state review period. The notice shall include the reasons the board will not accept a recommendation. The board shall not be obligated to accept recommendations that are not based on applicable [federal] requirements or the requirements of this rule.

C. EPA objection.

1. No permit for which an application must be transmitted to the administrator under subsection A of this section shall be issued if the administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

2. Any objection by the administrator under subdivision C 1 of this section shall include a statement of the reasons for the objection and a description of the terms and conditions that the permit must include to respond to the objection. The administrator shall provide the permit applicant a copy of the objection.

3. Failure of the board to do any of the following also shall constitute grounds for an objection:

a. Comply with subsection A or B of this section or both.

b. Submit any information necessary to review adequately the proposed permit.

c. Process the permit under the public comment procedures in § 120-08-0523 except for minor permit

modifications.

4. If, within 90 days after the date of an objection under subdivision C 1 of this section, the board fails to revise and submit a proposed permit in response to the objection, the administrator will issue or deny the permit in accordance with the requirements of 40 CFR Part 71.

D. Public petitions to the administrator.

1. If the administrator does not object in writing under subsection C of this section, any person may petition the administrator within 60 days after the expiration of the 45-day review period for the administrator to make such objection.

2. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in § 120-08-0523, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.

3. If the administrator objects to the permit as a result of a petition filed under subdivision D 1 of this section, the board shall not issue the permit until the objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an objection by the administrator.

4. If the board has issued a permit prior to receipt of an objection by the administrator under subdivision D 1 of this section, the administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in § 120-08-0520 D 4 or D 5 a and b except in unusual circumstances, and the board may thereafter issue only a revised permit that satisfies the administrator's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

E. Prohibition on default issuance.

No permit (including a permit renewal or modification) shall be issued by the board until affected states and the administrator have had an opportunity to review the proposed permit as required under this section.

[§ 120-08-0526. Voluntary inclusions of additional state-only requirements as applicable state requirements in the permit.

A. Upon the request of an applicant, any requirement of these regulations not included in the definition of applicable requirement may be included as an applicable state requirement in a permit issued under this rule.

B. If the applicant chooses to make a request under subsection A of this section, the provisions of this rule pertaining to applicable state requirements shall apply.

C. The request under subsection A of this section shall be made by including the citation and description of any applicable requirement not defined as such in this rule in the permit application submitted to the board under § 120-08-0505 E.]

[APPENDIX U HAZARDOUS AIR POLLUTANTS

I. General.

A. Section II designates hazardous air pollutants for the purposes of Rules 8-5 and 8-6.

B. The number to the left of each chemical name in section II of this appendix is the Chemical Abstract Service (CAS) number for that substance. Chemical names not indicating a unique substance have not been assigned CAS numbers (compounds, coke oven emissions, glycol ethers, fine mineral fibers, polycyclic organic matter, and radionuclides). The definitions of glycol ethers and all chemical compounds (unless otherwise specified) include any unique substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of the structure of that substance.

II. List of hazardous air pollutants.

75070 Acetaldehyde	98077 Benzotrifluoride
60355 Acetamide	100447 Benzyl chloride
75058 Acetonitrile	92524 Biphenyl
53063 2-Acetylaminofluorene	117817 Bis(2-ethylhexyl)phthalate (DEHP)
107028 Acrolein	542881 Bis(chloromethyl)ether
79061 Acrylamide	75252 Bromoform
79107 Acrylic acid	106990 1,3-Butadiene
107131 Acrylonitrile	156627 Calcium cyanamide
107051 Allyl chloride	105602 Caprolactam
92671 4-Aminobiphenyl	133062 Captan
62533 Aniline	63252 Carbaryl
90040 o-Anisidine	75150 Carbon disulfide
1332214 Asbestos	56235 Carbon tetrachloride
71432 Benzene (including benzene from gasoline)	463581 Carbonyl sulfide
92875 Benzidine	120809 Catechol
	133904 Chloramben
	57749 Chlordane
	7782505 Chlorine
	79118 Chloroacetic acid
	532274 2-Chloroacetophenone
	108907 Chlorobenzene
	510156 Chlorobenzilate
	67663 Chloroform
	107302 Chloromethyl methyl ether
	126998 Chloroprene
	1319773 Cresols/Cresylic acid (isomers and mixture)
	95487 o-Cresol
	108394 m-Cresol
	106445 p-Cresol
	98828 Cumene
	94757 2,4-D, salts and esters

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3547044 DDE	75003 Ethyl chloride (Chloroethane)
334883 Diazomethane	106934 Ethylene dibromide (Dibromoethane)0
132640 Dibenzofurans	107062 Ethylene dichloride (1,2-Dichloroethane)
96128 1,2-Dibromo-3-chloropropane	107211 Ethylene glycol
84742 Dibutylphthalate	151564 Ethylene imine (Aziridine)
106467 1,4-Dichlorobenzene(p)	75218 Ethylene oxide
91941 3,3-Dichlorobenzidene	96457 Ethylene thiourea
111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)	75343 Ethylidene dichloride (1,1-Dichloroethane)
542756 1,3-Dichloropropene	50000 Formaldehyde
62737 Dichlorvos	76448 Heptachlor
111422 Diethanolamine	118741 Hexachlorobenzene
121697 N,N-Diethyl aniline (N,N-Dimethylaniline)	87683 Hexachlorobutadiene
64675 Diethyl sulfate	77474 Hexachlorocyclopentadiene
119904 3,3-Dimethoxybenzidine	67721 Hexachloroethane
60117 Dimethyl aminoazobenzene	822060 Hexamethylene-1,6 diisocyanate
110937 3,3'-Dimethyl benzidine	680319 Hexamethylphosphoramide
79447 Dimethyl carbamoyl chloride	110543 Hexane
68122 Dimethyl formamide	302012 Hydrazine
57147 1,1-Dimethyl hydrazine	7647010 Hydrochloric acid
131113 Dimethyl phthalate	7664393 Hydrogen fluoride (hydrofluoric acid)
77781 Dimethyl sulfate	7783064 Hydrogen sulfide
534521 4,6-Dinitro-o-cresol, and salts	123319 Hydroquinone
51285 2,4-Dinitrophenol	78591 Isophorone
121142 2,4-Dinitrotoluene	58899 Lindane (all isomers)
123911 1,4-Dioxane (1,4-Diethyleneoxide)	108316 Maleic anhydride
122667 1,2-Diphenylhydrazine	67561 Methanol
106898 Epichlorohydrin (1-Chloro-2,3-epoxypropane)	72435 Methoxychlor
106887 1,2-Epoxybutane	74839 Methyl bromide (Bromomethane)
140885 Ethyl acrylate	74873 Methyl chloride (Chloromethane)
100414 Ethyl benzene	71556 Methyl chloroform (1,1,1-Trichloroethane)
51796 Ethyl carbamate (Urethane)	78933 Methyl ethyl ketone (2-Butanone)

60344 Methyl hydrazine	114261 Propoxur (Baygon)
74884 Methyl iodide (Iodomethane)	78875 Propylene dichloride (1,2-Dichloropropane)
108101 Methyl isobutyl ketone (Hexone)	75569 Propylene oxide
624830 Methyl isocyanate	75558 1,2-Propylenimine (2-Methyl aziridine)
80626 Methyl methacrylate	91225 Quinoline
1634044 Methyl tert butyl ether	106514 Quinone
101144 4,4-Methylene bis(2-chloroaniline)	100425 Styrene
75092 Methylene chloride (Dichloromethane)	96093 Styrene oxide
101688 Methylene diphenyl diisocyanate (MDI)	1746016 2,3,7,8-Tetrachlorodibenzo-p-dioxin
101779 4,4'-Methylenedianiline	79345 1,1,2,2-Tetrachloroethane
91203 Naphthalene	127184 Tetrachloroethylene (Perchloroethylene)
98953 Nitrobenzene	7550450 Titanium tetrachloride
92933 4-Nitrobiphenyl	108883 Toluene
100027 4-Nitrophenol	95807 2,4-Toluene diamine
70460 2-Nitropropane	584849 2,4-Toluene diisocyanate
684935 N-Nitroso-N-methylurea	95534 o-Toluidine
62750 N-Nitrosodimethylamine	8001352 Toxaphene (chlorinated camphene)
59892 N-Nitrosomorpholine	120821 1,2,4-Trichlorobenzene
56382 Parathion	79005 1,1,2-Trichloroethane
82688 Pentachloronitrobenzene (Quintobenzene)	79016 Trichloroethylene
87865 Pentachlorophenol	95954 2,4,5-Trichlorophenol
108952 Phenol	88062 2,4,6-Trichlorophenol
106503 p-Phenylenediamine	121448 Triethylamine
75445 Phosgene	1582098 Trifluralin
7803512 Phosphine	540841 2,2,4-Trimethylpentane
7723140 Phosphorus	108054 Vinyl acetate
85440 Phthalic anhydride	593602 Vinyl bromide
1336363 Polychlorinated biphenyls (Aroclors)	75014 Vinyl chloride
1120714 1,3-Propane sulfone	75354 Vinylidene chloride (1,1-Dichloroethylene)
57578 beta-Propiolactone	1330207 Xylenes (isomers and mixture)
123386 Propionaldehyde	95476 o-Xylenes

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108383 *m*-Xylenes

106423 *p*-Xylenes

Antimony compounds

Arsenic compounds (inorganic including arsine)

Beryllium compounds

Cadmium compounds

Chromium compounds

Cobalt compounds

Coke oven emissions

Cyanide compounds ¹

Glycol ethers ²

Lead compounds

Manganese compounds

Mercury compounds

Fine mineral fibers ³

Nickel compounds

Polycyclic organic matter ⁴

Radionuclides (including radon)

Selenium compounds

.....
¹ X⁻CN where X = H⁺ or any other group where a formal dissociation may occur; for example, KCN or Ca(CN)₂.

² Includes mono- and diethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR⁺ where

n = 1, 2, or 3

R = alkyl or aryl groups

R⁺ = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol category.

³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral-derived fibers) of average diameter one micrometer or less.

⁴ Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100° C.

APPENDIX V TOXIC POLLUTANTS

I. General.

A. Section II designates toxic pollutants for the purpose of Rule 8-5.

B. The number to the left of each chemical name in Section II B of this appendix is the Chemical Abstract Service (CAS) number for that substance. Chemical names not indicating a unique substance have not been assigned CAS numbers (zinc compounds). The definition of all chemical compounds (unless otherwise specified) include any unique substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of the structure of that substance.

II. List of toxic pollutants.

A. The hazardous air pollutants listed in Appendix U, Section II.

B. The following pollutants:

64197 Acetic acid

67641 Acetone

7429905 Aluminum (fume or dust)

1344281 Aluminum oxide

7664417 Ammonia

1336216 Ammonium hydroxide

6484522 Ammonium nitrate (solution)

120127 Anthracene

Barium compounds

103231 Bis(2-ethylhexyl) adipate

111762 2-Butoxy ethanol

141322 Butyl acrylate

71363 *n*-Butyl alcohol

123728 Butyraldehyde

305788 Calcium oxide

10049044 Chlorine dioxide

65906932 Coal tar pitch volatiles

Copper and copper compounds

110827 Cyclohexane
 1163195 Decabromodiphenyl oxide
 117817 Di(2-Ethylhexyl) phthalate
 60297 Diethyl ether
 84662 Diethyl phthalate
 127195 Dimethyl acetamide
 117840 n-Dioctyl phthalate
 Dioxins
 64175 Ethanol
 110805 2-Ethoxy ethanol
 74851 Ethylene
 107073 Ethylene chlorohydrin
 98011 Furfural
 78842 Isobutyraldehyde
 67630 Isopropyl alcohol
 7784409 Lead arsenate
 96333 Methyl acrylate
 101688 Methylenebis (phenylisocyanate)
 91598 beta-Naphthylamine
 13463393 Nickel carbonyl
 7697372 Nitric acid
 55630 Nitroglycerin
 7664382 Phosphoric acid
 115071 Propylene
 110861 Pyridine
 7440224 Silver
 7664939 Sulfuric acid
 100210 Terephthalic acid
 91087 2,6-Toluene diisocyanate
 7440622 Vanadium (fume or dust)
 7440666 Zinc (fume or dust)

Zinc compounds]

APPENDIX W INSIGNIFICANT ACTIVITIES

I. General.

A. For the purposes of Rules 8-5, 8-6 and 8-7, insignificant activities shall be those activities listed in Section II of this appendix. There are [~~two~~ three] categories of insignificant activities as follows:

1. Insignificant emissions units. This category includes emissions units that are deemed insignificant because they are sufficiently small so as to be considered insignificant for the purpose of identifying the emissions units in permit applications. Emissions units in this category are not required to be included in permit applications submitted pursuant to Rule 8-5 or Rule 8-7. Insignificant activities falling into this category are listed in Section II A of this appendix.

2. Emissions units with insignificant emissions levels. This category includes emissions units, other than those in Section I A 1 of this appendix, that are deemed insignificant because they have emissions levels sufficiently small so as to be considered insignificant for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units emitting at these insignificant levels are required to be identified by listing them as insignificant emissions units in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the pollutant or pollutants emitted at insignificant emissions levels for each emissions unit on the list. However, information on the amount of emissions from these units is not required to be provided. Insignificant activities in this category are listed in Section II B of this appendix.

[3. Emissions units of an insignificant size or production rate. This category includes emissions units, other than those in Section I A 1 or I A 2 of this appendix, that are deemed insignificant because the emissions from these units are considered to be of minimal or no air quality concern for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units in this category are required to be identified by listing them as insignificant emissions units in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the size or the production rate for each emissions unit on the list. Insignificant activities in this category are listed in Section II C of this appendix.

4. Regardless of the emissions units designated in Sections II A, II B, or II C of this appendix, the emissions from any emissions unit should be included in the permit application submitted pursuant to Rule

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8-5 or Rule 8-7 if the omission of those emissions units would interfere with the determination of or imposition of any applicable requirement or the calculation of permit fees.

B. Definitions.

1. For the purpose of this appendix and subsequent amendments issued by the board, the words or terms shall have the meaning given them in subsection B 2 of this section. As used in this appendix, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

2. Terms defined.

"Uncontrolled emissions" means the emissions from a source when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment which is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emissions of a source. Secondary emissions do not count in determining the uncontrolled emissions of a stationary source.]

II. Insignificant activities.

A. Insignificant emissions units.

1. Gas flares or flares used solely to indicate danger to the public.

2. Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specific units of equipment.

3. [~~Indoor or outdoor kerosene heaters.~~ Portable heaters which can reasonably be relocated through the manual labor of one person.]

4. Space heaters operating by direct heat [or radiant heat] transfer [; ~~including portable heaters which can reasonably be carried and relocated by an employee or both~~] .

5. Office activities and the equipment and implements used to carry out these activities, such as typewriters, printers, and pens.

6. Interior maintenance activities and the equipment and supplies used to carry out these activities, such as janitorial cleaning products and air fresheners, but

not cleaning of production equipment.

7. Architectural maintenance and repair activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing and sandblasting, where no structural repairs are made in conjunction with the installation of new or permanent facilities.

8. Exterior maintenance activities conducted to take care of the grounds of the source, including lawn maintenance.

9. Bathroom and locker room ventilation and maintenance.

10. Copying and duplication activities for internal use and support of office activities at the source.

12. Equipment [~~on the premises of industrial and manufacturing operations~~] used solely for the purpose of preparing food [~~for human consumption to be eaten on the premises of industrial and manufacturing operations~~] .

[~~13. Laundry operations that service uniforms or other clothing used at industrial facilities.~~]

[~~14. 13.~~] Safety devices [; if associated with a permitted emissions source] .

[~~15. 14.~~] Air contaminant detectors [~~or recorders, combustion controllers or shutoffs,~~ and test equipment] .

[~~16. 15.~~] Brazing, soldering or welding equipment used as an auxiliary to the principal equipment at the source.

[~~17. Portable generators.~~]

[~~18. 16.~~] The engine of any vehicle, including but not limited to any marine vessel, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment [. including any auxiliary engine that provides cooling or refrigeration of the vehicle] .

[~~19. 17.~~] Firefighting equipment and the equipment used to train firefighters.

[~~20. 18.~~] Laboratories used solely for the purpose of quality control or environmental compliance testing that are associated with manufacturing, production or other industrial or commercial facilities.

[~~21. 19.~~] Laboratories in primary and secondary schools and in schools of higher education used for instructional purposes.

[~~20.~~ Air compressors and pumps (engines for these

emissions units are covered separately under Section II C 1).

21. Dumpster.

22. Grinding or abrasive blasting for nondestructive testing of metals.

23. Dryers and distribution systems for instrument air.

24. Parts washer (water-based).

25. Dispensing facilities for refueling diesel-powered vehicles or equipment, including any diesel fuel storage tank serving only such dispensing facility.

26. Laboratory analytical equipment and vents except at stationary sources primarily engaged in research and development.

27. Nonroutine clean out of tanks and equipment for the purposes of worker entry or in preparation for maintenance or decommissioning.

28. Sampling connections and systems used exclusively to withdraw materials for testing and analysis including air contaminant detectors and vent lines.

29. Maintenance activities such as hand-held or manually-operated maintenance equipment, railroad track maintenance, repair and maintenance cleaning, and maintenance surface preparation activities.

30. Solvent storage cabinet (containers covered).

31. Cooling ponds.

32. Coal pile run-off ponds.

33. Mechanical drive or gear boxes.

34. Equipment for steam cleaning or brushing dust off equipment.

35. Repair of residential units.

36. Farm equipment.

37. Water tanks.

38. Hydroblasting.

39. Process raw water treatment (e.g., phosphate).

40. Water cooling tower except for systems including contact process water or water treated with chromium-based chemicals.

41. Spill collection tanks.

42. Steam vents and leaks from boilers and steam distribution systems.

43. Boiler water treatment operations, except those involving use of hydrazine.

44. Herbicide mixing and application activities not involving herbicide manufacture.

45. Internal combustion powered compressors and pumps used for emergency replacement or standby service.

46. Portable or mobile containers.

47. Vent or exhaust system for:

a. Transformer vaults and buildings.

b. Electric motor and control panel vents.

c. Deaerators and decarbonators.

48. Vents or stacks for sewer lines or enclosed areas required for safety or by code.

49. Pump seals.

50. Rupture discs for gas handling systems.

51. Molasses storage tanks.

52. Storage of substances in closed drums, barrels or bottles.

53. Refrigeration systems.

54. Purging of natural gas lines.

55. Blanking, chopping, trimming, perforating, repacking, and inspecting in connection with plastics manufacturing processes.]

B. Emissions units, other than those listed in Section II A of this appendix, with insignificant emissions levels.

1. Emissions units with uncontrolled emissions of [~~one to~~ less than 10 tons] per year [~~or less~~] of nitrogen dioxide, sulfur dioxide, [total suspended particulates or] particulate matter (PM10) [~~or volatile organic compounds~~].

[2. Emissions units with uncontrolled emissions of less than 7 tons per year of volatile organic compounds.]

[~~2~~ 3.] Emissions units with uncontrolled emissions of [~~at~~ less than 100] tons per year [~~or less~~] of carbon monoxide.

[~~3~~ 4.] Emissions units with uncontrolled emissions

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of [±2 pounds 0.6 tons] per year [or less] of lead.

[4. Emissions units with uncontrolled emissions of 100 pounds per year or less of any Class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act concerning stratospheric ozone protection.]

5. Emissions units with uncontrolled emissions of hazardous air pollutants [or toxic pollutants or both] at or below the [emissions thresholds in Table W-1 de minimis emissions rates set out in the table in 40 CFR § 63.44] .

[6. Emissions units with uncontrolled emissions of any pollutant regulated under subpart C of 40 CFR Part 68 at or below the de minimis emissions rates set out in the table in 40 CFR § 63.44 or, if the pollutant is not listed in the table in 40 CFR § 63.44, at or below the threshold quantity listed in the tables in 40 CFR § 68.130.

C. Emissions units, other than those listed in Section II A or Section II B of this appendix, of an insignificant size or production rate.

1. Internal combustion engines, including portable generators, as follows:

a. Engines burning diesel fuel (maximum 0.5% sulfur) with 51,800 Btu per hour input (20.3 horsepower) or less.

b. Engines burning gasoline with 36,413 Btu per hour input (14.3 horsepower) or less.

2. Fuel burning equipment or combustion units with heat input levels less than:

a. 10 million Btu per hour rated input, using natural gas.

b. 1 million Btu per hour rated input, using distillate oil (maximum 0.5% sulfur).

3. Reservoirs and storage tanks for lubricant or used oil with a capacity of less than 1,000 gallons.]

[TABLE W-1

Thresholds for De Minimis Emissions of Hazardous Air Pollutants and Toxic Pollutants

Air Pollutant	Emissions Threshold (pounds per year)
Acrylamide	none
Benzidine	none
Beryllium and beryllium compounds	none
Bis(chloromethyl) ether	none
Total dioxins and furans	none

(includes Dibenzofurans, Dioxins, and 2,3,7,8-Tetrachlorodibenzo-p-dioxin)

Hexamethylene-1,6-diisocyanate	none
Hexavalent chromium compounds	none
Hydrazine	none
Mercury and mercury compounds	none
N-Nitrosodimethylamine	none
Zinc compounds and zinc fume or dust	none
Any Table W-2 air pollutant	1-0
Any Table W-3 air pollutant	2-0
Any Table W-4 air pollutant	20-0
Any Table W-5 air pollutant	100-0
Any Table W-6 air pollutant	200-0
Any Table W-7 air pollutant	400-0
Any other toxic or hazardous air pollutant	1000-0

TABLE W-2

Arsenic and arsenic compounds

Asbestos

Cadmium and cadmium compounds

Cobalt and cobalt compounds

Bis(2-ethylhexyl) adipate

1,2-Dibromo-3-chloropropane

Ethylene chlorohydrin

Hexamethylene-1,6-diisocyanate

Methyl isocyanate

Methylene diphenyl diisocyanate (MDI)

Methylenebis (phenylisocyanate)

beta-Naphthylamine

2-Nitropropane

2,4-Toluene diisocyanate

Vanadium (fume or dust)

TABLE W-3

Acrolein

o-Anisidine

<i>p</i> -Anisidine	Pentachloronitrobenzene (Quintobenzene)
Anthracene	Pentachlorophenol
Antimony compounds	<i>p</i> -Phenylenediamine
Arsine	Phosgene
1, 3-Butadiene	Phosphine
Calcium cyanamide	Phosphorus
Chlordane	Polychlorinated biphenyls (Aroclors)
Chlorine dioxide	Polycyclic organic matter
2-Chloroacetophenone	Propoxur (Baygon)
Chromium and chromium compounds, except hexavalent chromium	Quinoline
Coal tar pitch volatiles	Quinone
Diazomethane	Selenium compounds
Dichloroethyl ether (Bis(2-chloroethyl)ether)	Silver
Dimethyl sulfate	1,1,2,2-Tetrachloroethane
4,6-Dinitro- <i>o</i> -cresol, and salts	2,4-Toluene diamine
2,4-Dinitrophenol	Toxaphene (chlorinated camphene)
1,2-Diphenylhydrazine	
Ethylene dibromide (Dibromoethane)	TABLE W-4
Formaldehyde	Acrylonitrile
Heptachlor	Allyl chloride
Hexachlorobutadiene	Ammonium hydroxide
Hexachlorocyclopentadiene	Biphenyl
Lead arsenate	<i>n</i> -Butyl alcohol
Lead and lead compounds	Calcium oxide
Lindane (all isomers)	Caprolactum
Methyl hydrazine	Chlorine
4,4-Methylene bis(2-chloroaniline)	Copper and copper compounds
Nickel carbonyl	Dichlorvos
Nitroglycerin	1,1-Dimethyl hydrazine
Parathion	2,4-Dinitrotoluene
	<i>n</i> -Dioctyl phthalate
	Ethylene dibromide (Dibromoethane)

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Ethylene imine (Aziridine)

Ethylene oxide

Hydrochloric acid

Hydrogen fluoride (hydrofluoric acid)

Hydroquinone

Maleic anhydride

4,4'-Methylenedianiline

Nickel and nickel compounds, except for nickel carbonyl

Phosphoric acid

beta-Propiolactone

Sulfuric acid

Terephthalic acid

Vinyl chloride

Vinylidene chloride (1,1-Dichloroethylene)

TABLE W-5

Acrylic acid

Barium compounds

Benzyl chloride

Bis(2-ethylhexyl)phthalate (DEHP)

Bromoform

Captan

Carbaryl

Chloroform

Cyanide compounds

Decabromodiphenyl oxide

Dibutylphthalate

1,3-Dichloropropene

Diethyl phthalate

Di(2-Ethylhexyl) phthalate

Dimethyl phthalate

Ethylene dichloride

Manganese compounds

Nitric acid

Nitrobenzene

Phthalic anhydride

1,2-Propylenimine (2-Methyl aziridine)

TABLE W-6

Aluminum (fume or dust)

Aluminum oxide

Aniline

Carbon tetrachloride

2,4-D; salts and esters

Diethanolamine

Epichlorohydrin (1-Chloro-2,3-epoxypropane)

Fine mineral fibers

Furfural

Hexachloroethane

Methoxychlor

Methyl iodide (Iodomethane)

Tetrachloroethylene (Perchloroethylene)

o-Toluidine

1,1,2-Trichloroethane

Vinyl bromide

Zinc (fume or dust)

Zinc compounds

TABLE W-7

Acetic acid

Ammonia

Benzene

Carbon disulfide

Catechol

Cresols/Cresylic acid (isomers and mixture)

- o-Cresol, m-Cresol, p-Cresol*
- N,N-Diethyl aniline (N,N-Dimethylaniline)*
- Dimethyl formamide*
- 2-Ethoxy ethanol*
- Ethyl acrylate*
- Ethylene glycol*
- Hydrogen sulfide*
- Isophorone*
- 2-Methoxy ethanol*
- Methyl bromide (Bromomethane)*
- Phenol*
- Pyridine*
- Trichloroethylene]*

Performance Standards (§ 111 of the Clean Air Act), the hazardous pollutants regulated under § 112 of the Clean Air Act, and the criteria pollutants regulated under National Ambient Air Quality Standards (excluding carbon monoxide but including the ozone precursors nitrogen oxides and volatile organic compounds).

4. The costs to be covered by the fees are the reasonable direct and indirect costs required to develop, administer, and enforce the permit program; and to develop and administer the Small Business Technical and Environmental Compliance Assistance Program established pursuant to the provisions of § 10.1-1323 of the Code of Virginia.

5. The annual permit program fee shall not exceed a base year amount of \$25 per ton of actual emissions using 1990 as the base year and shall be adjusted annually by the Consumer Price Index.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Dr. Kathleen Sands, Policy Analyst, Program Development, Air Division, Department of Environmental Quality, P.O. Box 10089, Richmond, VA 23240, telephone (804) 225-2722.

VA.R. Doc. No. R95-209; Filed December 20, 1994, 11:59 a.m.

* * * * *

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision KK - Permit Program Fees for Stationary Sources).

Statutory Authority: §§ 10.1-1308 and 10.1-1322 of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

The regulation amendments concern provisions covering permit program fees for stationary sources and are summarized below:

1. With a few exceptions, annual emissions fees will be assessed against all sources of air pollution subject to Virginia's permit requirements, including small sources receiving state operating permits. Initial bills will be mailed to source owners within 60 days after the effective date of this rule.
2. Sources that began initial operation during the calendar year preceding the year in which the annual fee is assessed will be exempt for that year. No fee will be assessed for that portion of emissions in excess of 4,000 tons per year of any regulated air pollutant.
3. The pollutants subject to the fees are the designated pollutants regulated under New Source

VR 120-01. Regulations for the Control and Abatement of Air Pollution (Revision KK - Permit Program Fees for Stationary Sources).

PART VIII.
PERMIT PROGRAM FEES FOR STATIONARY SOURCES (RULE 8-6).

§ 120-08-0601. Applicability.

A. Except as provided in subsection C of this section, the provisions of this rule apply to the following stationary sources:

1. Any major source;
2. Any source, including an area source, subject to the provisions of Parts IV and V adopted pursuant to § 111 of the federal Clean Air Act;
3. Any source, including an area source, subject to the provisions of Part VI adopted pursuant to § 112 of the federal Clean Air Act;
4. Any affected source;
5. Any other source subject to the permit requirements of Rule 8-5 [~~or § 120-08-04~~] ;

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[6. Any source that would be subject to the permit requirements of Rule 8-5 in the absence of a permit issued under § 120-08-04.]

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

C. The provisions of this rule shall not apply to the following:

1. All sources and source categories that would be subject to this rule solely because they are subject to the provisions of 40 CFR Part 60, Subpart AAA (standards of performance for new residential wood heaters), as prescribed in Rule 5-5;

2. All sources and source categories that would be subject to this rule solely because they are subject to the provisions of 40 CFR Part 61, Subpart M, § 61.145 (national emission standard for hazardous air pollutants for asbestos, standard for demolition and renovation), as prescribed in Rule 6-1;

3. Any source issued a permit under § 120-08-01, § 120-08-02, or § 120-08-03 that began initial operation during the calendar year preceding the year in which the annual permit program fee is assessed;

4. That portion of emissions in excess of 4,000 tons per year of any regulated air pollutant emitted by any source otherwise subject to an annual permit program fee;

5. During the years 1995 through 1999 inclusive, any affected [~~unit~~ source] under § 404 of the federal Clean Air Act (phase I sulfur dioxide requirements);

6. Any emissions unit within a stationary source subject to this rule that is identified as being an insignificant activity in Appendix W.

[7. All sources and source categories that would be subject to this rule solely because they are subject to regulations or requirements under § 112(r) of the federal Clean Air Act.]

§ 120-08-0602. Definitions.

A. For the purpose of this rule and subsequent amendments or any orders issued by the board, the words or phrases shall have the meaning given them in subsection C of this section.

B. All words and phrases not defined in subsection C of this section shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Actual emissions" means the actual rate of emissions in tons per year of any regulated air pollutant emitted

from a source subject to this rule over the preceding calendar year. Actual emissions may be calculated according to any method acceptable to the department [~~and may use~~ provided such calculation takes into account] the source's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year. [Any regulated pollutant which could be classed in more than one category shall be classed in only one category.]

"Affected source" means a source that includes one or more affected units.

"Affected unit" means a unit that is subject to any federal acid rain emissions reduction requirement or [acid rain emissions] limitation under [~~Title IV~~ of the federal Clean Air Act 40 CFR Part 72, 73, 75, 77 or 78] .

"Area source" means any stationary source that is not a major source. For purposes of this section, the phrase "area source" shall not include motor vehicles or nonroad vehicles.

"Hazardous air pollutant" means [~~an air pollutant to which no ambient air quality standard is applicable, which causes or contributes to air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, and which is designated as such as Appendix U; any pollutant listed in § 112(b)(1) of the federal Clean Air Act.~~]

"Major source" means:

a. For hazardous air pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

b. For air pollutants other than hazardous air pollutants, any stationary source that directly emits or has the potential to emit 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:

(1) Coal cleaning plants (with thermal dryers);

- (2) Kraft pulp mills;
- (3) Portland cement plants;
- (4) Primary zinc smelters;
- (5) Iron and steel mills;
- (6) Primary aluminum ore reduction plants;
- (7) Primary copper smelters;
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) Hydrofluoric, sulfuric, or nitric acid plants;
- (10) Petroleum refineries;
- (11) Lime plants;
- (12) Phosphate rock processing plants;
- (13) Coke oven batteries;
- (14) Sulfur recovery plants;
- (15) Carbon black plants (furnace process);
- (16) Primary lead smelters;
- (17) Fuel conversion plant;
- (18) Sintering plants;
- (19) Secondary metal production plants;
- (20) Chemical process plants;
- (21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) Taconite ore processing plants;
- (24) Glass fiber processing plants;
- (25) Charcoal production plants;
- (26) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (27) All other stationary source categories [subject to the provisions of Rule 5-5 or Rule 6-1 regulated by a standard promulgated under § 111 or § 112 of the federal Clean Air Act], but only with respect to those air pollutants that have been regulated for

that category.

c. For ozone nonattainment areas, any [stationary] source with the potential to emit 100 tons per year or more of volatile organic compounds or nitrogen oxides in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme"; except that the references in this definition to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding that requirements under § 182(f) of the federal Clean Air Act (NOx requirements for ozone nonattainment areas) do not apply.

[d. For attainment areas in ozone transport regions, any stationary source with the potential to emit 50 tons per year or more of volatile organic compounds.]

"Permit program costs" means all reasonable (direct and indirect) costs required to develop, administer, and enforce the permit program; and to develop and administer the Small Business Technical and Environmental Compliance Assistance Program established pursuant to the provisions of § 10.1-1323 of the Code of Virginia.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is state and federally enforceable.

"Regulated air pollutant" means any of the following:

- a. Nitrogen oxides or any volatile organic compound;
- b. Any pollutant for which an ambient air quality standard has been promulgated except carbon monoxide;
- c. Any pollutant subject to any standard promulgated under [Parts IV or V as adopted pursuant to the requirements of] § 111 of the federal Clean Air Act;
- d. Any pollutant subject to a standard promulgated under § 112 (hazardous air pollutants) or other requirements established under § 112 of the federal Clean Air Act, particularly §§ 112(b), 112(d), 112(g)(2), 112(j), and 112(r) [; except that any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under § 112(r) of the federal Clean Air Act shall be exempt from this rule] .

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["Research and development facility" means all the following as applied to any stationary source:

a. The primary purpose of the source is the conduct of either (i) research and development into new products or processes or into new uses for existing products or processes or (ii) basic research to provide for education or the general advancement of technology or knowledge;

b. The source is operated under the close supervision of technically trained personnel; and]

c. The source is not engaged in the manufacture of products for commercial sale in commerce.

An analytical laboratory that primarily supports a research and development facility is considered to be part of that facility.]

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which [(i)] belong to the same industrial grouping, [(ii)] are located on one or more contiguous or adjacent properties, and [(iii)] are under the control of the same persons (or persons under common control) [; ~~except the activities of any vessel~~] . Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., if they have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M). [Any research and development facility shall be considered a separate stationary source from the manufacturing or other facility with which it is co-located.]

§ 120-08-0603. General.

A. The owner of any source subject to this rule shall pay an annual permit program fee.

B. Permit program fees collected pursuant to this rule for sources subject to Rule 8-5 shall not be used for any purpose other than as provided in Title V of the federal Clean Air Act and associated regulations and policies.

[C. The owner shall be exempt from paying the annual permit program fee in any year for which the fee is assessed at \$300 or less.]

§ 120-08-0604. Annual permit program fee calculation.

A. The annual permit program fee shall not exceed [a the] base year amount [of \$25 per ton using 1990 as the base year as specified in § 10.1-1322 B of the Virginia Air Pollution Control Law] and shall be adjusted annually by the Consumer Price Index [as provided in § 10.1-1322 B of the Virginia Air Pollution Control Law] .

1. The annual permit program fee shall be increased

(consistent with the need to cover reasonable costs) each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the U.S. Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

2. The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for the calendar year 1989 shall be used.

B. [~~The annual permit program fee shall be set at a level which allows the department to collect an amount approximately equal to but not greater than the estimated permit program costs. This amount shall be calculated annually by the department and may vary depending on income and expenses. The annual permit program fee described in subsection A of this section and the amount billed to the owner as provided in subsection A of § 120-08-0605 for a given year shall be calculated in accordance with the following formulae:~~

$$B = (A)(F)$$

$$F = X (1 + \Delta \text{CPI})$$

$$\Delta \text{CPI} = \frac{\text{CPI} - 122.15}{122.15}$$

where:

B = the amount billed to the owner during the year after the year in which the actual emissions occurred, expressed in dollars

A = actual emissions covered by permit fees, expressed in tons

F = the maximum adjusted fee per ton for the calendar year in which the actual emissions occurred, expressed in dollars per ton

X = the base year amount specified in § 10.1-1322 B of the Virginia Air Pollution Control Law, expressed in dollars per ton

Δ CPI = the difference between the CPI and 122.15 (the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31, 1989)

CPI = the average of the Consumer Price Index for all-urban consumers for the 12-month period ending on August 31 of the year in which the emissions actually occurred, expressed as a percentage]

C. [~~The annual permit program fee for each fiscal year~~

shall be based on the actual emissions of each regulated air pollutant emitted by the source during the preceding calendar year. Such emissions shall be determined in a manner acceptable to the department. The actual emissions covered by the permit program fees for the preceding year shall be calculated by the owner and submitted to the department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the department.

D. If the assessment of the annual permit program fee calculated in accordance with subsections A, B, and C of this section results in a total amount of fee revenue in excess of the amount necessary to fund the permit program costs, a lesser annual permit program fee shall instead be calculated and assessed according to the formula specified in subsection E of this section. Any adjustments made to the annual permit program fee shall be within the constraints of 40 CFR § 70.9 and § 10.1-1322 of the Virginia Air Pollution Control Law.

E. The lesser annual permit program fee shall be calculated according to the following formula: estimated permit program costs + estimated actual emissions = lesser annual permit program fee. The estimated permit program costs and estimated actual emissions shall be determined from the data specified in subdivisions E 1 and E 2 of this section, incorporating any anticipated adjustments to the data.

1. The current permit program costs shall be determined from the most recent available annual expenditure record of the amount spent by the department on permit program costs.

2. The current actual emissions shall be determined from the most recent available annual emissions inventory of the actual emissions for each regulated pollutant subject to fees from all sources subject to the annual permit program fee.]

§ 120-08-0605. Annual permit program fee payment.

A. Upon determining that the owner owes an annual permit program fee, the department shall mail a bill for the fee to that owner no later than June 1, or in the case of the initial bill no later than 60 days after [the effective date of this rule: federal program approval, unless the governor determines that fees are needed earlier for Virginia to maintain primacy over the program, as provided in § 10.1322 B of the State Air Pollution Control Law.]

B. Within 30 days following the date of the postmark on the bill, the owner shall respond in one of the following ways:

1. The owner may pay the fee in full. The fee shall be paid by check or money order made payable to ["Treasurer of Virginia" "Department of Environmental Quality" and mailed to the address specified by the

department.]

2. The owner may make a written request to the department to authorize an alternative payment schedule. The deadline for payment of the fee shall be held in abeyance pending the department's response.

C. Failure of the owner to respond within 90 days following the date of the postmark on the bill in one of the two ways specified in subsection B of this section shall be grounds to institute a collection action against the owner by the Attorney General or to initiate appropriate enforcement action as provided in the Virginia Air Pollution Control Law.

[APPENDIX U HAZARDOUS AIR POLLUTANTS

I. General.

A. Section H designates hazardous air pollutants for the purposes of Rules 8-5 and 8-6.

B. The number to the left of each chemical name in section H of this appendix is the Chemical Abstract Service (CAS) number for that substance. Chemical names not indicating a unique substance have not been assigned CAS numbers (compounds, coke oven emissions, glycol ethers, fine mineral fibers, polycyclic organic matter, and radionuclides). The definitions of glycol ethers and all chemical compounds (unless otherwise specified) include any unique substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of the structure of that substance.

H. List of hazardous air pollutants.

75070 Acetaldehyde

60355 Acetamide

75058 Acetonitrile

98862 Acetophenone

53963 2-Acetylaminofluorene

107028 Acrolein

79061 Acrylamide

79107 Acrylic acid

107131 Acrylonitrile

107051 Alkyl chloride

92671 4-Aminobiphenyl

62533 Aniline

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90040 <i>o</i> -Anisidine	108394 <i>m</i> -Cresol
1332214 Asbestos	106445 <i>p</i> -Cresol
71432 Benzene (including benzene from gasoline)	98828 Cumene
92875 Benzidine	94757 2,4-D, salts and esters
98077 Benzotrichloride	3547044 DDE
100447 Benzyl chloride	334883 Diazomethane
92524 Biphenyl	132649 Dibenzofurans
117817 Bis(2-ethylhexyl)phthalate (DEHP)	96128 1,2-Dibromo-3-chloropropane
542881 Bis(chloromethyl)ether	84742 Dibutylphthalate
75252 Bromoform	106467 1,4-Dichlorobenzene(<i>p</i>)
106990 1,3-Butadiene	91941 3,3-Dichlorobenzidene
156627 Calcium cyanamide	111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)
105602 Caprolactam	542756 1,3-Dichloropropene
133062 Captan	62737 Dichlorvos
63252 Carbaryl	111422 Diethanolamine
75150 Carbon disulfide	121697 <i>N,N</i> -Diethyl aniline (<i>N,N</i> -Dimethylaniline)
56235 Carbon tetrachloride	64675 Diethyl sulfate
463581 Carbonyl sulfide	119904 3,3-Dimethoxybenzidine
120809 Catechol	60117 Dimethyl aminoazobenzene
133904 Chloramben	119937 3,3'-Dimethyl benzidine
57749 Chlordane	79447 Dimethyl carbamoyl chloride
7782505 Chlorine	68122 Dimethyl formamide
79118 Chloroacetic acid	57147 1,1-Dimethyl hydrazine
532274 2-Chloroacetophenone	131113 Dimethyl phthalate
108907 Chlorobenzene	77781 Dimethyl sulfate
510156 Chlorobenzilate	534521 4,6-Dinitro- <i>o</i> -cresol, and salts
67663 Chloroform	51285 2,4-Dinitrophenol
107302 Chloromethyl methyl ether	121142 2,4-Dinitrotoluene
126998 Chloroprene	123911 1,4-Dioxane (1,4-Diethyleneoxide)
1319773 Cresols/Cresylic acid (isomers and mixture)	122667 1,2-Diphenylhydrazine
95487 <i>o</i> -Cresol	106898 Epichlorohydrin (1-Chloro-2,3-epoxypropane)

106887 1,2-Epoxybutane	74839 Methyl bromide (Bromomethane)
140885 Ethyl acrylate	74873 Methyl chloride (Chloromethane)
100414 Ethyl benzene	71556 Methyl chloroform (1,1,1-Trichloroethane)
51796 Ethyl carbamate (Urethane)	78933 Methyl ethyl ketone (2-Butanone)
75003 Ethyl chloride (Chloroethane)	60344 Methyl hydrazine
106934 Ethylene dibromide (Dibromoethane)	74884 Methyl iodide (Iodomethane)
107062 Ethylene dichloride (1,2-Dichloroethane)	108101 Methyl isobutyl ketone (Hexone)
107211 Ethylene glycol	624839 Methyl isocyanate
151564 Ethylene imine (Aziridine)	80626 Methyl methacrylate
75218 Ethylene oxide	1634044 Methyl tert butyl ether
96457 Ethylene thiourea	101144 4,4-Methylene bis(2-chloroaniline)
75343 Ethylidene dichloride (1,1-Dichloroethane)	75092 Methylene chloride (Dichloromethane)
50000 Formaldehyde	101688 Methylene diphenyl diisocyanate (MDI)
76448 Heptachlor	101779 4,4'-Methylenedianiline
118741 Hexachlorobenzene	91203 Naphthalene
87683 Hexachlorobutadiene	98953 Nitrobenzene
77474 Hexachlorocyclopentadiene	92933 4-Nitrobiphenyl
67721 Hexachloroethane	100027 4-Nitrophenol
822060 Hexamethylene-1,6 diisocyanate	79469 2-Nitropropane
680319 Hexamethylphosphoramide	684035 N-Nitroso-N-methylurea
110543 Hexane	62759 N-Nitrosodimethylamine
302012 Hydrazine	59892 N-Nitrosomorpholine
7647010 Hydrochloric acid	56382 Parathion
7664393 Hydrogen fluoride (hydrofluoric acid)	82688 Pentachloronitrobenzene (Quintobenzene)
7783064 Hydrogen sulfide	87865 Pentachlorophenol
123319 Hydroquinone	108952 Phenol
78591 Isophorone	106503 p-Phenylenediamine
58899 Lindane (all isomers)	75445 Phosgene
108316 Maleic anhydride	7803512 Phosphine
67561 Methanol	7723140 Phosphorus
72435 Methoxychlor	85449 Phthalic anhydride

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1336363 Polychlorinated biphenyls (Aroclors)
 1120714 1,3-Propane sultone
 57578 beta-Propiolactone
 123386 Propionaldehyde
 114261 Propoxur (Baygon)
 78875 Propylene dichloride (1,2-Dichloropropane)
 75569 Propylene oxide
 75558 1,2-Propylenimine (2-Methyl aziridine)
 91225 Quinoline
 106514 Quinone
 100425 Styrene
 96093 Styrene oxide
 1746016 2,3,7,8-Tetrachlorodibenzo-p-dioxin
 79345 1,1,2,2-Tetrachloroethane
 127184 Tetrachloroethylene (Perchloroethylene)
 7550450 Titanium tetrachloride
 108883 Toluene
 95807 2,4-Toluene diamine
 584849 2,4-Toluene diisocyanate
 95534 0-Toluidine
 8001352 Toxaphene (chlorinated camphene)
 120821 1,2,4-Trichlorobenzene
 79005 1,1,2-Trichloroethane
 79016 Trichloroethylene
 95954 2,4,5-Trichlorophenol
 88062 2,4,6-Trichlorophenol
 121448 Triethylamine
 1582098 Trifluralin
 540841 2,2,4-Trimethylpentane
 108054 Vinyl acetate
 593602 Vinyl bromide

75014 Vinyl chloride
 75354 Vinylidene chloride (1,1-Dichloroethylene)
 1330207 Xylenes (isomers and mixture)
 95476 o-Xylenes
 108383 m-Xylenes
 106423 p-Xylenes

Antimony compounds
 Arsenic compounds (inorganic including arsine)
 Beryllium compounds
 Cadmium compounds
 Chromium compounds
 Cobalt compounds
 Coke oven emissions
 Cyanide compounds ¹
 Glycol ethers ²
 Lead compounds
 Manganese compounds
 Mercury compounds
 Fine mineral fibers ¹
 Nickel compounds
 Polycyclic organic matter ¹
 Radionuclides (including radon)
 Selenium compounds

.....
 + X⁺CN where X = H⁺ or any other group where a formal dissociation may occur; for example: KCN or Ca(CN)₂.
 - includes mono- and di-ethers of ethylene glycol; diethylene glycol; and triethylene glycol R-(OCH₂CH₂)_n-OR' where
 n = 1, 2, or 3
 R = alkyl or aryl groups
 R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol category.
 - includes mineral fiber emissions from facilities

manufacturing or processing glass, rock, or slag fibers (or other mineral-derived fibers) of average diameter one micrometer or less:

* Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.]

APPENDIX W INSIGNIFICANT ACTIVITIES

I. General.

A. For the purposes of Rules 8-5, 8-6 and 8-7, insignificant activities shall be those activities listed in Section II of this appendix. There are [~~two~~ three] categories of insignificant activities as follows:

1. Insignificant emissions units. This category includes emissions units that are deemed insignificant because they are sufficiently small so as to be considered insignificant for the purpose of identifying the emissions units in permit applications. Emissions units in this category are not required to be included in permit applications submitted pursuant to Rule 8-5 or Rule 8-7. Insignificant activities falling into this category are listed in Section II A of this appendix.

2. Emissions units with insignificant emissions levels. This category includes emissions units, other than those in Section I A 1 of this appendix, that are deemed insignificant because they have emissions levels sufficiently small so as to be considered insignificant for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units emitting at these insignificant levels are required to be identified by listing them as insignificant emissions units in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the pollutant or pollutants emitted at insignificant emissions levels for each emissions unit on the list. However, information on the amount of emissions from these units is not required to be provided. Insignificant activities in this category are listed in Section II B of this appendix.

[3. Emissions units of an insignificant size or production rate. This category includes emissions units, other than those in Section I A 1 or Section I A 2 of this appendix, that are deemed insignificant because the emissions from these units are considered to be of minimal or no air quality concern for the purpose of quantifying the emissions from the emissions units in a permit application. Emissions units in this category are required to be identified by listing them as insignificant emissions unit in the permit application submitted pursuant to Rule 8-5 or Rule 8-7. The list of insignificant emissions units shall also specify the size or the production rate for each emissions unit on the list. Insignificant activities in

this category are listed in Section II C of this appendix.

4. Regardless of the emissions units designated in Sections II A, II B, or II C of this appendix, the emissions from any emissions unit should be included in the permit application submitted pursuant to Rule 8-5 or Rule 8-7 if the omission of those emissions units would interfere with the determination of or imposition of any applicable requirement or the calculation of permit fees.

B. Definitions.

1. For the purpose of this appendix and subsequent amendments issued by the board, the words or terms shall have the meaning given them in subsection B 2 of this section. As used in this appendix, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

2. Terms defined.

"Uncontrolled emissions" means the emissions from a source when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment which is not vital to its operation, except that its use enables the source to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the source, unless the source is subject to state and federally enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted or processed may be used in determining the uncontrolled emissions of a source. Secondary emissions do not count in determining the uncontrolled emissions of a stationary source.]

II. Insignificant activities.

A. Insignificant emissions units:

1. Gas flares or flares used solely to indicate danger to the public;

2. Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specific units of equipment;

3. [~~Indoor or outdoor kerosene heaters. Portable heaters which can reasonably be relocated through the manual labor of one person.]~~

4. Space heaters operating by direct heat [or radiant heat] transfer [~~including portable heaters which can reasonably be carried and relocated by an employee, or both~~] ;

5. Office activities and the equipment and implements

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used to carry out these activities, such as typewriters, printers, and pens:

6. Interior maintenance activities and the equipment and supplies used to carry out these activities, such as janitorial cleaning products and air fresheners, but not cleaning of production equipment;

7. Architectural maintenance and repair activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing and sandblasting, where no structural repairs are made in conjunction with the installation of new or permanent facilities;

8. Exterior maintenance activities conducted to take care of the grounds of the source, including lawn maintenance;

9. Bathroom and locker room ventilation and maintenance;

10. Copying and duplication activities for internal use and support of office activities at the source;

11. Blueprint copiers and photographic processes used as an auxiliary to the principal equipment at the source;

12. Equipment [~~on the premises of industrial and manufacturing operations~~] used solely for the purpose of preparing food [~~for human consumption to be eaten on the premises of industrial and manufacturing operations~~] ;

[~~13. Laundry operations that service uniforms or other clothing used at industrial facilities.~~]

[~~14. 13.] Safety devices [: if associated with a permitted emissions source] ;~~

[~~15. 14.] Air contaminant detectors [~~or recorders, combustion controllers or shutoffs~~, and test equipment] ;~~

[~~16. 15.] Brazing, soldering or welding equipment used as an auxiliary to the principal equipment at the source:~~

[~~17. Portable generators.~~]

[~~18. 16.] The engine of any vehicle, including but not limited to any marine vessel, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment, [including any auxiliary engine that provides cooling or refrigeration of the vehicle] ;~~

[~~19. 17.] Firefighting equipment and the equipment used to train firefighters:~~

[~~20. 18.] Laboratories used solely for the purpose of quality control or environmental compliance testing that are associated with manufacturing, production or other industrial or commercial facilities;~~

[~~21. 19.] Laboratories in primary and secondary schools and in schools of higher education used for instructional purposes;~~

[~~20. Air compressors and pumps (engines for these emissions units are covered separately under Section II C 1);~~

21. Dumpster;

22. Grinding or abrasive blasting for nondestructive testing of metals;

23. Dryers and distribution systems for instrument air;

24. Parts washer (water-based);

25. Dispensing facilities for refueling diesel-powered vehicles or equipment, including any diesel fuel storage tank serving only such dispensing facility;

26. Laboratory analytical equipment and vents except at stationary sources primarily engaged in research and development;

27. Nonroutine clean out of tanks and equipment for the purposes of worker entry or in preparation for maintenance or decommissioning;

28. Sampling connections and systems used exclusively to withdraw materials for testing and analysis including air contaminant detectors and vent lines;

29. Maintenance activities such as hand-held or manually-operated maintenance equipment, railroad track maintenance, repair and maintenance cleaning, and maintenance surface preparation activities;

30. Solvent storage cabinet (containers covered);

31. Cooling ponds;

32. Coal pile run-off ponds;

33. Mechanical drive or gear boxes;

34. Equipment for steam cleaning or brushing dust off equipment;

35. Repair of residential units;

36. Farm equipment;

37. Water tanks;

38. Hydroblasting;

39. Process raw water treatment (e.g., phosphate);

40. Water cooling tower except for systems including contact process water or water treated with chromium-based chemicals;

41. Spill collection tanks;

42. Steam vents and leaks from boilers and steam distribution systems;

43. Boiler water treatment operations, except those involving use of hydrazine.

44. Herbicide mixing and application activities not involving herbicide manufacture;

45. Internal combustion powered compressors and pumps used for emergency replacement or standby service;

46. Portable or mobile containers;

47. Vent or exhaust system for:

a. Transformer vaults and buildings;

b. Electric motor and control panel vents;

c. Deaerators and decarbonators;

48. Vents or stacks for sewer lines or enclosed areas required for safety or by code;

49. Pump seals;

50. Rupture discs for gas handling systems;

51. Molasses storage tanks;

52. Storage of substances in closed drums, barrels or bottles;

53. Refrigeration systems;

54. Purging of natural gas lines;

55. Blanking, chopping, trimming, perforating, repacking, and inspecting in connection with plastics manufacturing processes.]

B. Emissions units, other than those listed in Section II A of this appendix, with insignificant emissions levels:

1. Emissions units with uncontrolled emissions of [~~one ton~~ less than 10 tons] per year [~~or less~~] of nitrogen dioxide, sulfur dioxide, [total suspended particulates or] particulate matter (PM10) [~~or volatile organic compounds~~] ;

[2. Emissions units with uncontrolled emissions of less than 7 tons per year of volatile organic compounds;]

[~~2. 3.~~] Emissions units with uncontrolled emissions of [~~10 less than 100~~] tons per year [~~or less~~] of carbon monoxide;

[~~3. 4.~~] Emissions units with uncontrolled emissions of [~~12 pounds~~ 0.6 tons] per year [~~or less~~] of lead;

[~~4. Emissions units with uncontrolled emissions of 100 pounds per year or less of any Class 1 or H substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act concerning stratospheric ozone protection.]~~

5. Emissions units with uncontrolled emissions of hazardous air pollutants [~~or toxic pollutants or both~~] at or below the [~~emissions thresholds in Table W-1~~ de minimis emissions rates set out in the table in 40 CFR § 63.44] ;

[~~6. Emissions units with uncontrolled emissions of any pollutant regulated under subpart C of 40 CFR Part 68 at or below the de minimis emissions rates set out in the table in 40 CFR § 63.44 or, if the pollutant is not listed in the table in 40 CFR § 63.44, at or below the threshold quantity listed in the tables in 40 CFR § 68.130.~~

C. Emissions units, other than those listed in Section II A or Section II B of this appendix, of an insignificant size or production rate:

1. Internal combustion engines, including portable generators, as follows:

a. Engines burning diesel fuel (maximum 0.5% sulfur) with 51,800 Btu per hour input (20.3 horsepower) or less;

b. Engines burning gasoline with 36,413 Btu per hour input (14.3 horsepower) or less.

2. Fuel burning equipment or combustion units with heat input levels less than:

a. 10 million Btu per hour rated input, using natural gas;

b. 1 million Btu per hour rated input, using distillate oil (maximum 0.5% sulfur).

3. Reservoirs and storage tanks for lubricant or used oil with a capacity of less than 1,000 gallons.]

[~~TABLE W-1~~
Thresholds for De Minimis Emissions of Hazardous Air Pollutants and Toxic Pollutants

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Air Pollutant	Emissions Threshold (pounds per year)
Acrylamide	none
Benzidine	none
Beryllium and beryllium compounds	none
Bis(chloromethyl) ether	none
Total dioxins and furans (includes Dibenzofurans, Dioxins, and 2,3,7,8-tetrachlorodibenzo-p-dioxin)	none
Hexamethylene-1,6-diisocyanate	none
Hexavalent chromium compounds	none
Hydrazine	none
Mercury and mercury compounds	none
N-Nitrosodimethylamine	none
Zinc compounds and zinc fume or dust	none
Any Table W-2 air pollutant	1.0
Any Table W-3 air pollutant	2.0
Any Table W-4 air pollutant	20.0
Any Table W-5 air pollutant	100.0
Any Table W-6 air pollutant	200.0
Any Table W-7 air pollutant	400.0
Any other toxic or hazardous air pollutant	1000.0

TABLE W-2

Arsenic and arsenic compounds
 Asbestos
 Cadmium and cadmium compounds
 Cobalt and cobalt compounds
 Bis(2-ethylhexyl) adipate
 1,2-Dibromo-3-chloropropane
 Ethylene chlorohydrin
 Hexamethylene-1,6-diisocyanate
 Methyl isocyanate
 Methylene diphenyl diisocyanate (MDI)
 Methylenebis (phenylisocyanate)
 beta-Naphthylamine
 2-Nitropropane

2,4-Toluene diisocyanate
 Vanadium (fume or dust)
 TABLE W-3
 Acrolein
 o-Anisidine
 p-Anisidine
 Anthracene
 Antimony compounds
 Arsine
 1, 3-Butadiene
 Calcium cyanamide
 Chlordane
 Chlorine dioxide
 2-Chloroacetophenone
 Chromium and chromium compounds, except hexavalent chromium
 Coal tar pitch volatiles
 Diazomethane
 Dichloroethyl ether (Bis(2-chloroethyl)ether)
 Dimethyl sulfate
 4,6-Dinitro-o-cresol, and salts
 2,4-Dinitrophenol
 1,2-Diphenylhydrazine
 Ethylene dibromide (Dibromoethane)
 Formaldehyde
 Heptachlor
 Hexachlorobutadiene
 Hexachlorocyclopentadiene
 Lead arsenate
 Lead and lead compounds
 Lindane (all isomers)

Methyl hydrazine
4,4-Methylene bis(2-chloroaniline)
Nickel carbonyl
Nitroglycerin
Parathion
Pentachloronitrobenzene (Quintobenzene)
Pentachlorophenol
p-Phenylenediamine
Phosgene
Phosphine
Phosphorus
Polychlorinated biphenyls (Aroclors)
Polycyclic organic matter
Propoxur (Baygon)
Quinoline
Quinone
Selenium compounds
Silver
1,1,2,2-Tetrachloroethane
2,4-Toluene diamine
Toxaphene (chlorinated camphene)

TABLE W-4

Acrylonitrile
Allyl chloride
Ammonium hydroxide
Biphenyl
n-Butyl alcohol
Calcium oxide
Caprolactum
Chlorine
Copper and copper compounds

Dichlorvos
1,1-Dimethyl hydrazine
2,4-Dinitrotoluene
n-Dioctyl phthalate
Ethylene dibromide (Dibromoethane)
Ethylene imine (Aziridine)
Ethylene oxide
Hydrochloric acid
Hydrogen fluoride (hydrofluoric acid)
Hydroquinone
Maleic anhydride
4,4'-Methylenedianiline
Nickel and nickel compounds, except for nickel carbonyl
Phosphoric acid
beta-Propiolactone
Sulfuric acid
Terephthalic acid
Vinyl chloride
Vinylidene chloride (1,1-Dichloroethylene)

TABLE W-5

Acrylic acid
Barium compounds
Benzyl chloride
Bis(2-ethylhexyl)phthalate (DEHP)
Bromoform
Captan
Carbaryl
Chloroform
Cyanide compounds
Decabromodiphenyl oxide
Dibutylphthalate

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1,3-Dichloropropene
Diethyl phthalate
Di(2-Ethylhexyl) phthalate
Dimethyl phthalate
Ethylene dichloride
Manganese compounds
Nitric acid
Nitrobenzene
Phthalic anhydride
1,2-Propylenimine (2-Methyl aziridine)

TABLE W-6

Aluminum (fume or dust)
Aluminum oxide
Aniline
Carbon tetrachloride
2,4-D; salts and esters
Diethanolamine
Epichlorohydrin (1-Chloro-2,3-epoxypropane)
Fine mineral fibers
Furfural
Hexachloroethane
Methoxychlor
Methyl iodide (Iodomethane)
Tetrachloroethylene (Perchloroethylene)
O-Toluidine
1,1,2-Trichloroethane
Vinyl bromide
Zinc (fume or dust)
Zinc compounds

TABLE W-7

Acetic acid

Ammonia
Benzene
Carbon disulfide
Catechol
Cresols/Cresylic acid (isomers and mixture)
o-Cresol; m-Cresol; p-Cresol
N,N-Diethyl aniline (N,N-Dimethylaniline)
Dimethyl formamide
2-Ethoxy ethanol
Ethyl acrylate
Ethylene glycol
Hydrogen sulfide
Isophorone
2-Methoxy ethanol
Methyl bromide (Bromomethane)
Phenol
Pyridine
Trichloroethylene]

VA.R. Doc. No. R95-206; Filed December 20, 1994, 11:59 a.m.

BOARD FOR BARBERS

Title of Regulation: VR 170-01-1:1. Board for Barbers Regulations.

Statutory Authority: §§ 54.1-201 and 54.1-704 of the Code of Virginia.

Effective Date: February 8, 1995.

Summary:

The amendments are designed to ensure the public protection by establishing standards for licensure, examinations and the practice of barbering. The amendments establish new fees and adjust all other fees associated with barber licensing and establish a fee level which assures that the variance between revenues and expenditures for the board will not exceed 10% in any biennium as required by § 54.1-113 of the Code of Virginia but ensures collection of revenues sufficient to support the operations of th

board. The new fees cover the cost of reviewing and processing barber license applications, barber temporary permit applications, processing check returns for insufficient funds and issuance of a duplicate wall certificate. These processes are currently performed by the board without assessing the regulant the cost incurred by the board. The board established a new fee category for Barber Application, Temporary Permit Application, Insufficient Funds Check Return and Duplicate Wall Certificate.

The amendments also define "board" and "department" as shown in § 1.1. Definitions; allow for handling of checks returned to the department due to insufficient funds and the associated fee; allow a barber temporary permit holder to retain the permit for 45 days following the next examination instead of the current requirement of 20 days which will allow the individual to continue to practice under the supervision of a licensed barber and not experience a discontinuation of skill level; and allow a barber applicant for examination to be issued two temporary permits instead of the current provision of one for the same reason. The amendments clarify that the license or certificate issued by the board must be posted in plain view of the public which is added protection for the public and clarify several references to sanitation standards and disciplinary provisions to clearly indicate that current requirements are intended to include prevention of the transmission of communicable and infectious diseases.

Summary of Public Comment and Agency Response: A summary of comments made by the public and agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-0500. There may be a charge for copies.

VR 170-01-1:1. Board for Barbers Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise. All terms defined in the Board for Barbers Act (§ 54.1-700 et seq. of the Code of Virginia) are incorporated by reference in this regulation.

"Board" means the Board for Barbers.

"Department" means the Department of Professional

and Occupational Regulation.

PART II. ENTRY.

§ ~~1.1~~ 2.1. General requirements for a barber license.

A. Upon filing an application with the board on forms approved by the board, and upon paying the required fee, any person shall be granted a license provided the application contains evidence satisfactory to the board that an applicant has passed the examination administered by the board or by independent examiners after having completed one of the following:

1. Has graduated from a school of barbering approved by the board; or
2. Has completed a course in a public school with a curriculum in barbering approved by the State Department of Education; or
3. Has been trained as a barber at any state institution; or
4. Has experience as a barber in the armed forces; or
5. Has completed an apprenticeship program approved by the board.

B. The barber license application fee shall be \$75.

§ ~~1.2~~ 2.2. Apprenticeship training.

Licensed barbers training apprentices shall comply with the standards established by the Division of Apprenticeship Training of the Department of Labor and Industry and the Virginia Board for Barbers.

§ ~~1.3~~ 2.3. School training.

Any person trained at an approved school for barbers shall be eligible for licensing provided the school maintains the minimum standards of operation set forth in Part III V of these regulations.

§ ~~1.4~~ 2.4. Exceptions to training requirements.

A. Licensed cosmetologists with two years of work experience shall be eligible for examination.

B. Cosmetology students wishing to enroll for barber training, shall be given credit by the barber school for a maximum of 50% of the hours required of cosmetology students.

C. Persons with two years of barber training or experience outside the territorial limits of the United States shall be eligible for examination upon submission of satisfactory documentary evidence of the training or experience.

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§ 1-5. 2.5. Examination required.

A. Applicants for licensing shall pass a practical and written examination approved by the board.

B. Any applicant who passes one part of the examination shall not be required to take that part again provided both parts are passed within one year.

C. The fee for initial examination shall be \$100. ~~All fees are nonrefundable and shall not be prorated.~~

§ 1-6. 2.6. Reexamination.

A. ~~If~~ The applicant *who* does not pass a reexamination within a one-year period ; ~~he will~~ *shall* be required to submit another initial application/examination fee and repeat the entire examination.

B. The fee for reexamination of the written portion shall be \$40. The fee for reexamination of the practical portion shall be \$60. ~~All fees are nonrefundable and shall not be prorated.~~

§ 1-7. 2.7. Examination administration.

A. The examination shall be conducted by independent examiners or board members.

B. Each independent examiner shall complete a period of training specified by the board.

C. Every independent examiner shall have at least three years of active experience as a licensed barber and be currently licensed by the board.

D. The results of the examination shall be submitted to the board's office where the grades shall be compiled and the results released.

§ 1-8. 2.8. Barber temporary permit.

A. A temporary permit to work under the supervision of a currently licensed barber may be issued to any person that the board finds eligible for examination. *The fee for the temporary permit shall be \$20.*

~~B. The request for a temporary permit shall be accompanied with the examination application.~~

~~C. B.~~ The temporary permit shall remain in force until 20 45 days following the next examination for which the applicant would be eligible.

~~D. C.~~ Any person continuing to practice barbering after a temporary permit has expired may be prosecuted under § 54.1-20 § 54.1-111 A 1 of the Code of Virginia.

~~E. D.~~ No applicant for examination shall be issued more than ~~one~~ two temporary ~~permit~~ permits .

§ 1-9. 2.9. General requirements for a barber-teacher's license.

A. An applicant for a barber-teacher's license shall pass a barber-teacher examination administered by the board or by independent examiners.

B. A prerequisite to taking the examination shall be that the applicant has been a currently licensed Virginia barber for two years.

C. Applicants passing the examination for a barber-teacher's license shall not be required to maintain a barber license.

§ 1-10. 2.10. Student teacher temporary permit.

A. A licensed barber or person holding a temporary permit may be granted a student teacher temporary permit to function under the direct supervision of a barber-teacher. The student teacher temporary permit shall remain in force for not more than 24 months after the date of issuance and shall be nontransferable. Failure to maintain a barber license or a temporary permit pending examination shall disqualify an individual from holding a student teacher temporary permit.

B. The fee for a student teacher temporary permit shall be ~~\$50~~ \$75 . ~~All fees are nonrefundable and shall not be prorated.~~

§ 1-11. 2.11. License by endorsement.

Any person currently licensed to practice as a barber in any other state in the United States, the District of Columbia, or Puerto Rico may, upon proper application to the board, be issued a license to practice as a barber in this Commonwealth without being required to pass an examination.

~~1.~~ The application fee for a license by endorsement shall be ~~\$50~~ \$150 . ~~All fees are nonrefundable and shall not be prorated.~~

§ 1-12. 2.12. Shop license.

Any person, firm, or corporation operating any place or establishment providing barber services must have a valid shop or school license. The barber shop license shall not be transferable and shall bear the same name and address as the business. An application for a barber shop license shall be accompanied by an affidavit of inspection required by any local health department. Any changes in the name of the salon, address, or owners shall be reported to the board in writing within 30 days of such changes.

The application fee for a shop license shall be ~~\$20~~ \$100 . ~~All fees are nonrefundable and shall not be prorated.~~

§ 1-13. 2.13. School license.

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A license may be issued to any school approved by the board as meeting the standards set forth in Part III V of these regulations. The barber school license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the school, address, or owners shall be reported to the board in writing within 30 days of such changes.

~~F.~~ The application fee for a school license shall be ~~\$100~~ \$160 . All fees are nonrefundable and shall not be prorated.

PART H III . RENEWAL/REINSTATEMENT.

~~§ 2-1.~~ 3.1. License renewal required.

A. All licenses issued by the board will expire on March 31 of each odd-numbered year.

B. The renewal fee for a barber license shall be ~~\$45~~ \$75 , for a teacher license shall be ~~\$55~~ \$100 , for a shop license shall be ~~\$35~~ \$100 , and for a school license shall be ~~\$110~~ \$160 .

~~§ 2-2.~~ 3.2. Notice of renewal.

The department of Commerce will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

~~§ 2-3.~~ 3.3. Failure to renew.

A. Any licensee who fails to renew a license within one month after the license expires will be required to pay a late renewal fee which shall be equal to twice the regular renewal fee. The late renewal for a barber license shall be ~~\$45~~ \$75 , for a teacher license shall be ~~\$55~~ \$100 , for a shop license shall be ~~\$35~~ \$100 , and for a school license shall be ~~\$110~~ \$160 .

B. Any licensee who fails to renew his license within six months after the expiration date of his license must apply for reinstatement of the license by submitting to the department of Commerce a reinstatement application and fee which shall be equal to twice the regular renewal fee with a statement of the reasons for failing to renew prior to the expiration date. The fee for reinstatement of a barber license shall be ~~\$90~~ \$150 , for a teacher license shall be ~~\$110~~ \$200 , for a shop license shall be ~~\$70~~ \$160 , and for a school license shall be ~~\$220~~ \$320 .

C. Upon receipt of the reinstatement application, fee, and statement, the board may grant reinstatement of the license or require requalification, reexamination, or both before granting the reinstatement.

D. When an individual licensee fails to renew his license after a two-year period, the licensee must pass both a practical and written examination in order to be reinstated unless the requirement is waived by the board.

E. The date the renewal application is received by the department of Commerce or its agent shall be the factor determining whether a license shall be renewed without penalty fees or shall be subject to reinstatement procedures.

~~F.~~ All fees are nonrefundable and shall not be prorated.

PART IV. MISCELLANEOUS.

§ 4.1. Duplicate wall certificate.

A. A regulant desiring a duplicate wall certificate must submit a request in writing stating the necessity for such duplicate wall certificate. A duplicate certificate may be issued for any of the following reasons: replacing certificate lost, stolen, misplaced, destroyed or is otherwise irretrievable; recording the new name of a registrant whose name has been changed by court order or by marriage; or for multiple offices.

B. The fee for a duplicate wall certificate shall be \$25.

§ 4.2. Refunds.

All fees are nonrefundable and shall not be prorated.

§ 4.3. Insufficient funds check return.

When a check, money draft, or similar instrument for payment of a fee required by regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing fee of \$25.

PART H V . BARBER SCHOOLS.

~~§ 3-1.~~ 5.1. Applicants for state approval.

Any person, firm, or corporation desiring to operate a barber school shall submit an application to the board at least 60 days prior to the date for which approval is sought. Exception: Schools subject to regulation by the State Department of Education.

~~§ 3-2.~~ 5.2. General curriculum.

A: A school of barbering shall be approved by the board after having been inspected to determine if it meets all of the following requirements:

1. It has a classroom and clinic area;
2. Its faculty is made up of licensed barber teachers;

Final Regulations

3. It accepts no more than 16 students per barber teacher; and
4. It requires its students to obtain not less than 1,500 hours of approved instruction.

§ ~~3.3~~ 5.3. Curriculum requirements.

Each school shall submit with its application a course of instruction which shall include the following subjects:

1. School policies.
2. State law, regulations and professional ethics.
3. Business and salon management.
4. Client consultation.
5. Personal hygiene.
6. Cutting the hair with a razor, clippers, shears.
7. Tapering the hair.
8. Thinning the hair.
9. Shampooing the hair.
10. Styling the hair with a hand hair dryer.
11. Thermal waving.
12. Permanent waving with chemicals.
13. Shaving.
14. Trimming a moustache or beard.
15. Applying hair color.
16. Lightening or toning the hair.
17. Analyzing skin or scalp conditions.
18. Giving scalp treatments.
19. Giving facial massage or treatment.
20. Sanitizing and maintaining implements and equipment.
21. Honing and stropping a razor.

§ ~~3.4~~ 5.4. Hours of instruction.

Practical and classroom instruction shall consist of the following hours:

1. Haircutting and grooming 600 hours

2. Orientation, hygiene, skin disease, muscle and bone structure and shaving 300 hours
3. Chemical relaxers, perms, and color 400 hours
4. Business and salon management 200 hours
- TOTAL 1,500 hours

§ ~~3.5~~ 5.5. School identification.

Each barber school approved by the board shall identify itself to the public as a teaching institution.

§ ~~3.6~~ 5.6. Records.

Schools are required to keep upon graduation, termination or withdrawal, records showing what instruction the student has received for five years. These records shall be available for inspection by the department. All records shall be kept on the premises of each school.

§ ~~3.7~~ 5.7. Hours reported.

Upon completion of 25%, 50% and 75% of hours completed by a student in a licensed school, the school shall provide an individualized written report to the student of hours completed. Upon termination from a licensed school, for any reason, the school shall provide a written report to the student and the board on the number of hours completed.

PART ~~IV~~ VI.
STANDARDS OF PRACTICE.

§ ~~4.1~~ 6.1. Display of license.

All current licenses and permits issued by the board shall be ~~visibly displayed~~ *posted in plain view of the public* in the school or establishment where business is conducted.

§ ~~4.2~~ 6.2. Sanitation.

A. Regulators performing duties in barbershops and barber schools shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the following sanitation standards identified in this section.

A. B. Sanitation standards for premises and equipment are as follows:

1. Wash basins. There shall be a sufficient number of wash basins to provide hot and cold running water, under pressure, to adequately accommodate the clientele.
2. General cleanliness. All furniture, walls, floors, and windows shall be clean and in good repair. Wash

basins and sinks shall be clean.

3. Cabinets. Cleaned instruments, such as combs, brushes, shears, towels, etc., shall be kept free from contamination until used.

4. Towel receptacles. Soiled towels shall be kept in a closed container except if the towels are in a separate laundry rooms.

B. C. Sanitation standards for operations and services are as follows:

1. Towels. Clean towels shall be used for each patron.

2. Haircloth. Whenever a haircloth is used in cutting, shampooing, etc., a clean towel or a neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.

3. Astringent use. No alum or other astringent shall be used in stick form. Liquid or powder astringent must be used.

4. Brushes and combs. Brushes shall be washed in soap and hot water after each use on a patron. Combs shall be washed in soap and hot water or shall be kept immersed in a properly maintained sanitizing solution.

5. Permanent wave equipment. Permanent wave rods shall be rinsed after each use. End papers shall be destroyed after each use.

§ 4.3. 6.3. Discipline.

A. The board may revoke, suspend, or fail to renew a barber license ; or impose a fine as permitted by law , or both, if ; after a hearing, it finds that:

1. The licensee is incompetent, or negligent in practice, or incapable mentally or physically to practice as a barber; or

2. The licensee is guilty of fraud or deceit in the practice or teaching of barbering; or

3. The licensee violates or induces others to violate, or cooperates with others in violating, any of the provisions of these regulations, or of Chapter 7 of Title 54.1 of the Code of Virginia, or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber may practice or offer to practice; or

§ 4.4. Discipline.

B. The board may revoke, suspend or fail to renew the license of any school or impose a fine as permitted by law , or both, when:

1. An instructor of the approved school fails to teach the curriculum as provided for in these regulations; or

2. The owner or director of the approved school permits or allows a person to teach in the school without a current teacher license.

3. The teacher, owner or director is guilty of fraud or deceit in the teaching of barbering.

§ 4.5. Discipline.

C. The board may revoke, suspend, or refuse to renew the license of any barbershop or impose a fine as permitted by law , or both, when there is a finding that:

1. The owner or operator of the shop fails to comply with the sanitary requirements of barbershops provided for in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license or a temporary permit to practice as a barber unless the person is duly indentured as an apprentice.

D. The board may revoke, suspend or fail to renew the license of any regulant or impose a fine as permitted by law, or both, when the regulant fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal ordinance or regulation governing the standards of health and sanitation of the practice of barbering.

VA.R. Doc. No. R95-194; Filed December 12, 1994, 11:57 a.m.

Final Regulations

STUDENT TEACHER
TEMPORARY PERMIT
APPLICATION

Cert. No. _____
Date _____
Processor _____
^Staff Use Only^

FEE: \$75.00

Please Print or Type

1. Name: _____
(Last & Generation) (First) (Middle)
2. Address: _____
(Street)

(P. O. Box)
3. City: _____
4. State: _____ 5. Zip Code: _____
5. Telephone: _____ - _____ - _____
6. Social Security Number: _____ - _____ - _____
Not Required; but will assist Board Staff in the maintenance of
accurate license files.
7. Virginia Barber License No.: _____ - _____ - _____

Failure to maintain a barber license or temporary permit shall
disqualify an individual from holding a student teacher
temporary permit !
8. Date Scheduled for Examination: _____ Mth. _____ Day _____ Yr.
9. Expiration of Temporary License: _____ Mth. _____ Day _____ Yr.

STUDENT TEACHER TEMPORARY PERMIT SPONSORSHIP

I, the undersigned, agree to supervise all activities related to the instruction of barbering for the above named individual and am responsible for the actions of the applicant in this regard.

Sponsor Signature: _____

Sponsor Virginia Barber Lic. No.: _____ - _____ - _____

Sponsor Virginia Barber Instructor Certificate No.: _____
_____ - _____ - _____

I hereby certify by my signature that the statements contained in this application are true, that I have not suppressed any information that might affect this application, and that I have read and understood the Virginia Board For Barbers Regulations and Statutes.

Signature

Date

BARBER SHOP
LICENSE TO OPERATE
APPLICATION FORM

Cert. No. _____
Date _____
^Staff Use Only^

FEE: \$100.00

Please Print or Type

- 1. Name Of Shop: _____
- 2. T/A Name Of Shop: _____
- 3. Address of Shop: _____
(Street)

(P. O. Box)
- 4. City: _____
- 5. State: Virginia 6. Zip Code: _____
- 7. Telephone: _____ - _____ - _____
- 8. Owner's Name: _____
- 9. Owner's Mailing Address: _____
(Street or P. O. Box)
- 10. City: _____ 11. Zip Code: _____
- 12. Owner's Telephone Number: _____ - _____ - _____

AFFIDAVIT OF INSPECTION
(If Required By Local Ordinance)

This is to certify _____
(Name of Business)

(Address including City)

has been inspected and found to comply with the regulations of the
Local and/or State Health Department(s).

State and/or Local Health Department

Signature of Inspector

BOARD FOR BARBERS
APPLICATION FOR REINSTATEMENT

SPECIFICS:

1. Regulation 3.3(B) states, "Any licensee who fails to renew their license within six months after the expiration date of their license must apply for reinstatement of the license by submitting to the Department a reinstatement application and fee which shall be equal to twice the regular renewal fee with a statement of the reasons for failing to renew prior to the expiration date. The fee for reinstatement of a barber license shall be \$150, for a teacher license shall be \$200, for a shop license shall be \$160, and for a school license shall be \$320."
2. Regulation 3.3(C) states, "Upon receipt of the reinstatement application, fee and statement, the Board may grant reinstatement of the license or require requalification; reexamining; or both before granting the reinstatement."
3. Regulation 3.3(D) states, "When an individual licensee fails to renew his license after a two year period, the licensee must pass both a practical and written examination in order to be reinstated unless the requirement is waived by the Board."
4. Make the check or money order payable to the "Treasurer of Virginia."
5. Deposit of applicant processing fee does not indicate a license has been approved. All Fees Are Nonrefundable!

PLEASE INDICATE BELOW, REINSTATEMENT OF:

- Barber License Certificate No. _____ Date Expired _____
- Barber Teacher Lic. Certificate No. _____ Date Expired _____
- Barber Shop Lic. Certificate No. _____ Date Expired _____
- Barber School Lic. Certificate No. _____ Date Expired _____

LICENSEE INFORMATION: (PLEASE PRINT OR TYPE)

NAME: _____
 (Last & Generation) (First) (Middle)

ADDRESS: _____ CITY: _____
 (Street)

STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____

SOCIAL SECURITY NUMBER: _____
 Not required; but will assist Board staff in the maintenance of licensee files.

SHOP/SCHOOL NAME: _____

SHOP/SCHOOL ADDRESS: _____
 (Street)

CITY: _____

STATE: _____ ZIP CODE: _____

TAX I.D. NUMBER _____

STATEMENT:

AFFIDAVIT:

I hereby certify by my signature that the statements contained in this application are true, and that I have not suppressed any information that might affect this application.

Signature of Applicant _____ Date _____

BARBER LICENSE
BY ENDORSEMENT
APPLICATION FORM

Cert. No. _____

Date _____

State _____

^Staff Use Only^

FEE: \$150.00

Please Print or Type

1. Name: _____
(Last & Generation) (First) (Middle)

2. Address: _____
(Street)

(P. O. Box)

3. City: _____

7. State: _____ 8. Zip Code: _____

9. Telephone: _____ - _____ - _____

10. Date of Birth: _____ Month _____ Day _____ Year

11. Social Security Number: _____ - _____ - _____
Not Required; but will assist Board staff in the maintenance of
accurate license files.

12. Attach a copy of your current barber license to this sheet!

I hereby certify by my signature that the statements contained in
this application are true, that I have not suppressed any information that
might affect this application, and that I have read and understood the
Virginia Board For Barbers Regulations and Statutes.

Signature

Date

For Staff Use Only.

FEE \$160.00

Cert. No. _____

Date _____

Initials _____

COMMONWEALTH OF VIRGINIA
 BOARD FOR BARBERS
 Post Office Box 11066
 Richmond, Virginia 23230-1066

SCHOOL APPLICATION

DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED. ALL FEES ARE NON-REFUNDABLE

Please Print or Type.

NAME OF SCHOOL: _____

T/A NAME OF SCHOOL: _____

ADDRESS OF SCHOOL: _____

Street and Number

City

Zip Code

SCHOOL TELEPHONE NUMBER: _____

OWNER'S NAME: _____

Last

First

Middle

OWNER'S SOCIAL SECURITY NUMBER: _____

Not required; but will assist in the maintenance of accurate license files and records.

OWNER'S MAILING ADDRESS: _____

Street and Number

City

Zip Code

OWNER'S TELEPHONE NUMBER: _____

ALL SCHOOLS AND PROGRAMS MUST APPROVED BY THE BOARD

§ 2.13 School License

A license may be issued to any school approved by the Board as meeting the standards set for in Part V of these regulations. The barber school license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the school, address, or owners shall be reported to the Board in writing within 30 days of such changes.

List Faculty Members

Name	Address	Barber Teacher Certificate Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Use additional sheets if necessary.

APPLICANT AFFIDAVIT

I hereby certify by my signature that the statements contained in this application package are true, that I have not suppressed any information that might affect this application package, and that I have read and understood the Virginia Board for Barbers Regulations and Statutes.

Signature _____

Date _____

GEORGE MASON UNIVERSITY

EDITOR'S NOTICE: The following regulations filed by George Mason University are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulations: VR 340-01-01. Parking Citation Appeals.

Statutory Authority: § 23-91.29 (a) of the Code of Virginia.

Effective Date: December 8, 1994.

Summary:

The regulation is designed to outline the university's appeals procedures utilized for parking citations applicable to university faculty, staff, students, university contractors and visitors who use university owned and leased parking facilities.

Contact: Stanley E. Taylor, Associate Vice President for Operational Services, George Mason University, Mason Hall, 4400 University Drive, Fairfax, VA 22030-4444, telephone (703) 993-8754.

VR 340-01-01. Parking Citation Appeals.

§ 1. Scope.

This regulation applies to all George Mason University faculty, staff, students, university contractors, and visitors who use university owned and leased parking facilities.

§ 2. General provisions.

This procedure is designed to assist the university administration in evaluating the parking program, to highlight problem areas, to provide a learning experience to those who receive citations while using George Mason University parking facilities, and to provide an avenue to correct enforcement errors.

Requests for an appeal must be submitted in writing within 10 calendar days of the citation date, and must be submitted on the Parking Citation Appeal form. Any appeal not filed within this time is automatically denied. While the citation is under review, fines are held in abeyance. Each request for appeal will be carefully reviewed by the hearing officer. The hearing officer will base his decision on the George Mason University Motor Vehicle Regulations (VR 340-01-02) and on the information presented in the written request. The hearing officer may uphold the appeal, deny the appeal, or reduce the violation to an appropriate lesser violation. The decision of the hearing officer together with comments are reported to the appellant by mail.

The appellant can appeal the decision of the hearing

officer as set forth in § 6 of this administrative policy. Fines due after the appeal is decided must be paid within 10 calendar days of the decision date. Failure to pay citations or appealed citations by a faculty or staff member will result in the individual's outstanding account being turned over to a collection agency. Students will be placed on financial suspension.

Information submitted in support of appeals or re-appeals or both is received at face value and is subject to validation by the university.

§ 3. Responsibilities.

The Associate Vice President for Operational Services has the responsibilities for monitoring the Parking Citation Appeals policy and recommending new or revised policies and procedures.

§ 4. Appeals.

Parking citations may be appealed in accordance with the provisions of this policy within 10 calendar days of the citation issue date. Appeals must be filed in writing on the Parking Citation Appeal form. Forms are available at the Parking Services Office and at the information booths. Fines associated with appealed citations need not be paid until the appellant is advised of the decision.

§ 5. General appeals procedures.

A. All faculty, staff, student, and visitor appeals will be considered by an appeals hearing officer, who may uphold the appeal, deny the appeal, or reduce the regulation violated to a lesser offense. The results of the appeal will be reported to the appellant by United States mail. Payment of fines on appealed citations are due within 10 calendar days after the decision date. The appeals hearing officer serves the Judicial and Advisory Board and the Student Parking Appeals Review Board for the Associate Vice President for Operational Services and is not affiliated with the Parking Services Office. Student appeals are considered by the Student Parking Appeals Review Board.

B. Appeals guidelines are described in this subsection.

1. The citation is presumed valid. It is the obligation of the appellant to present information that would invalidate the ticket.

2. Reasons that might warrant invalidation of the ticket are: evidence of illness that necessitated the violation, mechanical breakdowns that were handled in a reasonable expeditious manner, documented erroneous information given by a parking services employee, or other circumstances that are unusual enough to warrant special consideration.

3. Reasons to warrant a downgrade of the ticket are: when further information that was not readily

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available to the marshall is provided to the reviewer as a justification for the downgrade (e.g., a ticket for "no decal" given to a car that has been issued a valid decal, but not displaying the decal), valid misunderstandings regarding ambiguous parking areas, judgment of the reviewer, etc.

4. A specific reason for denial need not be given. A general statement can be made that a sufficient reason for reversal was not contained in the written appeal. The appeals process sheet states that decisions are made based on the George Mason University Motor Vehicle Regulations (VR 340-01-02), on information presented in the written request and on any further comments made by the appellant in case of a re-appeal.

§ 6. Reconsideration.

Requests for reconsideration of denied appeals may be made to the Parking Services Office. The request for reconsideration must be made within 10 calendar days from the date stamped on the Appeal Board decision sent to the appellant. One or more of the following criteria must be met for the appeal to be reconsidered.

1. No university parking regulation appears to have been violated.
2. Citation, as written, contains a material error.
3. Additional information of a material nature and not included on the original appeal form, warrants reconsideration.
4. Unusual circumstances in mitigation or extenuation appear to exist.
5. Parking regulations appear sufficiently vague or misleading to warrant reconsideration.

For an appeal to be reconsidered by the Judicial and Advisory Board or the Student Parking Appeals Review Board, the appellant must be present at the scheduled hearing. The appellant will be accorded an opportunity to present succinct comments bearing directly on the case being considered. All balloting will be conducted in closed session; the university's decision is final.

§ 7. Failure to file promptly.

Failure to file the completed appeal or re-appeal form within the prescribed time period shall constitute a waiver of the right to appeal the violation.

§ 8. Appeal Board membership and term of membership; Judicial and Advisory Board; Student Parking Appeals Review Board.

A. The Judicial and Advisory Board has been appointed to hear parking citation appeals and advise the Associate

Vice President for Operational Services on parking related matters. The board consists of three faculty members and three staff members appointed by the Associate Vice President for Operational Services.

Appointments to the board are for two-year renewable terms and run from September 1 through August 31. The chairman is selected for a three-year renewable term by board members and must have served at least one year on the board.

When a member's two-year term ends, the Director of Parking Services will submit additional names to the Associate Vice President for Operational Services for consideration. The Associate Vice President will either renew the member's term or appoint a new member to the board for those nominated.

The chairman will contact the new nominee to further explain the workings of the group and to discuss their specific responsibilities.

The Judicial and Advisory Board shall meet each month to hear appeals from faculty, staff and visitors to the George Mason University campus. The hearings are scheduled by the Parking Services Office from September through May. At least one hearing should be scheduled during the summer months.

The board shall inform and advise the Parking Services Office of parking regulations which appear vague or misleading and advise about areas on campus not having appropriate signage and ambiguous parking areas.

When a new chairman is elected by the board, the Associate Vice President for Operational Services and the Director of Parking Services will meet with the new appointee and previous chairman to go over the appeals process, rules, and regulations.

B. The Student Parking Appeals Review Board is constituted under the regulations of the University Judicial Board as set forth in the George Mason University Judicial System for Student Conduct. The membership of the board is to be comprised of current members of the Court of General Sessions of the University Judicial Board. The terms of each member is established in accordance with the regulations set forth in Section X, Article X-B of the Judicial System for Student Conduct.

§ 9. Amendments, additions, and review.

A. All amendments and additions to the Parking Citation Appeals policy are to be reviewed and approved by the Office of the Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning.

B. This policy shall be reviewed and revised, if necessary, annually.

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Date:

Dear Appellant:

The Student Parking Appeals Review Board has made a ruling regarding your appeal of citation # [] . The Board has decided to approve/deny/downgrade your appeal.

George Mason University parking rules and regulations state that the decision of the Appeals Review Board is final. If your appeal was denied, payment of the \$ [] citation must be received within ten (10) days of the date stamped at the top of this card.

If payment is not received within ten (10) days, a late fee of \$10 will be assessed to the citation. Students not paying within ten (10) days will also be placed on financial hold.

Checks and money orders should be made payable to GMU and mailed to: George Mason University, Parking Services Office, 4400 University Drive, Fairfax, VA 22030.

Date:

Parking Appellant:

The Hearing Officer has reviewed your appeal of citation # [] . Based on your written appeal, the Hearing Officer has approved/denied/downgraded your appeal. If your appeal was approved, no further action is required. If your appeal was denied, you have the option of meeting with the Student Parking Appeals Board. To schedule a hearing you must contact J. Covington of the Parking Services Office at (703) 993-2710 within ten (10) days of the date stamped at the top of this postcard. Failure to schedule a hearing or pay the \$ [] citation within ten (10) days of the date on this card will result in a \$10 late fee being assessed to the citation. Students not paying in full will be placed on financial hold.

Checks and money orders should be made payable to GMU and mailed to George Mason University, Parking Services Office, 4400 University Drive, Fairfax, VA 22030.

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Date:

Dear Appellant:

The Judicial & Advisory Board has made a ruling regarding your appeal of citation # . The Board has decided to approve/deny/downgrade your appeal.

George Mason University parking rules and regulations state that the decision of the Appeals Review Board is final. If your appeal was denied, payment of the \$ citation must be received within ten (10) days of the date stamped at the top of this card.

If payment is not received within ten (10) days, a late fee of \$10 will be assessed to the citation. Outstanding Faculty/Staff or Visitor accounts may be referred to a collection agency.

Checks and money orders should be made payable to GMU and mailed to: George Mason University, Parking Services Office, 4400 University Drive, Fairfax, VA 22030.

Date:

Parking Appellant:

The Hearing Officer has reviewed your appeal of citation # . Based on your written appeal, the Hearing Officer has approved/denied/downgraded your appeal. If your appeal was approved, no further action is required. If your appeal was denied, you have the option of meeting with the Judicial & Advisory Board. To schedule a hearing you must contact J. Covington of the Parking Services Office at (703) 993-2710 within ten (10) days of the date stamped at the top of this postcard. Failure to schedule a hearing or pay the \$ citation within ten (10) days of the date on this card will result in a \$10 late fee being assessed to the citation. Outstanding Faculty/Staff and Visitor accounts may be referred to a collection agency.

Checks and money orders should be made payable to GMU and mailed to George Mason University, Parking Services Office, 4400 University Drive, Fairfax, VA 22030.

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* * * * *

Title of Regulations: VR 340-01-02. Motor Vehicle Regulations.

Statutory Authority: § 23-91.29 (a) of the Code of Virginia.

Effective Date: December 8, 1994.

Summary:

The regulation is designed to outline the proper parking policies and procedures for faculty, staff, students, and visitors.

Contact: Stanley E. Taylor, Associate Vice President for Operational Services, George Mason University, Mason Hall, 4400 University Drive, Fairfax, VA 22030-4444, telephone (703) 993-8754.

VR 340-01-02. Motor Vehicle Regulations.

PART I.
SCOPE.

§ 1.1. Purpose and applicability.

A. The purpose of these regulations is to set forth the proper parking policies and procedures for faculty, staff, students, and visitors.

B. These regulations apply to all motor vehicles including motorcycles operated on university owned or leased property, regardless of whether or not the vehicle is operated by the registered owner.

PART II.
PARKING FACILITIES.

§ 2.1. Parking lots location and designation.

Refer to the map for lot location and designations.

§ 2.2. Faculty and staff; parking.

A. A faculty and staff member is defined as any full-time employee of George Mason University (GMU). Part-time employees such as graduate assistants, graduate teacher assistants, and any other part-time student employee is not considered a faculty or staff member and must purchase a student decal.

B. Lot H is reserved for faculty and staff from 7 a.m. to 7:30 p.m. Monday through Thursday and from 7 a.m. to 5 p.m. on Friday. Lot G is reserved for faculty and staff from 7 a.m. to 1:30 p.m. Monday through Friday. After 1:30, Lot G is general parking available to all vehicles displaying a valid decal or day pass, except for two bays on the end.

Faculty and staff parking is available in front of the

Physical Education Building, George's Hall, and the Recreation and Sports Complex, and a section of Lot B near the west end is designated faculty and staff parking.

C. Lots A, B, D, F, K, M, O, and P are available to faculty and staff members to park.

D. Reciprocity has been established between George Mason University and NOVA regarding parking. Consequently any vehicle displaying a NOVA faculty and staff decal will be honored as displaying a valid George Mason University decal.

E. Reserved parking is authorized upon approval of the Parking Services Office and the Associate Vice President for Operational Services. The reserved parking is reserved Monday through Friday from 7 a.m. until 7 p.m.

§ 2.3. Students; parking.

A. A student is defined as any person enrolled in a class offered by George Mason University. This also includes graduate teacher assistants and graduate student assistants. Full-time faculty and staff members attending courses are not considered as students.

B. Parking lots E and I are reserved for student parking only.

General lots A, B, D, F, K, M, O, and P are also available to students for parking.

Faculty and staff designated parking lots are available to students after 6 p.m.

PART III.
VISITOR/GUEST POLICY.

§ 3.1. Visitor and guest parking.

All visitors and guests to George Mason University will be required to park in the parking deck. Day passes will only be sold to persons with a valid George Mason University faculty, staff or student identification. Parking deck validations can be purchased through the Parking Services Office for those departments who wish to cover the cost of parking for their guests.

Guests and visitors with state issued handicapped parking permits may utilize the handicapped spaces in the parking deck by paying the hourly parking rate. Guests and visitors with handicapped permits may also purchase a day pass to park in a handicapped space that may be closer than the parking deck to their destination. Guests and visitors can only park at a meter without charge if all other handicapped spaces in the area are full.

The objective of this policy is to increase the number of surface lot spaces available to vehicles with George Mason University parking decals. This is necessary due to the number of parking spaces that have been lost to

various construction projects on campus.

PART IV. HANDICAPPED PARKING POLICY.

§ 4.1. Purpose.

The purpose of this handicapped parking policy is to reduce the illegal use of handicapped parking permits by nonhandicapped individuals. Currently, some nonhandicapped individuals are taking advantage of state handicapped parking tags that were issued to members of their family or friends and parking in handicapped spaces on campus. These illegally parked vehicles reduce the number of available handicapped parking spaces for those who need them.

All persons with handicapped parking permits and George Mason University parking decals must register with the Parking Services Office. People with state handicapped plates must bring a copy of their Department of Motor Vehicles registration to the Parking Services Office and receive a George Mason University handicapped parking permit. People with state issued hang tags must bring a copy of both sides of their hang tag to the Parking Services Offices and receive a George Mason University handicapped parking permit. The George Mason University handicapped permit will be recognized at all handicapped parking spaces on campus. George Mason University will no longer recognize state Department of Motor Vehicles handicapped permits. Any vehicle with a George Mason University decal found parking in a handicapped space on campus without a George Mason University handicapped permit will be subject to citation.

§ 4.2. Types of handicapped permits.

The Parking Services Office issues four different types of permits:

1. A George Mason University Handicapped Pass is a laminated pass issued to those individuals with a Department of Motor Vehicles issued handicapped permit (license plate or hang tag). Individuals must bring a copy of their registration or hang tag to the Parking Services Office to obtain this permit which will also include their George Mason University parking decal.

a. Permanent permits will be issued to individuals with disabilities and will be valid for the entire academic year.

b. Temporary permits will be issued for individuals with temporary disabilities for a period of time from seven weeks to one year.

2. A George Mason University Weekly Pass will be issued to individuals who are waiting for their laminated pass to be prepared.

3. A George Mason University Wheelchair/Stairlift Pass will be issued to individuals confined to a wheelchair and requiring special vehicles to egress from their vehicle.

4. A Temporary Handicapped Pass can be issued for two days without a note from a physician or for up to six weeks with a note from a physician. These permits may be obtained at the sales window (Student Union I, Room 201) or arrangements may be made to pick up the permit at one of the information booths.

§ 4.3. Obtaining a permanent George Mason University handicapped parking permit.

All George Mason University faculty, staff or students with Department of Motor Vehicles issued handicapped plates or hang tags should be directed to the Parking Services Administrative Office (Student Union I, Room 354) after they purchase their 1994-95 parking decal. The following is the process for obtaining a George Mason University handicapped permit:

1. Individual brings a copy of his Department of Motor Vehicles registration or a copy of both sides of his hang tag along with his decal to the Parking Services Administrative Office.

2. Individual will be given a one week temporary handicapped parking pass while his permanent pass is being prepared.

3. George Mason University decal will be laminated to a blue George Mason University handicapped parking pass.

4. Individual will be contacted by phone when the handicapped pass is ready. The pass can be picked up at the Finley Information Booth between the hours of 7 a.m. and 7 p.m.

§ 4.4. Obtaining a temporary George Mason University handicapped parking permit.

George Mason University temporary handicapped passes are available to all faculty, staff and students who demonstrate a need. These passes can be issued for two days without a note from a physician or for up to six weeks with a note from a physician. The following is the procedure for obtaining a temporary handicapped pass:

1. Individual reports to the sales window (located in Student Union I, Room 201).

2. Individual completes a temporary handicapped parking pass form.

3. Information is recorded in the log book by the clerk. This information includes name, social security number, period of time the pass is valid and decal

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number.

4. Individual is issued a temporary George Mason University parking permit.

George Mason University faculty, staff or students who do not have a George Mason University decal may obtain a temporary handicapped permit and should utilize the parking deck by paying the hourly parking rate or they may purchase to park in a handicapped space that may be closer than the parking deck to their destination.

PART V. PARKING SPACES.

§ 5.1. Metered spaces.

Metered spaces are intended for those who have short-term parking needs in nearby areas.

There are 12 metered spaces located behind Student Union I, seven metered spaces located at Finley Circle, and 13 metered spaces located at Presidents Park. Meters are enforced from 7 a.m. until 11 p.m. seven days a week. Meter rates are posted on all meters.

There are five metered spaces located at the Metro Campus. The time limit on these meters is one hour. These meters are enforced from 8 a.m. until 5 p.m., Monday through Friday.

A George Mason University parking decal or permit is not valid at a meter.

Use of other than United States currency in any parking meter is prohibited by law.

Please report any malfunctioning meter and locations immediately to the Parking Services Office at extension 2710.

§ 5.2. Loading and unloading spaces.

Spaces have been designated for loading or unloading heavy materials. Permits for use of these designated areas are obtained from the Parking Services Office.

Loading and unloading is allowed only in designated areas. Prohibited and restricted areas, handicapped spaces and fire lanes are not designated loading and unloading areas. Loading and unloading in these areas is strictly enforced by the issuance of citations and towing.

Loading and unloading spaces are located in the following areas:

1. Behind Harris Theater
2. In front of the Finley Building

3. Behind Fenwick Library

4. On the side of Science and Technology II

§ 5.3. Service and repair spaces.

Spaces have been designated for vehicles while servicing machinery and equipment. These permits are obtained from the Parking Services Office. (NOTE: See Special Permits section, Part IX, for more information on obtaining these permits.)

Parking in prohibited and other restricted areas, handicapped spaces, fire lanes, and on the grass for service and repair of equipment is strictly enforced by the issuance of citations and towing.

Permits must be displayed when parked in service and repair spaces. Failure to do so will not relieve the offending party of their responsibility for any citation that may be incurred.

PART VI. DISPLAYING DECAL OR PERMIT.

§ 6.1. Display of decal or permit; responsibility of motor vehicle registered owner.

All vehicles parked on property owned by the university are required to display a valid George Mason University decal or permit. The registered owner of a motor vehicle is responsible for all violations incurred on the vehicle regardless of who is operating the vehicle. If the vehicle is displaying a valid decal and incurs a citation for violation of these rules and regulations, the registered owner of the decal may be held responsible for all citations issued to vehicles displaying that decal.

PART VII. DECALS.

§ 7.1. Purchase of decal.

All faculty, staff or student decals are purchased from the Parking Services Office in Student Union I, Room 201A.

Decal applications are mailed to all registered faculty and staff members and students to qualify for individuals to purchase decals through the mail if desired.

To purchase a parking decal, individuals must comply with Commonwealth of Virginia regulations and not have any outstanding citations. Individuals must possess:

1. A valid state registration;
2. A valid state driver's license; and
3. A valid certificate of insurance from a recognize company showing coverage for public liability.

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Current faculty or staff identification or proof of employment is needed to purchase a faculty/staff decal.

Faculty and staff may purchase decals only for their vehicles. Decals are not transferable to other persons.

§ 7.2. Prices for decals.

Full Year Decal	\$100
Semester Decal	\$ 65
Summer Decal	\$ 35
Motorcycle	\$ 25
Reserved Space	\$200
Reserved Parking Deck Per Month	\$ 30
Lost Decals	\$ 20
Daily	\$ 3
Stolen Decals	No charge

Senior citizens age 60 or over may receive one static-cling year decal free of charge if they meet the income requirements as defined in the George Mason University student catalog.

Stolen decals are replaced free-of-charge with proof of a stolen property report.

The original purchaser of a decal may receive a refund of the purchase price, less a \$5.00 administrative fee, according to the following schedule.

1. Students will receive a full refund up to and including last add/drop day of the semester in which the decal was purchased. One-half refund will be made up to and including two weeks after the last add/drop day. Refunds will be made only after the requestor presents proof of withdrawal from the university. Payment for any outstanding citations will be deducted from any refund due.

2. Faculty and staff will receive a full refund up to and including the date which is 30 days from their appointment or employment, or both, with the university. One-half refund will be made up to and including the date which is 60 days from their appointment or employment, or both, with the university. Refunds will be made only after the requestor presents proof of their termination from university service. Payment for any outstanding citations will be deducted from any refund due.

§ 7.3. Payment for purchase of decal.

Payment is to be made by cash, check, Visa or

Mastercard.

Payment for the purchase of a decal through the mail can be made by check or credit card with proper authorization. Do not send cash through the mail.

Payment by coin is an unacceptable form of payment, rolled or unrolled.

Lost decals are replaced at a cost of \$20 for a yearly decal and \$10 for a semester decal.

Faculty and staff may elect to use payroll deduction for the purchase of a semester or year decal.

§ 7.4. Placement of decal.

All decals must be displayed on the inside of the rear window on the lower left-hand side of the vehicle. Bumper decals must be displayed on the left rear bumper.

Failure to properly display a decal may result in a citation.

§ 7.5. Additional decals.

If the owner of a registered motorcycle wishes to register a four-wheel vehicle in addition to their motorcycle, an additional charge of \$75 will be charged to cover the full year. The full price will be charged for all additional vehicles.

The registered owner of a decal is responsible for all citations issued to their decal.

PART XIII. DAY PASSES/DAILY PERMITS.

§ 8.1. Day passes/daily permits are available at the information booth, or at the business office in Student Union 1, Room 201A. These permits cost \$3.00 each with valid George Mason University faculty, staff or student identification and are valid for all general lots.

PART IX. SPECIAL PERMITS.

§ 9.1. Special permits.

A. University faculty, staff and students with special parking needs must make prior arrangements to obtain the necessary permit through the Parking Services Office.

B. Applications for a handicapped parking permit are available at the Parking Services Office.

C. Loading and unloading permits are obtained at the Parking Services Office for one day use. These permits are restricted to 30 minutes. All vehicles displaying a loading and unloading permit must display a valid George Mason University parking decal or day pass.

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D. Individuals with the need for long-term permits must present written justification from their respective department head. Due to the limited number of loading and unloading spaces, a 30-minute restriction is also applicable to these permits. All vehicles displaying a loading and unloading permit also must display a valid George Mason University parking decal.

E. Service and repair permits are issued to vendors and contractors with written justification from the responsible department. Service and repair permits are intended for vendors and contractors, not for university personnel use.

F. Contractor permits are assigned to contractors and subcontractors working on university property. Contractor permits are intended for use by university personnel. All contractors must purchase and display valid permits.

Arrangements for contractor permits are made through the Parking Services Office in conjunction with the office of Facilities Planning or the Physical Plant and the appropriate representative of the contractor.

Permits issued to contractors or commercial firms may be restricted as to date, time, duration, and parking area. Contractor permits are not to be used for any other parking purposes.

PART X. ENFORCEMENT.

§ 10.1. Enforcement.

All regulations as enacted by the Commonwealth of Virginia and George Mason University are enforced at all times. Vehicles in violation of these rules and regulations are subject to citations, immobilization, and towing at the owner's expense.

No motor vehicle operator, including university personnel, shall park a motor vehicle which violates any of these rules and regulations.

During the hours of 7 a.m. until 8 p.m., Monday through Thursday, and 7 a.m. until 5 p.m. on Friday, all vehicles must have a valid decal or permit and park in the appropriate designated areas.

Although decals are not required in the evening or on the weekend, all other rules and regulations are enforced 24 hours a day, seven days a week.

Parking is allowed between painted control lines only. Parking in areas posted as "No Parking," where curbs are painted yellow, on crosswalks, sidewalks, landscaped areas, blocking trash dumpsters or barricaded areas constitutes parking in a "Prohibited Zone." Parking within 15 feet of a fire hydrant, where curbs are painted red, or in areas posted as "Fire Lanes" constitutes parking in a "Fire Lane." These violations may subject the vehicle to being cited or towed or both.

As outlined in Part II, Parking Facilities, certain lots and areas are restricted as to the type of permit required. Vehicles parked in improper areas will be subject to a citation for "Restricted Areas."

Reserved spaces are enforced Monday through Friday from 7 a.m. to 7 p.m.

Parking in handicapped spaces without the appropriate pass is subject to enforcement action 24 hours a day. (See Part IV.) This includes individuals who have handicapped passes but do not park in the appropriate spaces.

Loading zones and metered areas are subject to time limitations. Exceeding the posted time limits subjects the vehicle to be cited.

Displaying an old citation on a vehicle may cause the vehicle to be cited for fraudulent registration. Any alteration of a permit, decal or pass are also subject to the vehicle to be cited.

Parking in a metered spot after a citation has been issued may result in multiple citations. A citation may be issued one hour after the last citation was issued. These citations will carry a lesser charge than the original citation.

PART XI. FINES.

§ 11.1. Fines.

The following lists all fines and their corresponding amounts:

Improper Display	\$ 15
Parking Over the Designated Lines	\$ 15
Overtime Parking	\$ 25
Restricted Parking	\$ 25
Parking in Prohibited Zone	\$ 25
Parking in Loading Zone	\$ 25
Fraudulent Registration	\$ 75
No Decal	\$ 60
Unauthorized Parking in Handicapped Area	\$100
Boot Removal	\$ 35
Towing	\$ 25
Parking in a Fire Lane	\$ 50
Parking in Excess of One Hour at Meter	\$

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§ 11.2. Payment by mail.

Payment for fines are to be mailed to:

Parking Services Office
George Mason University
4400 University Drive
Fairfax, VA 22030

Checks should include student identification number or faculty/staff number, and citation number.

All fines not paid within 10 days will be assessed a \$10 late fee. Fines not paid within 30 calendar days of issuance will be assessed an additional \$10 late fee.

§ 11.3. Student fines: visitor, faculty and staff fines.

A. Students who fail to pay or appeal citations will be placed on financial suspension.

B. Faculty and staff who fail to pay or appeal citations will result in the individual's outstanding amount being turned over to a collection agency after a 30-day amnesty period.

§ 11.4. Vehicle immobilization.

Those vehicles with outstanding fines in excess of \$100 will be subject to immobilization. Fines must be paid in full within 72 hours or the vehicle may be impounded and removed from the campus.

§ 11.5. Tax offset.

Unpaid fines chargeable to a resident of the Commonwealth of Virginia will be reported to the Virginia Department of Taxation. This will result in a deduction from the individual's Virginia State Income Tax refund, made payable to George Mason University, as an agency of the Commonwealth of Virginia.

PART XII. APPEALS.

§ 12.1. Appeals.

Individuals who desire to appeal a citation must do so within 10 days of the date of issuance. Except in rare and unusual circumstances, the only proper basis for an appeal is the contention that the cited regulations were not violated. Citations for metered areas, towing and booting are not appealable.

All appeals will be received by the Parking Services Office and forwarded to the Parking Appeals Committee.

Appellants will be notified through the mail as to the decision of the Appeals Committee. Appellants who wish may present their case in person to the Appeals Committee, if unsatisfied with the initial decision.

Failure to file within 10 days of issuance of the citation shall constitute a waiver of the individual's right to appeal the citation.

All decisions of the Appeals Committee are final. Persons wishing to pursue this may go to district or request a University Administrative Review.

PART XIII. GEORGE MASON LAW SCHOOL.

§ 13.1. George Mason Law School.

All regulations set forth herein shall be applicable at the George Mason University Law School, also referred to as the Arlington Campus.

Decals especially for the Arlington Campus are available at the Arlington Campus. Fairfax Campus decals are not valid at the Arlington Campus.

VA.R. Doc. No. R95-183; Filed December 8, 1994, 12:42 p.m.

* * * * *

Title of Regulations: VR 340-01-03. Space Utilization and Scheduling Policies and Procedures.

Statutory Authority: § 23-91.29 (a) of the Code of Virginia.

Effective Date: December 8, 1994.

Summary:

The regulation is designed to outline university policies for authorized use of university facilities for faculty, staff, students, university contractors and outside organizations.

Contact: Stanley E. Taylor, Associate Vice President for Operational Services, George Mason University, Mason Hall, 4400 University Drive, Fairfax, VA 22030-4444, telephone (703) 993-8754.

VR 340-01-03. Space Utilization and Scheduling Policies and Procedures.

PART I. GENERAL PROVISIONS.

§ 1.1. Scope.

This regulation applies to all George Mason University faculty, staff, students, university contractors, and organizations outside of the university who have authorized use of university facilities. This regulation applies to all George Mason University locations, owned and leased, including Fairfax Campus, Arlington Campus, GMU at Prince William, and GMU at the Center for Innovative Technology.

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§ 1.2. Policy statement.

George Mason University facilities are intended primarily for the use of its students, faculty, and staff in their efforts to advance the educational mission of the university. No use shall be permitted which is inconsistent with the mission of the university or which shall result in undue competition with local commercial enterprises; nor shall any funds raised in connection with activities conducted in university facilities be destined to purposes which are exclusively religious or political, with exception of recognized university student groups, or to personal profit with exception of university employees running special approved projects and programs, or to further causes which are adverse to the well-being of the university.

§ 1.3. Responsibilities.

A. The responsibilities of the university departments and individuals charged with monitoring, scheduling, providing support services, and the day-to-day administrative coordination of this policy are set forth in this section.

B. The Events Scheduling Coordination Group shall have the responsibilities for monitoring this policy and recommending new or revised policies and procedures or both. The Events Scheduling Coordination Group also exists to recommend a management system for scheduling and for conducting multiple nonacademic events at all George Mason University locations. The coordination group is charged to:

1. Identify and resolve problems and conflicts associated with event scheduling and management focusing on long-term planning;
2. Develop logistical strategies for managing major, multiple, simultaneous events;
3. Establish a mechanism for resolving disputes not settled within the core group;
4. Recommend policies, procedures, and communication networks to improve the management of university events.

The members of this group are listed in § 8.1.

C. The persons or departments, or both, responsible for scheduling university spaces governed by these policies and procedures are listed in § 8.2. They are to schedule university space in accordance with the policies and procedures set forth in this regulation.

The persons or departments, or both, scheduling university spaces for events are to submit at a minimum the names of the events, place of the events, date(s), and times to the office of the University Scheduling Coordinator/Information Services to be entered into the master event schedule and calendar; information entered

must be entered or submitted by use of the Welber Facilities Scheduling System.

The persons or departments, or both, scheduling university space are responsible for scheduling only their respected spaces.

D. Supplementary to the persons or departments, or both, scheduling space, the individuals responsible for support services are listed in § 8.3. These individuals are responsible for planning and implementing the services necessary to support the event in accordance with this regulation.

E. The University Scheduling Coordinator shall have the responsibilities maintaining communication with all persons scheduling spaces, support services and, when required, users. The University Scheduling Coordinator's primary responsibility is to maintain a master schedule of the events for all George Mason University locations, ensure the dissemination of all necessary event information to the appropriate university departments, and ensure that all schedulers and users comply with the policies and procedures of this document.

The University Scheduling Coordinator shall work with the Events Scheduling Coordination Group. The University Scheduling Coordinator is responsible for scheduling and chairing the meetings of the Events Scheduling Coordination Group.

PART II.

DEFINITION OF USERS AND THEIR PRIORITIES.

§ 2.1. Primary users; priorities for scheduling space.

A. To protect the primary users of university facilities, the priorities described in this section are to be observed in approving reservations and scheduling the requested space. No university facilities shall be scheduled which effectively eliminates its use for academic programs. Primary users are defined as George Mason University students, recognized student organizations, faculty, staff, and its colleges, schools, departments, centers, and institutes.

Scheduling of facilities for use by nonuniversity individuals or groups shall be consistent with the education mission and initiatives of the university. Programs or projects inconsistent with the mission and initiatives shall be approved by the President or his designee.

B. University activities necessary to the advancement of the educational mission of the university (i.e., academic classes and cocurricular activities as determined by the academic calendar) have first priority and may be scheduled at any time with advance notice.

C. Events sponsored by approved or recognized student organizations, faculty and staff, colleges, school,

departments, centers, and institutes that have the university as the primary targeted market or tied to a major university initiative or both have second priority and may be scheduled 12 to 18 months in advance.

D. Events sponsored by the above directed at the external community or paid participants or both, but a direct function of the academic mission of the university, have third priority and may be booked six to 12 months in advance, unless otherwise stated herein.

E. To the extent that facilities and support services are available, booked events related to university activity are fourth priority and may be booked three to six months in advance unless otherwise stated herein.

F. To the extent that facilities and support services are available, outside organizations whose mission and goals are congruent with the academic and service mission of the university are fifth priority and may be scheduled 60 to 90 days in advance unless otherwise stated herein.

PART III. DEFINITION OF FACILITIES AND PRIORITIES BY FACILITY TYPE.

§ 3.1. Student unions.

The first priority of the student unions is to accommodate the needs of the student or university sponsored programs that have the university community as the primary target or that are directly tied to a major university initiative. Programs internally directed that do not have the university community as the target audience receive second priority. Booked events receive third priority and community events receive fourth, all under the scheduling time sequences discussed in § 2.1.

§ 3.2. Athletic facilities.

A. Following the schedule of classes, the first priority of the Physical Education Building shall be given to intercollegiate athletic events and practices, intramurals, club sports, and free play. Other student and university sponsored events shall be accorded second priority. Programs that do not have the university community as their primary audience shall receive third priority. Community groups shall have lowest priority.

B. The first priority of the Sports and Recreation Complex shall be those programs congruent with the athletic and recreational nature of this facility, including intercollegiate athletic events and practices, intramurals and free play. Classes shall be scheduled only when no other adequate or appropriate space exists.

C. Athletic fields and court areas shall follow the same priorities as set forth in subsection B of this section for the Sports and Recreation Complex.

§ 3.3. Patriot Center.

The mission of the Patriot Center is to provide a home for George Mason University basketball, venue for the annual commencement, and a center for entertainment and community life in Northern Virginia. Annual university events shall continue to have first priority. Special university events shall have second priority. Third priority shall continue to be commercial events sponsored by the university's retained management firm.

Rental of the Patriot Center to nonuniversity organizations must be reviewed and approved by the President or his designee.

§ 3.4. Center for the Arts.

A. The mission of the Concert Hall is to make the arts an inescapable presence in the life of the George Mason University community. First priority shall be given to events which fulfill the educational objectives of the institution. Second priority shall be given to university groups not exclusively in the arts and approved by the President or his designee. The third priority shall be given to nonprofit arts groups. Fourth priority shall be given to commercial art producers and presenters. All applicants in the third and fourth priorities must be approved by the President or his designee.

B. The Black Box Theater, TheaterSpace, Dance Studios, Orchestral and Choral Labs are designed for very specific activities and shall be used primarily for curricular and cocurricular performance programs. Other uses of these spaces must be congruent with function of the space and shall be considered only after curricular needs have been addressed.

C. GMU classes and departments with curricular performance requirements shall have first priority for use of Harris Theater. Second priority shall be given to student and university sponsored programs which have the George Mason University community as their primary target audience. Faculty, departments, conference services, centers and institutes that do not have the university as the primary audience shall have third priority. Community groups shall have fourth priority.

§ 3.5. George Mason University at the Center for Innovative Technology.

The first priority at the Center for Innovative Technology is to accommodate credit courses and the Entrepreneurship Center Small Business Incubator program. The second priority is to accommodate university noncredit courses and seminars. The third priority is to accommodate nonuniversity organizations.

§ 3.6. George Mason University at Prince William.

The first priority at Prince William is to accommodate credit courses and university special initiatives. The second priority is to accommodate university noncredit courses and seminars. The third priority is to

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accommodate nonuniversity organizations.

§ 3.7. Mason Hall.

The first priority of Mason Hall facilities is to accommodate the needs of the university governing board and central administration of the university and to provide facilities to support major university initiatives.

§ 3.8. Arlington Campus.

The first priority of the Arlington Campus is to accommodate university credit courses or programs. The second priority is noncredit programs, conferences, and community events.

§ 3.9. George Mason University at Quincy Street Station.

The first priority at Quincy Street Station is to accommodate university credit courses or programs. The second priority is to accommodate noncredit programs and seminars.

§ 3.10. The Center for Professional Development.

First priority for use of rooms is for Center for Professional Development courses, seminars, symposia, and workshops. Second priority is given to other university programs. Third priority is given to nonuniversity and for-profit organizations.

§ 3.11. Housing.

The first priority of housing is to provide university enrolled students with living quarter and residence life support programs. The second priority is to accommodate university programs as a support service for conferences, meetings and seminars. The third priority is given to nonuniversity organizations for housing as a support service.

PART IV. FEES AND SUPPORT COSTS; REDUCTION OR WAIVER OF FEES.

§ 4.1. Fees and support costs.

A. The user fees and support services cost schedules are presented in Part IX. The rental fees and support services costs shall be applicable to all users as defined in this section or as set forth in § 4.2.

B. User fees are not normally charged to university schools, colleges, departments, institutes, centers, faculty, staff, and students for programs that relate to the educational and research mission of the university. Typical exceptions are events cosponsored with a nonuniversity group or agency in a profit-sharing contract. Support services and equipment fees may be charged.

C. User fees and support service fees, if required, shall

be assessed to all other authorized groups for each day or part of a day for the time period of the facility use.

D. User fees and support service fees shall be reviewed and, where required, revised annually. The effective dates for fees shall coincide with the university's fiscal year calendar, unless otherwise noted.

E. Increases or decreases in fees listed for the facilities and services must be approved by the Office of the Executive Vice President for Finance and Planning. All increases and decreases in fees are to be submitted to the Director of Auxiliary Enterprises for processing the approval. No fee change shall be implemented without the approval of the Office of the Executive Vice President for Finance and Planning.

§ 4.2. Reduction or waiver of fees.

A. Reduced user fees may be charged when all of the following conditions exist:

1. The requesting group is a nonprofit organization;
2. The activity is congruent with the educational purpose of the university; and
3. No admission is charged except a fee estimated to cover the cost of the event, which should include support services cost.

B. When the conditions listed in subsection A of this section are met and the event significantly advances the goals of the university, all user fees may be waived at the decision of the President or his designee.

C. Waiving of user fees and charging reduced fees do not exempt the user from payment for support services and equipment.

PART V. CONDITIONS AND RESTRICTIONS.

§ 5.1. Conditions and restrictions.

A. The use of university facilities by any group may be denied if such group or its activities interferes with or is incompatible with the philosophy, educational missions and goals of this institution.

B. University and nonuniversity agencies using George Mason University facilities are not restricted by, nor may they restrict, on the basis of race, color, sex, sexual orientation, age, religion, creed, national origin, or political persuasion.

C. University users, where applicable, and nonuniversity agencies, unless a waiver is obtained, shall present formal evidence of appropriate insurance coverage to ensure that the university is fully protected. The applicant will name George Mason University as an "additionally insured" in

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the policy during the period the applicant is using university facilities. The policy will also waive the right of subrogation by George Mason University or the Commonwealth of Virginia.

Any insurance company will have a minimum best rating of "A" and be licensed to do business in the Commonwealth. Questions regarding insurance coverage should be referred to the Director of Risk Management and Environmental Safety. The following are specific provisions for which insurance may be required:

1. *Liability.* The applicant will indemnify, defend, and save harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments, and costs of defense arising from injury to persons or personal property which arise out of any act, failure to act, negligence of the applicant, its agents, or employees. All personal property of the applicant, its employees, agents, licensees, servants, clients, members, guests, or trespassers shall be at the sole risk of said parties; George Mason University shall not be liable to any such person or party for any damage or loss to personal property thereof.

2. *Property.* The applicant will maintain a bond or insurance coverage to ensure repair or replacement for all George Mason University property, and the property of its employees, that may be lost or damaged as a result of the event.

3. *Worker's compensation.* The applicant will carry and keep in full force and effect at all times worker's compensation insurance in accordance with the state law. This provision applies to both the applicant and related organizations who hire personnel associated with the event.

4. *Liens and bills.* The applicant will indemnify, defend and save harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments and costs of defense arising from any liens, bills, charges, credits, other expenses incurred by or placed against the applicant.

D. Established university regulations and policies, as outlined in the George Mason University Student Handbook and the University Catalog, and as amended, apply to all activities held at the university.

PART VI. APPLICATION APPROVAL.

§ 6.1. Application approval.

Approval for use of university facilities is not rendered until a university facility request form or facility specific contract is signed by the appropriately authorized university official. Failure to obtain required approvals or comply with university policies and procedures as outlined in this regulation and failure to pay all fees in a timely

fashion may result in temporary or permanent loss of facility use privileges.

PART VII. AMENDMENTS AND ADDITIONS.

§ 7.1. Amendments and additions.

All amendments and additions to this regulation are to be reviewed and approved by the Office of the Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning.

PART VIII. SCHEDULING RESPONSIBILITIES.

§ 8.1. Event Scheduling Coordinator Group.

The Event Scheduling Coordinator Group exists to develop and implement a management system for scheduling university space and for conducting multiple events on campus. The members of the group are:

University Scheduling Coordinator

Director of the Institute of the Arts

Director of Athletics

Dean of Student Services

Student Union II Scheduling Coordinator

General Manager of the Patriot Center

Director of Public Safety

Vice President for Facilities

Vice Provost for Academic Support

Director of University Activities

Director of Prince William Institute

Director of Auxiliary Services

Director of Media Relations

Director of Arlington Campus/Quincy Street Professional Center

Director of Food Service

Director of Housing and Resident Life

Associate Director of Student Unions

Representative of the Student Union Board

Representative of the Student Government

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Chairperson of the Faculty Senate Committee on Facilities and Support Services

Director of Conferences and Institutes for Center for Professional Development

In the event that the designated person listed is unable to attend a meeting, a representative shall be selected to attend in his absence.

§ 8.2. Scheduling university spaces.

The persons or departments, or both, responsible for scheduling university spaces governed by this policy are:

RESPONSIBLE PERSON/DEPARTMENT	SPACE/FACILITY
Associate Director for Union Operations	Student Union I Student Union II Academic Space: Nonclass activities during nonsummer term
Director of Student Organizations	Student Union I Quad and Grounds around Student Union II
Registrar	Academic Space: Classes only
Director of Summer Term	Academic Space: all activities during summer term
House Manager, Institute of the Arts	Center for the Arts (Concert Hall, Harris Theater, Black Box, TheaterSpace and Dance Studios.)
Director of the Professional Center	Arlington Campus Professional Center and GMU Quincy Street Station Professional Center, George Mason University at the Center for Innovative Technology
Director of University Activities	Mason Hall and Plaza
Associate Dean, School of Law	Law School Facilities
Music Department	Music Rehearsal Rooms
Director	Hemlock Overlook and Bull Run Marina
Director of Conferences and Institutes	Center for Professional Development
Director of Housing and Residence Life	Housing
Director of Sports and Recreation Complex	Sports and Recreation Complex Physical Education Building, Athletic Fields and Courts Areas
Associate Vice President Operational Services	Outdoor space other than the Student Union I Quad, Athletic Fields, Mason Hall Plaza, and Student Union II Plaza and Court Area
Director, Center Management	Patriot Center
Director, Prince William Institute	Prince William Institute, Manassas

§ 8.3. Scheduling university support services.

The persons responsible for scheduling university support services are:

PERSON	SUPPORT SERVICE
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Director of Work Control, Physical Plant	Building and Grounds Custodial Electrical/Mechanical
Manager, Parking Services	Parking Lots Parking Technician
House Manager, Center for the Arts	House Manager Theater Technician Ushers
Director for Public Safety	Police Officers Traffic Control Officers
Director, Media Relations	Media
Director, Food Service	Food Service Catering
Associate Director, Union Operations	Union Housekeeping Union Audio Visual Equipment
Director, Housing and Residence Life	Housekeeping within the student housing complex

NOTE: Scheduling building and grounds and parking services for the Arlington Campus are the responsibilities of the staff located at the site.

PART IX. FEES ASSOCIATED WITH UNIVERSITY FACILITIES AND SERVICES.

§ 9.1. Fees.

A. The fees associated with the use of George Mason University facilities and services are presented in this part. The fees listed are in effect for George Mason University fiscal year 1995, unless noted otherwise.

Increases or decreases in fees listed for the facilities and services must be approved by the Office of the Executive Vice President for Finance and Planning. All increases and decreases in fees are to be submitted to the Director of Auxiliary Enterprises for processing the approval. No fee change shall be implemented without the approval of the Office of the Executive Vice President for Finance and Planning.

B. Academic space is generally available only on weekends during the academic year through the facilities scheduling coordinator for student unions. Academic space during the summer is available on a first-come, first-served basis through the Summer Administration Office. Fees are rarely charged since almost all users are university related. At the Arlington Campus, space is generally available during the day time. In the event fees are charged they are as follows:

Lecture Halls	\$200 per day
Classrooms (Main Campus)	
under 50 seat	\$50 per day
50-100 seats	\$75 per day
over 100 seats	\$100 per day

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Arlington Campus	Nonprofit Group	Profit Group
3rd floor conference room	\$150 per day	\$250 per day
classroom, 25-50 seats	\$100 per day	\$150 per day
classroom, 50-100 seats	\$125 per day	\$175 per day
classroom, 100+ seats	\$150 per day	\$200 per day
Study lounge	\$100 per day	\$150 per day
Metro Gallery	*\$100 per day	*\$150 per day
*optional		

Additional services for academic space will be charged in a manner similar to student unions.

C. Student union space is scheduled on a priority basis with university groups receiving the highest priorities and nonuniversity groups receiving lower priorities. Reservations are made through the facilities scheduling coordinator of each student union building. The facility and equipment fees for nonuniversity groups are noted below:

	University Group	Nonuniversity
Student Union I		
Phase I Cafeteria	Free	\$ 50/6 hours
Phase II Cafeteria	Free	\$150/6 hours
Rathskeller	Free	\$100/6 hours
North Terrace	Free	\$ 50/6 hours
South Terrace	Free	\$ 50/6 hours
Patriots Lounge	Free	\$150/6 hours
Meeting Room		
A B C	Free	\$ 50/6 hours
Table Space	Free	\$ 50/table or \$ 25/table (sponsored university group)
Student Union II		
Marketplace	Free	\$150/6 hours
Room 1-7	Free	\$ 50/6 hours
VIP 1-3	Free	\$ 50/6 hours
Ballroom A - Back	Free	\$150/6 hours
Ballroom B - Mid	Free	\$150/6 hours
Ballroom C - Front	Free	\$300/6 hours
Ballroom		
A, B and C Whole	Free	\$500/6 hours
Ballrooms A and B Back and Mid	Free	\$250/6 hours

Ballrooms C and B Front and Mid	Free	\$400/6 hours
Table Space	Free	\$ 25/table
TV/VCR	Free	\$ 30/6 hours
16MM projector	Free	\$ 30/6 hours
Lecternette	Free	\$ 20/6 hours
Slide projector	Free	\$ 20/6 hours
Tape recorder	Free	\$ 20/6 hours
Overhead	Free	\$ 20/6 hours
Screen	Free	\$ 10/6 hours
Easels	Free	Free
Large portable sound system	\$ 75/6 hours	\$200/6 hours
Mid portable sound system	\$ 50/6 hours	\$175/6 hours
Small portable sound system	\$ 25/6 hours	\$150/6 hours
Large DJ system	\$ 50/6 hours	\$175/6 hours
Small DJ system	\$ 25/6 hours	\$150/6 hours

For events requiring staff past normally scheduled hours or for extra staff the fees are as noted below:

	University Group	Nonuniversity
Housekeeping	\$15 per hr/person	\$ 20/hr/person
Event Coordinator		
Free event	First-free additional-\$7.50/hr	\$ 7.50/hr \$ 7.50/hr
Charge event	\$7.50/hr/person	\$ 7.50/hr/person

NOTE: Free events are those which are open to any student at George Mason University and which do not charge admission. Charge events are those which charge some type of admission or are open to only a particular group of students.

AV Technician	\$7.50/hr/per person	\$10/hr
Lights	\$15/6 hrs	\$50/6 hrs
Video Taping	\$15/hr (includes tech)	\$50/hr (includes tech)

D. Residential spaces and lounges are not normally available during the academic year. During the summer, however, facility use is available through the Summer Housing Office. Fees are as follows:

Meeting Space

Eisenhower

large meeting room \$50/day

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small meeting room	\$25/day
<i>Hanover</i>	
Basement lounge	\$50/day
first floor lounge	\$25/day
kitchen	\$15/day

Residential Space

Double occupancy	\$20/person/day
Single occupancy	\$30/person/day
Deluxe townhouse	\$45/person/day
Regular townhouse	\$25/person/day

E. Meeting space in Mason Hall is not generally available to nonuniversity groups without prior presidential approval.

F. The Concert Hall and Harris Theater are available for use by George Mason University organizations and nonuniversity groups on an as-available basis. All Concert Hall rental requests by individuals or organizations are reviewed by the Institute of the Arts and the university administration. If a rental request is approved, a contract is issued by the Center for the Arts. Receipt of the signed contract and rental deposit finalizes the rental agreement. Harris Theater use requests are handled directly by the Center for the Arts.

Prior to the finalization of any use agreement, appropriate staff members of the Center for the Arts may require one or more on-site meetings to ensure optimum event planning. All necessary staffing and services are provided by the Center for the Arts. This includes technical crew, front-of-house staff, security, custodial services, and box office services.

The box office utilizes a computerized system to print and sell tickets for Concert Hall and Harris Theater events. The box office is open for ticket sales during business hours and in the performance space on the day of the event. Credit cards are accepted.

HARRIS THEATER

Seating Capacity:

Orchestra:	397
Balcony:	124
Total:	521

Handicapped accessibility for orchestra seating

Stage Specifications:

Proscenium width	39.5 feet
<i>Stage depth:</i>	
To curtain	17 feet
To back wall	35 feet

CONCERT HALL

Seating Capacity:

Orchestra:	717
Orchestra Pit:	106
Grand Tier (Balcony):	1112
TOTAL SEATS:	1935

Handicapped Seating:

Orchestra	26
Grand Tier	6

Stage Specifications:

Proscenium width	52 feet
Stage depth from curtain line	42 feet
<i>Stage depth of orchestra shell:</i>	
Full Stage	39 feet (60 feet wide)
Chamber Ensemble	22 feet (52 feet wide)
Computerized theatrical lighting and rigging systems	

CONCERT HALL USER FEES:

	GMU	Nonprofit	Commercial
<i>Rental Fee</i>			
First performance	NC	\$3,500	\$5,000
Additional Performances	NC	\$3,000	\$4,500
<i>Box Office Services</i>			
Single day, ea. performance	DBE	\$300	\$350
Subsequent day(s), each performance	DBE	\$200	\$250
<i>Facilities</i>			
Separate tech/reh days	NC	\$500	\$500
Personnel (Per person, per hour)			

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Stage technicians	\$14	\$14	\$18
Rigger(s)	DBE	DBE	DBE
Dresser(s)	DBE	DBE	DBE
Sound operator/engineer	DBE	DBE	DBE
Lighting control operator	DBE	DBE	DBE
Followspot operator	DBE	DBE	DBE
Equipment			
Grand Piano (per day)	NC	\$75	\$75
Tuning	\$75	\$75	\$75
Dance Floor (per day)			
Each panel	NC	NC	\$10
Sound System, first day			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$250	\$250
Full System	NC	\$500	\$500
Sound system, each add. day			
Basic System	NC	\$50	\$50
Intermediate System	NC	\$125	\$125
Full System	NC	\$250	\$250
Stage lighting instruments ea. per day	NC	\$1	\$1
Stage lighting control system per day			
Basic System	NC	NC	\$25
Limited System	NC	\$25	\$50
Full System	NC	\$50	\$100
Followspot, ea. per perf.	\$50	\$50	\$50
Installation of supplied light plot	Determined per event		

Additional Box Office Services

Return of printed tickets advanced to licensee - \$0.50 ea.

Credit card service charge - 7.0% of credit card receipts

INCLUDED IN THE RENTAL FEE

Facilities and Equipment:

Basic black fabric stage masking, orchestra shell, conductor's podium, platform risers, chairs, music stands, stand lights, general white stage lighting, conductor and soloist(s) lighting, and use of dressing rooms (2 small, 3 large).

Personnel (included in non-GMU rentals only. GMU rentals pay direct costs for the following personnel.)

One stage manager, one front-of-house manager, ushers (quantity determined per event), restroom porters and custodial services, building engineer, and on-site security officers.

(DBE = Determined By Event)

HARRIS THEATER USER FEES:

	GMU	Nonprofit	Commercial
Rental Fees			
First Performance	NC	\$1,500	\$1,800
Additional Events (ea.)	NC	\$800	\$1,200
Separate tech/reh days	NC	\$500	\$500
Box Office Services			
Each Event	DBE	\$200	\$250
Equipment			
Sound system, per day	NC	\$50	\$50
Lighting system, per day	NC	\$50	\$50
Follow spot, ea.	\$50	\$50	\$50
Special lighting	Determined by event		
Piano, per day	\$75	\$75	\$75
Tuning, ea.	\$75	\$75	\$75
Personnel (per hr, 3 hr min. ea.)			
Stage technicians	\$14	\$14	\$18
Followspot operator	DBE	DBE	DBE
Rigger(s)	DBE	DBE	DBE
Police/security	DBE	DBE	DBE

Additional box office services:

Return of printed tickets advanced to user - \$0.50 ea

Credit card service charge (7.0% of credit card receipts)

INCLUDED IN THE RENTAL FEE

Equipment

Basic black fabric stage masking, conductor's podium, chairs, music stands & stand lights, platform risers, general white stage lighting, special conductor and soloist(s) lighting, and use of dressing rooms.

Personnel (included in non-GMU rentals only. GMU

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rentals pay direct costs for the following personnel.)

One stage manager, one front-of-house manager, ushers, custodial service, and building engineer.

(DBE = Determined by event)

ADDITIONAL ITEMS NOT INCLUDED IN THE (Concert Mode/Theater Mode) BASIC PACKAGE

Rehearsal (not on performance day) ... \$500 per day
(Includes 2 technicians)

Announce Microphone, Sound System, Limited Foldback \$ 25 per Perf./Reh

Limited Sound System, Tape Playback, Limited Foldback, & Sound Operator \$125 per day

Full Sound System \$350 per day

Sound Operator \$ 24 per hour (4 hr.min.)

Limited Stage Lighting System (12 Channels) \$ 25 per day

Setup/Takedown of Small Light Plot (Theater Mode Only)

Example: 4 stagehands x 4 hours x hourly rate

..... \$224 (\$14/hr)

Setup/Takedown of Large Light Plot (Theater Mode Only)

Example: 8 stagehands x 8 hours x hourly rate

..... \$896 (\$18/hr)

Lighting Instruments, Color, Accessories .. No Charge

Light Board Operator (4 hour minimum) \$ 14 per hour

Followspot Operator (4 hour minimum) \$ 14 per hour

Sound Engineer (4 hour minimum) \$ 14 per hour

Stagehand, each (4 hour minimum) ... \$ 14 per hour

Rigger, each (4 hour minimum) \$ 24 per hour

Standard Lighting Plot w/light board .. \$ 75 per day

Lighting Instruments (daily charge) ... \$ 1 per instr.

Followspots (daily charge) No Charge

Dance Floor: 4'-11" x 58'-0" per panel ... \$ 5 per day

Dance Floor, Full Stage \$ 50 per day

Floor Setup, Full Stage .. \$112 (ea. setup/takedown)

Choral Platforms, Aluminum, Full Setup \$168 (ea. setup)

Choral Platforms, Steel If Available, Full Setup \$224 (ea. setup)

Choral Chairs, Full Setup No Charge

Piano (tuned) \$ 75 per day

Shuttle Buses (3 buses) \$600

Credit Card Service Charge 5.0% of Gross Credit

G. The Sports and Recreation Complex (Field House) is rarely rented out due to the intensive use by students, faculty, and staff. The only regular, nonuniversity events in the Field House are high school track meets. The cost for nonuniversity groups is \$500/day plus direct reimbursable expenses. These would be negotiated with staff at the Field House. If the facility is available, there would be no charge for university groups.

H. The Physical Education Building is used much the same way as the Field House. If it were available, the cost to nonuniversity groups would be \$400/day plus reimbursable for either the upper or lower gym. There would be no charge to university groups.

I. The Patriot Center is a 10,000 seat arena. The fees are as follows:

University Event: Direct expenses, approximately \$4,000-\$5,000 per event. Expenses will vary with the type and number of services requested, number of attendees, and duration of the event.

Nonuniversity Event: Daily rental of \$8,000 plus expenses. Many ticketed events will be charged a rent as a percentage of gross receipts.

J. Hemlock Overlook Center for Outdoor Education is an outdoor education center located near Clifton, Virginia, about 12 miles from campus, and is managed by the university for the Northern Virginia Regional Park Authority. There are no discounts on fees for university groups. The fees are noted below:

Room and board, Summer/Spring \$25 per day

Room and board, Fall/Winter \$30 per day

Room, Summer/Spring \$12 per day

Room, Fall/Winter \$17 per day

Lodge, Summer/Spring \$10 per hou,

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Lodge, Fall/Winter \$15 per hour

Conference Rooms, Summer/Spring \$ 5 per hour

Conference Rooms, Fall/Winter \$10 per hour

K. The costs associated with using the university police in connection with special event programming are:

Police Officer \$22.50/hr (minimum 2 hours)

Dispatcher \$16/hr (minimum 2 hours)

Security Watchman \$15/hr (minimum 2 hours)

L. All individuals who do not have valid university parking decals or authorized parking permits/passes must pay for parking at locations owned and operated by George Mason University. University schools, colleges, institutes, centers, departments, faculty, staff, and recognized student groups can reserve parking lots at a daily rate for each participant's vehicle without a valid university decal or authorized parking permit/pass. University sponsored events must include parking arrangements approved by the parking services office one week in advance.

Authorized nonuniversity sponsored events must include parking arrangements approved by the parking services office two weeks prior to the scheduled event.

Parking fees:

For all faculty, staff and students vehicles that do not have a valid university parking decal or an authorized parking permit or pass. \$ 3 per day

To reserve parking lot T
..... \$1/hr/vehicle using the lot plus
..... \$10/hr/per technician to monitor the lot

To reserve specific areas in other general parking lots (Lots A,B,C. & K) for multiple day events
..... \$2.50/day/per vehicle for the first day
..... \$1.50/day/per vehicle thereafter

Nonreserved use of other general parking lots A,B,C. & K for multiple day events
..... \$3/day/per vehicle for the first day
..... \$2/day/per vehicle thereafter

Parking Deck fees for special events
..... \$3 per car for 4 hours or less

..... \$5 per car for 5 hours or more

M. The Center for Professional Development is located at the University Park Townhouses, 4260 Chain Bridge Road. The center has two classrooms. The larger of the two rooms will accommodate 25 people and is equipped with tables, chairs, and a blackboard. The smaller room will accommodate 15-plus people and has student stations and a blackboard.

There is no on-site food service available, although there are vending machines containing soft drinks and snacks.

The rooms are available for program use Monday through Friday from 8:30 a.m. to 10 p.m. Space can be available for Saturday and Sunday.

The fees are denoted below:

University and Non-profit users:

Per room \$40/half day

Per room \$80/full day

Per room \$40/evening

Nonuniversity and For-profit users:

Per room \$60/half day

Per room \$120/full day

Per room \$60/evening

Additional services and equipment charges:

Assistant \$15/hour

Set-up/Strike fee \$35/day

Overhead projector \$35/day

Flip charts/easel \$15/day

*photocopying \$0.10/page

* Arrangements must be made for this service in advance.

N. Arlington Campus: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations during the day by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements, purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.

Arlington Campus is located one and one-half blocks

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from the George Mason University/Virginia Square Metro Station. Food Service is available on campus.

The building hours and fees are:

Building Hours:

Monday-Friday 8 a.m. to 11 p.m.
 Summer 8 am to 10 p.m.
 Saturday 9 am to 6 p.m.
 Sunday 9 am to 11 p.m.

University Support Charges will be assessed. Building operating charges for electrical, HVAC, parking and security will be charged, where applicable.

Seminar Room Fees:

Classrooms- accommodate 15-50 people
 Non-profit: \$100 per day/evening
 Profit: \$150 per day/evening
 Computer Lab- accommodates 24 people
 \$500 per day/evening
 Conference Room- accommodates 150+
 Non-profit: \$150 per day/evening
 Profit: \$250 per day/evening

Management Fees:

Assistant Fee \$15 per hour
 Set-up and Strike (when applicable) \$60-\$100
 Building and Grounds early open/late close
 \$20 per hour
 Campus police (early open/late close)
 \$22.50 per hour
 (2 hours minimum)

Equipment User Fees:

VCR/Monitor
 \$50 for first day, \$25 per day thereafter
 Slide Projector

..... \$30 for first day, \$20 per day thereafter

16mm Film Projector

..... \$30 for first day, \$20 per day thereafter

P/A System

..... \$75 for first day, \$50 per day thereafter

Coffee Urns

..... \$15 for first day, \$ 5 per day thereafter

Photocopying

..... Available - copy center on site: \$.10 a copy

Kodak Datashow \$50 per day

Inkjet Computer Paper \$40 per box

Flipchart Paper Provided by the instructor

Fax Service, per page

..... University Departments: incoming \$.50

..... outgoing \$1

..... nonuniversity: incoming \$1

..... outgoing \$2.50

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

O. GMU at Quincy Street Station: Most credit courses are held in the evening. Therefore, space for noncredit educational programming can be scheduled by outside groups such as government agencies or private sector corporations by the Professional Center. Government agencies can secure training space and educational services through agency contracts, blanket purchase agreements, purchase orders, etc. Private corporations can secure space through a letter of agreement and a 50% deposit.

Quincy Street station is located one and one-half blocks from the Ballston Metro Station. Food Service is available.

The building hours and fees are denoted below.

Building Hours:

Monday-Friday 8 a.m. to 9 p.m.

Special arrangements can be made for Saturday and Sunday use of the facility by reservation. Also the facility can open early and close late, b.

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reservation. University support charges will be assessed. Building operating charges for electrical, HVAC, parking and security will be charged, where applicable.

Seminar Room Fees:

Classrooms- accommodate 15-45 people

..... Non-profit: \$125 per day/evening

..... Profit: \$165 per day/evening

accommodate 70 people

..... Non-profit: \$150 per day/evening

..... Profit: \$165 per day/evening

Management Fees:

Assistant Fee \$15 per hour

Set up and Strike (when applicable) \$60-\$100

Equipment User/Additional Fees:

VCR/Monitor \$50 for first day

..... \$25 per day thereafter

Slide Projector \$30 for first day

..... \$20 per day thereafter

Coffee Urns \$15 for first day

..... \$ 5 per day thereafter

Photocopying Available: \$.10 a copy

Flip Chart Paper Provided by the instructor

Fax Service, per page

..... University Departments: incoming \$.50

..... outgoing \$1

..... nonuniversity: incoming \$1

..... outgoing \$2.50

Flipchart stands, overhead projectors, screens, chalkboards, and chalk are provided in each classroom.

P. Prince William Institute: Initially, most credit courses will be held in the evenings. Noncredit programming can be scheduled by university and nonuniversity groups during the day time.

The building hours and fees are denoted below.

Building Hours:

Monday-Friday 8:30 a.m. to 5 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservation. Building operating fees for HVAC and electrical services will be charged, when applicable.

Seminar Room Fees:

Classrooms - accommodate 15-45 people

..... Non-profit: \$50 per day and/or evening

..... Profit: \$75 per day and/or evening

Management Fees:

Assistant Fee \$12 per hour

Set-up Fee and Strike (where applicable) ... \$40-\$80

Equipment User/Additional Fees:

VCR/Monitor (2 available) ... \$25 per day per room

Slide Projector (2 available) . \$20 per day per room

Coffee Urn (1 available) 100 cup capacity

..... \$15 for first day

..... \$ 5 per day thereafter

Photocopying Available: \$.10 a copy

Fax Available: \$1 per page

Flip Chart Paper Provided by the user

Fax Machine

..... University Departments: incoming \$.50

..... outgoing \$1

..... Nonuniversity: incoming \$1

..... outgoing \$2.50

Flipchart stands, overhead projectors, screens, whiteboards, and markers are provided in each classroom.

Q. The third floor space at the George Mason University at The Center for Innovative Technology is dedicated to the George Mason University Small Business Incubator Program. The fourth floor spaces are used for

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credit and noncredit educational programming. The largest classroom on the fourth floor is assigned all day Fridays and Saturdays for a credit educational program.

The building hours and fees are:

Building Hours:

Monday-Friday 8 a.m. to 6 p.m.

Special arrangements can be made for evening and weekend use of facilities by reservations. Building operating fees for HVAC, electrical, and security will be charged, where applicable.

Seminar Room Fees:

Classrooms- accommodate 15-45 people

..... Non-profit: \$100 per day/evening

..... Profit: \$125 per day/evening

Management Fees:

Assistant Fee \$15 per hour

Set-up Fee and Strike (where applicable) . \$60-\$100

Equipment User/Additional Fees:

VCR/Monitor \$50 for first day

..... \$25 per day thereafter

Slide Projector \$30 for first day

..... \$20 per day thereafter

Coffee Urns \$15 for first day

..... \$ 5 per day thereafter

Overhead Projector \$25 for first day

..... \$15 per day thereafter

Photocopying Available: \$.10 a copy

Flip Chart Paper Provided by instructor

Flipchart stands, overhead projectors, screens chalkboards, and chalk are provided in each classroom.

VA.R. Doc. No. R95-184; Filed December 8, 1994, 12:43 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

Pursuant to the Commonwealth's efforts to increase organ, tissue and eye donation, the routine contact protocol regulations are an effort to ensure all families of medically suitable donors are given the opportunity to consider organ, tissue and eye donation. The regulations strengthen the donor program through the application of uniform requirements for hospitals to inform families of organ donor options. Implementation of these regulations will help ensure families of donor candidates are advised of the options available and give them the opportunity to make their own decisions to donate.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Carrie Eddy, Policy Analyst, Department of Health, Office of Health Facilities Regulation, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149. There may be a charge for copies.

VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia.

PART I. DEFINITIONS AND GENERAL INFORMATION AND PROCEDURES.

Article 1. Definitions.

§ 1.1. Definitions.

As used in these regulations, the words and terms, shall have meanings, respectively set forth unless the context clearly requires a different meaning.

"Board" means the State Board of Health.

"Division" means the Division of Medical and Nursing Facilities Services of the Department of Health.

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator,

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superintendent, director, executive director, president, vice-president, and executive vice-president.

"*Commissioner*" means the State Health Commissioner.

"*Consultant*" means one who provides services or advice upon request.

"*Department*" means an organized section of the hospital.

"*Direction*" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"*Facilities*" means building(s), equipment, and supplies necessary for implementation of services by personnel.

"*Full-time*" means a 37 1/2 to 40 hour work week.

"*General hospital*" means institutions as defined by § 32.1-123(1) of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental conditions which may require various types of care, such as medical, surgical, and maternity.

"*Home health care department/service/program*" means a formally structured organizational unit of the hospital which is designed to provide health services to patients in their place of residence and meets Part II of the regulations adopted by the board for the licensure of home health agencies in Virginia.

"*Licensing agency*" means the State Department of Health.

"*Medical*" means pertaining to, or dealing with the healing art and the science of medicine.

"*Nursing care unit*" means an organized jurisdiction of nursing service in which nursing services are provided on a continuous basis.

"*Nursing home*" means an institution or any identifiable component of any institution as defined by § 32.1-123(2) of the Code of Virginia with permanent facilities that include inpatient beds and whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of patients who may require various types of long term care, such as skilled care and intermediate care.

"*Nursing services*" means patient care services pertaining to the curative, palliative, restorative, or preventive aspects of nursing that are prepared or supervised by a registered nurse.

"*Organized*" means administratively and functionally

structured.

"*Organized medical staff*" means a formal organization of physicians and dentists with the delegated responsibility and authority to maintain proper standards of medical care and to plan for continued betterment of that care.

["*Outpatient hospital*" means institutions as defined by § 32.1-123(1), of the Code of Virginia which primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization. Outpatient abortion clinics are deemed a category of outpatient hospitals.]

"*Ownership/person*" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity which owns or controls the physical facilities and/or manages or operates a hospital.

"*Service*" means a functional division of the hospital. Also used to indicate the delivery of care.

"*Special hospital*" means institutions, as defined by § 32.1-123(1) of the Code of Virginia which provide care for a specialized group of patients or limit admissions to provide diagnosis and treatment for patients who have specific conditions (e.g., tuberculosis, orthopedic, pediatric, maternity).

["*Outpatient hospital*" means institutions as defined by § 32.1-123(1), of the Code of Virginia which primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization. Outpatient abortion clinics are deemed a category of outpatient hospitals.]

"*Special care unit*" means an appropriately equipped area of the hospital where there is a concentration of physicians, nurses, and others who have special skills and experience to provide optimal medical care for patients assigned to the unit.

"*Staff privileges*" means authority to render medical care in the granting institution within well-defined limits, based on the individual's professional license and the individual's experience, competence, ability and judgment.

"*Unit*" means a functional division or facility of the hospital.

Article 2.

General Information.

§ 1.2. Exceptions; variances.

A. In accordance with the § 32.1-124 of the Code of

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Virginia the provisions of these regulations shall not be applicable to:

1. A dispensary or first aid facility maintained by any commercial or industrial plant, educational institution or convent;
2. An institution licensed by the State Mental Health [~~and~~] Mental Retardation [*and Substance Abuse Services*] Board;
3. An institution or portion thereof licensed by the State Board of [*Welfare Social Services*] ;
4. A hospital owned or operated by an agency of the Commonwealth or of the United States government; or
5. An office of one or more physicians or surgeons unless such office is used principally for performing surgery as defined in § 1.1 of these regulations.

B. In accordance with § 32.1-128 of the Code of Virginia nothing in these rules and regulations shall be construed to authorize or require the interference with the supervision, regulation, or treatment of residents, patients, or personnel of any institution operated by and for the adherents of any well-recognized church or denomination who rely upon treatment by mental or spiritual means without the use of any drug or material remedy, provided such institution complies with applicable statutes and regulations on sanitation, life safety and construction design.

§ 1.3. Allowable variances.

A. Upon the finding that the enforcement of one or more of these regulations would be clearly impractical, the commissioner shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these regulations, provided safety and patient care and services are not adversely affected.

B. Modification of any individual standard herein, for experimental or demonstrative purposes, or any other purposes, shall require advance written approval from the licensing agency.

Article 3.

Procedures for Licensure or License Renewal.

§ 1.4. General.

No person, as defined in § 1.1 of these regulations, shall establish, conduct, maintain, or operate in this State any hospital as defined and included within provisions of these regulations without having obtained a license. Any person establishing, conducting, maintaining, or operating a hospital without a license shall be guilty of a Class 6 felony.

§ 1.5. Classification.

Hospitals to be licensed shall be classified as general hospitals, special hospitals or outpatient hospitals defined by § 1.1 of these regulations.

§ 1.6. Separate license.

A. A separate license shall be required by hospitals maintained on separate premises even though they are operated under the same management. Separate license is not required for separate buildings on the same grounds or within the same complex of buildings.

B. Hospitals which have separate organized sections; units, or buildings to provide services of a classification covered by provisions of other state statutes or regulations may be required to have an additional applicable license for that type or classification of service (e.g., psychiatric, nursing home, home health services, outpatient surgery, outpatient abortions).

§ 1.7. Request for issuance.

Hospital licenses shall be issued by the commissioner, but all requests for licensing shall be submitted initially to the Division of Medical and Nursing Facilities Services. The procedure for obtaining the license shall include the following steps:

1. Request for application forms shall be made in writing to the division;
2. Application for license or license renewal to establish or maintain a hospital shall be made and submitted to the division;
3. All categories of inpatient beds shall be included on the hospital application for licensure in order for the licensing agency to have an accurate and complete record of the total bed capacity of the facility;
4. Application for initial license, change in license, or license renewal shall be accompanied by a check or money order for the service charge, payable to the licensing agency; and
5. Application for initial license of a hospital or for additions to an existing licensed hospital must be accompanied by evidence of approval from a representative of the State Fire Marshal and a copy of the occupancy permit issued by the local building official.

§ 1.8. Service charge.

A. In accordance with § 32.1-130 of the Code of Virginia, the following service charge shall be made:

0 to 50 beds - \$75

51 to 333 beds - \$1.50 per bed

334 or more - \$500

B. The hospital shall not be required to pay a service charge on hospital beds in a category which requires separate license by this licensing agency or another state agency (i.e. psychiatric, nursing home).

§ 1.9. License expiration.

Licenses shall expire as specified or at midnight December 31 following date of issue, whichever is first, and shall be renewable annually, upon filing of application and payment of service charge, unless cause appears to the contrary.

§ 1.10. Name.

Every hospital shall be designated by a permanent and appropriate name which shall appear on the application for license. Any change of name shall be reported to the licensing agency within 30 days.

§ 1.11. Bed capacity.

A. Each license issued by the commissioner shall specify the maximum allowable number of beds. The number of beds allowed shall be determined by the division and shall so appear on the license issued by the licensing agency.

B. Request for licensed bed increase or decrease shall be made in writing to the division. No increase will be granted without an approved Certificate of Public Need.

§ 1.12. Posting of license.

The hospital license issued by the commissioner shall be framed and posted conspicuously on the premises either in the main entrance to the hospital or in a place visible from that main entrance.

§ 1.13. Return of license.

The licensing agency shall be notified in writing at least within 30 working days in advance of any proposed change in location or ownership of the facility. A license shall not be transferred from one owner to another or from one location to another. The license issued by the commissioner shall be returned to the division for correction or reissuance when any of the following changes occur during the licensing year:

1. Revocation;
2. Change of location;
3. Change of ownership;
4. Change of name;
5. Change of bed capacity; or

6. Voluntary closure.

§ 1.14. Inspection procedure.

A. The licensing agency may presume that a hospital accredited by the Joint Commission on Accreditation of Hospitals (JCAH) and certified for participation in Title XVIII of the Social Security Act (Medicare) generally meets the requirements of Part II of these regulations provided the following conditions are met:

1. The hospital provides to the licensing agency, upon request, a copy of the most current accreditation survey findings made by the Joint Commission on Accreditation of Hospitals; and
2. The hospital notifies the licensing agency within 10 days after receipt of any notice of revocation or denial of accreditation by the Joint Commission on Accreditation of Hospitals.

B. The licensing agency may presume that a unit or part of a hospital licensed or certified by another state agency, or another section, bureau or division of the licensing agency meets the requirements of Part II of these regulations for that specific unit or part provided the following conditions are met:

1. The hospital provides the licensing agency, upon request, a copy of the most current inspection report made by the other state agency; and
2. The hospital notifies the licensing agency within 10 days after receipt of any notice of revocation or suspension by the other state agency.

C. Notwithstanding any other provision of this regulations to the contrary, if the licensing agency finds, after inspection, violations pertaining to environmental health or life safety, the hospital shall receive a written licensing report of such findings. The hospital shall be required to submit a plan of correction in accordance with provisions of subsection N of this section.

§ 1.15. Plan of correction.

A. Upon receipt of a written licensing report each hospital shall prepare a plan for correcting any licensing violations cited at the time of inspection. The plan of correction shall be to the division within the specified time limit set forth in the licensing report. The plan of correction shall contain at least the following information:

1. The methods implemented to correct any violations of these regulations; and
2. The date on which such corrections are expected to be completed.

B. The licensing agency shall notify the hospital, in writing, whenever any item in the plan of correction is

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determined to be unacceptable.

§ 1.16. Revocation of license.

The commissioner may revoke or suspend the license to operate a hospital in accordance with § 32.1-135 of the Code of Virginia for the following reasons:

1. Violation of any provision of these rules and regulations. Violations which in the judgment of the commissioner jeopardize the health or safety of patients shall be sufficient cause for immediate revocation or suspension; or
2. Willfully permitting, aiding, or abetting the commission of any illegal act in the hospital.

PART II. ORGANIZATION AND OPERATION [*OF GENERAL AND SPECIAL HOSPITALS.*]

Article 1. Organization and Management.

§ 2.1. Ownership.

A. There shall be disclosure of hospital ownership. In the case of corporations, all individuals or entities holding 5.0% or more of the total ownership shall be identified by name and address.

B. When the owner delegates the operation of a hospital to an individual, corporation or other legal entity by management contract or lease agreement, subsection A shall also be applicable to the operator.

§ 2.2. Governing body.

A. Each hospital shall have an organized governing body or other legal entity responsible for the management and control of the operation.

The governing body or other legal entity may be an individual, group, corporation or governmental agency.

B. The governing body shall be responsible for insuring compliance with these rules and regulations.

C. The governing body shall provide facilities, personnel and other resources necessary to meet patient and program needs.

D. The governing body shall adopt and maintain written bylaws, rules and regulations in accordance with legal requirements. A copy of said bylaws, rules and regulations including amendments or revisions thereto, shall be made available to the licensing agency on request.

E. The bylaws, rules and regulations shall include:

1. A statement of purpose;

2. A statement of qualifications for membership and method of selecting members of the governing body;

3. Provisions for the establishment, selection, term of office of committee members and officers;

4. Description of the functions and duties of the governing body, officers, and committees;

5. Specifications for the frequency of meetings, attendance requirements, provision for the order of business and the maintenance of written minutes;

6. A statement of the authority and responsibility delegated to the chief executive officer and to the medical staff;

7. Provision for the selection and appointment of medical staff and the granting of clinical privileges including the provision for current license to practice in Virginia.

8. Provision for the adoption of the medical staff bylaws, rules and regulations;

9. Provision of guidelines for the relationships among the governing body, the chief executive officers, and the medical staff.

10. A policy statement concerning the development and implementation of short and long-range plans in accordance with Part III of these regulations.

11. A policy statement relating to conflict of interest on the part of members of the governing body, medical staff and employees who may influence corporate decisions.

[~~103.2.~~ § 2.3.] Chief executive officer.

[A.] The chief executive officer shall be directly responsible to the governing body for the management and operation of the hospital and shall provide liaison between the governing body and the medical staff.

[B.] *The chief executive officer, or his designee, shall ensure that families of patients who are potential [organ] donors are informed of the option of organ, tissue, and eye donation.*

§ 2.4. Organization.

A. The internal hospital organization shall be structured to include appropriate departments and services consonant with its statement of purpose.

B. Each hospital shall maintain clearly written definitions of its organization, authority, responsibility, and relationships.

C. Each hospital department and service shall maintain:

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1. Clearly written definitions of its organization, authority, responsibility, and relationships; and

2. Written policies and procedures including patient care where applicable.

§ 2.5. Medical staff.

A. Each hospital shall have an organized medical staff responsible to the governing body of the hospital for its own organized governance and all medical care provided to patients.

B. The medical staff shall be responsible to hospital governing board, maintain appropriate standards of professional performance through staff appointment criteria, delineation of staff privileges, continuing peer review and other appropriate mechanisms.

C. The medical staff, subject to approval by the governing body, shall develop bylaws incorporating details of the medical staff organization and governance, giving effect to its general powers, duties, and responsibilities including:

1. Methods of selection, election, or appointment of all officers and other executive committee members and officers;

2. Provisions for the selection and appointment of officers of departments or services specifying required qualifications;

3. The type, purpose, composition and organization of standing committees;

4. Frequency and requirements for attendance at staff and departmental meetings;

5. An appeal mechanism for denial, revocation, or limitation of staff appointments, reappointments and privileges.

6. Delineation of clinical privileges in accordance with the requirements of § 32.1-134.2 of the Code of Virginia.

7. Requirements regarding medical records;

8. A mechanism for utilization and medical care review; and

9. Such other provisions as shall be required by hospital or governmental rules and regulations.

D. A copy of approved medical staff bylaws and regulations and revisions thereto, shall be made available to the licensing agency on request.

[~~106.0~~ § 2.6.] *Organ donation.*

Each hospital shall develop and implement a routine contact protocol for organ, tissue and eye donation. The protocol shall:

[~~1. Ensure, to the extent possible, ascertainment of any document of gift, including such document as may be attached to a driver's license or recorded with the Department of Motor Vehicles pursuant to § 32.1-290 of the Code of Virginia;]~~

[~~2. 1.] Ensure that [~~an appropriate family member, as set forth in § 32.1-290.1 of the Code of Virginia, the family~~] of each patient who is a potential [~~organ~~] donor is made aware of the option of organ, tissue, and eye donation as well as the option to decline to donate;~~

[~~2. 2.] Encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the family members; [~~and~~]~~

[~~3. Recite provisions of § 32.1-290.1 of the Code of Virginia specifying family members who are authorized to make an anatomical gift of all or part of the decedent's body for an authorized purpose and the order of priority of those family members who may make such gift; and]~~

4. Include written procedures for organ, tissue, and eye donation. The procedures shall include:

a. Training of staff in organ, tissue, or eye donation;

b. A mechanism for informing the next of kin of the organ, tissue, and eye donation option;

[~~c. Procedures to be employed when the hospital, consistent with the authority granted by § 32.1-292.1 of the Code of Virginia, deems it appropriate to conduct a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift.]~~

[~~e. d.] Provisions for the procurement and maintenance of donated organs, tissues, and eyes;~~

[~~d. e.] The name and telephone number of the local organ procurement agency, tissue or eye bank to be notified of potential donors; and~~

[~~e. f.] Documentation of the donation request in the patient's medical record.~~

Article 2.

Patient Care Services.

[~~§ 2.6. § 2.7.] Patient care management.~~

A. All patients shall be under the care of a member of

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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. 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.

D. Each hospital shall have a reliable method for identification of each patient, including newborn infants.

[§ 2-7, § 2.8.] Anesthesia service.

A. Each hospital which provides surgical or obstetrical services shall have an organized anesthesia department/service.

The anesthesia department/service shall be directed by a physician member of the medical staff.

B. The anesthesia department/service shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, the maintenance of safety controls and qualifications, and supervision of anesthetists and trainees.

C. Policies shall include provisions in addition to the above, for at least:

1. Pre-anesthesia evaluation by a medical staff member;
2. Safety of the patient during the anesthesia period;
3. Review of patient's condition prior to induction of anesthesia and post anesthetic evaluation; and
4. Recording of all events related to each phase of anesthesia care.

[§ 2-8, § 2.9.] Sterile supply service.

A. Each hospital shall operate a sterile supply service or provide for the processing, sterilizing, storing, and dispensing of clean and sterile supplies and equipment.

B. Facilities shall be provided for the cleaning, preparation, sterilizing, aeration, storage and dispensing of supplies and equipment for patient care.

C. Areas for the processing of clean and soiled supplies and equipment shall be separated by physical barriers.

D. Written procedures shall be established subject to the approval of the Infection Control Committee for all sterile supply service functions including:

1. Procedures for all sterilizing and for the disposal of

wastes and contaminated supplies; and

2. Procedures for the safety of personnel and patients.

[§ 2-9, § 2.10.] Dietary service.

A. Each hospital shall maintain a dietary service directed by a full-time person, qualified by training and experience in organization and administration of food service.

B. Each hospital shall have at least one dietitian employed on either a full-time, part-time or on a consultative basis, to direct nutritional aspects of patient care and to advise on food preparation and service. The dietitian shall be:

1. A professional dietitian who meets the American Dietetic Association qualification standards; or
2. An individual who is a graduate of an accredited college or university with a baccalaureate degree program with major studies in food and nutrition and at least two years of experience in a health care food or nutrition service.

C. Space, equipment and supplies shall be provided for the efficient, safe and sanitary receiving, storage, refrigeration, preparation and serving of food.

D. The hospital food service operation shall comply with applicable standards in Appendix A, Reference 1.

E. Policies and procedures shall be established for dietary services, including but not limited to the following:

1. Responsibilities and functions of personnel;
2. Standards for nutritional care in accordance with Appendix A, Reference 2;
3. Safety and sanitation relative to personnel and equipment;
4. Precise delivery of patient's dietary order;
5. Alterations or modifications to diet orders or schedules;
6. Ancillary dietary services, including food storage and preparation in satellite kitchens, and vending operations;
7. Food purchasing, storage, preparation and service; and
8. Ice making in accordance with Appendix A, Reference 1.

F. A diet manual, approved by the medical staff shall be maintained by the dietary service. Diets served to

patients shall comply with the principles set forth in the diet manual.

G. All patient diets shall be ordered in writing by a member of the medical staff.

H. Pertinent observations and information relative to the special diets and to dietetic treatment shall be recorded in the patient's medical record.

A hospital contracting for food service shall require, as part of the contract, that the contractor comply with the provisions of § 2.10 of these regulations.

[~~§ 2.10.~~ § 2.11.] Disaster and mass casualty programs.

A. Each hospital shall develop and maintain a written disaster plan which shall include provisions for complete evacuation of the facility and care of mass casualties in accordance with Appendix A, Reference 10.

B. The plan shall provide for widespread disasters as well as for disaster occurring within the local community and hospital facility.

C. The disaster plan shall be rehearsed at least twice a year preferably as part of a coordinated drill in which other community emergency service agencies participate. Written reports and evaluation of all drills shall be maintained for at least two years.

D. A copy of the plan and any revision thereto shall be made available to the licensing agency upon request.

[~~§ 2.11.~~ § 2.12.] Emergency service.

A. Hospitals with an emergency department/service shall have 24-hour staff coverage and shall have at least one physician on call at all times.

Hospitals without emergency service shall have written policies governing the handling of emergencies.

B. No less than one registered nurse shall be assigned to the emergency service on each shift. Such assignment need not be exclusive of other duties, but must have priority over all other assignments.

C. Those hospitals which make provisions for Mobile Intensive Care manned by technical personnel shall comply with the requirements of Appendix A, Reference 3.

D. The hospital shall provide equipment, drugs, supplies, and ancillary services commensurate with the scope of anticipated needs, including radiology and laboratory services and facilities for handling and administering of blood and blood products. Emergency drugs and equipment shall remain accessible in the emergency department at all times.

E. Current roster of medical staff members on

emergency call, including alternates and medical specialists or consultants shall be posted in the emergency department.

F. Hospitals shall make special training available, as required, for emergency department personnel.

G. Toxicology reference material and poison antidote information shall be available along with telephone numbers of the nearest poison control centers.

[~~§ 2.12.~~ § 2.13.] Laboratory service [: general] .

A. The director of laboratory service shall be a physician member of the medical staff. If the physician director of laboratory service is not a pathologist, a pathologist shall be retained on a consultant basis.

When the pathologist provides services only on a consultative basis, these services shall be provided at least on a monthly basis. A written evaluation report with recommendations to the medical staff and administration shall be provided by the consultant pathologist on a monthly basis.

B. Laboratories shall have adequate space, equipment, and supplies, and shall be operated in accordance with Appendix A, Reference 4.

C. Provisions shall be made to assure continuous availability of emergency laboratory services.

§ 2.14. Clinical laboratory services.

Examination in the fields of hematology, chemistry, microbiology, seroimmunology, clinical microscopy and other services necessary to meet patient care needs shall be provided directly or shall be provided through a contractual arrangement with a reference laboratory.

§ 2.15. Tissue pathology.

A. Tissue pathology services shall be provided either by the hospital or pursuant to contractual arrangements with a laboratory. In the latter instance, written policies and procedures shall be established governing prompt transportation of specimens and submission of reports.

B. In accordance with medical staff bylaws, surgically removed tissues shall be examined by a pathologist and findings shall be included in the patient's medical record.

§ 2.16. Quality control.

There shall be a quality control program designed to ensure reliability of the laboratory data and shall include provisions for no less than:

1. Frequency and method of work performance evaluation;

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2. Frequency and method of performance testing of instruments and equipment;
3. A preventive and corrective maintenance program;
4. Participation in appropriate external proficiency testing programs for the services provided.
5. Maintenance for at least two years of records documenting quality control activities.

[~~§ 2.13.~~ § 2.17.] Autopsy service.

An autopsy service shall be provided either directly by the hospital or written contractual agreement by with another institution.

[~~§ 2.14.~~ § 2.18.] Blood banks and transfusion services.

A. If the hospital provides facilities for the procurement, extraction and collection of blood and blood products, written policies and procedures for all phases of operation of blood banks and transfusion services shall be established and periodically revised to comply with standards of Appendix A, Reference 5.

B. Each hospital shall provide appropriate facilities and equipment for the storage and administration of whole blood and blood products.

C. For emergency situations, the hospital shall:

1. Make arrangements by which blood can be quickly obtained from community blood sources, or
2. Maintain an up-to-date list of available donors, as well as provide the equipment and personnel and obtain blood from the donor.
3. Maintain a minimum supply of O negative blood, if the hospital provides obstetrical services.

[§ 2.19. *Isolation of special microorganisms.*]

When a hospital diagnostic laboratory isolates from clinical, pathological or environmental specimens, any one of the special micro-organisms listed in Appendix A, Reference 12, the original culture or a subculture shall be submitted to the State Laboratory for confirmation and further specific identification, accompanied by data identifying the patient and attending physician.

[§ 2.20. *Nuclear medicine.*]

Every hospital which maintains a nuclear medicine service within the institution or through contractual arrangements shall ensure that it is under the medical supervision of a physician who meets the educational and experience qualifications required by the medical staff bylaws.

1. There shall be quality control procedures governing nuclear medicine services to ensure diagnostic reliability and therapeutic effectiveness.

2. Records of diagnostic or therapeutic services shall be incorporated in the patient's medical record.

[~~§ 2.15.~~ § 2.21.] Medical records.

A. The medical record department shall be staffed and equipped to facilitate the accurate processing, checking, indexing, filing and retrieval of all medical records.

B. A medical record shall be established and maintained for every person treated on an inpatient, outpatient (ambulatory) or emergency basis, in any unit of the hospital. The record shall be available to all other units.

A separate medical record shall be maintained for each newborn infant. Entered on the chart of the newborn shall be notes of gestational history, including any pathology and information regarding complications of delivery and mother's medication during labor and delivery.

C. Written policies and procedures shall be established regarding content and completion of medical records.

D. Entries in the medical record shall be made by the responsible person in accordance with hospital policies and procedures.

E. The content of all medical records (inpatient, outpatient, ambulatory, and emergency) shall conform with applicable standards of Appendix A, Reference 6.

F. Medical records shall be kept confidential and:

1. Only authorized personnel shall have access to the records;

2. The hospital shall release copies of a patient's medical record only with the written consent of:

a. The patient; or

b. The legal representative; or

c. If a minor, parent, guardian, or legal representative; or

d. Duly authorized state or federal health authorities or others as specifically authorized by the [~~Virginia~~] Code [*of Virginia*] or federal statutes.

3. The hospital's permanent records may be removed from the hospital's jurisdiction only in accordance with a court order, subpoena or statute.

G. Provisions shall be made for the safe storage of medical records or accurate and legible reproductions thereof in accordance with Appendix A, Reference 7.

H. All medical records either original or accurate reproductions shall be preserved for a minimum of five years following discharge of the patient.

1. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

2. Birth and death information shall be retained for 10 years in accordance with § 32.1-274 of the Code of Virginia.

[§ ~~2-16~~, § 2.22.] Nursing service.

A. Each hospital shall have an organized nursing department. A registered nurse qualified on the basis of education, experience and clinical ability shall be responsible for the direction of nursing care provided the patients.

B. The number and type of nursing personnel on all shifts shall be based upon the needs of the patients and the capabilities of the nursing staff assigned to the patient care unit. All registered nurses and licensed practical nurses shall be currently registered or licensed by the Virginia Board of Nurses.

C. Nursing personnel shall be assigned to patient care units in a manner that minimizes the risk of cross infection and accidental contamination.

[§ ~~2-17~~, § 2.23.] 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 9.

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;

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.

[§ ~~2-18~~, § 2.24.] Radiology service.

A. Each hospital shall maintain radiology services which are under the medical supervision of a physician who meets the qualifications of the medical staff bylaws.

B. Hospitals maintaining radiotherapy services shall provide for their safe and effective operation under a director qualified by training and experience in therapeutic radiology.

C. Sufficient technical personnel shall be available, consistent with the scope of services provided.

D. Space and equipment shall be provided for radiographic and fluoroscopic X-ray services including facilities for processing and storage of radiographic films and records.

E. Reports of radiological interpretations, consultations and therapy shall be part of the patient's medical record.

F. Reports shall be preserved in accordance with § [~~2-16~~ 2.21] H of these regulations.

[§ ~~2-19~~, § 2.25.] Social service.

A. Every hospital shall have a plan for the provision of social services to the patient and the patient's family.

B. An employee of the hospital with knowledge of community agencies and other social service resources shall be designated to assume responsibility for said service.

C. Appropriate records shall be maintained.

[§ ~~2-20~~, § 2.26.] Surgical service.

A. The surgical department/service shall have a defined organization and shall be governed by written policies and procedures.

B. The surgical department/service shall be under the

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medical supervision of a physician who meets the requirements of the medical staff bylaws.

C. The operating suite shall be:

1. Under the supervision of a registered professional nurse.
2. Designed to include operating and recovery rooms, proper scrubbing, sterilizing and dressing room facilities, storage for anesthetic agents and shall be equipped as required by the scope and complexity of the services.
3. Provided with prominently posted safety policies and procedures.

D. A roster of current surgical privileges of every surgical staff member shall be maintained on file in the operating suite.

E. An operating room register shall be maintained which shall include as a minimum:

1. Patient's name and hospital number;
2. Pre- and post-operative diagnosis;
3. Complications, if any;
4. Name of surgeon, first assistant, anesthesiologist or anesthesiologist, scrub nurse and circulating nurse;
5. Operation performed; [*and*]
6. Type of anesthesia.

F. Policies and procedures governing infection control and reporting techniques shall be established in accordance with [§ 2-24 § 2.31] of these regulations.

G. The patient's medical chart shall be available in the surgical suite at time of surgery and shall contain no less than the following information:

1. A medical history and physical examination;
2. Evidence of appropriate informed consent; and
- c. A pre-operative diagnosis.

H. An accurate and complete description of operative procedure shall be recorded by the operating surgeon within 48 hours following completion of surgery and made part of the patient's clinical record.

Article 3. Special Services.

[§ 2-21- § 2.27.] Applicability.

If a hospital provides any of the services in this article, the requirements of the specific service shall apply.

[~~§ 301-0~~, § 2.28.] Obstetric and newborn services.

A. Hospitals with licensed obstetric and newborn services in operation prior to the effective date of these regulations or revisions to thereof shall comply with all of the requirements of this section within 12 months of the effective date of these regulations, with the exception of specified sections of [§ 301-0] B [*subdivision*] C 5 [*of this section*] . Hospitals that establish and organize obstetric and newborn services after the effective date of these regulations shall comply with all requirements of this section before licensure approval is granted.

[A. General Requirements

B.] A hospital with organized obstetric and newborn services shall comply with the following general requirements:

1. Administrative management. The governing body of the hospital or the chief executive officer shall appoint an administrative manager for the obstetric and newborn services. The administrative manager may serve as an administrator of another hospital service but must be available to the obstetric and newborn services. The chief executive officer shall designate, in writing, an individual to act in the administrative manager's behalf during a temporary absence of the administrative manager.
2. Services plan. The hospital is responsible for the development, periodic review and revision of a service management plan. The plan must include provisions to assure that the hospital complies with all state and federal regulations and guidelines applicable to obstetric and neonatal care as well as the policies and procedures for obstetric and newborn care adopted by the hospital's governing body and medical staff. The plan is to be developed and maintained as follows:
 - a. The plan shall be developed in cooperation with the medical directors and nursing staffs assigned to each of the services.
 - b. The plan shall include the protocol, required by § 32.1-127 of the Code of Virginia, for the admission or transfer of any pregnant woman who presents in labor.
 - c. The plan shall be the responsibility of the administrative manager who is to assure that the plan is developed, that it complies with state and federal requirements and the hospital's policies and procedures, and that it is periodically reviewed and revised.
 - d. A copy of the plan shall be readily available at each nursing station within the obstetric and

newborn services for staff reference.

e. A copy of the plan shall be made available, upon request, to the hospital state licensing inspector for review.

3. Support services. The hospital shall provide the following services in support of the obstetric and newborn services units:

a. Clinical laboratory services and blood bank services shall be available in the hospital on a 24-hour basis. Laboratory and blood bank personnel shall be available on-site or on-call on a 24-hour basis. The blood bank shall have group O Rh negative blood available at all times and be able to provide correctly matched blood in 45 minutes from request. The hospital's laboratory and blood bank personnel must be capable of performing the following tests with less than 1.0 ml of blood within one hour of request or less if specified:

- (1) Blood group and Rh type determination/cross matching
- (2) Arterial blood gases within 20 minutes
- (3) Blood glucose within 20 minutes
- (4) Complete Blood Count
- (5) Total protein
- (6) Total bilirubin
- (7) Direct Coombs test
- (8) Electrolytes
- (9) Blood Urea Nitrogen
- (10) Clotting profile (may require more than one cc of blood)

b. Portable radiological services for basic radiologic studies in each labor room, delivery room, and nursery shall be available on call on a 24-hour basis.

c. In addition to the requirements specified in § [202.0 2.8] of these regulations, anesthesia service personnel shall be available on-site or on-call to begin anesthesia within 30 minutes of notification.

[B: C.] Obstetric service requirements [are as follows:
]

1. Medical direction.

a. The governing body shall appoint a physician as medical director of the organized obstetric service

who meets the qualifications specified in the medical staff bylaws.

b. If the medical director is not a board certified obstetrician or board eligible in obstetrics, the hospital shall have a written agreement with one or more board-certified or board-eligible obstetricians to provide consultation on a 24-hour basis. Consultation may be by telephone.

c. The duties and responsibilities of the medical director of obstetric services shall include but not be limited to:

- (1) The general supervision of the quality of care provided patients admitted to the service;
- (2) The establishment of criteria for admission to the service;
- (3) The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
- (4) The development of recommendations to the medical staff on standards of professional practice and staff privileges;
- (5) The identification of clinical conditions and medical or surgical procedures that require physician consultation;
- (6) Arranging conferences, at least quarterly, to review obstetrical surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed jointly between the obstetric and newborn service staffs.

2. Physician consultation and coverage.

a. A physician with obstetrical privileges capable of arriving on-site within 30 minutes of notification shall be on a 24-hour on-call duty roster.

b. A physician with obstetrical privileges shall be accessible for patient treatment within 10 minutes during the administration of an oxytocic agent to an antepartum patient.

c. A physician or a certified nurse-midwife, under the supervision of a physician with obstetrical privileges, shall be in attendance for each delivery. Physician supervision of the nurse-midwife shall be in compliance with the regulations of the [State] Boards of Nursing and Medicine.

d. A physician shall be in attendance during all high-risk deliveries. High-risk deliveries shall be defined by the obstetric service medical staff.

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e. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

f. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

g. A copy of the 24-hour on-call duty schedule, including the list of on-call consulting physicians, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

3. Nursing staff and coverage.

a. An occupied unit of the obstetrics service shall be supervised by a registered nurse 24 hours a day.

b. If the postpartum unit is organized as a separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight obstetric patients. Staffing shall include at least one registered nurse for the unit for each duty shift.

c. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall be staffed at all times with no less than two nursing personnel each shift. At least one of the two nursing personnel on each shift shall be a registered nurse.

d. A registered nurse shall be in attendance at all deliveries. The nurse shall be available on-site to monitor the mother's general condition and that of the fetus during labor, at least one hour after delivery, and longer if complications occur.

e. Nurse staffing of the labor and delivery unit shall be scheduled to ensure that the total number of nursing personnel available on each shift is equal to one half of the average number of deliveries in the hospital during a 24-hour period.

f. At least one of the personnel assigned to each shift on the obstetrics unit shall be a registered nurse. At no time when the unit is occupied shall the nursing staff on any shift be less than two staff members.

g. Patients placed under analgesia or anesthesia during labor or delivery shall be under continuous observation by a registered nurse or a licensed practical nurse for at least one hour after delivery.

h. To ensure adequate nursing staff for labor, delivery, and postpartum units during busy or crisis periods, duty schedules shall be developed in

accordance with the following nurse/patient ratios:

- (1) 1:1 to 2 Antepartum testing
- (2) 1:2 Laboring patients
- (3) 1:1 Patients in second stage of labor
- (4) 1:1 Ill patients with complications
- (5) 1:2 Oxytocin induction or augmentation of labor
- (6) 1:2 Coverage of epidural anesthesia
- (7) 1:1 Circulation for cesarean delivery
- (8) 1:6 to 8 Antepartum/postpartum patients without complications
- (9) 1:2 Postoperative recovery
- (10) 1:3 Patients with complications, but in stable condition
- (11) 1:4 Mother-newborn care

i. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of obstetric patients shall be under the supervision of a registered nurse.

j. At least one registered nurse trained in obstetric and neonatal care shall be assigned to the care of mothers and infants at all times.

k. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the delivery suite.

l. All nursing personnel assigned to the obstetric service shall have orientation to the obstetrical unit.

4. Policies and procedures.

a. General policies and procedures. The governing body shall adopt written policies and procedures for the management of obstetric patients approved by the medical and nursing staff assigned to the service. The policies and procedures shall include, but not be limited to, the following:

- (1) Criteria for the identification and referral of high-risk obstetric patients;
- (2) The types of birthing alternatives, if offered, by the hospital;
- (3) The monitoring of patients during antepartum, labor, delivery, recovery and postpartum periods with or without the use of electronic equipment;

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(4) The use of equipment and personnel required for high-risk deliveries, including multiple births;

(5) The presence of family members or chosen companions during labor, delivery, recovery, and postpartum periods;

(6) The reporting, to the Department of Health, of all congenital defects;

(7) The care of patients during labor and delivery to include the administration of Rh O(D) immunoglobulin to Rh negative mothers who have met eligibility criteria. Administration of RH O(D) immunoglobulin shall be documented in the patient's medical record;

(8) The provision of family planning information, to each obstetric patient at time of discharge, in accordance with § 32.1-134 of the Code of Virginia;

(9) The use of specially trained paramedical and nursing personnel by the obstetrics and newborn service units;

(10) A protocol for hospital personnel to use to assist them in obtaining public health, nutrition, genetic and social services for patients who need those services;

(11) The use of anesthesia with obstetric patients;

(12) The use of radiological and electronic services, including safety precautions, for obstetric patients;

(13) The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in sterile containers, dated, stored under refrigeration and consumed or disposed of within 24 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use;

(14) Staff capability to perform cesarean sections within 30 minutes of notice;

(15) Emergency resuscitation procedures for mothers and infants;

(16) The treatment of volume shock in mothers;

b. Policies and procedures for the use of the labor, delivery and recovery rooms/labor, delivery, recovery and postpartum rooms. The obstetric service shall adopt written policies and procedures for the use of the labor, delivery and recovery rooms (LDR)/Labor, delivery, recovery and postpartum rooms (LDRP) that include, but are not limited to the following:

(1) The philosophy, goals and objectives for the use

of the LDR/LDRP rooms;

(2) Criteria for patient eligibility to use the LDR/LDRP rooms;

(3) Identification of high-risk conditions which disqualify patients from use of the LDR/LDRP rooms;

(4) Patient care in LDR/LDRP rooms, including but not limited to, the following;

(a) Defining vital signs, the intervals at which they shall be taken, and requirements for documentation; and

(b) Observing, monitoring, and assessing the patient by a registered nurse, certified nurse midwife, or physician;

(5) The types of analgesia and anesthesia to be used in LDR/LDRP rooms;

(6) Specifications of conditions of labor or delivery requiring transfer of the patient from LDR/LDRP rooms to the delivery room;

(7) Specification of conditions requiring the transfer of the mother to the postpartum unit or the newborn to the nursery;

(8) Criteria for early or routine discharge of the mother and newborn;

(9) The completion of medical records;

(10) The presence of family members or chosen companions in the delivery room or operating room in the event that the patient is transferred to the delivery room or operating room;

(11) The number of visitors allowed in the LDR/LDRP room, and their relationship to the mother;

(12) Infection control, including, but not limited to, gowning and attire to be worn by persons in the LDR/LDRP room, upon leaving it, and upon returning.

5. Obstetric service design criteria. In addition to complying with [~~§ 500.0 of these regulations~~ *Article 5 of this part*], a hospital shall comply with the following requirements of this section for the physical design of obstetric service facilities. Existing hospitals with licensed obstetric and newborn services in operation prior to the effective date of the regulations or revisions thereof, shall comply with all of the regulations of this section with the exception of the minimum dimension and square footage requirements for labor rooms and LDR/LDRP rooms provided for

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in *subdivisions e, f, and i of this section subdivision* . Existing hospitals with an obstetric service may not decrease the dimensions of the labor rooms and the LDR/LDRP rooms from what was granted approval at the time the service was licensed. Labor rooms and LDR/LDRP rooms that are renovated or constructed after the effective date of these regulations shall conform with all of the room dimensions specified in this section of the regulations.

a. The space and arrangement of a hospital building or a section of the hospital designated as the obstetric unit (antepartum and postpartum) shall be designed to assure the separation of obstetric patients from other patients with the exception of clean gynecological patients. Clean gynecological patients shall be defined in approved written hospital policy.

b. The hospital shall identify specific rooms and beds as obstetric rooms and beds. Adjacent rooms and beds may be used for clean gynecological cases.

c. Labor, delivery, recovery and labor, delivery, recovery and postpartum rooms shall be physically separate from emergency and operating rooms.

d. The obstetric nursing unit shall meet the requirements of [§§ ~~610-1~~ through ~~610-3~~ § 3.11 A] of these regulations, except for the following:

(1) A handwashing lavatory must be provided in each patient room;

(2) The soiled workroom and janitors' closet in the obstetric nursing unit shall only be shared with the newborn services unit;

(3) All bathing facilities shall be showers or tub units with showers.

e. Labor rooms shall be single-bed or two bed rooms with a minimum clear area of 180 square feet for each bed.

f. In hospitals having only one delivery room, two labor rooms shall be provided. One labor room shall be large enough to function as an emergency delivery room with a minimum of 300 square feet (27.87 sq m). Each room shall have at least two oxygen and two wall-mount suction outlets. Hospitals must equip a labor room with the same equipment as a delivery room if it is to be used as a delivery room. Each labor room shall contain a handwashing lavatory. Each labor room shall have access to a toilet room. One toilet room may serve two labor rooms. At least one shower shall be provided for labor room patients. A water closet shall be accessible to the shower without patients having to enter a corridor or general area.

g. The delivery room shall have a minimum clear area of 300 square feet (27.87 sq m) exclusive of fixed and movable cabinets and shelves. The minimum dimensions shall be 16'0" (4.88 m) in any direction between two walls. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

h. The recovery room shall contain a minimum of two beds, charting facilities located to permit staff to have visual control of all beds, facilities for medicine dispensing, handwashing facilities, a clinical sink with a bedpan flushing device, and storage for supplies and equipment.

i. Hospitals that include [*birthing*] LDR/LDRP rooms in their obstetrical program shall designate room(s) within the labor suite for this purpose. [*Birthing*] LDR/LDRP rooms shall be designed to prohibit unrelated traffic through the labor and delivery suite and to be readily accessible to delivery rooms and operating rooms. [*Birthing*] LDR/LDRP rooms shall meet the requirements of labor rooms which may be used as emergency delivery rooms as specified in § [~~618-3~~ 3.19 D] of these regulations. The minimum dimensions shall be 16'0" (4.88 m) clear between walls or fixed cabinets or shelving and shall have a clear area of 300 square feet (27.87 sq m). Each LDR/LDRP room shall have a private water closet, shower, and handwashing lavatory.

j. When specified in this subsection, service areas shall be located in individual rooms. Alcoves or other open spaces that do not interfere with traffic may be used unless individual rooms are specified. Service areas, except the soiled workroom and the janitors' closet, may be shared within the obstetrical unit. If shared, service areas shall be arranged to avoid direct traffic between the delivery and operating rooms. The following service areas shall be provided:

(1) A control station that is located to permit visual surveillance of all traffic that enters the labor and delivery suite;

(2) A supervisor's office or station;

(3) Sterilizing facilities with high speed autoclaves conveniently located to serve all delivery rooms. If provisions have been made for the replacement of sterile instruments during a delivery, sterilizing facilities will not be required;

(4) A drug distribution station equipped for storage, preparation, and dispensing of medication;

(5) At least two scrub stations located near the entrance to each delivery room. Two scrub stations

may serve two delivery rooms if the stations are located adjacent to the entrance to each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;

(6) A soiled workroom for the exclusive use of the labor and delivery room personnel. The workroom shall contain a clinical sink or equivalent flushing type fixture, a work counter, a handwashing lavatory, a waste receptacle and a linen receptacle;

(7) Fluid waste disposal facilities conveniently located to the delivery rooms. A clinical sink or equivalent equipment in a soiled workroom or soiled holding room may meet this requirement;

(8) A clean workroom that contains a work counter, handwashing lavatory, and space for clean and sterile supplies;

(9) Anesthesia storage facilities. Unless official hospital board action, in writing, prohibits use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in NFPA 99 and NFPA 70;

(10) An anesthesia workroom for cleaning, testing, and storing anesthesia equipment. The workroom shall contain a work counter and sink;

(11) A space for reserve storage of nitrous oxide and oxygen cylinders;

(12) Equipment storage rooms for equipment and supplies used in the labor and delivery suite;

(13) Staff's clothing change areas. Clothing change areas shall be provided for personnel working within the labor and delivery suite. The areas shall contain lockers, showers, toilets, handwashing lavatories, and space for donning scrub suits and boots;

(14) Lounge and toilet facilities for obstetrical staff. A nurses' toilet room shall be provided near the labor rooms and recovery room(s);

(15) A janitors' closet. A closet containing a floor receptor or service sink and storage for housekeeping supplies and equipment shall be provided for the labor and delivery suite to be shared only with the newborn services unit;

(16) A stretcher storage area. This area shall be out of direct line of traffic.

6. Equipment requirements.

a. Delivery rooms, LDR/LDRP rooms, and nurseries shall be equipped to provide emergency resuscitation

for mothers and infants.

b. Equipment and supplies shall be assigned for exclusive use in the obstetric and newborn units.

c. The same equipment and supplies required for the labor room and delivery room shall be available for use in the LDR/LDRP rooms during periods of labor, delivery, and recovery.

d. Sterilizing equipment shall be available in the obstetric unit or in a central sterilizing department. Flash sterilizing equipment or sterile supplies and instruments shall be provided in the obstetric unit.

e. Daily monitoring is required of the stock of necessary equipment in the labor, delivery, and recovery rooms (LDR) and labor, delivery, recovery and postpartum (LDRP) rooms and nursery.

f. The hospital shall provide the following equipment in the labor, delivery and recovery rooms and, except where noted, in the LDR/LDRP rooms:

(1) Labor rooms.

(a) A labor or birthing bed with adjustable side rails

(b) Adjustable lighting adequate for the examination of patients

(c) An emergency signal and intercommunication system

(d) A sphygmomanometer, stethoscope and fetoscope or doppler

(e) Fetal monitoring equipment with internal and external attachments

(f) Mechanical infusion equipment

(g) Wall-mounted oxygen and suction outlets

(h) Storage equipment

(i) Sterile equipment for emergency delivery to include at least one clamp and suction bulb.

(j) Neonatal resuscitation cart.

(2) Delivery rooms.

(a) A delivery room table that allows variation in positions for delivery. This equipment is not required for the LDR/LDRP rooms.

(b) Adequate lighting for vaginal deliveries or cesarean deliveries

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(c) Sterile instruments, equipment, and supplies to include sterile uterine packs for vaginal deliveries or cesarean deliveries, episiotomies or laceration repairs, postpartum sterilizations and cesarean hysterectomies

(d) Continuous in-wall oxygen source and suction outlets for both mother and infant

(e) Equipment for inhalation and regional anesthesia. This equipment is not required for LDR/LDRP rooms.

(f) A heated, temperature-controlled infant examination and resuscitation unit

(g) An emergency call system

(h) Plastic pharyngeal airways (adult and newborn size)

(i) Laryngoscope and endotracheal tubes (adult and newborn size)

(j) A self-inflating bag with manometer and adult and newborn masks that can deliver 100% oxygen

(k) Separate cardiopulmonary crash carts for mothers and infants

(l) Sphygmomanometer

(m) Cardiac monitor. This equipment is not required for the LDR/LDRP rooms.

(n) Gavage tubes

(o) Umbilical vessel catheterization trays This equipment is not required for LDR/LDRP rooms.

(p) Equipment that provides a source of continuous suction for aspiration of the pharynx and stomach

(q) Stethoscope

(r) Fetoscope

(s) Intravenous solutions and equipment

(t) Wall clock with a second hand

(u) Heated bassinets equipped with oxygen and transport incubator

(v) neonatal resuscitation cart.

(3) Recovery rooms.

(a) Beds with side rails

(b) Adequate lighting

(c) Bedside stands, overbed tables, or fixed shelving

(d) An emergency call signal

(e) Equipment necessary for a complete physical examination

(f) Accessible oxygen and suction equipment

E. D. Newborn service requirements *are as follows:*

1. Medical direction.

a. The governing body shall appoint a physician as medical director of the organized newborn service who meets the qualifications specified in the medical staff bylaws.

b. If the medical director is not a board-certified pediatrician or board eligible in pediatrics, the hospital shall have a written agreement with one or more board-certified or board-eligible pediatricians to be available to provide consultation on a 24-hour basis. Consultation may be by telephone.

c. The duties and responsibilities of the medical director of the newborn service shall include but not be limited to:

(1) The general supervision of the quality of care provided patients admitted to the service;

(2) The establishment of criteria for admission to the service;

(3) The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;

(4) The development of recommendations to the medical staff on standards of professional practice and staff privileges;

(5) The identification of clinical conditions and medical or surgical procedures that require physician consultation;

(6) Arranging conferences, at least quarterly, to review routine and emergency surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed with the obstetric service staff.

2. Physician consultation and coverage.

a. The hospital shall have a written agreement with one or more board-certified or board-eligible neonatologists to be available to provide consultation, at least by telephone, on a 24-hour basis. The consultant shall be available to advise on the development of a protocol for the care and

transport of sick newborns.

b. A physician with pediatric privileges capable of arriving on-site within 30 minutes of notification shall be on the 24-hour on-call duty roster.

c. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

d. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges shall be posted at each nurses' station in the newborn service units.

e. A copy of the 24-hour on-call duty schedule, including a list of on-call consulting physicians, shall be posted at each nurses' station in the newborn service units.

3. Nursing staff and coverage.

a. Each occupied unit of the newborn service shall be under the supervision of a registered nurse 24 hours a day.

b. If the general care newborn unit is organized as separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight newborns. Staffing shall include at least one registered nurse for the unit for each duty shift.

c. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall always be staffed with no less than two nursing personnel assigned to each shift. One of the two nursing personnel shall be a registered nurse.

d. When infants are present in the nursery, at least one nursing staff person trained in the care of newborn infants with duties restricted to the care of the infants shall be assigned to the nursery at all times.

e. To ensure adequate nursing staff for the nursery during busy or crisis periods, duty schedules shall be developed in accordance with the following nurse/patient ratios:

(1) 1:4 Recently born infants and those needing close observation

(2) 1:6 to 8 Newborns needing only routine care

(3) 1:4 Mother-newborn care

(4) 1:1 Newborns requiring multisystem support

(5) 1:3 to 4 Newborns requiring intermediate care

(6) 1:1 to 2 Newborns needing intensive care

f. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of newborn infants shall be under the supervision of a registered nurse.

g. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the newborn nursery area.

h. All nursing personnel assigned to the newborn service shall have orientation to the neonatal unit.

4. Policies and procedures. The governing body shall adopt written policies and procedures for the medical care of newborns approved by the medical and nursing staff of the service. The policies and procedures shall include, but not be limited to, the following:

a. Criteria for the identification of high-risk neonatal patients;

b. The development of a system of communication, consultation, and written agreements for secondary and tertiary newborn services;

c. The hospital's provisions for the care of newborns transferred back from secondary and tertiary care services;

d. The care of newborns after delivery to include the following:

(1) Care of eyes, skin and umbilical cord and the provision of a single parenteral dose of Vitamin K-1, water soluble 0.5 mgm as a prophylaxis against hemorrhagic disorder;

(2) Maintenance of the newborn's airway, respiration, and body temperature;

(3) Assessment of the newborn and recording of the one-minute and five-minute Apgar scores;

e. Performance of prophylaxis against ophthalmia neonatorum by the administration of a 1.0% solution of silver nitrate aqueous solution, erythromycin, or tetracycline ointment or solution. This process is to be performed within one hour of delivery with documentation entered in the newborn's medical record. The process may be performed in the nursery;

f. Clamping or tying of the umbilical cord, and collecting a sample of cord blood;

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g. Performance of Rh type and Coombs' tests for every newborn born to a Rh negative mother and performing major blood grouping and Coombs tests when indicated for every newborn born to an O blood group mother or a mother with a family history of blood incompatibility. If such qualitative tests are performed, the results shall be documented in the newborn's medical record;

h. Identification and treatment of hyperbilirubinemia and hypoglycemia;

i. Identification of each newborn, prior to leaving the delivery room, with two identification bands fastened on the newborn and one identification band fastened on the mother.

j. Newborn transport to include but not limited to, the transport of the newborn using a heated bassinet equipped with oxygen, transport incubator or similar device. The newborn's medical record shall accompany the infant from the delivery room.

k. Registered nurse or physician assessment of a newborn within one hour after delivery and documentation of the assessment in the newborn's medical record. Assessment in the delivery area is permitted if the hospital permits a newborn and its mother to remain together during the immediate post delivery period;

l. Delineation of how infants are to be monitored during stays with their mothers and under what circumstances infants must be taken to the nursery immediately after delivery and not allowed to remain with their mothers;

m. Physician examination of the newborn consistent with guidelines of the American Academy of Pediatrics. A high-risk newborn shall be examined upon admission to the nursery;

n. Ensuring that every bassinet and incubator in the nursery bears the identification of the newborn's last name, sex, date and time of birth, the mother's last name, and the attending physician's name;

o. The preparation and use of formula, including, but not limited to the following:

(1) The distribution of feeding units immediately after assembly;

(2) The use of prepared formula only within the time period designated on the package, and

(3) The use of presterilized formula only, except in the case of facility defined emergencies.

p. Screening newborns for risk factors associated with hearing impairment as required in §§ 32.1-64.1

and 32.1-64.2 of the Code of Virginia and in accordance with the regulations of the Board of Health governing the Virginia Hearing Impairment Identification and Monitoring System (*VR 355-12-01*);

q. Screening and treatment of genetic, metabolic, and other diseases identifiable in the newborn period as specified in the § 32.1-65 of the Code of Virginia and in accordance with the ~~Rules and Regulations of the Board of Health~~ Governing the Newborn Screening and Treatment Program (*VR 355-11-200*);

r. Reporting to the Department of Health all congenital defects;

s. Visitor contact with the newborn, including newborns delivered by cesarean section, and premature, sick, congenitally malformed, and dying newborns;

t. Completion of birth certificates;

u. Protocols for the management of certain infant disease states. Consultation and referral shall be developed by the newborn service medical director in conjunction with the director of the intensive care unit to which referrals are sent. The protocols shall spell out the details for the local management of disease states, and specific transfer criteria. These protocols shall be maintained in the nursery.

v. The designation of an intensive care nursery to which a general newborn nursery refers patients and from which it seeks consultation and advice. The telephone number of the intensive care nursery and the name of the newborn service medical director shall be maintained by the head nurse of the general care nursery.

5. Newborn service design criteria. In addition to complying with [§ 500.0 *Article 5*] of [~~these regulations~~ *this part*], a hospital shall comply with the following requirements for the physical design of the newborn nursery:

a. The newborn nursery shall be located adjacent to the obstetric nursing unit. The nursery must have adequate lighting and ventilation. The temperature and humidity in the nursery shall be maintained at a level best suited for the protection of newborns as determined by the medical and nursing staff of the newborn service and as recommended by the American Academy of Pediatrics (AAP) and American College of Obstetricians and Gynecologists (ACOG) in the most current editions of Guidelines for Perinatal Care.

b. The nursery shall be designed to preclude unrelated traffic. Connecting nurseries shall have the capability to close the doors for infection contro'

purposes.

c. Each nursery shall contain the following:

(1) One handwashing lavatory for eight bassinets. Lavatories shall be equipped with wrist, knee or foot controls, soap dispenser and paper towel dispenser;

(2) A nurses' emergency calling system that meets the requirements of § [648.4 3.49 D] of these regulations; and

(3) Glazed observation windows to permit infants to be viewed from public areas, from workrooms, and between adjacent nurseries.

d. There shall be a minimum of 24 square feet of floor area for each bassinet, exclusive of nonpatient areas, and a minimum of three feet between bassinets in the general newborn nursery. The nursery must be equipped to prevent direct drafts on infants.

e. The nursery shall contain no more than 16 infant stations in open bassinets, self-contained incubators, open radiant heat infant care systems, or combination thereof. A hospital designed for 16 infant stations or less shall provide two rooms with eight infant stations so that room is available to permit cohorting in the case of infection.

f. A special care area for infants requiring close observation or stabilization, such as those with low birthweight, is required in hospitals having 25 or more postpartum beds. The minimum floor area for each infant station shall be 40 square feet (3.72 sq m).

g. Each nursery shall be served by a connecting workroom. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § [644.2 3.45] of these regulations. One workroom may serve more than one nursery.

h. The examination and treatment room shall contain a work counter, storage, handwashing lavatory and charting facilities. This may be part of the workroom.

i. A closet for the use of the housekeeping staff in maintaining the nurseries shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

j. Lighting and wall finishes shall be sufficient to permit easy detection of jaundice and cyanosis. Shadow-free illumination with at least 100 foot candle intensity at the infant's level using fluorescent lamps with proper diffusers to prevent

glare is required.

k. All incubators and electrical appliances used in nurseries shall be free from electrical hazards and approved by Underwriters Laboratories.

l. One grounded duplex electrical outlet shall be provided for every bassinet.

m. Task illumination and selected electrical outlets shall be on the hospital's emergency electrical system. In new construction, one outlet per bassinet shall be on the hospital's emergency electrical system. Emergency electrical outlets shall be clearly marked. Outlets shall be checked at least monthly for safety and grounding.

n. An incubator shall be available and maintained for every 10, or fraction thereof, bassinets.

o. Bassinets shall be equipped to allow for medical examinations of newborn infants and for storing necessary supplies and equipment. Bassinets shall be provided in a number to exceed obstetric beds by 20%, at the minimum, to accommodate multiple births, extended stays, and fluctuating patient loads. Bassinets are to be separated by a minimum of three feet measuring from the edge of one bassinet to the edge of the adjacent bassinet.

p. The hospital shall provide isolation facilities which follow universal precautions in accordance with its approved policies and procedures and the Guidelines for Perinatal Care (AAP/ACOG) and the Control of Communicable Diseases in Man (American Public Health Association).

6. Equipment requirements. The hospital shall provide the following equipment in the nursery:

a. Resuscitation equipment as specified for the delivery room in these regulations shall be available in the nursery at all times;

b. Equipment for the delivery of 100% oxygen concentration, with the ability to measure delivery oxygen in fractional inspired concentrations (FIO₂). The oxygen analyzer shall be calibrated every eight hours and serviced at least monthly by the hospital's respiratory therapy department or other responsible personnel trained to perform the task;

c. Equipment for monitoring blood oxygen concentration levels i.e. a pulse oximeter;

d. Equipment for monitoring blood sugar;

e. Infant scales;

f. Intravenous therapy equipment;

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g. Open bassinets, self-contained incubators, open radiant heat infant care system or any combination thereof;

h. Equipment for stabilization of a sick infant prior to transfer that includes a radiant heat source capable of maintaining an infant's body temperature at 99 degrees °F .

~~D.~~ E. Combined obstetric and clean gynecological service. A hospital may combine obstetric and clean gynecological services. The hospital shall define clean gynecological cases in written hospital policy. A combined obstetric and clean gynecologic service shall be organized under written policies and procedures. The policies and procedures shall be approved by the medical and nursing staff of these services and adopted by the governing body and shall include, but not limited to the following requirements:

1. Cesarean section and obstetrically-related surgery, other than vaginal delivery, shall be carried out in designated operating or delivery rooms. Vaginal deliveries may be performed in designated delivery or operating rooms that are used solely for obstetric or clean gynecologic procedures.

2. Clean gynecological cases may be admitted to the postpartum nursing unit of the obstetric service according to procedures determined by the obstetrics and gynecologic staff and the hospital's infection control committee.

3. Only members of the medical staff with approved privileges shall admit and care for patients in the combined service area. These admissions shall be subject to the medical staff bylaws.

4. Hospitals with a combined service shall limit admission to the service to those patients allowed by policies adopted by the obstetric and gynecological medical staff and the hospital's infection control committee.

5. Unoccupied beds shall be reserved daily in a combined service ready for use by obstetric patients.

6. Patients admitted to the combined service may be taken to radiology or other hospital departments for diagnostic procedures, before or after surgery, if it is not evident that these procedures may be hazardous to the patients or to other patients on the combined service.

7. Patients may receive postpartum or immediate postoperative care in the general recovery room prior to being returned to the combined service area if the following conditions prevail:

a. The recovery room or intensive care unit is a separate unit adjacent to or part of the general

surgical operating suite or delivery suite;

b. The recovery room is under the direct supervision of the chairman of the anesthesiology department of the hospital. In separate obstetric recovery rooms, supervision shall be provided by the obstetrician in charge or by physicians approved by the medical staff of the combined service.

8. Nursing care of all patients shall be supervised by a registered nurse.

9. Nursing care of both obstetrical and gynecological patients may be given by the same nursing personnel.

10. Visitor regulations applicable to visitors of obstetric patients shall also apply to visitors of other patients admitted to the combined service.

E. Infection Control

F. In addition to the infection control requirements specified in § [~~402.0~~ 2.33] of these regulations, the hospital's infection control committee, in cooperation with the obstetric and newborn medical and nursing staff, shall establish written policies and procedures for infection control within the obstetric and newborn services. The policies and procedures shall be adopted by the governing body and shall include, but not be limited, to the following:

1. The establishment of criteria for determining infection-related maternal and newborn morbidity;

2. Written criteria for the isolation or segregation of mothers and newborns, in accordance with Guidelines for Perinatal Care (American Academy of Pediatrics/American College of Obstetricians and Gynecologists) and Control of Communicable Diseases in Man (American Public Health Association) to include at least the following categories:

a. Birth prior to admission to the facility;

b. Birth within the facility but prior to admission to the labor and delivery area;

c. Readmission to the service after transfer or discharge;

d. Presence of infection;

e. Elevated temperature; and

f. Presence of rash, diarrhea, or discharging skin lesions;

3. Written policies and procedures for the isolation of patients in accordance with Guidelines for Perinatal Care (AAP/ACOG) and Control of Communicable Diseases in Man (American Public Health Association)

including, but not limited to the following:

- a. Ensuring that a physician orders and documents in the patient's medical record the placement of a mother or newborn in isolation;
 - b. Ensuring that at least one labor room is available for use by a patient requiring isolation;
 - c. Provisions for the isolation of a mother and newborn together (rooming-in) or separately; and
 - d. Policies and procedures for assigning nursing personnel to care for patients in isolation;
4. Control of traffic, including personnel and visitors. Policies and procedures shall be established in the event that personnel from other services must work in the obstetric and newborn services or personnel from the obstetric and newborn services must work on other services. Appropriate clothing changes and handwashing shall be required of any individual prior to assuming temporary assignments or substitution from any other area or service in the hospital.
5. Determination of the health status of personnel, and control of personnel with symptoms of communicable infectious disease;
6. Review of cleaning procedures, agents, and schedules in use in the obstetric and newborn services. Incubators or bassinets shall be cleaned with detergent and disinfectant registered by the U.S. Environmental Protection Agency each time a newborn occupying it is discharged or at least every seven days;
7. Techniques of patient care, including handwashing and the use of protective clothing such as gowns, masks, and gloves;
8. Infection control in the nursery including, but not limited to, the following:
- a. Closing of the nursery immediately in the event of an epidemic, as determined by the infection control director in consultation with the medical director and the Department of Health;
 - b. Assigning a newborn to a clean incubator or bassinet at least every seven days;
 - c. Using an impervious cover that completely covers the surface of the scale pan if newborns are weighed on a common scale, and changing the cover after each newborn is weighed;
 - d. Gowning in isolation cases;
 - e. Requiring that nursery personnel wear clean scrub attire in the nursery when they are handling

infants. Appropriate cover garments shall be worn over scrub attire when personnel are holding infants. Personnel shall wash their hands after contact with each patient and upon entering or leaving the nursery.

[~~§ 2.23.~~ § 2.29.] Psychiatric service.

A. The psychiatric service shall be under the supervision of a physician who meets the qualifications of the medical staff bylaws

B. Psychiatric units shall conform to the applicable licensure requirements of the Department of Mental Health [~~and~~ .] Mental Retardation [*and Substance Abuse Services*] in accordance with Appendix A, Reference 15.

[~~§ 2.24.~~ § 2.30.] Special care units.

A. As used in this section, special care units may be multipurpose or include but not be limited to units for: intensive care, burn care, coronary care, pulmonary care, rehabilitation, and hemodialysis.

B. Special care units shall have a defined organization. Each unit shall be designed and equipped for the defined special functions. Each special care unit shall be governed by written policies and procedures specifically relating to utilization of the service.

C. Each unit shall be under the direction of a physician qualified by training and experience in the specialty care in accordance with medical staff bylaws.

D. Personnel shall be provided based on the scope and complexity of the services provided.

E. The hospital shall have a written plan for a continuing education program developed specifically for personnel of special care units.

§ 2.31. Outpatient (ambulatory care).

A. All hospital outpatient (ambulatory care) services shall conform to all applicable rules and regulations herein, since such services are an integral part of the hospital and covered by its licensure.

B. Freestanding outpatient surgical hospitals shall comply with the provisions of Part IV of these regulations.

Article 4. Environmental and Maintenance Services.

[~~§ 2.25.~~ § 2.32.] Housekeeping service.

A. Written housekeeping procedures shall be established for the cleaning of all areas in the hospital and copies posted in appropriate areas.

B. All parts of the hospital and its premises shall be

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kept clean, neat, and free of litter and rubbish.

C. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe and sanitary condition.

D. Cleaning solutions and substances shall be labeled, stored in a safe place, and kept separate from food storage and patient care supplies.

E. Cleaning shall be performed in a manner which will minimize the spread of pathogenic organisms in the hospital atmosphere.

F. Exhaust ducts from kitchens and other cooking areas shall be equipped with proper filters and cleaned at regular intervals. The ducts shall be cleaned and inspected no less than twice a year.

[~~§ 2.26~~, § 2.33.] Infection control.

A. Each hospital shall have an infection control committee to perform at least the following functions:

1. Establish a hospital-wide infection surveillance program and designate an infection control officer to conduct all infection surveillance activities and to maintain appropriate records to include infection rates by body site and clinical service and all hospital acquired blood stream pathogens.

2. Establish written policies governing the admission and isolation, including protective isolation, of patients with known or suspected infectious diseases.

3. Develop, periodically evaluate, and revise as needed, infection control policies, procedures and techniques for all appropriate phases of hospital operation and service in order to protect patients, employees, and visitors. These policies shall include, but are not limited to, appropriate employee health screening and immunization and acceptable techniques and practices for high risk procedures such as parenteral hyperalimentation, urinary tract catheterization, dialysis, and intravenous therapy. (Written advice and guidance is available in the "Guidance for Appropriate Communicable Disease and Employee Health Policies in General and Special Hospitals" provided by the Division of Epidemiology, Virginia Department of Health.)

B. An educational program on infection control for all appropriate personnel shall be conducted.

C. Reporting of diseases shall be as follows:

1. The hospital shall report promptly to the Virginia Department of Health through the local health department cases of disease designated as "reportable diseases" by the Board when such cases are admitted to or are diagnosed in the hospital in accordance with

Appendix A, Reference 11. This obligation for reporting shall include all hospital outpatient care and emergency facilities.

2. The hospital shall report promptly to the Virginia Department of Health through the local health department in accordance with Appendix A, Reference 11, any outbreak of infectious disease, including nosocomial infections. An outbreak shall be defined as an increase in incidence of any infectious disease above the usual incidence at the hospital.

3. Two or more epidemiologically related infections, including, but not limited to, staphylococcus aureus, group A beta hemolytic streptococcus, and salmonella species occurring in the obstetrical or nursery units shall be reported to the Virginia Department of Health through the local health department.

[~~§ 2.27~~, § 2.34.] Laundry service.

Each hospital shall make provisions for the safe and effective cleaning of all linens as follows:

1. Hospitals providing laundry service shall have adequate facilities and equipment for the safe and effective operation of such service.

2. There shall be distinct areas for the separate storage and handling of clean and soiled linens. Those areas used for storage and handling of soiled linens shall be negatively pressurized.

3. Special procedures shall be established for the handling and processing of contaminated linens.

4. All soiled linen shall be placed in closed containers prior to transportation.

5. To safeguard clean linens from cross-contamination they shall be:

a. Transported in containers used exclusively for clean linens unless such containers are routinely and regularly sanitized before use as a clean linen transport container and shall be kept covered at all times while in transit; and

b. Stored in areas designated exclusively for this purpose.

Article 5.

Physical Plant Requirements for Existing Buildings.

[~~§ 2.28~~, § 2.35. General.]

Existing inpatient hospitals shall comply with the physical plant requirements in this section.

1. For purposes of this section an existing hospital is one which was licensed, or had approved fina

working drawings and specifications, or was under construction, prior to the effective date of these regulations.

2. Each hospital or part thereof shall be maintained and equipped in accordance with the codes and standards under which it was constructed to provide a functional, sanitary, safe and comfortable environment.

[~~§ 2.29.~~ § 2.36.] Fire and safety.

Each hospital shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations and such a program shall include written procedures for the implementation of said rules and regulations, and logs shall be maintained for at least two years.

[~~§ 2.30.~~ § 2.37.] Incinerators.

A. Incinerators shall be designed, constructed and separated from other parts of the building in accordance with Appendix A, Reference 13.

B. Incinerators shall be approved by the Virginia Air Pollution Control Board.

[~~§ 2.31.~~ § 2.38.] Lighting and electrical services.

A. Policies and procedures shall be established to minimize the hazards in the use and operation of all electrical equipment.

B. The standards of Appendix A, Reference 14 of these regulations shall serve as a guide to determine the lighting levels within each area of the hospital.

C. All electrical appliances used by hospitals shall have the Underwriters Laboratories' label or its equivalent.

D. An alternate source of electricity to serve critical areas in the event of power failure shall be provided. The emergency system shall be installed so that it is automatically activated in the event of failure of the major power source and shall be capable of providing at least 24 hours of uninterrupted light and power.

[~~§ 2.32.~~ § 2.39.] Plumbing.

A. All plumbing material and plumbing systems or parts thereof shall meet the minimum requirements of Appendix A, Reference 14.

B. All plumbing shall be installed in such a manner as to prevent back siphonage or cross connections between potable and nonpotable water supplies.

[~~§ 2.33.~~ § 2.40.] Sewage disposal systems.

All required sanitary waste piping systems shall be connected to an approved sewage system.

[~~§ 2.34.~~ § 2.41.] Waste disposal.

Pathological and bacteriological wastes, dressings and other contaminated wastes shall be incinerated at the hospital or disposed of by other methods as approved by the licensing agency.

[~~§ 2.35.~~ § 2.42.] Water supply.

A. Water shall be obtained from an approved water supply system.

B. The water shall be distributed to conveniently located taps and fixtures throughout the buildings and shall be adequate in volume and pressure for all hospital purposes, including fire fighting.

C. Plumbing fixtures which require hot water and which are intended for patients' use shall be supplied with water which is controlled to provide a maximum tap water temperature of 120°F at the fixture.

D. Hot water heaters and tanks shall be of sufficient capacity to supply the hot water needs for the entire facility at all times.

[~~§ 2.36.~~ § 2.43.] Heating system.

The heating system shall be capable of maintaining a temperature of 75°F, uniformly throughout the patient areas. Space heaters or heaters of an open coil type shall not be used.

[~~§ 2.37.~~ § 2.44.] Ventilation system.

The ventilation system shall be maintained functional at all times to change the air on a basis commensurate with the type of occupancy.

[~~§ 2.38.~~ § 2.45.] Patient rooms.

A. All patient bedrooms shall be above ground level and shall have an operable window.

B. No room opening off the kitchen shall be used for patient care.

C. Patients' rooms shall have at least 70 sq. ft. of floor area per bed in multi-bed rooms and 100 sq. ft. per bed in single-bed rooms. The usable space should provide for at least three feet between beds, three feet from the end of the bed to the wall and at least two feet six inches between the bed and the wall.

D. A nurses signaling device shall be provided at each patient's bedside and at all toilet bathing facilities used by patients.

[~~§ 2.39.~~ § 2.46.] Nursing units.

The following services shall be provided for each unit:

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1. A nurses station shall be provided with space for nurses desk and charting, a medicine preparation area with work counter and sink and a locked medication cabinet. The medication preparation shall be well ventilated.

2. At least one utility room divided into clean and soiled sections (unless separate clean and soiled utility rooms are provided).

3. A janitor's closet with at least a service sink or floor receptor. The janitor's closet shall be separate from any toilet or utility room.

4. Toilet, handwashing and bathing facilities shall be provided on each floor in a reasonable ratio according to the number and sex of patients and personnel.

5. General storage space to accommodate all required supplies and equipment shall be provided.

6. Corridors used by patients shall be maintained free and unobstructed to permit safe patient and personnel traffic.

[~~§ 2.40.~~ § 2.47.] Safety procedures.

A. Safety precautions shall be maintained against electrical, mechanical and radiation hazards, as well as against fire and explosion in accordance with the standards of Appendix A, References 8 and 14.

B. All radiographic machines shall be registered with the Bureau of Radiological Health of the Virginia Department of Health. Installation, calibration and testing of machines and storage facilities shall conform to the requirements of Appendix A, Reference 8.

C. Monitoring of personnel and of areas shall be carried out through the use of appropriate measuring devices, and records shall be maintained of results of such monitoring in accordance with the standards of Appendix A, Reference 8.

[~~§ 2.41.~~ § 2.48.] Alteration of existing hospitals.

A. Architectural drawings shall be submitted for such alterations in accordance with § 3.8 of these regulations, and the project approved in writing by the department before the changes are made.

B. Alterations in existing hospitals shall not be undertaken unless the changes meet the applicable standards for new buildings in accordance with Part III of these regulations.

PART III. STANDARDS AND DESIGN CRITERIA FOR NEW BUILDINGS AND ADDITIONS, ALTERATIONS AND CONVERSION OF EXISTING BUILDINGS

Article 1. Standards and Design Criteria.

§ 3.1. General information.

A. The requirements set forth herein have been established under authority of ~~Title 32.1, Chapter 5, Article 1,~~ §§ 32.1-127 and 32.1-132 of the Code of Virginia and constitute minimum requirements for designing, constructing, and equipping of hospitals built in Virginia after the effective date of these regulations.

B. Additions, alterations or renovations to existing licensed hospitals or existing buildings to be occupied as a hospital shall conform to these minimum requirements, except where variances are granted by the Commissioner in accordance with § 1.3 A of these regulations.

C. Conversions of existing buildings to hospital occupancy shall be considered only in those buildings which were originally constructed for institutional occupancy. Variances may be considered by the Commissioner in accordance with § 1.3 A of these regulations provided patient care and safety to life from fire are not adversely affected by such variance.

D. Additions, alterations and renovations to existing buildings shall be programmed and phased so that on-site construction will minimize disruptions of existing patient care services. Access, exitways, and fire protection shall be maintained so that the safety of the occupants will not be jeopardized during construction.

§ 3.2. Codes and fire safety.

All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a hospital shall comply with the applicable sections of the following state and local codes:

1. Statewide Uniform Building Code, including the requirements of the Life Safety Code, National Fire Protection Association, #101, 1973 Edition;

In matters regulated by both the Statewide Uniform Building Code and the Life Safety Code, the requirements of the Life Safety Code shall supersede the Statewide Uniform Building Code.

2. Rules and Regulations approved by the State Board of Health and the State Water Control Board governing sewage systems [(VR 355-17-02)].

3. [~~Rules and Waterworks~~] Regulations [~~on Public Water Supplies (VR 355-18-000)~~] approved by the State Board of Health;

4. [~~Rules and Regulations on~~] Solid [~~Waste Management Regulations (VR 672-20-10)~~] and Hazardous Waste Management [~~Regulations (VF 672-10-1)~~] approved by the [~~State Board of Health~~]

Virginia Waste Management Board] ;

5. Local zoning housing and building ordinances.

§ 3.3. Certification of medical care facilities.

Under authority of § 32.1-137 of the Code of Virginia the board is the sole state agency of the Commonwealth authorized to enter into a contract with the United States government for the certification of medical facilities under Title XVIII of the Social Security Act or any amendments thereto.

§ 3.4. Special design considerations for the handicapped.

Special design features for the handicapped (patients, staff, and visitors) shall be provided for all hospitals. The following items are listed to emphasize some of these special design elements.

1. Walkways and curbs shall be planned to facilitate travel by people in wheelchairs, on crutches or walkers.
2. Signals, such as elevator calls, shall be both audible and visible. Elevator control buttons shall be accessible to wheelchair occupants.
3. Not less than 2.0% of all parking spaces (with a minimum of two spaces) shall be set aside for the handicapped.
4. Special design attention shall be given to the shielding of sharp projections, moving parts, and heated surfaces.
5. Drinking fountains, toilets, handwashing facilities and telephones shall be available for physically handicapped patients, staff, and visitors. At least one bathing facility, one handwashing lavatory, and one toilet on each nursing floor shall be provided for physically handicapped patients.
6. At least one primary grade level entrance to the building shall be arranged to be fully accessible to handicapped persons.
7. Provisions shall be made to identify each room and each floor for the visually handicapped, such as using raised letters or numerals at corridor doors and elevator entrances and controls.
8. All carpeting in areas subject to use by handicapped individuals shall be specified as high density, with a low, uncut pile. Underlayments are permissible provided they are specified as firm or hard and do not exceed 3/8 inches in depth. Carpets, and underlayments if used, shall be installed stretched taut and securely anchored at all edges to the floor to provide a minimum of resistance to wheelchair travel and to avoid tripping hazards.

§ 3.5. Site requirements.

A. The following shall be considered in selecting the site of any new hospital:

1. Easy access to the community and to service vehicles such as fire protection apparatus and other emergency vehicles.
2. The accessibility by public transportation.
3. Accessibility to professional personnel (physicians, nurses) and other employees.
4. Availability of water supply and sewage disposal services and facilities. The water supply system shall provide adequate capacity for domestic and fire protection systems.
5. To minimize flood damage, due consideration shall be given to possible flood effects when selecting and developing the site.

B. Paved roads shall be provided within the lot to provide access to the main entrance, emergency entrance, and to service entrances, including loading docks for delivery trucks. Hospitals which have an organized outpatient service shall have the outpatient entrance well marked to facilitate entry from the public roads or streets serving the site. Access to the emergency entrance shall not conflict with other vehicular traffic or pedestrian traffic. Paved walkways shall be provided for necessary pedestrian traffic.

C. Each hospital shall have parking space to satisfy the minimum needs of patients, employees, staff, and visitors. A minimum of two parking spaces per licensed bed may be used as a guideline. This ratio may be reduced in an area convenient to a public transportation system or to public parking facilities or where other arrangements to reduce traffic have been developed if justification is included in the narrative program and provided that approval of any reduction is obtained from the appropriate state or local agency. Additional parking may be required to accommodate outpatient and other services and space shall be provided for emergency and delivery vehicles.

D. The site and building shall be designed to minimize any adverse environmental effects on the neighborhood and community. All applicable Federal and State regulations pertaining to environmental pollution such as noise, air, and traffic must be met.

§ 3.6. Equipment.

A. All equipment necessary for the operation of the hospital as designed, shall be shown on the drawings or equipment list. The design shall provide for the installation and replacement of large and special items of equipment, and also make provision for the accessibility to service and maintenance of all fixed equipment.

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B. Equipment which is not included in the construction contract but which requires mechanical or electrical service connections or construction modifications shall be so identified on the drawings to ensure coordination with the architectural, mechanical, and electrical phases of construction.

§ 3.7. Record drawings and manuals.

A. Upon completion of the contract, the hospital shall maintain a complete set of legible drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

B. The hospital shall maintain a complete set of installation, operation, and maintenance manuals for the installed equipment.

C. The hospital shall maintain complete design data of the building(s) including structural design loadings, summary of heat loss assumptions and calculations, estimated water consumption, and electric power requirements of installed equipment.

§ 3.8. Drawings and specifications.

A. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building shall be submitted to the licensing agency for review. Construction shall not be commenced prior to approval by the Division.

B. Architecture drawings and specifications and any revisions thereto shall be dated, stamped with licensure seal and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to building code requirements.

C. Drawings for all proposed alterations shall be submitted to the licensing agency for approval. Minor alterations which do not affect the structural integrity of the building, fire safety, functional operation, or which do not increase capacity over that for which the hospital is licensed, may be freehand sketches or drawings. Maintenance and repairs routinely done by the hospital do not require approval of the licensing agency, but shall be done in compliance with the applicable provisions of these regulations.

§ 3.9. Construction inspections and certifications.

A. The owner of a hospital shall notify the licensing agency in writing, not later than 10 days after the date construction is commenced; and also when stages of construction are 50%, 75% and 95% and on completion.

B. At the completion of construction the contractor shall certify, in writing, that the project was constructed to the requirements shown in the approved drawings and specifications. A copy of this certification must be forwarded to the licensing agency.

C. The architect shall issue a Certificate of Substantial Completion and prepare a final punch list prior to the final construction inspection by the licensing agency.

D. The hospital shall provide the licensing agency with a copy of certification of testing in accordance with applicable codes and standards for the emergency electrical system, medical gas system, isolated power systems, radiation protection, and elevators, when applicable.

§ 3.10. General physical plant requirements.

A. Hospitals shall conform to applicable sections of these physical plant requirements according to the proposed services to be provided.

B. The sizes of the space for various departments will depend upon program requirements and organization of service within the hospital. Some functions requiring separate spaces or rooms may be combined provided the resulting design will not compromise the best standards of safety and of medical and nursing practices.

C. Space for dietary, laundry, power plant, mechanical equipment, ambulance entrance, autopsy or morgue, loading dock, incinerator, garbage can cleaning and storage areas for garbage and trash shall be located or constructed in a manner that will minimize noise, steam, odors, hazard and unsightliness to patient bedrooms, dining rooms, and lounge areas.

§ 3.11. Acute care nursing unit.

A. Acute nursing units shall conform to the following:

1. Patient rooms, service rooms or service areas shall not be used as required corridors or passageways to other patient rooms, service areas or required exits.

2. Patient rooms shall be located no more than 120 feet (36.6m) from the nurses' station, the clean workroom or the soiled workroom.

3. All patient corridors in the nursing unit shall be visible from the nurses' station.

4. Where one or more walls of a court contain a door or window of one or more patient rooms, the least dimension of the court shall be 30 feet (9.14m) between facing structures. A court is defined as an open exterior space bounded on three or more sides by walls of a structure.

5. Corridors used by patients shall have a minimum width of 8 feet (2.44m). Handrails shall be mounted 33 inches (84cm) above the finished floor and shall have ends that return to the wall.

6. Night lights shall be provided in patient rooms.

B. Each patient room shall meet the following requirements:

1. Minimum room areas exclusive of toilet rooms, closets, columns or other projections shall be 100 square feet (9.29 sq. m) in single-bed rooms and 80 square feet (7.43 sq. m) per bed in multi-bed rooms. In multi-bed rooms, a clearance of 3'8" (1.12m) shall be available at the foot of each bed to permit the passage of beds.

2. Each room shall have direct access to the patient corridor except that such access may be through an anteroom or vestibule.

3. Each room shall be provided with natural light as a primary source of light. Windows shall be openable from the inside, without the use of special tools. Window openings shall be designed to prevent accidental falls by patients.

4. Nurses' calling system shall meet the requirements of § 3.49 of these regulations. Medical gas system shall meet the requirements of § 3.45 of these regulations.

5. One handwashing lavatory shall be provided in each patient room except that it may be omitted from a single-bed or a two-bed room, if a lavatory is located in adjoining toilet room which serves that room only.

6. Each patient shall have access to a toilet room with a water closet without entering the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms.

7. Each patient shall have a wardrobe, locker, or closet that is suitable for hanging full length garments and for storing personal effects.

8. Cubicle curtains for visual privacy shall be provided for each bed in multi-bed rooms.

C. The service areas noted below shall be located in each nursing unit. The size and design requirements for each service area will depend upon the number of beds to be served. Although identifiable spaces are required for each of the indicated functions, consideration will be given to design solutions to accommodate functions without specifying areas or rooms, or the sharing of some functions with other nursing units. Details of such proposals shall be included on the architecture drawings when submitted to the licensing agency. The following shall be provided in each nursing unit.

1. Nursing station with space for nurses' charting, doctors charting, storage for administrative supplies, and a handwashing lavatory. This handwashing lavatory could also serve the drug distribution station, if conveniently located.

2. Nurses office.

3. Toilet room(s) for staff.

4. Individual closets or compartments for the safekeeping of coats and personal effects of nursing personnel shall be located convenient to the nurses station or in a central location.

5. The clean workroom shall contain a work counter, handwashing lavatory and storage area.

6. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle and linen receptacle.

7. Provision shall be made for convenient and prompt 24-hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. A medicine preparation room shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located at the nurses' station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff.

8. A janitor's closet shall be provided with floor receptor or service sink.

9. Clean linen storage shall be a separate closet or a designated area within the clean workroom. If a closed cart system is used, storage may be in an alcove.

10. A nourishment station shall contain a handwashing lavatory, work counter, equipment for serving nourishment between scheduled meals, refrigerator, ice maker and storage cabinets.

11. An equipment storage room shall be used for storage of equipment such as I.V. stands, stretchers, wheelchairs, inhalators, air mattresses, and walkers.

12. Bathtubs or showers shall be provided at the rate of one for each 10 beds which are not otherwise served by bathing facilities within patient rooms. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture and for drying and dressing. At least one bathing facility on each nursing floor shall be designated to permit use by a wheelchair patient with an assisting attendant.

D. Rooms for patients requiring isolation shall be provided at the rate of one for each 40 beds or major fraction thereof. These may be located within each nursing unit or placed together in a separate unit. Each isolation room shall be a single-bed room and designated as a patient room, except as follows:

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1. Entrance from the patient corridor shall be through a vestibule (a closed anteroom or a passageway open to the room) which shall contain a handwashing lavatory, storage spaces for clean and soiled materials and gowning facilities;

2. If a closed anteroom is used, a viewing panel shall be provided for observation of the patient from the anteroom.

3. A private toilet room containing a water closet and a bathtub or shower shall be provided for the exclusive use of the patient with direct entry from the patient bed area without passing through the vestibule; and

4. A handwashing lavatory shall be provided for the exclusive use of the patient. It shall be located in the patient room or in the private toilet area.

E. Rooms for disturbed medical patients. When psychiatric facilities are not available elsewhere in the community, each hospital shall provide at least one single bed room for patients needing close supervision for medical and/or psychiatric care. This may be part of the psychiatric unit described in § 3.17 of these regulations. If the room is part of the acute care nursing unit it shall be located so that the doorway is visible for direct supervision. Such room shall be designated to minimize potential for escape, hiding, injury, or suicide.

§ 3.12. Long term care nursing units.

Long term care nursing units, including intermediate and skilled nursing care nursing units shall conform to the requirements of Part III, § 44, of the "Rules and Regulations for the Licensure of Nursing Homes in Virginia (VR 355-33-100)," which includes but is not limited to:

1. A total of 25 square feet (2.32 sq. m) per bed with a minimum size of not less than 225 square feet (20.9 sq. m) shall be provided for patient dining and recreational areas;

2. A separate room and appropriate equipment shall be provided for hair care and grooming needs of patients; and

3. Adequate facilities shall be provided for physical therapy, occupational therapy or activities, and consultation.

§ 3.13. Intensive care unit.

A. Facilities for the intensive care of medical, surgical, or cardiac patients have specific space requirements. These patients, especially those requiring cardiac care, are often acutely aware of the surroundings environment and may be affected by it. Controlling unnecessary noise is

important. Each patient may require individual privacy, although each is required to be under constant observation. Natural lighting by windows minimizes the possibility of disorientation. Cardiac intensive care patients shall be housed in single-bed rooms. Intensive care units may be designed with single-bed rooms or multi-bed rooms, provided each unit contains at least one single-bed room. All beds shall be arranged to permit direct visual observation by nursing staff.

B. Patient rooms shall meet the following requirements:

1. Clearance between beds in multi-bed rooms shall be not less than 7'0" (2.13 m). Single-bed rooms or cubicles shall have a minimum clear space of 120 square feet (11.15 sq. m) and a minimum dimension of 10'0" (3.05 m);

2. Viewing panels shall be provided indoors and walls for nursing observation. Curtains or other means shall be provided to cover the viewing panels when the patient requires privacy. Glazing in viewing panels shall be a safety glass, wire glass, or clear plastic, except that wire glass is required in glazed openings to corridors or passageways used as means of egress for fire safety purposes;

3. An I.V. solution support shall be provided for each bed and designed so that the solution is not suspended directly over the patient;

4. A handwashing lavatory and water closet shall be provided in each single bed room. In multibed rooms one handwashing lavatory and water closet for each six beds shall be provided which is directly accessible from the bed area;

5. Each water closet shall have sufficient clearance around it to facilitate its use by patients needing assistance;

6. A nurses calling system which meets the requirements of § 3.49 of these regulations shall be provided;

7. Each patient room shall have an operable window which meets the requirements of § 3.40 of these regulations; and

8. Individual lockers of a size to permit hanging of full length garments shall be provided for storage of patient clothing and personal effects. These lockers may be located outside the intensive care units;

9. A separate visitors waiting room shall be provided in close proximity to the intensive care unit. Toilet, handwashing and public telephone facilities shall be available to the waiting area.

C. The following service areas shall be located in readily available to each intensive care or cardiac ca

unit. One area may serve two or more adjacent units. The size and location of each service will depend on the number of beds to be served.

1. A nurses station shall be located to permit direct visual observation of each patient.

2. Handwashing facilities shall be convenient to nurses' station and drug distribution station.

3. Charting facilities shall be separated from monitoring service.

4. Staff's toilet room shall contain a water closet and a handwashing lavatory.

5. Individual closets or compartments for the safekeeping of coats and personal effects of nursing personnel. These shall be located at or near the nurses' station.

6. Clean workroom shall contain a work counter, handwashing lavatory and storage facilities.

7. Soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle and linen receptacle.

8. Drug distribution station shall meet the requirements of § 3.11 C 7 of these regulations.

9. Janitor's closet shall meet the requirements of § 3.11 C 8 of these regulations.

10. Clean linen storage area shall meet the requirements of § 3.11 C 9 of these regulations.

11. Nourishment station area shall meet the requirements of § 3.11 C 10 of these regulations.

12. Emergency equipment storage space shall be provided for a "crash cart and similar emergency equipment."

13. Equipment storage room area shall meet the requirements of § 3.11 C 11 of these regulations.

§ 3.14. Obstetric nursing unit.

A. The obstetric nursing unit shall be designed to assure the separation of the postpartum patients from any other type of patient. "Clean" gynecological patients, as defined in hospital policy, may be housed on the unit.

B. The obstetric nursing unit shall meet the requirements of § 3.11 C of these regulations, except the following:

1. A handwashing lavatory shall be provided directly in the patient room;

2. A soiled workroom and janitors' closet shall be for the use of the obstetric nursing unit and newborn services unit;

3. All required bathing facilities shall be showers or tub units with showers.

§ 3.15. Newborn nurseries.

A. Newborn infants shall be housed in nurseries which are located adjacent to the obstetric nursing unit. The nurseries shall be designed to preclude unrelated traffic. No nursery shall open directly into another nursery.

B. Each nursery shall contain the following:

1. One handwashing lavatory for each eight bassinets. Lavatories shall be equipped with knee, wrist or foot controls, soap dispenser and paper towel dispenser;

2. The nurse emergency calling system shall meet the requirements of § 3.49 of these regulations;

3. Glazed observation windows to permit viewing infants from public areas, from workrooms, and between adjacent nurseries.

C. The general care nursery shall contain no more than 16 infant stations. A minimum of 3 feet (91 cm) shall be provided between bassinets. The minimum floor area shall be 24 square feet (2.23 sq. m) for each infant station. When a rooming-in program is used, the total number of bassinets provided in the general care nursery may be appropriately reduced, but the nursery may not be omitted.

D. A special care area for infants requiring close observation, such as those with low birth weight, is required in hospitals having 25 or more postpartum beds. The minimum floor area per infant station shall be 40 square feet (3.72 sq. m).

E. Each nursery shall be served by a connecting workroom.

F. The workroom shall contain gowning facilities at the entrance for staff and personnel, work space with counter, refrigerator, storage space and handwashing lavatory which meets the requirements of § 3.45 B of these regulations. One workroom may serve more than one nursery.

G. The examination and treatment room shall contain a work counter, storage, handwashing lavatory and charting facilities. This may be part of the workroom.

H. Janitors' closet. A closet for the use of the housekeeping staff in maintaining the nurseries shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and storage.

§ 3.16. Pediatric and adolescent unit.

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A. A hospital with a designated pediatric unit shall house young children and adolescents in a nursing unit separate from adults.

B. The requirements of § 3.12 of these regulations shall be applied to a pediatric unit containing pediatric beds, except that patient rooms used for cribs shall contain at least 60 square feet (5.58 sq. m) of clear area for each crib with no more than six cribs in a room.

C. Each nursery serving pediatric patients shall contain no more than 8 bassinets and shall meet the requirements of § 3.15 B of these regulations.

D. The service areas in the pediatric and adolescent nursing unit shall meet the requirements of § 3.12 of these regulations and shall meet the following additional conditions:

1. Multipurpose or individual room(s) shall be provided for dining, educational, and play purposes. Special provisions shall be made to minimize the impact noise transmission through the floor of the multipurpose room(s) to occupied spaces below;

2. Patient's toilet room(s) be provided convenient to multipurpose room(s) and central bathing facilities;

3. Storage closets or cabinets for toys and for educational and recreational equipment shall be provided; and

4. Storage space shall be provided for replacement of cribs and beds to provide flexibility for interchange of patient accommodations.

§ 3.17. Psychiatric nursing unit.

A. Units intended for psychiatric nursing care shall be designed to facilitate care of ambulatory and non-ambulatory inpatients. Insofar as practical, provisions shall be made for flexibility in arranging various types of psychiatric therapy, and to present as noninstitutional an atmosphere as possible. The unit shall provide a safe environment for patients and staff.

B. Psychiatric units shall conform to the licensure requirements of the Department of Mental Health [*and* ,] Mental Retardation [*and Substance Abuse Services*] , Appendix A, Reference 15, insofar as they do not conflict with life safety requirements for the total hospital or affect patients care in other section of the hospital.

§ 3.18. Surgical facilities.

A. The number of operating room and recovery beds and the sizes of the service areas are based on the expected surgical workload and shall be located and arranged to preclude unrelated traffic through the suite.

B. Each general operating room shall have a minimum

clear area of 360 square feet (33.45 sq. m), exclusive of fixed and movable cabinets and shelves, with a minimum dimension of 18'0" (5.49m) between two walls. Each room shall contain an emergency communications system connecting with the surgical suite control station and at least two X-ray film illuminators. Storage space for splints and traction equipment shall be provided for rooms equipped for orthopedic surgery.

C. Room(s) for surgical cystoscopic and other endoscopic procedures shall be designed to accommodate the types of procedures to be used but shall have not less than a minimum clear area of 250 square feet (23.23 sq. m), exclusive of fixed and movable cabinets and shelves. Each room shall contain an emergency communications system connecting with the surgical suite control station. Facilities for the disposal of liquid wastes shall be provided.

D. Recovery room(s) for post-anesthesia recovery of surgical patients shall be provided and shall contain a drug distribution station, handwashing facilities, charting facilities, clinical sink and storage space for supplies and equipment. Design space shall provide for at least 3'0" each side of each recovery bed. Separate and additional recovery space may be necessary to accommodate surgical outpatients.

E. Individual service rooms shall be provided when so noted, otherwise alcoves for other open spaces which will not interfere with traffic may be used. Services, except the soiled workroom and the janitors' closet may be shared with and organized as part of the obstetrical facilities. Service areas shall be arranged to avoid direct traffic between the operating and the delivery rooms. The following service areas shall be provided:

1. Control station located to permit visual surveillance of all traffic entering the operating suite;

2. Supervisor's office or station;

3. Sterilizing facilities with high speed autoclave(s) conveniently located to serve all operating rooms. When the program plan indicates that adequate provisions have been made for replacement of sterile instruments during surgery sterilizing facilities in the surgical suite will not be required;

4. Provision for a drug distribution station shall be made for the storage and preparation of medication;

5. At least two scrub stations shall be provided near the entrance to each operating room. Two scrub stations may serve two operating rooms if they are located adjacent to the entrance of each operating room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;

6. The soiled workroom shall be for the exclusive use of the surgical suite personnel and shall contain

clinical sink or equivalent flushing type fixture, work counter, handwashing lavatory, waste receptacle and linen receptacles;

7. Fluid waste disposal facilities shall be conveniently located to the general operating rooms. A clinical sink or equivalent equipment in a soiled workroom would meet this requirement;

8. A clean workroom is required when clean materials are assemble within the surgical suite prior to use. The clean workroom shall contain a work counter, handwashing lavatory and space for clean and steril supplies;

9. Anesthesia storage facilities unless official hospital board action prohibits, in writing, the use of flammable anesthetics a separate room shall be provided for storage of flammable gases in accordance with the requirements of NFPA 56A and NFPA 70;

10. Anesthesia workroom for cleaning, testing and storing anesthesia equipment shall contain a work counter and sink;

11. Medical gas supply with storage space for reserve nitrous oxide and oxygen cylinders shall be provided;

12. Equipment storage room(s) for equipment and supplies used in surgical suite;

13. Appropriate areas for staff clothing change shall be provided for personnel working within the surgical suite. The areas shall contain lockers, showers, toilets, handwashing lavatories and space for donning scrub suits and boots.

14. In facilities with two or more operating rooms, a room or alcove as a patient holding area shall be provided to accommodate stretcher patients waiting for surgery. This waiting area shall be under the visual control of the staff;

15. Stretcher storage area shall be out of direct line of traffic;

16. Lounge and toilet facilities for surgical staff shall be provided in hospitals having three or more operating rooms and shall be located to permit use without leaving the surgical suite. A staff toilet room shall be provided near the recovery room(s);

17. A janitor's closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the surgical suite;

18. An outpatient surgery change area shall be provided where outpatients change from street clothing into hospital gowns and are prepared for surgery. This would include a waiting room, lockers, toilets and

clothing change or gowning area; and

19. Provisions shall be made for separating inpatient and outpatient recovery where outpatients are not subjected to general anesthesia. This requirement may be satisfied by separated rooms or by scheduling of procedures.

§ 3.19. Labor and delivery facilities.

A. Existing hospitals with licensed obstetric and newborn services in operation prior to the effective date of these regulations or revisions thereof, shall comply with all of the regulations of this section with the exception of the minimum dimensions and square footage requirements for labor rooms and LDR/LDRP rooms provided in subsections D and E of this section. Existing hospitals may not decrease the dimensions of the labor rooms and LDR/LDRP rooms from what was specified in the regulations at the time the service, or parts thereof, was granted licensure approval. Labor rooms and LDR/LDRP rooms that are renovated at the time the service, or parts thereof, was granted licensure approval. Labor rooms and LDR/LDRP rooms that are renovated in existing hospitals or are newly constructed after the effective date of these regulations shall conform with all of the room dimensions specified in this solution.

B. The number of labor rooms, delivery rooms, recovery beds, and the sizes of the service areas shall depend upon the estimated obstetrical workload.

1. The labor and delivery suite shall be designed and arranged to assure separation of obstetrical patients from other types of patients and to preclude unrelated traffic through the suite.

2. Labor and delivery rooms shall be entirely separate from emergency and operating rooms.

C. Each delivery room shall have a minimum clear area of 300 square feet (27.87 sq. m) exclusive of fixed and movable cabinets and shelves. The minimum dimension shall be 16'0" (4.88 m) in any direction between two walls. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

D. Labor rooms shall be single-bed or two bed rooms with a minimum clear area of 180 square feet per bed. In facilities having only one delivery room, two labor rooms shall be provided one of which shall be large enough to function as an emergency delivery room with a minimum of 300 square feet. Labor rooms shall have at least two oxygen and two wall-mount suction outlets. Each labor room shall contain a handwashing lavatory. Each labor room shall have access to a toilet room. One toilet room may serve two labor rooms. At least one shower shall be provided for labor room patients without patients having to enter a corridor or general area. A water closet shall be accessible to the shower facility.

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E. Hospitals, which include LDR/LDRP rooms in their obstetrical program, shall designate room(s) within the labor suite for this purpose. Such rooms(s) shall be designated and arranged to prohibit unrelated traffic through the labor and delivery suite. These rooms shall meet the requirements of a labor room which may be used as an emergency delivery room as specified in subsection D of this section. The minimal dimensions shall be 16'0" clear between walls or fixed cabinets or shelving. The rooms shall have a clear area of 300 square feet. Each LDR/LDRP room shall have access to a private water closet and shower. The water closet and shower may be shared by two rooms.

F. The recovery room shall contain a minimum of two beds, charting facilities located to permit staff to have visual control of all beds, facilities for medicine dispensing, handwashing facilities, clinical sink with bedpan flushing device, and storage for supplies and equipment.

G. Individual rooms shall be provided when so noted, otherwise, alcoves or other open spaces which will not interfere with traffic may be used. Service areas, except the soiled workroom and the janitors' closet, may be shared with in the obstetrical unit. If shared, service areas shall be arranged to avoid direct traffic between the delivery and operating rooms. The following services shall be provided:

1. Control station located to permit visual surveillance of all traffic which enters the labor and delivery suite;
2. Supervisor's office or station;
3. Sterilizing facilities with high speed autoclave(s) conveniently located to serve all delivery rooms. When provisions have been made for replacement of sterile instruments during a delivery, sterilizing facilities will not be required;
4. Provisions for a drug distribution station shall be made for storage, preparation, and dispensing of medication;
5. At least two scrub stations shall be provided near the entrance to each delivery room. Two scrub stations may serve two delivery rooms if they are located adjacent to the entrance of each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts;
6. The soiled workroom shall be for the exclusive use of the labor and delivery room personnel and shall contain a clinical sink or equivalent flushing type fixture work counter, handwashing lavatory, waste receptacle and linen receptacle;
7. Fluid waste disposal facilities conveniently located to the delivery rooms. A clinical sink or equivalent in a soiled workroom or soiled holding room would meet

this requirement;

8. A clean workroom shall contain a work counter, handwashing lavatory, and space for clean and sterile supplies;

9. Unless official hospital board action, in writing, prohibits use of flammable anesthetics a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in NFPA 99 and NFPA 70;

10. An anesthesia workroom for cleaning, testing and storing anesthesia equipment shall contain a work counter and sink;

11. A medical gas storage space for reserve storage of nitrous oxide and oxygen cylinders shall be provided;

12. Equipment storage room(s) for equipment and supplies used in the labor and delivery suite;

13. Appropriate staff's clothing change areas shall be provided personnel working within the labor and delivery suite. The areas shall contain lockers, showers, toilets, handwashing lavatories, and space for donning scrub suits and boots;

14. Lounge and toilet facilities for obstetrical staff and nurses shall be provided near the labor rooms a recovery room(s);

15. A janitor's closet containing a floor receptor or service sink and storage for housekeeping supplies and equipment shall be provided for the labor and delivery suite to be shared only with the newborn services unit;

16. The stretcher storage area shall be out of direct line of traffic;

§ 3.20. Outpatient and emergency suite.

A. Facilities for minimum emergency care shall be provided in each hospital as specified in subsection B of this section. Facilities for outpatient care shall be provided as required by the hospital program.

B. The extent of emergency patient care services planned for the hospital will depend upon community needs and availability of other organized programs for emergency care within the community. Hospitals what plan for a minimum level of emergency services shall provide at least an entrance, treatment room, and patient's toilet room convenient to the treatment room. Hospitals which have an organized program for emergency care must meet the following minimum requirements:

1. An entrance at grade level, sheltered from the weather, and with provision for ambulance and pedestrian access;

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2. A reception and control area which is conveniently located near the entrance, waiting area and treatment rooms;

3. Public waiting space with toilet facilities, public telephone and drinking fountain;

4. Treatment rooms. Handwashing facilities shall be provided in each room or shall be conveniently adjacent to each room. The rooms shall contain cabinets, medication storage, work counter, suction outlets, x-ray film illuminators, and space for storage of emergency equipment such as emergency treatment trays, defibrillator, cardiac monitor and resuscitator;

5. Storage area out of line of traffic for stretchers and wheelchairs;

6. Staff work and charting area(s). This may be combined with reception and control area or located within the treatment room;

7. Clean supply storage. This may be a separate room or located within the treatment room;

8. Soiled workroom or area containing clinical work, work counter, handwashing lavatory, waste receptacle and linen receptacle; and

9. Patient toilet room convenient to treatment room(s).

C. The outpatient administrative, clinical, and diagnostic space will be determined by the types of services to be offered and the estimated patient load. The design of outpatient facilities should provide for the privacy and dignity of the patient during interview, examination, and treatment. The facilities shall be located so that outpatients do not pass through inpatient units. The following shall be provided or made available to the outpatient service:

1. The entrance shall be located at grade level, sheltered from weather, and able to accommodate wheelchairs.

2. The lobby shall include:

- a. Wheelchair storage space(s);
- b. Reception and information counter or desk;
- c. Waiting space(s);
- d. Public toilet facilities;
- e. Public telephones; and
- f. Drinking fountain(s).

3. An area for private interviews relating to social service, credit, and admissions.

4. General or individual office(s) shall be provided for business transactions, records, and administrative and professional staffs.

5. Storage space for employees' personal effects; and

6. Storage facilities for office supplies, sterile supplies, pharmaceutical supplies, splints and other orthopedic supplies and housekeeping supplies and equipment.

7. General and special purpose examination room(s). Each room shall have a minimum floor area of 80 square feet (7.43 sq. m), excluding such spaces as vestibule, toilet, closet and water counter (whether fixed or movable). Arrangement shall permit at least 2'8" (81 cm) clearance at each side and at the foot of the examination table. A handwashing lavatory and a counter or shelf space for writing shall be provided.

8. Treatment rooms. Each room used for minor surgical procedures and cast procedures shall have a minimum floor area of 120 square feet (11.15 sq. m), excluding such spaces as vestibule, toilet, closet and work counter (whether fixed or movable). The minimum room dimension shall be 10'0" (3.05 m) between two walls. A work counter, storage cabinets and a handwashing lavatory shall be provided.

9. Observation room(s). A room handling isolation, suspect, or disturbed patients shall be conveniently located to nurses' station or other control station. Patients shall have access to a toilet room without entering the general corridor area. A separate room is not required if an examination room is modified to accommodate this function.

10. Facilities for charting and for clinical records. A nurses station with work counter, communication system, and space for supplies shall be provided. A separate space may be omitted if these functions are accommodated in each examination room and each treatment room.

11. Drug distribution station. This area shall meet the requirements of § 3.11 C 7 of these regulations.

12. Clean workroom. The clean workroom shall meet the requirements of § 3.13 C 6 of these regulations.

13. Soiled workroom or soiled holding room. The soiled workroom shall contain clinical sink or equivalent flushing rim fixture, handwashing lavatory, work counter, waste receptacle, and linen receptacle. A soiled holding room that is part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and the work counter may be omitted.

14. Stretcher storage space out of direct line of traffic.

D. Radiological facilities for diagnostic services shall be

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made available to the outpatient and emergency service. If a separate radiological unit is installed within the outpatient and emergency areas it shall comply with the requirements of § 3.21 of these regulations.

§ 3.21. Radiology suite.

Equipment for the radiology suite shall be provided for diagnostic purposes required by the hospital program. The suite shall contain the following elements:

1. Radiographic room(s). Radiation protection meet the requirements of § 3.40 V of these regulations;
2. Film processing facilities;
3. Viewing and administration area(s) with film storage facilities;
4. A toilet room with handwashing facilities which are directly accessible from each fluoroscopy room without entering the general corridor area;
5. A dressing area(s) with convenient access to toilets;
6. A waiting room or alcove for ambulatory patients;
7. A holding area for stretcher patients which is out of the direct line of normal traffic; and
8. Handwash facilities shall be provided in each radiographic room unless the room is used only for routine diagnostic screening such as for chest X-rays.

§ 3.22. Diagnostic laboratory suite.

A. Diagnostic laboratory facilities shall be provided for hematology, clinical chemistry, urinalysis, cytology, pathology, microbiology and bacteriology to meet the workload proposed in the hospital program. These services may be provided within the hospital or through a contract arrangement with a reference laboratory.

B. If laboratory services are provided by contractual arrangement at least the following minimum services shall be available within the hospital:

1. A laboratory work counter(s) with sink, medical gases, and electrical services;
2. A lavatory(ies) or counter sink(s) equipped for handwashing;
3. Storage cabinet(s) or closet(s);
4. Blood storage facilities; and
5. Specimen collection facilities. Urine collection rooms shall be equipped with a water closet and handwashing lavatory. Blood collection facilities shall have a work counter, handwashing lavatory, and space

for patient seating.

§ 3.23. Renal dialysis suite.

A. The following requirements include facilities for outpatient renal dialysis treatment. The number and type of treatment stations and the sizes of the service areas shall be based upon the projected patient load, the condition of the patients to be treated and the type of service to be provided. Inpatients will be housed in nursing units conforming to the requirements of § 3.11 of these regulations.

B. The treatment area shall contain the number of stations required by the program and shall include the following:

1. Patient treatment station areas shall have a minimum of 80 square feet (7.43 sq. m);
2. Cubicle curtains shall be provided around each treatment station for privacy;
3. Handwashing lavatories with knee or foot controls shall be provided at the rate of one for each six treatment stations;
4. Windows shall be provided conforming to requirements specified in § 3.40 of these regulations;
5. Patient toilet facilities shall be conveniently located to the treatment area and be equipped to accommodate the physically handicapped;
6. Patient locker facilities shall be provided for outpatients and be conveniently located to the treatment area; and
7. Provisions shall be made for the isolation or treatment of hepatitis B positive antigen patients.

C. The following service areas shall be located in or conveniently adjacent to the Renal Dialysis Suite. The size and location of each service area will depend upon the number of patient stations served:

1. Nurses station shall be located to permit direct visual observation of each patient being treated. The station shall be provided with an emergency communication system connected to a central control station.
2. Charting facilities for nurses and doctors.
3. Lounge and toilet room(s) for staff.
4. Individual closets or compartments for the safekeeping of personal effects of nursing personnel. These shall be located convenient to the nurses station or in a central location.

5. Clean workroom. The clean workroom shall meet the requirements of § 3.11 C 5 of these regulations.

6. Soiled workroom. The soiled workroom shall meet the requirements of § 3.11 C 6 of these regulations.

7. Drug distribution station. This area shall meet the requirements of § 3.11 C 7 of these regulations.

8. Supply storage. A separate room for dialysis supplies shall be provided.

9. Equipment workroom and storage. A separate room shall be provided for the water treatment equipment and the repairs, adjustments, cleaning and sanitizing of dialysis equipment.

10. Nourishment station. This station shall meet the requirements of § 3.11 C 10 of these regulations. The station may be combined with or a part of the Clean Workroom on the Medication Station.

11. Janitor's closet. The janitor's closet shall meet the requirements of § 3.11 C 8 of these regulations.

D. A separate waiting area shall be provided for patients and family members and others bringing patients to and from the treatment facility or visiting with patients during treatment. A toilet room, public telephone, drinking fountain and seating accommodations shall be provided.

§ 3.24. Physical therapy suite.

Appropriate areas may be designed and arranged for shared use by occupational therapy patients and staff. If a physical therapy area is required by the hospital program, the following elements shall be provided:

1. Treatment area(s) shall be provided with the required space and equipment designed for the planned program and may include thermotherapy, diathermy, ultrasonics, and hydrotherapy;

2. Provisions shall be made for individual patient privacy, handwashing facilities and facilities for the collection of soiled linen and other material;

3. Exercise area;

4. Storage for clean linen, supplies, and equipment;

5. Toilet room equipped for the physically handicapped with water closet and handwashing lavatory;

6. Service sink; and

7. Wheelchair and stretcher storage.

§ 3.25. Occupational therapy suite.

The following appropriate areas may be designed and arranged for shared use by physical therapy patients and staff. If an occupational therapy suite is required by the hospital program, the following elements shall be provided:

1. The activities area shall include sink or lavatory and facilities for collection of waste products prior to disposal;

2. Storage for supplies and equipment; and

3. Toilet room equipped for the physically handicapped with water closet and handwashing lavatory.

§ 3.26. Inhalation therapy unit.

If an inhalation therapy unit is required by the hospital program, it shall be located convenient to the Intensive Care/Cardiac Care Unit and shall contain the following elements:

1. Office space including records file;

2. Storage for supplies and equipment;

3. Equipment servicing area; and

4. Separate soiled and clean workrooms which meet the requirements of §§ 3.11 C 5 and 3.11 C 6 of these regulations.

§ 3.27. Morgue and autopsy.

These facilities shall be designed for direct access to an outside entrance and shall be located to avoid movement of bodies through public use areas.

1. The following elements shall be provided when autopsies are performed within the hospital:

a. Work counter with handwashing lavatory;

b. Storage space for supplies, equipment, and specimens;

c. Autopsy table;

d. Clothing change area with shower, toilet, and lockers;

e. Janitor's service sink or receptacle; and

f. Refrigerated facilities for body-holding.

2. If autopsies are performed outside the hospital, only a well-ventilated body-holding room needs to be provided.

§ 3.28. Pharmacy suite.

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The size and type of space to be provided in the pharmacy will depend upon the type of drug distribution system used in the hospital and whether the hospital proposes to provide, purchase, or share pharmacy services with other medical facilities. Provision shall be made for the following functional areas:

1. Dispensing area with handwashing lavatory;
2. Editing or order review area;
3. Sterile Products area. For the compounding of I.V. admixtures and other sterile products. May also be used for extemporaneous compounding;
4. Administrative areas. Office area for the pharmacist and any other personnel required for the proper maintenance of records and reports and for purchasing and accounting;
5. Storage areas. Areas for bulk, refrigeration, vault, volatile liquids storage shall be provided;
6. Drug information area;
7. Packaging area. Provide an area only if required by the hospital program;
8. Bulk compounding area. Provide an area only if required by the hospital program; and
9. Quality control area. An area is required only if either packaging or bulk compounding areas are provided.

§ 3.29. Dietary facilities.

A. Food service facilities shall be designed and equipped to meet the requirements of the hospital program. These may consist of areas for an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two.

B. The following facilities shall be provided in the size required to implement the type of food service selected:

1. Control station for receiving food supplies;
2. Storage space for food supply including food requiring cold storage. At least 2 cubic feet of refrigerated storage per bed (0.05 cubic meter per bed) and 2 square feet of dry food storage per bed (0.7 sq. m per bed) shall be provided;
3. Food preparation facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary services require space and equipment for thawing, portioning,

cooking, or baking;

4. Handwashing facility(ies) located in the food preparation area;
5. Patients meal service facilities such as, tray assembly and distribution;
6. Warehousing space located in a room or an alcove separate from food preparation and serving areas with commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area. A handwashing lavatory shall be conveniently available to the area;
 - a. Energy saving dishwashing equipment may be used if the equipment is approved by the licensing agency prior to installation.
 - b. Potwashing facilities;
 - c. Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors. The sanitizing facilities may be combined with those required for linen services;
 - d. Waste storage facilities shall be provided in a separate room which is easily accessible to the outside for direct pickup or disposal;
 - e. Office or suitable work space for the dietitian or the food service supervisor;
 - f. Toilets with handwashing lavatory which is for dietary staff conveniently accessible but does not open directly into food service areas;
 - g. Janitors' closet located within the dietary department. The closet shall meet the requirements of § 3.11 C 8 of these regulations; and
 - h. Icemaking facilities may be provided in areas separate from food preparation area but shall be easily cleanable and convenient to dietary facilities.

§ 3.30. Administration and public areas.

The following areas shall be provided:

1. The entrance shall be at grade level, sheltered from the weather, and able to accommodate wheelchairs.
2. The lobby shall include space for:
 - a. Storage for wheelchairs;
 - b. Reception and information counter or desk;

- c. Waiting space(s);
- d. Public toilet facilities;
- e. Public telephones; and
- f. Drinking fountain(s).

3. Space for private interviews relating to social service, credit, and admissions.

4. Space for business transactions, medical and financial records, and administrative and professional staffs.

5. Storage space for office equipment and supplies.

§ 3.31. Medical records service.

The following rooms or areas shall be provided:

- 1. Medical records administrator/technician office or space;
- 2. Review and dictating room(s) or spaces;
- 3. Work area for sorting, recording, or microfilming records; and
- 4. Storage area for records.

§ 3.32. Central services department.

The various elements shall be designed and arranged to provide one-way traffic pattern for supplies from soiled to clean to sterile. The following shall be provided:

- 1. Receiving and decontamination room. The room shall contain work space and equipment for cleaning medical and surgical equipment and for disposal of or processing unclean material. Handwashing facilities, lockers, showers, and toilets for staff shall be provided in this area if they are not available in adjacent employee facilities serving other soiled areas;
- 2. Clean workroom. The room shall contain work space and equipment for sterilizing and disinfecting medical and surgical equipment and supplies and handwashing facilities;
- 3. Storage areas for clean supplies and for sterile supplies. This area may be in clean workroom; and
- 4. Cart storage. This area shall meet the requirements of § 3.34 of these regulations.

§ 3.33. Linen service.

A. If linen is to be processed on the site, the following elements shall be designed and arranged to provide a one-way traffic pattern of linens from soiled processing to

clean storage and include the following:

- 1. Soiled linen receiving, holding, and sorting room with handwashing facilities;
- 2. Laundry processing room with commercial type equipment and handwashing facilities. Energy saving laundry equipment may be considered if it is approved by the licensing agency prior to installation;
- 3. Storage for laundry supplies;
- 4. A janitors' closet which meets the requirements of § 3.11 C 8 of these regulations;
- 5. Clean linen inspection and mending room or area;
- 6. Clean linen storage, issuing, and holding room or area; and
- 7. Cart storage and sanitizing facilities which meet the requirements of § 3.34 of these regulations.

B. If linen is to be processed off-site the site, the following shall be provided:

- 1. Soiled linen holding room with a handwashing lavatory;
- 2. Clean linen receiving, holding, inspection, and storage room(s); and
- 3. Cart storage and sanitizing facilities which meet the requirements of § 3.34 of these regulations.

§ 3.34. Facilities for cleaning and sanitizing carts.

A. Facilities shall be provided to clean and sanitize carts serving the central services, dietary, and linen services. These may be centralized or departmentalized.

B. At a minimum, a separate area will be provided with a floor drain, a reel type spray hose with hot and cold water and a steam gun.

§ 3.35. General stores.

General stores shall include the following:

- 1. Offstreet unloading facilities;
- 2. Receiving area;
- 3. General storage rooms. A total area of not less than 20 square feet (1.86 sq. m) per inpatient bed shall be provided. General stores shall be concentrated in one area, but, in a multiple building complex, they may be in separate concentrated areas in one or more individual buildings; and
- 4. Additional storage area for outpatient facilities. At

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least 5.0% of the total area of the outpatient facilities shall be provided. This area may be combined with the general stores or located within the outpatient department.

§ 3.36. Employees facilities.

In addition to the employees' facilities as locker rooms, lounges, toilets, or shower facilities called for in certain departments, a sufficient number of such facilities that may be required to accommodate the needs of all personnel and volunteers shall be provided.

§ 3.37. Janitors' closets.

In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the hospital to maintain a clean and sanitary environment. Each closet shall meet the requirements of § 3.11 C 8 of these regulations.

§ 3.38. Engineering service and equipment areas.

The following shall be provided:

1. Room(s) or separate building(s) for boilers mechanical equipment and electrical equipment;
2. Engineer's office;
3. Maintenance shop(s);
4. Storage room for building maintenance supplies; and
5. A separate room or building for yard maintenance equipment and supplies.

§ 3.39. Waste processing service.

A. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, sterilization, compaction, containerization, removal, or by a combination of these techniques.

B. A gas, electric, or oil fired incinerator shall be provided for the complete destruction of pathological and infectious waste. Infectious waste shall include, but shall not be limited to, dressings and material from open wounds, laboratory specimens, and all waste material from isolation rooms.

C. The incinerator shall be in a separate room or placed outdoors. Incinerators with a capacity of less than 50 pounds per hour may be located in a separate area within the facility boiler room. In all cases, rooms and areas containing incinerators shall have space and facilities for cleaning.

D. Design and construction of incinerators and trash chutes shall be in accordance with NFPA Standard 82.

E. Incinerators shall be designed and equipped to conform to requirements prescribed by air pollution regulations for the community.

§ 3.40. Details and finishes.

A. Details and finishes in the design of new construction projects, including additions and alterations, shall comply with the following requirements. The nonconforming portions of existing facilities, which because of financial hardship are not being totally modernized, shall comply with the safety requirements dealing with details and finishes as listed in NFPA Standard 101.

B. Compartmentation, exits, fire alarms, automatic extinguishing systems, and other details relating to fire prevention and fire protection shall comply with requirements listed in the NFPA Standard 101. Public corridors in outpatient suites need not be more than 5'0" (1.52 m) in width except in those areas which may be commonly used by hospital inpatients being transported in beds.

C. Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

D. Rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by patients, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outwards or be otherwise designed to be opened without need to push against a patient who may have collapsed within the room.

E. The minimum width of all doors to rooms needing access for beds shall be 3'8" (1.12m) wide. Doors to rooms needing access for stretchers and to patient toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of 2'10" (86.4cm).

F. Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing. Openings to showers, baths, patient toilets, and other small wet type areas not subject to fire rating are exempt from this requirement.

G. Doors, except those to spaces such as small closets which are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk in type closets are considered as occupiable spaces.

H. Windows and outer doors which may be frequently left in an open position shall be provided with insect screens.

I. Patient rooms intended for occupancy 24 hours a day shall have windows operable without the use of tools.

except that windows in ICU and ICCU may be 60" (1.52m) above the floor. Windows in buildings designed with an engineered smoke control system in accordance with NFPA 90A are not required to be operable. Attention is called to the fact that natural ventilation possible with operable windows in some areas permit a reduction in energy requirements.

J. Doors sidelights, borrowed lights, and windows in which the glazing extends down to within 18 inches (46cm) of the floor thereby creating possibility of accidental breakage by pedestrian traffic, shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless otherwise required for fire safety. Safety glass or plastic glazing materials shall be used for shower doors and bath enclosures.

K. Where labeled fire doors are required, these shall be certified by an independent testing laboratory as meeting the construction requirements equal to those for fire doors in NFPA Standard 80. Reference to a labeled door shall be construed to include labeled frame and hardware.

L. Elevator shaft openings shall have class B 1 1/2 hour labeled fire doors.

M. Linen and refuse chutes shall meet or exceed the following requirements (see § 3.38 of these regulations):

1. Service openings to chutes shall not be located in corridors or passageways but shall be located in a room of construction having a fire-resistance of not less than 1 hour. Doors to such rooms shall be not less than class C 3/4-hour labeled doors;

2. Service openings to chutes shall have approved self-closing class B 1 1/2-hour labeled fire doors;

3. Minimum cross-sectional dimension of gravity chutes shall be not less than 2'0" (61 cm);

4. Chutes shall discharge directly into collection rooms separate from incinerator, laundry, or other services. Separate collection rooms shall be provided for trash and for linen. The enclosure construction for such rooms shall have a fire-resistance of not less than 2 hours, and the doors thereto shall be not less than class B 1 1/2-hour labeled fire doors; and

5. Gravity chutes shall extend full diameter through the roof with provisions for continuous ventilation as well as for fire and smoke ventilation. Openings for fire and smoke ventilation shall have an effective area of not less than that of the chute cross-section and shall be not less than 4'0" (1.22m) above the roof and not less than 6'0" (1.83 m) clear of other vertical surfaces. Fire and smoke ventilating openings may be covered with single strength sheet glass.

N. Dumbwaiters, conveyors, and material handling systems shall not open directly into a corridor or exitway but shall open into a room enclosed by construction having a fire-resistance of not less than one hour and provided with class C 3/4-hour labeled fire doors. Service entrance doors to vertical shafts containing dumbwaiters, conveyors, and material handling systems shall be not less than class B 1 1/2-hour labeled fire doors. Where horizontal conveyors and material handling systems penetrate fire-rated walls or smoke partitions, such openings must be provided with class B 1 1/2-hour labeled fire doors with 2-hour walls and class C 3/4-hour labeled fire doors for 1-hour walls or partitions.

O. Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts. Expansion joints shall be constructed to restrict passage of smoke.

P. Grab bars shall be provided all patients' toilets, showers, tubs, and sitz baths. The bars shall have 1 1/2 inch (3.8 cm) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds (113.4 kilograms).

Q. Soap dishes, towel bars and robe hooks shall be provided at showers and bathtubs.

R. Location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care should be given to the clearances required for blade-type operating handles. (See § 3.45 B 2 of these regulations).

S. Mirrors shall not be installed at handwashing fixtures in food preparation areas or in sensitive areas such as nurseries, clean and sterile supplies, and scrub sinks.

T. Provisions for hand drying shall be included at all handwash facilities except scrub sinks.

U. Lavatories and handwashing facilities shall be securely anchored to withstand an applied vertical load of not less than 250 pounds (113.4 kilograms) on the front of the fixture.

V. Radiation protection requirements of X-ray and gamma ray installations shall conform with NCRP Reports Nos. 33, 49 and 51 and ["Ionizing "Virginia] Radiation [Rules and Protection] Regulations [(VR 355-20-1)]" of the Virginia Department of Health. Provision shall be made for testing the completed installation before use and all defects must be corrected before acceptance.

W. The minimum ceiling height shall be 8'0" (2.44m) with the following exceptions:

1. Boiler rooms shall have ceiling clearances not less than 2'6" (76 cm) above the main boiler header and connecting piping;

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2. Radiographic, operating and delivery rooms, and other rooms containing ceiling-mounted equipment or ceiling mounted surgical light fixtures shall have height required to accommodate the equipment or fixtures;

3. Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms shall be not less than 7'8" (2.34m); and

4. Suspended tracks, rails, and pipes located in the path of normal traffic shall be not less than 6'8" (2.03m) above the floor.

X. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed area, delivery or operating suites, unless special provisions are made to minimize such noise.

Y. Rooms containing heat producing equipment, such as boiler or heater rooms and laundries; shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 10°F (6°C) above the ambient room temperature.

Z. Noise reduction criteria shown in Table 1 of Appendix C, of these regulations shall apply to partition, floor, and ceiling construction in patient areas.

AA. Cubicle curtains and draperies shall be noncombustible or rendered flame retardant and shall pass both the large and small scale tests of NFPA Standard 701.

BB. Flame spread and smoke developed ratings of finishes are included in § 3.41 of these regulations. Whenever possible, the use of materials known to produce large amounts of noxious gases shall be avoided.

CC. Floors in areas and rooms in which flammable anesthetic agents are stored or administered to patients shall comply with NFPA Standard 56A. Conductive flooring may be omitted from emergency treatment, operating, and delivery rooms when a written resolution is signed by the hospital board stating that no flammable anesthetic agents will be used in these areas and provided that appropriate notices are permanently and conspicuously affixed to the wall in each such area and room.

DD. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water and grease resistant. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens and similar work areas) shall have a nonslip, nonabrasive surface.

EE. Wall bases in kitchens, operating and delivery rooms, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

FF. Wall finishes in kitchens, operating rooms, delivery rooms and in other sensitive treatment areas shall be washable and not affected by germicidal and cleaning solutions. Wall finishes in the immediate area of plumbing fixtures shall be moisture resistant. Finish, trim, and floor and wall construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

GG. Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

HH. Ceilings shall be cleanable and those in sensitive areas such as surgical, delivery, and nursery rooms shall be readily washable and without crevices that can retain dirt particles. These sensitive areas along with the dietary and food preparation areas shall have a finished ceiling covering all overhead ductwork and piping. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required for fire-resistive purposes.

II. Acoustical ceilings shall be provided for corridors in patient areas, nurses stations, labor rooms, dayrooms, recreation rooms, dining areas, and waiting areas.

§ 3.41. Construction, including fire-resistive requirements.

A. Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with the Uniform Statewide Building Code and accepted engineering practices and standards, including seismic forces where they apply.

B. Foundations shall rest on natural solid bearing if a satisfactory bearing is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at partial depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement, except that one story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and certification of compliance with the job specifications. All footings shall extend to a depth not less than 1'0" (30.5 cm) below the estimated maximum frost line.

C. Construction shall be in accordance with t.

requirements of the Statewide Uniform Building Code and NFPA Standard 101 and the minimum requirements contained herein.

D. Separate freestanding buildings housing nonpatient areas such as the boiler plant, laundry, shops, or general storage may be of unprotected noncombustible construction, protected noncombustible construction, or fire-resistive construction.

E. Enclosures for stairways, elevator shafts, chutes and other vertical shafts, boiler rooms, and storage rooms of 100 square feet (9.29 square meters) or greater area shall be of construction having a fire-resistance rating of not less than two hours. Note that hazardous areas shall have rated enclosures and sprinklers as described in NFPA 101.

F. Interior finish materials shall comply with the flame spread limitations and the smoke production limitations shown in Table 2, Appendix C of these regulations. If a separate underlayment is used with any floor finish materials, the underlayment and the finish material shall be tested as a unit or equivalent provisions made to determine the effect of the underlayment on the flammability characteristics of the floor finish material. Tests shall be performed by an independent testing laboratory. The above does not apply to minor quantities of wood or other trim (see NFPA 101) nor does it apply to wall covering less than 4 mil in thickness applied over a noncombustible base.

G. Building insulation materials, unless sealed on all sides and edges, shall have a flame spread rating of 25 or less and a smoke developed rating of 150 or less when tested in accordance with NFPA 255.

H. Special provisions shall be made in the design of buildings in regions where local experience shows loss of life or extensive damage to buildings resulting from hurricanes, tornadoes, floods, or earthquakes.

§ 3.42. Elevators.

A. All hospitals having patient facilities (such as bedrooms, dining rooms, or recreation areas) or critical services (such as operating, delivery, diagnostic, or therapy) located on other than the main entrance floor shall have electric or electrohydraulic elevators. Installation and testing of elevators shall comply with the National Elevator Code. The minimum number of elevators which must be provided, shall be as follows:

1. At least one hospital-type elevator shall be installed where 1 to 59 patient beds are located on any floor other than the main entrance floor.

2. At least two hospital-type elevators shall be installed where 60 to 200 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds. (Elevator service

may be reduced for those floors which provide only partial inpatient services.)

3. At least three hospital-type elevators shall be installed where 201 to 350 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds. (Elevator service may be reduced for those floors which provide only partial inpatient services.)

4. For hospitals with more than 350 beds, the number of elevators shall be determined from a study of the hospital design and the estimated vertical transportation requirements.

B. Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient bed and attendants and shall be at least (1.52m) wide by 7'6" (2.29m) deep. The car door shall have a clear opening of not less than 4'0" (1.22m).

C. Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of + 1/2 inch (+ 1.3 cm).

D. Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

E. Elevator controls, alarm buttons, and telephones shall be accessible to wheelchair occupants.

F. Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke.

G. Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

§ 3.43. General mechanical requirements.

A. Prior to completion and acceptance of the facility, all mechanical systems shall be tested, balanced, and operated to demonstrate to the owner or his representative that the installation and performance of these systems conform to the requirements of the approved plans and specifications.

B. Upon completion of the contract, the owner shall be furnished with a complete set of manufacturers' operating, maintenance; and preventive maintenance instructions, and parts lists and procurement information with numbers and description for each piece of equipment and be provided with instructions in the operational use of systems and equipment as required.

C. Insulation shall be provided within the building for the following:

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1. Boilers, smoke breeching, and stacks;
2. Steam supply and condensate return piping;
3. Hot water piping above 120°F (49°C) and all hot water heaters, generators, and converters;
4. Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;
5. Water supply and drainage piping on which condensation may occur;
6. Air ducts and casings with outside surface temperature below ambient dew point or temperature above 80°F (27°C); and
7. Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

Insulation required above may be omitted from hot water and steam condensate piping not subject to contact by patients when the heat loss from such piping without insulation does not increase the energy requirements of the system.

Insulation on cold surfaces shall include an exterior vapor barrier.

Insulation, including finishes and adhesives on the exterior surfaces of ducts, pipes, and equipment, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as determined by an independent testing laboratory in accordance with NFPA 255.

Linings in air ducts and equipment shall meet the Erosion Test Method described in Underwriters' Laboratories, Inc., Publication No. 181. These linings, including coatings and adhesives, and insulation in building spaces used as air supply plenums, shall have a flame spread rating of 25 or less and a smoke developed rating of 50 or less as determined by an independent testing laboratory in accordance with NFPA 255.

Duct linings shall not be used in systems supplying operating rooms, delivery rooms, recovery rooms, nurseries, isolation rooms, and intensive care units unless terminal filters of at least 90% efficiency are installed downstream of linings.

D. Boilers shall have the capacity, based upon the net ratings published by the Hydronics Institute, to supply the normal requirements of all systems and equipment. The number and arrangement of boilers shall be such that, when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler(s) shall be sufficient to provide hot water service for clinical, dietary, and patient use; steam for sterilization and dietary

purposes; and heating for operating, delivery, labor, recovery, intensive care, nursery, and general patient rooms, except that capacity for space heating is not required in areas with a design temperature of 20°F (-7°C) or more, based on the Median of Extremes in the ASHRAE Handbook of Fundamentals.

E. Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

F. Supply and return mains and risers of cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends except that vacuum condensate returns need not be valved at each piece of equipment.

G. The designed capacity of the mechanical systems shall provide the temperatures and humidities in special areas as found in Table 3 of Appendix C of these regulations. For other areas occupied by inpatients the indoor winter design temperature shall be 75°F (24°C). (A minimum relative humidity of 30% is recommended but not required.) For all other occupied areas, the indoor winter design temperature shall be 72°F (22°C).

§ 3.44. Ventilation system details.

A. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 4, Appendix C of these Regulations shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

B. In the interest of energy conservation, the applicant is encouraged to utilize recognized procedures such as variable air volume and load shedding systems in areas not listed in Table 4, Appendix C and where direct patient care is not affected such as administrative and public areas, general storage, etc. Consideration may be given to special design innovations in areas of Table 4, Appendix C provided that pressure relationship as an indication of direction of air flow and total number of air changes as listed are maintained.

C. Outdoor intakes shall be located as far as practical but not less than 25'0" (7.62 m) from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vents stacks, or from areas which may collect vehicular exhaust and other noxious fumes (plumbing and vacuum vents that terminate above the level of the top of the air intake may be located as close as 10'0" (3.05m). The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than 6'0" (1.83 m) above ground level, or if installed above the roof, 3'0" (91cm) above the roof level.

D. The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in Table 4, Appendix C.

E. All air supplied to operating rooms, delivery rooms, and nurseries shall be delivered at or near the ceiling of the area served, and all return air from the area shall be removed near floor level. At least two return air outlets shall be used in each operating and delivery room.

F. Each space routinely used for the administering of inhalation anesthetizing agents shall be provided with a separate scavaging system for venting of waste anesthetizing gases. Pressure balance must be such that the gas collecting system does not interfere with required room pressure relationship or with breathing circuit that may affect patient safety. The intake shall be appropriately located in relation to the patient and the equipment designed so that gases are exhausted directly to the outside.

Potential harmful effects upon personnel subject to constant exposure to anesthetizing gases are generally recognized but acceptable levels of concentration are unknown at this time. In the absence of specific figures, any scavaging system should be designed to remove as much of the anesthetizing gas as possible. Maximum effectiveness of the scavaging system may also require careful attention to selection and maintenance of anesthetizing equipment used.

G. The bottoms of ventilation (supply/return) openings shall be not less than three inches (7.6 cm) above the floor of any room.

H. Corridors shall not be used to supply air to or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly on corridors provided that ventilation can be accomplished by undercutting of doors.

I. Isolation rooms and intensive care rooms may be ventilated by induction units if the induction units contain only a reheat coil and if only the primary air supplied from a central system passes through the reheat coil.

J. All central ventilation or air conditioning systems shall be equipped with filters having efficiencies no less than those specified in Table 5, Appendix C of these regulations. Where two filter beds are required, filter bed No. 1 shall be located upstream of the air conditioning equipment and filter bed No. 2 shall be downstream of the supply fan, any recirculating spray water systems, and water reservoir type humidifiers.

Where only one filter bed is required, it shall be located upstream of the air conditioning equipment unless an additional prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter shall be located further downstream.

K. All filter efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-76 except as noted in subsections U and V of this section.

L. Filter frames shall be durable and carefully dimensioned and shall provide an airtight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

M. A manometer shall be installed across each filter bed serving sensitive areas or central air systems.

N. Air handling duct systems shall meet the requirements of NFPA Standard 90A, and those serving sensitive areas shall also comply with requirements for duct linings specified in § 3.43 C of these regulations.

O. Ducts which penetrate construction for intended X-ray or other ray protection shall not impair the effectiveness of the protection.

P. Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of NFPA Standard 90A, except that all systems, regardless of size, which serve more than one smoke or fire zone, shall be equipped with smoke detectors to shut down fans automatically as delineated in paragraph 4-3.2 of that Standard. Access for maintenance shall be provided at all dampers.

Q. Switching for restart of fans may be conveniently located for fire department use to assist in evacuation of smoke after the fire is controlled, provided that provisions are made to avoid possible damage to the system because of closed dampers.

R. Supply and exhaust ducts which pass through a smoke separation of required compartmentation and through which smoke can be transferred to another area shall be provided with dampers at the separation controlled to close automatically to prevent flow of air or smoke when the fan, which moves the air through the duct, stops. Dampers shall be equipped with remote control reset devices except that manual reopening will be permitted if dampers are conveniently located.

S. Return air ducts which pass through a smoke separation of required compartmentation shall be provided with a damper at the separation actuated by smoke or products of combustion (other than heat) detectors. These dampers shall be operated by the detectors located to sense smoke in the return air duct from the smoke zone. On high velocity systems, a time delay is required so that fan will be stopped prior to damper closing. Engineered smoke exhaust systems may be considered for approval as described by NFPA on a case by case basis.

T. If the air changes required in Table 4, Appendix C of these regulations do not provide sufficient air for use by

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hoods and safety cabinets, the required makeup air shall be provided as necessary to maintain required room pressure relationship.

U. Laboratory hoods shall meet the following general requirements:

1. Have an average face velocity of not less than 75 feet per minute (0.38 meters per second);
2. Be connected to an exhaust system which is separate from the building exhaust system;
3. Have an exhaust fan located at the discharge end of the system; and
4. Have an exhaust duct system of noncombustible corrosion-resistant material as needed to meet the planned usage of the hood.

V. Laboratory hoods shall meet the following special requirements:

1. Each hood which processes infectious or radioactive materials shall have a minimum face velocity of 100 feet per minute (0.51 meters per second), shall be connected to an independent exhaust system, shall have filters with a 99.97% efficiency (based on the DOP, dioctyl-phthalate, test method) in the exhaust stream, and shall be designed and equipped to permit the safe removal, disposal, and replacement of contaminated filters; and
2. Duct systems serving hoods in which radioactive and strong oxidizing agents (e.g. perchloric acid) are used shall be constructed of chemical resistant materials and shall be equipped with washdown facilities.

W. Exhaust hoods in food preparation centers shall have an exhaust rate of not less than 50 cfm per square foot (0.25 cubic meters per second per square meter) of face area. Face area is defined for this purpose as the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces. All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat-actuated fan controls. Cleanout openings shall be provided every 20'0" (6.10m) in horizontal exhaust duct system serving these hoods.

X. The ventilation system for anesthesia storage rooms shall conform to the requirements of NFPA Standard 56A, including the gravity option. The mechanically operated air systems required in this Section of regulations is optional in this room only.

Y. Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to 97°F (36°C) Effective Temperatures (ET*) as defined by ASHRAE Handbook of Fundamentals.

Z. See § 3.40 of these regulations for additional boiler room, food preparation center, and laundry ventilation requirements.

§ 3.45. Plumbing and other piping systems.

A. All plumbing systems shall be designed and installed in accordance with the requirements of the Statewide Uniform Building Code, article for "Health Care Facility Plumbing."

B. Plumbing fixtures shall comply with the following:

1. The material used for plumbing fixtures shall be of nonabsorptive acid-resistant material;
2. The water supply spout for lavatories and sinks required in patient care areas shall be mounted so that its discharge point is a minimum distance of five inches (12.7 cm) above the rim of the fixture. All fixtures used by medical and nursing staff and all lavatories used by patients and food handlers shall be trimmed with valves which can be operated without the use of hands (single lever devices may be used subject to above). Where blade handles are used for this purpose, they shall not exceed 4 1/2 inches (11.4 cm) in length, except that handles on scrub sinks and clinical sinks shall be not less than 6 inches (15.2 cm) long;
3. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface and shall be provided with a hose spray attachment with hot and cold water and a vacuum breaker;
4. Shower bases and tubs shall provide nonslip surfaces;
5. Bedpan flushing devices shall be provided in each patient toilet room, except those in ambulatory care areas;
6. Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers; and
7. Backflow preventers (vacuum breakers) shall be installed on hose bibbs; laboratory sinks, janitors' sinks, bedpan flushing attachments, autopsy tables, and on all other fixtures to which hoses or tubing can be attached.

C. Water supply systems shall conform to Virginia Health Department Waterworks Regulations [*VR 355-18-000*] in addition to the Statewide Plumbing Code and the following:

1. Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods;

2. Each water service main, branch main, riser, and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture; and

3. Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at bathing and handwashing facilities shall not exceed 120°F (49°C).

D. The hot water heating equipment shall have sufficient capacity to supply water at the temperatures and amounts indicated in Table 6, Appendix C of these regulations. Water temperatures to be taken at hot water point of use or inlet to processing equipment. Storage tank(s) shall be fabricated of corrosion-resistant metal or lined with noncorrosive material.

E. Drainage systems shall conform to the following:

1. Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid-resistant material;

2. Drain lines serving automatic blood cell counters shall be of carefully selected material because of a possible undesirable chemical reaction between blood count waste which includes sodium azide, and plumbing system materials such as copper, lead, brass, and solder;

3. Insofar as possible, drainage piping shall not be installed within the ceiling nor installed in an exposed location in operating and delivery rooms, nurseries, food preparation centers, food serving food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from overhead piping systems;

4. Floor drains shall not be installed in operating and delivery rooms. Flushing rim type floor drains may be installed in cystoscopic operating rooms; and

5. Building sewers shall discharge into a community sewerage system, or other approved system.

F. Nonflammable medical gas system installations shall be in accordance with the requirements of NFPA 56A and 56F. (See Table 7, Appendix C of these regulations for rooms which require station outlets.) As part of the project contract, where any piping or supply of medical gases is affected by change, alteration, or additions, the entire system shall be tested and certified as to type, quality, and quantity of medical gas at each outlet and exact areas affected by each control valve station.

G. Clinical vacuum (suction) system installations shall be in accordance with the requirements of Compressed Gas Association Pamphlet No. P-2.1. (See Table 7, Appendix C of these regulations for rooms which require station outlets.)

H. Service outlets for central housekeeping vacuum systems, if used, shall not be located within operating or delivery rooms.

I. All piping, including heating, ventilating, air conditioning (HVAC) shall be color coded or otherwise marked for easy identification.

§ 3.46. General electrical requirements.

A. All materials including conductors, controls and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the architectural drawings. All materials shall be listed as complying with available standards of Underwriters' Laboratories, Inc., or other similarly established standards.

B. All electrical installations and systems shall conform to the Statewide Uniform Building Code (National Electrical Code) and be tested to show that the equipment is installed and operates as planned or specified. A written record of performance tests on special electrical systems and equipment shall be supplied to the owner. Such tests shall show compliance with the governing codes including conductive floors, isolated power systems, grounding continuity, and alarm systems.

C. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in the ambient temperature conditions.

D. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve.

§ 3.47. Lighting and receptacles.

A. All spaces occupied by people, machinery, and equipment within buildings, approaches to buildings, and parking lots shall have lighting.

B. Patients' rooms shall have general lighting and night lighting. A reading light shall be provided for each patient. Flexible light arms shall be mechanically controlled to prevent the bulb from coming in contact with bed linen. At least one light fixture for night lighting shall be switched at the entrance to each patient room. All switches shall be of the quiet operating type.

C. Operating and delivery rooms shall have general lighting in addition to local lighting provided by special

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lighting units at the operating and delivery tables. Each fixed special lighting unit at the tables, except for portable units, shall be connected to an independent circuit.

D. Nursing unit corridors shall have general illumination with provisions for reduction of light level at night.

E. Anesthetizing locations. Each operating and delivery room shall have at least three receptacles. In locations where mobile x-ray is used, an additional receptacle, distinctively marked for x-ray use, shall be provided. (See subsection G of this section for receptacle requirements when capacitive discharge mobile x-ray units are used.)

F. As a minimum, each patient room shall have duplex grounding type receptacles as follows: (i) one located on each side of the head of each bed; (ii) one for television, if used; and (iii) one on each other wall. Nurseries shall have not less than one duplex grounded receptacle for each bassinets. Receptacles in pediatric units shall be of the safety type or shall be protected by five milliampere ground fault interrupters.

G. Duplex grounded receptacles for general use shall be installed approximately 50'0" (15.24 m) apart in all corridors and within 25'0" (7.62 m) of ends of corridors. Receptacles in corridors of pediatric units shall be of the safety type or shall be protected by five milliampere ground fault interrupters or shall be controlled by switches located at a nurses' station or other supervised location. Single polarized receptacles marked for use of x-ray only shall be located in corridors of patient areas so that mobile equipment may be used in any location within a patient room without exceeding a cord length of 50'0" (15.24 m) attached to the equipment. If the same mobile x-ray unit is used in operating rooms and in nursing areas, all receptacles for x-ray use shall be of a configuration that one plug will fit the receptacles in all locations. Where capacitive discharge or battery-powered x-ray units are used, these polarized receptacles are not required.

§ 3.48. Equipment installation in special areas.

A. Installation in anesthetizing locations. All electrical equipment and devices, receptacles, and wiring shall comply with NFPA Standard 70, except that a line isolation monitor will be permitted, which alarms at a total hazard current of five milliamperes.

B. Fixed and mobile x-ray equipment installations shall conform to Article 517 of NFPA Standard 70.

C. At least two x-ray film illuminator units shall be installed in each operating room, emergency treatment room, and in the X-ray viewing room of the radiology department.

D. The electrical circuit(s) to equipment in wet areas shall be provided with five milliampere ground fault interrupters. Where ground fault interrupters are used in critical areas, provision shall be made to ensure that other

essential equipment will not be affected by a single interruption.

E. In areas such as intensive units (and special nurseries, when indicated by the program) where a patient may be treated with an internal probe or catheter connected to the heart, the ground system shall comply with Article 517-84, 517-86, and 517-88 of NFPA 70.

§ 3.49. Nurses' calling system.

A. In general patient areas, each room shall be served by at least one calling station and each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with floor staff and shall activate a visible signal in the corridor at the patient door, in the clean workroom, the soiled workroom, and the nourishment station of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

B. A nurses' call emergency button shall be provided for patient use at each patient's toilet, bath, sitz bath, and shower room. Such a button shall be usable by a collapsed patient lying on the floor (inclusion of a pull cord will satisfy this item).

C. In areas such as intensive care where patients are under constant surveillance, the nurses' calling system may be limited to a bedside station that will activate a signal that can be readily seen by the nurse.

D. A nurses' emergency calling station which may be used by nurses to summon assistance shall be provided in each operating, delivery, recovery, emergency treatment, and intensive care room, in nurseries, renal dialysis units, and in supervised nursing units for mental patients.

§ 3.50. Emergency electrical system.

A. To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power. Where stored fuel is required, capacity shall be such as to permit continuous operation for at least 24 hours.

B. The source of this emergency electric service shall be as follows:

1. An emergency generating set when the normal service is supplied by one or more central station transmission lines.

2. An emergency generating set or a central station

transmission line when the normal electric supply is generated on the premises.

C. The required emergency generating set, including the prime mover and generator, shall be located on the premises. The generator set shall be self-sufficient insofar as possible without dependency on public utilities that may be subject to cut off or outages.

A system of prime movers which are ordinarily used to operate other equipment and alternately used to operate the emergency generators will be permitted provided that the number and arrangement of the prime movers are such that when one of them is out of service (due to breakdown or for routine maintenance) the prime movers can operate the required emergency generators, and provided that the connection time requirements of subsection E of this section are met.

D. Emergency electrical service shall be provided to the distribution systems as follows:

1. Circuits for the safety of patients and personnel:

a. Illumination of means of egress are as required in NFPA Standard 101.

b. Illumination for exit signs and exit directional signs as required in NFPA Standard 101 and basic task illumination for critical elements of equipment such as pumps, elevator machinery, generator sets, etc.

c. Alarm systems including fire alarms activated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed.

d. Paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power.

e. General illumination and selected receptacles in the vicinity of the generator set.

2. Circuits essential to care, treatment, and protection of patients.

a. Task illumination and selected receptacles in infant nurseries; medicine dispensing areas; cardiac catheterization laboratories; angiographic laboratories; labor operating, delivery, and recovery rooms; dialysis units; intensive care areas; emergency treatment rooms; basic laboratory functions; and nurses' stations.

b. Corridor duplex receptacles in patient areas.

c. Nurses' calling system.

d. Blood bank refrigeration.

e. Equipment necessary for maintaining telephone service.

f. Each patient area in which life support systems are used shall have access to both normal and emergency power directly or by extension cords of not more than 50'0" (15.24m) in length.

3. Circuits which serve necessary equipment. The connection to the following emergency electric services shall be delayed automatic except for heating, ventilation, fire pump, and elevators which may be either delayed automatic or manual.

a. Equipment for heating the operating, delivery, labor, recovery, intensive care, renal dialysis, nursery, and general patient rooms, except that service for heating of general patient rooms will not be required under either of the following conditions: (i) if the design temperature is higher than 20°F (-7°C) based on the Median of Extremes as shown in the ASHRAE Handbook of Fundamentals, or (ii) if the hospital is served by two or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the hospital and the generating sources will not likely cause an interruption of the hospital service feeders.

b. Elevator service that will reach every patient floor. Throwover facilities shall be provided to allow temporary operation of any elevator for the release of persons who may be trapped between floors.

c. Ventilation of operating and delivery rooms.

d. Central suction systems service serving medical and surgical functions.

e. Equipment which must be kept in operation to prevent damage to the building or its contents.

f. Fire pump if installed.

E. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency. It must be connected within 10 seconds through one or more primary automatic transfer switches to emergency lighting systems; alarm systems; blood banks; nurses calling systems; equipment necessary for maintaining telephone service; and task illumination and receptacles in operating, delivery, emergency, recovery, and cardiac catheterization rooms, intensive care nursing areas, nurseries, renal dialysis unit, and other critical patient areas. All other lighting and equipment required to

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be connected to the emergency system shall either be connected through the above described primary automatic transfer switches or through other automatic or manual transfer switches. Receptacles connected to the emergency system shall be distinctively marked. Storage battery-powered lights provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, shall not be used as a substitute for the requirement of a generator. Where stored fuel is required for emergency generator operation, the storage capacity shall be sufficient for not less than 24-hour continuous operation.

F. Local codes and regulations may have additional requirements which should be considered.

G. Fire protection systems shall be provided as described in NFPA 101.

PART IV. OUTPATIENT SURGICAL HOSPITALS: ORGANIZATION, OPERATION, AND DESIGN STANDARDS FOR EXISTING AND NEW FACILITIES

Article 1. Organization and Management.

§ 4.1. Governing authority.

A. Each outpatient surgical hospital shall have a governing body or other legal authority responsible for the management and control of the operation of the facilities.

B. There shall be disclosure of hospital ownership. Ownership interest shall be made known to the licensing agency and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address. The licensing agency shall be notified of any changes in ownership.

C. The governing body shall provide facilities, personnel, and other resources necessary to meet patient and program needs.

D. The governing body shall have a formal organizational plan with written bylaws, rules and regulations or their equivalent. These shall clearly set forth organization, duties, responsibilities, accountability, and relationships of professional staff and other personnel. The person or organizational body responsible for formulating policies shall be identified.

E. The bylaws, rules and regulations, or their equivalent, shall include at least the following:

1. A statement of purpose;
2. Description of the functions and duties of the governing body, or other legal authority;

3. A statement of authority and responsibility delegated to the chief administrative officer and to the medical staff;

4. Provision for selection and appointment of medical staff and granting of clinical privileges;

5. Provision of guidelines for relationships among the governing body, the chief administrative officer, and the medical staff.

F. The responsibility for administration and management of the outpatient surgical hospital shall be vested in an individual whose qualifications, authority and duties shall be defined in a written statement adopted by the governing body.

Article 2. Policies and Procedures.

§ 4.2. General statement.

Policies and procedures may vary depending on scope and type of service, personnel, equipment and location of the facility. It is recognized that no two facilities will be identical because of variations in the scope and objective of the outpatient service. Even though each facility may be different, certain standards and procedures shall be applicable to all in assuring the delivery of a high quality of care.

§ 4.3. 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.

Article 3. Staffing.

§ 4.4. Medical staff.

The size and organizational structure of the medica

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.

§ 4.5. Nursing staff.

The total number of nursing personnel will vary depending upon the number and types of patients to be admitted and the types of operative procedures to be performed or the services programmed.

1. A registered nurse qualified on the basis of education, experience, and clinical ability shall be responsible for the direction of nursing care provided the patients.

2. The number and type of nursing personnel, including registered nurses, licensed practical nurses, and supplementary staff, shall be based upon the needs of the patients and the types of services performed.

3. At least one registered nurse shall be on duty at all times while the facility is in use.

4. Job descriptions shall be developed for each level of nursing personnel and include functions, responsibilities, and qualifications.

5. Evidence of current Virginia registration required by state statute shall be on file in the facility.

Article 4. Patient Care Services.

§ 4.6. Anesthesia service.

A. The anesthesia service shall be directed by and under the supervision of a physician licensed to practice medicine or surgery in Virginia.

B. The physician responsible for the anesthesia service shall be present for the administration of anesthetics and recovery of patients when any general or major regional anesthetic is used.

C. There shall be written procedures to assure safety in storage and use of inhalation anesthetics and medical gases.

D. Unless the hospital program and official written action by the governing body prohibit use of flammable anesthetics, the requirements of § 2.8 of these regulations must be met.

§ 4.7. Sterile supply services.

A. Adequate provisions shall be maintained for the processing, sterilizing, storing, and dispensing of clean and sterile supplies and equipment.

B. Written procedures shall be established for the appropriate disposal of pathological and other potentially infectious waste and contaminated supplies.

§ 4.8. Dietary service.

If the program calls for the dietary service, serving of snacks or other foods, adequate space, equipment, and supplies shall be provided. Applicable state and local codes pertaining to receiving, storage, refrigeration, preparation, and serving of food shall be followed.

§ 4.9. Evacuation plan.

A. Each outpatient surgical hospital shall develop a written evacuation plan to assure reasonable precautions are taken to protect patients, employees, and visitors from hazards of fire and other disaster. The evacuation plan shall provide:

B. A program to acquaint all personnel with evacuation procedures shall be maintained.

C. A copy of the plan and procedures shall be made available to the Bureau upon request.

§ 4.10. Emergency services.

A. Each outpatient surgical hospital shall provide emergency service and maintain on the premises adequate monitoring equipment, suction apparatus, oxygen, and related items necessary for resuscitation and control of hemorrhage and other complications.

B. A written agreement which ensures emergency transportation to a licensed general hospital shall be executed with an ambulance service.

C. A written agreement shall be executed with a general hospital to ensure that any patient of the outpatient surgical hospital shall receive needed emergency treatment. The agreement shall be within a licensed general hospital capable of providing full surgical, anesthesia, clinical laboratory, and diagnostic radiology service on 30 minutes notice and which has a physician in the hospital and available for emergency service at all

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times.

§ 4.11. Laboratory and pathology services.

A. Laboratory and pathology services each patient admitted to the outpatient surgical hospital shall receive appropriate laboratory testing.

[~~B. Outpatient surgical hospitals which provide abortion services shall provide laboratory services which meet the minimum requirements of § 904.1.3 and 904.1.4 of these regulations.]~~

[~~C. B.] All tissue removed shall be submitted for histological examination by a pathologist and a written report of his examination provided to the attending physician. The report of findings shall be filed in the patient's clinical record. [~~Pathology services for abortion patients shall meet the minimum requirements of § 904.2.4 of these regulations.]~~~~

§ 4.12. Medical records.

A. Medical records. An accurate and complete clinical record or chart shall be maintained on each patient. The record or chart shall contain sufficient information to satisfy the diagnosis or need for the medical or surgical service. It shall include, when applicable, but not be limited to the following:

1. Patient identification;
2. Admitting information, including patient history and physical examination;
3. Signed consent;
4. Confirmation of pregnancy, if applicable;
5. Physician orders;
6. Laboratory tests, pathologist's report of tissue, and radiologist's report of x-rays;
7. Anesthesia record;
8. Operative record;
9. Surgical medication and medical treatments;
10. Recovery room notes;
11. Physician and nurses' progress notes,
12. Condition at time of discharge,
13. Patient instructions, preoperative and postoperative;
14. Names of referral physicians or agencies.

B. Provisions shall be made for the safe storage of

medical records or accurate and legible reproductions thereof.

C. All medical records, either original or accurate reproductions, shall be preserved for a minimum of five years following discharge of the patient.

1. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

2. Birth and death information shall be retained for 10 years in accordance with § 32.1-274 [*of the*] Code of Virginia [~~(1950)~~ as amended] .

3. Record of abortions and proper information for the issuance of a fetal death certificate shall be furnished the [~~Bureau~~ *Division*] of Vital Records, Virginia Department of Health, within 10 days after the abortion.

§ 4.13. Preoperative admission.

A. Prior to the initiation of any procedure, a medical history and physical examination shall be completed for each patient.

B. Where medical evaluation, examination, and referrals are made from a private physician's office, another hospital, clinic, or medical service pertinent available records thereof shall be made and included as a part of the patient's medical record at the time the patient is admitted to the outpatient surgical hospital.

C. Sufficient time shall be allowed between initial examination and initiation of any procedure to permit the reporting and review of laboratory tests by the responsible physician.

D. In outpatient surgical hospitals which provide abortion services, the diagnosis of pregnancy shall be the responsibility of the physician performing the abortion procedure.

E. Outpatient surgical hospitals which provide abortion services shall offer each patient appropriate counseling and instruction in the abortion procedure and in birth control methods.

§ 4.14. Post-operative recovery.

A. Each patient shall be observed for post-operative complications under the direct supervision of a registered professional nurse. Recovery room nurses shall have specialized training in resuscitation techniques and other emergency procedures consistent with policies and procedures of the institution for designated special units.

B. A physician licensed in Virginia shall be present on the premises at all times during the operative and post-operative period until discharge of the patient.

C. Patients shall be discharged from the recovery only on written order of the attending physician.

[~~D. Rh (D) anti-immune globulin (human) shall be administered to Rh-negative patients who receive abortion services in accordance with requirements of § 904.3.5 these regulations.]~~

§ 4.15. Environment and maintenance.

A. All parts of the outpatient surgical hospital and its premises shall be kept clean, neat, and free of litter and rubbish.

B. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other materials.

§ 4.16. Laundry services.

A. Each outpatient surgical hospital shall make provisions for the cleaning of all linens.

B. There shall be distinct areas for the separate storage and handling of clean and soiled linens.

C. All soiled linen shall be placed in closed containers prior to transportation.

§ 4.17. Physical plant: fire and safety; lighting and electrical; plumbing; sewage and waste disposal; water supply.

A. Each outpatient hospital shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations.

B. Policies and procedures shall be established to minimize the hazards in the use and operation of all electrical equipment.

All electrical appliances used by the outpatient surgical hospital shall have the Underwriters Laboratories label or be approved by the local electrical inspection authority.

C. All plumbing material and plumbing systems or parts thereof shall meet the minimum requirements of the Uniform Statewide Building Code.

All plumbing shall be installed in such a manner as to prevent back-siphonage or cross-connections between potable and nonpotable water supplies.

D. Existing and new facilities shall be connected to an approved sewage system.

E. Pathological and bacteriological wastes, dressings, and other contaminated wastes shall be incinerated in an approved incinerator or by other methods of disposal as approved by the licensing agency.

F. Water shall be obtained from an approved water supply system. The water shall be distributed to conveniently located taps and fixtures throughout the facility and shall be adequate in volume and pressure for all hospital purposes, including fire fighting.

PART V. DESIGN STANDARDS FOR NEW OUTPATIENT SURGICAL HOSPITALS AND ADDITIONS AND ALTERATIONS TO EXISTING OUTPATIENT SURGICAL HOSPITALS.

Article 1. General Considerations.

§ 5.1. Narrative programs.

A. The owner or his representative shall provide a brief narrative which describes the functional space requirements, staffing patterns, departmental relationship, and other basic information relating to the fulfillment of the institution's objective.

B. The narrative shall indicate the manner in which the services are to be made available to the outpatients. When services are to be shared or purchased, appropriate modifications or deletions in space and equipment requirements shall be considered to avoid duplication. In many instances, minimum requirements are not intended in any way to restrict innovations and improvements in design or construction techniques. Plans and specifications which contain deviations from the requirements prescribed herein may be approved if it is determined that the purposes of the minimum requirements have been fulfilled. Request to waive any specific requirements shall be submitted to the licensing agency for approval prior to development of working drawings and specifications.

C. The extent (number and type) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services contemplated and the estimated patient load as described in the narrative program.

§ 5.2. Applicable requirements.

If the outpatient surgical hospital is a physical part of an inpatient hospital and is intended to serve inpatients as well as outpatients, the applicable requirements of Part II and Part III of these regulations must be met.

§ 5.3. Parking.

In the absence of a formal parking study, vehicle parking for outpatient surgical hospitals shall be provided at the ratio of two parking spaces for each treatment room and each examining room plus sufficient parking spaces to accommodate the maximum number of staff on duty at one time. Exceptions may be made with approval of the licensing agency for outpatient surgical hospitals located in areas with high population density if adequate

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public parking is available or if the hospital is accessible to a public transportation system.

§ 5.4. Codes; fire safety; zoning; conversions.

A. All construction of new buildings and additions alterations or repairs to existing buildings for occupancy as a "free-standing" outpatient hospital shall conform to state and local codes, zoning and building ordinances, and the Statewide Uniform Building Code requirements applicable to type of occupancy. All codes applicable to the outpatient surgical hospital shall be noted on the preliminary and working drawings.

B. Conversions of existing buildings to outpatient surgical hospital occupancy will be considered only in those buildings which meet or can be remodeled to meet the requirements of the Statewide Uniform Building Code.

§ 5.5. Site requirements and location.

A. The site shall meet local zoning regulations.

B. Facilities not located on the ground floor of a building shall be served by an elevator(s) capable of accommodating a standard stretcher.

C. Facilities shall be located in buildings providing emergency electrical service. The emergency electrical service may be provided by an auxiliary generator, or, if available from the power company, two separate lines, each supplied from a separate generating source. The emergency electrical service shall have the capability to cover at least the operating, procedure, and recovery room(s) lighting and electrical equipment.

D. The sanitation, water supply, sewage, and disposal facilities shall comply with the applicable state and local codes and ordinances.

E. Adequate fire protection facilities or fire department services shall be available.

Article 2. Architectural Plan Review.

§ 5.6. General.

During the early phase of architectural planning, prime consideration shall be given to patient traffic from the patient parking area to admissions and through the service area to discharge offices and to areas for patient pick up. Personnel traffic patterns from other areas to the service area, as well as those related to internal operations, including supply distribution shall be considered.

§ 5.7. Drawings and specifications.

A. Preliminary drawings and outline specifications shall be submitted to the licensing agency with a program narrative description for review and approval prior to

starting final working drawings and specifications.

B. The final working drawings and specifications shall be submitted to the licensing agency for review and approval prior to release of contract documents for bidding.

C. The licensing agency shall be notified of the award of contracts, of the date when construction has been completed, and at least 30 days prior to the estimated date of occupancy.

D. Minor alterations or remodeling changes which do not affect the structural integrity of the building, or change functional operation, or which do not affect safety, need not be submitted for approval.

E. The preparation and submission of drawings and specifications shall be executed by or under the immediate supervision of an architect registered in the [*State Commonwealth*] of Virginia.

Article 3. Design Requirements.

§ 5.8. Administration and public areas.

A. Entrance to the building shall be located at grade level, sheltered from the weather and able to accommodate wheelchairs, if applicable.

B. The same room may serve more than one function. The design shall assure that adequate space is available for all administrative services.

C. The reception area may be considered a part of administrative services. Adequate space near the entrance shall be provided for receiving and registering patients. Work space shall provide privacy for obtaining confidential information and discussing financial arrangements.

D. Adequate waiting space shall be provided for at least one family member or friend per patient. Facilities shall include public toilets, public telephone(s), drinking fountains(s), and wheelchair storage.

E. Adequate space to assure privacy for both males and females shall be provided in dressing rooms and patient lockers, toilet and bathing facilities, preoperative preparation, medication administration, and patient holding areas.

F. If the program calls for services requiring special patient counseling, private space shall be provided for this service.

G. Facilities and space may be provided for preparation of light nourishment, refrigeration and ice machine. Handwashing facilities shall be provided in the room.

H. Space for general storage for office supplies, sterile

supplies, pharmacy and housekeeping supplies shall be provided.

I. Adequate janitor's closet(s) with floor receptor or service sink shall be provided.

§ 5.9. Clinical areas.

A. The size and design of units shall be in accordance with individual programs but the following basic elements shall be incorporated in all facilities, where applicable.

B. The plumbing, heating, and electrical systems for the surgical suite shall meet all applicable parts specified in § 3.18 of these regulations.

C. The architectural design of the facilities shall provide a sufficient number of rooms for the projected case load and types of procedures to be performed.

Operating rooms shall have minimum dimensions of 16' X 18'. One smaller room may be reserved for minor local excisions but that room shall be no less than 160 square feet (14.88 sq. m).

D. Scrub sinks shall be provided. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts.

E. The locker and dressing areas shall be located so that personnel enter from uncontrolled areas and exit directly into the surgical suite. Locker space shall be provided for each employee, and a toilet, shower, and dressing area shall be provided in each personnel dressing room.

F. The recovery room shall have handwashing facilities, medication storage space, clerical work space, storage for clerical supplies, linens, and patient care supplies and equipment, and an adjoining toilet which shall have a water closet and handwashing lavatory.

G. The preoperative preparation area may be designed and equipped for examination. Each room shall have a handwashing lavatory and be equipped for patient examination.

H. Separate work and storage rooms shall be provided for clean and sterile holding and for instrument or equipment clean up functions.

I. Unless the narrative program and governing body prohibit, in writing, the use of flammable anesthetics a separate anesthesia storage room shall be provided for storage of flammable gases.

J. Anesthesia workroom and equipment storage facilities with adequate ventilation, work counter and sink shall be provided.

K. Sufficient clerical control stations shall be

appropriately designed and located. Suitable space shall be provided for the following activities: (i) traffic control of the area; (ii) clerical functions related to room or case scheduling and record maintenance; (iii) personnel functions; and (iv) nursing activities related to medication administration and treatments.

L. Private and adequate space to accommodate the total number of doctors who may be dictating at the same time shall be provided. This space may be located adjacent to but not inside the nurses' station, lounge, or doctors' dressing area.

M. A janitor's closet which meets the requirements of § 3.18 E 17 of these regulations shall be provided.

§ 5.10. Laboratory and radiology services.

Space and equipment requirements shall be determined by the workload described in the narrative program. These services may be provided within the outpatient surgical hospital or through an effective contractual arrangement with nearby facilities. If laboratory or radiology services or both are not provided by contractual agreement all applicable parts of §§ 2.13 and 2.19 of these regulations shall apply.

§ 5.11. General requirements.

A. Minimum public corridor width shall be 5'0" (1.52m).

B. Each building shall have at least two exits remote from each other. Other details as to exits and fire safety shall be in accordance with the Virginia [*Statewide*] Fire [*Safety Prevention*] Code [(VR 394-01-6)].

C. Items such as drinking fountains, telephone booths, vending machines and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required width.

D. Toilet rooms which may be used by patients shall be equipped with doors and hardware which will permit access from the outside in any emergency.

E. The minimum width of doors for patient access to examination and treatment rooms shall be 3'0" (.91m).

F. No door shall swing into a corridor in a manner that might obstruct traffic flow or reduce the required corridor width, except doors to space such as small closets which are not subject to occupancy.

G. Rooms containing ceiling mounted equipment and those have ceiling mounted surgical light fixtures shall have height required to accommodate the equipment or fixture. All other rooms shall have not less than 8'0" (2.43 m) ceiling except that corridors, storage rooms, toilet rooms and other minor rooms shall not be less than 7'8" (2.23 m).

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H. Cubicle curtains and draperies shall be noncombustible or rendered flame retardant.

I. Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved.

J. Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.

APPENDIX A - REFERENCES FOR GENERAL AND SPECIAL HOSPITALS

Where reference is made to Rules and Regulations of the State Board of Health, the State Board of Pharmacy, or other Agencies, Boards, or Departments of the Commonwealth of Virginia, it shall be construed to mean the most current edition of such Rules and Regulations as formally and lawfully adopted by such Board, Agency, or Department after notice and public hearing pursuant to the applicable provisions of the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9, of the Code of Virginia.

1. [*VR 355-35-01.*] Rules and Regulations Governing Restaurants, Commonwealth of Virginia, Board of Health.

2. "Recommended Dietary Allowances," National Research Council, National Academy of Sciences, 2101 Constitution Avenue, Washington, D.C. 20418.

3. Rules and Regulations Pertaining to Ambulance Services, Commonwealth of Virginia, Board of Health.

4. "Hospitals Laboratories," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

[~~5. "Minimum Standards and Qualifications for Blood Banks," Board of Health, Commonwealth of Virginia.~~]

[~~6. 5.~~] "Accreditation Manual for Hospitals," Joint Commission on Accreditation of Hospitals, 645 North Michigan Avenue, Chicago, Illinois 60611.

[~~7. 6.~~] "Protection of Records," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

[~~8. "Rules and Regulations for Control of Ionizing Radiation," 7. VR 355-20-1. Virginia Radiation Protection Regulations.~~] Commonwealth of Virginia, State Board of Health.

[~~9. 8.~~] "Drug Control Act" [as amended (*Chapter 34* (§ 54.1-3400 et seq. of Title 54.1 of the Code of Virginia)] and [~~"Board Regulations," VR 530-01-1. Regulations of the Board of Pharmacy~~] Commonwealth of Virginia, [State] Board of Pharmacy.

[~~10. 9.~~] "Hospital Emergency Preparedness," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts, 02210.

[~~11. 10. VR 355-28-100.~~] "Rules and Regulations for the Reporting and Control of Diseases," Commonwealth of Virginia, State Board of Health.

[~~12. 11.~~] Specified Organisms:

Atypical mycobacteria

Bacillus anthracis

Campylobacter fetus

Corynebacterium diphtheriae

Mycobacterium tuberculosis

Neisseria meningitidis

Polioviruses

Salmonella species

Shigella species

Vibrio cholerae

Yersinia pestis

[~~13. 12.~~] "Standards for Incinerators," National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

[~~14. Statewide 13. VR 394-01-21. Virginia~~] Uniform [~~Statewide~~] Building Code, Commonwealth of Virginia, Department of Housing [~~; 1981 1993~~] .

[~~15. "Rules and Regulations for the Licensure of Private Psychiatric Hospitals," Commonwealth of Virginia, State Board of Health and Mental Retardation.~~]

APPENDIX B - DESIGN STANDARDS FOR INPATIENT HOSPITALS

[~~23. 1.~~] National Fire Protection Association (NFPA) Standard No. 80 "Standard for Fire Doors and Windows"

[~~24. 2.~~] National Fire Protection Association (NFPA) Standard No. 90A "Installation of Air Conditioning and Ventilating Systems"

[~~25. 3.~~] National Fire Protection Association (NFPA) Standard No. 101 "Life Safety Code."

[~~26. 4.~~] National Fire Protection Association (NFPA) Standard No. 255 "Methods of Test of Surface Burnin

Characteristics of Building Materials"

[27) 5.] National Fire Protection Association (NFPA)
Standard No. 258 "Test Method for Measuring Smoke
Generated by Solid Materials"

[28) 6.] National Fire Protection Association (NFPA)
Standard No. 701 "Flame Resistant Textiles and
Films"

[29) 7.] Underwriters' Laboratories, Inc. (UL)
Standard No. 181 "Factory Made Air Duct Material
and Air Duct Connectors"

These codes and standards can be obtained from the
various agencies at the addresses listed below:

Air Conditioning and Refrigeration Institute
1815 N. Ft. Myer Drive
Arlington, Va. 22209

American National Standards Institute
1430 Broadway
New York, N.Y. 10018

American Society for Testing Materials
1916 Race Street
Philadelphia, Pa. 19103

American Society of Heating, Refrigerating,
and Air Conditioning
United Engineering Center
345 East 47th Street
New York, N.Y. 10017

Compressed Gas Association
500 Fifth Avenue
New York, N.Y. 10036

Department of Housing and Community Development
Building Regulatory Services
(Statewide Uniform Building Code)
205 North Fourth Street
Richmond, Virginia 23219

GSA Specification Consumer Information
Distribution Branch
Building 197
Washington Navy Yard
Washington, D. C. 20407

Hydronics Institute
35 Russo Place
Berkeley Heights, N. J. 07922

National Council on Radiation Protection and
Measurement
P. O. Box 30175
Washington, D. C. 20014

National Fire Protection Association

470 Atlantic Avenue
Boston, Mass. 02210

Naval Publications and Form Center
5801 Tabor Avenue
Philadelphia, Pa. 19120
(For DOP Penetration Test Method)

OHDS Publications
Room A-311, HEW South Building
Washington, D. C. 20201

Underwriters' Laboratories, Inc.
353 Princeton Road
Northbrook, Ill. 60062

APPENDIX C - DESIGN TABLES FOR INPATIENT HOSPITALS

Table 1. SOUND TRANSMISSION LIMITATIONS FOR
§ 3.40

	AIRBORNE SOUND TRANSMISSIONS CLASS STC ¹		IMPACT INSULATION CLASS IIC ²
	Partitions	Floors	Floors
Patients' room to patients' room	45	45	45
Public space to patients' room	50	50	50 ⁴
Service areas to patients' room	55	55	55 ⁵

¹ Sound transmission class (STC) shall be determined
by tests in accordance with methods set forth in
ASTM Standard E90 and ASTM Standard E413.

² Impact insulation class (IIC) shall be determined in
accordance with criteria set forth in HUD FT/TS-24,
"A Guide to Airborne, Impact and Structure Borne
Noise. Control in Multi-Family Dwellings."

³ Public space includes lobbies, dining rooms,
recreation rooms, treatment rooms, and similar spaces.

⁴ Impact noise limitation applicable only when
corridor, public space, service area, or play or
recreation area is over Patients' room.

⁵ Service areas include kitchens, elevators, elevator
machine rooms, laundries, garages, maintenance
rooms, boiler and mechanical equipment rooms, and
similar spaces of high noise. Mechanical equipment
located on the same floor or above patients' rooms,
offices, nurses' stations, and similar occupied spaces
shall be effectively isolated from the floor.

NOTE: The requirement set forth in this table assumes
installation methods which will not appreciably reduce
the efficiency of the assembly as tested.

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Table 2. FLAME SPREAD AND SMOKE PRODUCTION LIMITATIONS ON INTERIOR FOR §§ 3.40 and 3.41

		Flame Spread Rating	Smoke Production Rating
Walls and Ceilings	Exitways, storage rooms, and areas of unusual fire hazard	ASTM Standard E84) 25 or less)
	All other areas	ASTM Standard E84) NFPA 258)
Floors**	Corridors and means of egress	75 or less)
		NFPA 254-1978 (Flooring Radiant)	) 450 or less
		Panel Test	) Minimum of .45 watts/cm2

* Average of flaming and nonflaming values.

** See subdivision 8 of § 3.4 for requirements relative to carpeting in areas that may be subject to use by handicapped individuals. Such areas include offices, waiting spaces, etc., as well as corridors that might be used by handicapped employees, visitors, or staff.

Table 3. TEMPERATURE AND HUMIDITIES FOR SECTIONS §§ 3.43 AND 3.44

Area Designation	Temperature		Relative Humidity(%)	
	F	C	Min.	Max.
Operating Rooms	68-76*	20-24*	50	60
Delivery Rooms	70-76*	21-24*	50	60
Recovery Rooms	75	24	50	60
Intensive Care Rooms	72-78*	22-26*	30	60
Nurseries Units	75	24	30	60
Special Care Nursery Unit	75-80*	24-27*	30	60
Other Inpatient Areas	75	24	30	60

*Variable Range Required With Individual Room Control

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APPENDIX C - DESIGN TABLES FOR INPATIENT HOSPITALS

Table 4. GENERAL PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN AREAS FOR SECTION 642 § 3.44

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air per Hour Supplied to Room	Minimum ⁸ Total Air Changes per Hour Supplied to Room	All Air ⁷ Exhausted Directly to Outdoors	Recirculated within Room Units
Operating Room (for recirculating air system)	P	5	25	Optional	No ⁴
Operating Room (all outdoor-air system) ⁶	P	15	15	Yes	No
Trauma Room	P	5	12	Optional	No ⁴
Examination and Treatment Room	E	2	6	Optional	Optional
Delivery Room	P	5	12	Optional	No ⁴
Nursery Unit	P	5	12	Optional	No ⁴
Recovery Room	P	2	6	Optional	No ⁴
Intensive Care	P	2	6	Optional	No ^{4,5}
Patient Room	E	2	2	Optional	Optional
Patient Room Corridor	E	2	2	Optional	Optional
Isolation Room	N	2	6	Yes	No ⁵
Isolation Room-Alcove or Anteroom	N	2	10	Yes	No ⁵
Examination Room	E	2	6	Optional	Optional
Medication Room	P	2	4	Optional	Optional
Pharmacy	P	2	4	Optional	Optional
Treatment Room	E	2	6	Yes	No
X-ray, Fluoroscopy	N	2	6	Yes	No
X-ray, Other Diagnostic Rooms	V	2	6	Optional	Optional
Physical Therapy and Hydrotherapy	N	2	6	Optional	Optional
Soiled Workroom or Soiled Holding	N	2	10	Yes	No
Clean Workroom or Clean Holding	P	2	4	Optional	Optional
Autopsy	N	2	12	Yes	No
Darkroom	N	2	10	Yes	No
Nonrefrigerated Body Holding Room	N	Optional	10	Yes	No
Boiler Room	N	Optional	10	Yes	No
Bedpan Room	N	Optional	10	Yes	No
Bathroom	N	Optional	10	Yes	No
Janitors' Closet	N	Optional	10	Yes	No
Sanitizer Equipment Room	N	Optional	10	Yes	No
Linen and Trash Chute Rooms	N	Optional	10	Yes	No
Laboratory, General ¹	N	2	6	Optional	Optional
Laboratory, Media Transfer ²	P	2	4	Optional	No ⁴
Food Preparation Centers	E	2	10	Yes	No
Warewashing	N	Optional	10	Yes	No
Dietary Bay Storage	V	Optional	2	Optional	No
Laundry, General	V	2	10	Yes	No
Soiled Linen Sorting and Storage	N	Optional	10	Yes	No
Clean Linen Storage	P	Optional	2	Optional	Optional
Anesthesia Storage ³	V	Optional	3	Yes	No
Central Services					
Soiled or Decontamination Room	N	2	6	Yes	No
Clean Workroom	P	2	4	Optional	Optional
Equipment Storage	V	Optional	2	Optional	Optional

P = Positive N = Negative E = Equal V = May Vary

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¹ See subsections T, U and V of § 3.44 for additional requirements.

² See § 3.44 T for additional requirements.

³ See § 3.44 X for additional requirements.

⁴ Recirculating room units meeting the filtering requirements for sensitive areas in subsections J, K, L and M of § 3.44 may be used.

⁵ See § 3.44 I.

⁶ For maximum energy conservation, use of a recirculated filtered air system is preferred. An all outdoor air system may be used where required by local codes provided that appropriate heat recovery procedures are utilized for exhaust air.

⁷ Heat recovery systems should be utilized where appropriate especially for those areas where all air is required to be exhausted to the outside.

⁸Requirements for outdoor air changes may be deleted or reduced and total air changes per hour supplied may be reduced to 25% of the figures listed when the affected room is unoccupied and unused provided that indicated pressure relationship is maintained. In addition, positive provisions such as an interconnect with room lights must be included to insure that the listed ventilation rates including outdoor air are automatically resumed upon reoccupancy of the space. This exception does not apply to certain areas such as toilets and storage which would be considered as "in use" even though "unoccupied."

General note. The outdoor air quantities for central systems employing recirculating and serving more than a single area designation may be determined by summing the individual area air quantity requirements rather than by providing the maximum listed ratio of outdoor air to total air. This does not apply to sensitive nurseries and intensive care rooms.

Table 5 - FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR CONDITIONING SYSTEMS FOR § 3.44.

AREA DESIGNATION	MINIMUM NUMBER OF FILTER BEDS	FILTER EFFICIENCIES (%)	
		FILTER BED No. 1	FILTER BED No. 2
Sensitive Areas*	2	25	90
Patient Care, Treatment Diagnostic, and Related Areas	2	25	90**
Food Preparation Areas and Laundries	1	80	—
Administrative, Bulk Storage and Soiled Holding Areas	1	25	—

* Includes operating rooms, delivery rooms, nurseries, recovery rooms, and intensive care units.

** May be reduced to 80% for systems using all-outdoor air.

Note: Ratings shall be with tolerance of ARI Standard 680.

Table 6
DOMESTIC HOT WATER CRITERIA FOR § 3.45

	Clinical	Dietary	Laundry
Gallons (per hour per bed)	6-1/2	4	4-1/2
Liters (second per bed)	.007	.004	.005
Temperature (F)	110**	120*	160***
Temperature (C)	43**	49*	71***

*Rinse water temperature at automatic warewashing equipment shall be 180 F (82 C).

**See § 3.45

***Required temperature of 160 F (71 C) in the laundry is that measured in the washing machine and shall be supplied so that the temperature may be maintained over the entire wash and rinse period. Attention is called to the fact that control of bacteria in laundry processing is dependent upon a number of interrelated factors such as detergent, bleach, number of rinses and temperature. In most instances, maximum overall economies with acceptable results can be achieved with the use of 160 F (71 C) water. Lesser temperature may require excessive bleaching or other chemical treatment that would be damaging to fabrics.

Table 7 - STATION OUTLETS FOR OXYGEN AND VACUUM SYSTEMS FOR SECTION 644

LOCATION	OXYGEN	VACUUM
Patient Room for adult medical, surgical, and post-partum care, and for pediatrics	A	A
Examination and treatment room for nursing unit	B	B
Patient room for intensive care	C	C
Nursery and pediatric nursery	A	A
General operating room	F	F
Cystoscopy and special procedure room	D	D
Recovery room for surgical and obstetrical patients	C	C
Delivery room	F	F
Labor room	A	A
Treatment room for emergency care	D	D
Autopsy room	-	D
Anesthesia workroom	-	D
Radiological procedure room	D	D

A - One outlet accessible to each bed. One outlet may serve two beds.

B - One outlet. Portable equipment for the administration of oxygen and suction may be considered acceptable in lieu of fixed outlets.

C - Two outlets for each bed or provide one outlet with Y-fitting.

D - One outlet.

E - One outlet for each bed.

F - Two outlets.

G - Three outlets.

VA.R. Doc. No. R95-180; Filed December 7, 1994, 2:30 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Balloon Loan Financing.
VR 460-03-4.1940:1. Nursing Home Payment System.

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

Effective Date: March 1, 1995.

Summary:

The purpose of this action is to amend the State Plan for Medical Assistance to specifically address existing reimbursement policies relating to balloon loan financing in light of regulations addressing refinancing for nursing facilities. This amendment is the result of policies adopted by the Board of Medical Assistance Services on December 14, 1992, regarding refinancing of balloon loans in response to requests by providers that DMAS establish a policy for balloon loan financing based on current State Plan language. This action incorporates the specific language of the balloon loan financing policy into the State Plan.

The Nursing Home Payment System (NHPS) provides that costs incurred due to a refinancing cannot exceed the total costs that would have been allowable had the refinancing not occurred. This could be interpreted to prohibit reimbursement for the refinancing of a balloon loan at the expiration of the term of the original note since payment of the balloon principal would eliminate the debt on the nursing facility and the associated interest cost to the Medicaid program.

Providers were asking for a specific policy to address balloon loan financing due to the reluctance of

financial institutions to make long-term loans to the health care industry.

The department developed this policy in 1992 to accommodate the needs of the provider community at a minimum cost to the Medicaid program. Under this policy as promulgated, § 2.4 of the NHPS would permit the refinancing of a balloon loan as limited by the procedures outlined below.

The application of the policy provides that a balloon loan will be considered a variable interest rate loan with an amortization schedule computed on 27 years for financing of construction or purchase of a nursing facility or 15 years for financing of furniture, fixtures, and movable equipment. For each cost reporting period, the provider will be paid the lesser of the actual interest incurred or interest computed on the amortization schedule and the lesser of actual loan costs or loan costs computed on the amortization schedule. To the extent that there is a credit created by the actual interest and loan costs being less than the interest and loan costs computed on the amortization schedule in some periods, the provider may recover interest and loan costs (otherwise allowable except for having exceeded the amounts computed on the schedule) in subsequent cost reporting periods up to the amount of the cumulative interest credit.

The principle advantages of this action are that treatment of this financing mechanism will now be defined and that all NF providers' balloon loans will receive consistent treatment. Additionally, this will allow providers to obtain financing through balloon loans and refinance balloon loans knowing the reimbursement effects in advance. The agency projects no negative issues involved in implementing this proposed change.

The disadvantage of this policy is that there could be a timing difference between the incurring of costs and the reimbursement to the provider of those incurred costs.

The only difference in this suggested final regulation over that language which was proposed is the placement of the newly added language. Instead of being a freestanding subsection E under § 2.4, the new language can now be found at § 2.4 A 7. The agency feels this to be a more appropriate placement for such already existing policy.

Summary of Public Comment and Agency Response: No public comments were received by the agency during the comment period.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804)

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371-8850. There may be a charge for copies.

VR 460-03-4.1940:1. Nursing Home Payment System.

PART I. INTRODUCTION.

§ 1.1. General.

Effective October 1, 1990, the payment methodology for Nursing Facility (NF) reimbursement by the Virginia Department of Medical Assistance Services (DMAS) is set forth in the following document. The formula provides for incentive payments to efficiently operated NFs and contains payment limitations for those NFs operating less efficiently. A cost efficiency incentive encourages cost containment by allowing the provider to retain a percentage of the difference between the prospectively determined operating cost rate and the ceiling.

§ 1.2. Cost components.

Three separate cost components are used: plant cost, operating cost and nurse aide training and competency evaluation program and competency evaluation program (NATCEPs) costs. The rates, which are determined on a facility-by-facility basis, shall be based on annual cost reports filed by each provider.

§ 1.3. Ceiling limitations.

In determining the ceiling limitations, there shall be direct patient care medians established for NFs in the Virginia portion of the Washington DC-MD-VA Metropolitan Statistical Area (MSA), the Richmond-Petersburg Metropolitan Statistical Area (MSA), and in the rest of the state. There shall be indirect patient care medians established for NFs in the Virginia portion of the Washington DC-MD-VA MSA, and in the rest of the state. The Washington DC-MD-VA MSA and the Richmond-Petersburg MSA shall include those cities and counties as listed and changed from time to time by the Health Care Financing Administration (HCFA). A NF located in a jurisdiction which HCFA adds to or removes from the Washington DC-MD-VA MSA or the Richmond-Petersburg MSA shall be placed in its new peer group, for purposes of reimbursement, at the beginning of its next fiscal year following the effective date of HCFA's final rule.

§ 1.4. Exemptions.

Institutions for mental diseases providing nursing services for individuals age 65 and older shall be exempt from the prospective payment system as defined in §§ 2.6, 2.7, 2.8, 2.19, and 2.25, as are mental retardation facilities. All other sections of this payment system relating to reimbursable cost limitations shall apply. These facilities shall continue to be reimbursed retrospectively on the basis of reasonable costs in accordance with Medicare and Medicaid principles of reimbursement. Reimbursement to

Intermediate Care Facilities for the Mentally Retarded (ICF/MR) shall be limited to the highest rate paid to a state ICF/MR institution, approved each July 1 by DMAS.

§ 1.5. Medicare principles of reimbursement.

Except as specifically modified herein, Medicare principles of reimbursement, as amended from time to time, shall be used to establish the allowable costs in the rate calculations. Allowable costs must be classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification) and must be identifiable and verified by contemporaneous documentation.

All matters of reimbursement which are part of the DMAS reimbursement system shall supercede Medicare principles of reimbursement. Wherever the DMAS reimbursement system conflicts with Medicare principles of reimbursement, the DMAS reimbursement system shall take precedence. Appendices are a part of the DMAS reimbursement system.

PART II. RATE DETERMINATION PROCEDURES.

Article 1. Plant Cost Component.

§ 2.1. Plant cost.

A. Plant cost shall include actual allowable depreciation, interest, rent or lease payments for buildings and equipment as well as property insurance, property taxes and debt financing costs allowable under Medicare principles of reimbursement or as defined herein.

B. To calculate the reimbursement rate, plant cost shall be converted to a per diem amount by dividing it by the greater of actual patient days or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

C. For NFs of 30 beds or less, to calculate the reimbursement rate, the number of patient days will be computed as not less than 85% of the daily licensed bed complement.

D. Costs related to equipment and portions of a building/facility not available for patient care related activities are nonreimbursable plant costs.

§ 2.2. New nursing facilities and bed additions.

A. 1. Providers shall be required to obtain three competitive bids when (i) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (ii) purchasing fixed equipment or major movable equipment related to such projects.

2. All bids must be obtained in an open competitive market manner, and subject to disclosure to DMAS prior to initial rate setting. (Related parties see § 2.10.)

B. Reimbursable costs for building and fixed equipment shall be based upon the 3/4 (25% of the surveyed projects with costs above the median, 75% with costs below the median) square foot costs for NFs published annually in the R.S. Means Building Construction Cost Data as adjusted by the appropriate R.S. Means Square Foot Costs "Location Factor" for Virginia for the locality in which the NF is located. Where the specific location is not listed in the R.S. Means Square Foot Costs "Location Factor" for Virginia, the facility's zip code shall be used to determine the appropriate locality factor from the U.S. Postal Services National Five Digit Zip Code for Virginia and the R.S. Means Square Foot Costs "Location Factors." The provider shall have the option of selecting the construction cost limit which is effective on the date the Certificate of Public Need (COPN) is issued or the date the NF is licensed. Total cost shall be calculated by multiplying the above 3/4 square foot cost by 385 square feet (the average per bed square footage). Total costs for building additions shall be calculated by multiplying the square footage of the project by the applicable components of the construction cost in the R.S. Means Square Foot Costs, not to exceed the total per bed cost for a new NF. Reasonable limits for renovations shall be determined by the appropriate costs in the R.S. Means Repair and Remodeling Cost Data, not to exceed the total R.S. Means Building Construction Cost Data 3/4 square foot costs for nursing homes.

C. New NFs and bed additions to existing NFs must have prior approval under the state's Certificate of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

D. However in no case shall allowable reimbursed costs exceed 110% of the amounts approved in the original COPN, or 100% of the amounts approved in the original COPN as modified by any "significant change" COPN, where a provider has satisfied the requirements of the State Department of Health with respect to obtaining prior written approval for a "significant change" to a COPN which has previously been issued.

§ 2.3. Major capital expenditures.

A. Major capital expenditures include, but are not limited to, major renovations (without bed increase), additions, modernization, other renovations, upgrading to new standards, and equipment purchases. Major capital expenditures shall be any capital expenditures costing \$100,000 or more each, in aggregate for like items, or in aggregate for a particular project. These include purchases of similar type equipment or like items within a one calendar year period (not necessarily the provider's reporting period).

B. Providers (including related organizations as defined in § 2.10) shall be required to obtain three competitive bids and if applicable, a Certificate of Public Need before initiating any major capital expenditures. All bids must be obtained in an open competitive manner, and subject to disclosure to the DMAS prior to initial rate setting. (Related parties see § 2.10.)

C. Useful life shall be determined by the American Hospital Association's Estimated Useful Lives of Depreciable Hospital Assets (AHA). If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.

D. Major capital additions, modernization, renovations, and costs associated with upgrading the NF to new standards shall be subject to cost limitations based upon the applicable components of the construction cost limits determined in accordance with § 2.2 B.

§ 2.4. Financing.

A. The DMAS shall continue its policy to disallow cost increases due to the refinancing of a mortgage debt, except when required by the mortgage holder to finance expansions or renovations. Refinancing shall also be permitted in cases where refinancing would produce a lower interest rate and result in a cost savings. The total net aggregate allowable costs incurred for all cost reporting periods related to the refinancing cannot exceed the total net aggregate costs that would have been allowable had the refinancing not occurred.

1. Refinancing incentive. Effective July 1, 1991, for mortgages refinanced on or after that date, the DMAS will pay a refinancing incentive to encourage nursing facilities to refinance fixed-rate, fixed-term mortgage debt when such arrangements would benefit both the Commonwealth and the providers. The refinancing incentive payments will be made for the 10-year period following an allowable refinancing action, or through the end of the refinancing period should the loan be less than 10 years, subject to a savings being realized by application of the refinancing calculation for each of these years. The refinancing incentive payment shall be computed on the net savings from such refinancing applicable to each provider cost reporting period. Interest expense and amortization of loan costs on mortgage debt applicable to the cost report period for mortgage debt which is refinanced shall be compared to the interest expense and amortization of loan costs on the new mortgage debt for the cost reporting period.

2. Calculation of refinancing incentive. The incentive shall be computed by calculating two index numbers, the old debt financing index and the new debt financing index. The old debt financing index shall be computed by multiplying the term (months) which would have been remaining on the old debt at the end of the provider's cost report period by the

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interest rate for the old debt. The new debt index shall be computed by multiplying the remaining term (months) of the new debt at the end of the cost reporting period by the new interest rate. The new debt index shall be divided by the old debt index to achieve a savings ratio for the period. The savings ratio shall be subtracted from a factor of 1 to determine the refinancing incentive factor.

3. Calculation of net savings. The gross savings for the period shall be computed by subtracting the allowable new debt interest for the period from the allowable old debt interest for the period. The net savings for the period shall be computed by subtracting allowable new loan costs for the period from allowable gross savings applicable to the period. Any remaining unamortized old loan costs may be recovered in full to the extent of net savings produced for the period.

4. Calculation of incentive amount. The net savings for the period, after deduction of any unamortized old loan and debt cancellation costs, shall be multiplied by the refinancing incentive factor to determine the refinancing incentive amount. The result shall be the incentive payment for the cost reporting period, which shall be included in the cost report settlement, subject to per diem computations under § 2.1 B, 2.1 C, and 2.14 A.

5. Where a savings is produced by a provider refinancing his old mortgage for a longer time period, the DMAS shall calculate the refinancing incentive and payment in accordance with §§ 2.4 A 1 through 2.4 A 4 for the incentive period. Should the calculation produce both positive and negative incentives, the provider's total incentive payments shall not exceed any net positive amount for the entire incentive period. Where a savings is produced by refinancing with either a principal balloon payment at the end of the refinancing period, or a variable interest rate, no incentive payment will be made, since the true savings to the Commonwealth cannot be accurately computed.

6. All refinancings must be supported by adequate and verifiable documentation and allowable under DMAS regulations to receive the refinancing savings incentive.

[7. *Balloon loan reimbursement. This regulation applies to the construction and acquisition of nursing facilities (as defined in §§ 2.2 and 2.5) and major capital expenditures (as defined in § 2.3) that are financed with balloon loans. A balloon loan requires periodic payments to be made that do not fully amortize the principal balance over the term of the loan; the remaining balance must be repaid at the end of a specified time period. Demand notes and loans with call provisions shall not be deemed to be balloon loans.*

a. Incurred interest. Reimbursement for interest of a

balloon loan and subsequent refinancings shall be considered a variable interest rate loan under § 2.4 B.

(1) A standard amortization period of 27 years, from the inception date of the original balloon loan, must be computed by the provider and submitted to DMAS and used as the amortization period for loans for renovation, construction, or purchase of a nursing facility.

(2) A standard amortization period of 15 years, from the inception of the original balloon loan, must be used as the amortization period for loans on furniture, fixtures, and equipment.

(3) A loan which is used partially for the acquisition of buildings, land, and land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for the purpose of determining the amortization period.

b. The allowable interest rate shall be limited to the interest rate upper limit in effect on the date of the original balloon loan, unless another rate is allowable under § 2.4 B.

c. Financing costs. The limitations on financing costs set forth in § 2.4 B shall apply to balloon loans. Financing costs exceeding the limitations set forth in these sections shall be allowed to the extent that such excess financing costs may be offset by any available interest savings.

(1) A 27-year amortization period must be used for deferred financing costs associated with the construction or purchase of a nursing facility.

(2) A 15-year amortization period must be used for deferred financing costs associated with financing of furniture, fixtures, and movable equipment.

(3) Financing costs associated with a loan used partially for the acquisition of buildings, land, and land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for determination of the amortization period.

d. Cumulative credit computation. The computation of allowable interest and financing costs for balloon loans shall be calculated using the following procedures:

(1) A standard amortization schedule of allowable costs based upon the upper limits for interest and financing costs shall be computed by the provider and submitted to DMAS for the applicable 27-year or 15-year periods on the original balloon loan.

(2) For each cost reporting period, the provider shall be allowed the lesser of loan costs (interest

and financing costs) computed in accordance with subdivision 7 a of this subsection, or the actual loan costs incurred during the period.

(3) To the extent that there is a "credit" created by the actual loan costs being less than the loan costs computed on the amortization schedule in some periods, the provider may recover any otherwise allowable costs which result from the refinancing, extension, or renewal of the balloon loan, and any loan costs which have been disallowed because the loan costs are over the limitation for some periods. However, the cumulative actual loan cost reimbursement may not exceed the cumulative allowable loan cost as computed on the amortization schedule to that date.

(4) In refinancing or refinancings of the original balloon loan which involve additional borrowings in excess of the balance due on the original balloon loan, the excess over the balance due on the balloon loan shall be treated as new debt subject to the DMAS financing policies and regulations. Any interest and financing costs incurred on the refinancing shall be allocated pro rata between the refinancing of the balloon loan and the new debt.

(5) In the event of a sale of the facility, any unused balance of cumulative credit or cumulative provider excess costs would follow the balloon loan or the refinancing of the balloon loan if the balloon loan or its refinancing is paid by the buyer under the same terms as previously paid by the seller. Examples of this are (i) the buyer assumes the existing instrument containing the same rates and terms by the purchaser; or (ii) the balance of the balloon loan or its refinancings is financed by the seller to the buyer under the same rates and terms of the existing loan as part of the sale of the facility. If the loan is otherwise paid in full at any time and the facility is sold before the full 27-year or 15-year amortization period has expired, the balance of unused cumulative credit or cumulative provider excess costs shall expire and not be considered an allowable cost.

e. In accordance with § 2.4 A, no refinancing incentive shall be available for refinancings, extensions, or renewals of balloon loans.

f. The balloon loan and refinancing of the balloon loan shall be subject to all requirements for allowable borrowing, except as otherwise provided by this subsection.]

B. Interest rate upper limit.

Financing for all NFs and expansions which require a COPN and all renovations and purchases shall be subject to the following limitations:

1. Interest expenses for debt financing which is exempt from federal income taxes shall be limited to:

The average weekly rates for Baa municipal rated bonds as published in Cragie Incorporated Municipal Finance Newsletter as published weekly (Representative reoffering from general obligation bonds), plus one percentage point (100 basis points), during the week in which commitment for construction financing or closing for permanent financing takes place.

2. a. Effective on and after July 1, 1990, the interest rate upper limit for debt financing by NFs that are subject to prospective reimbursement shall be the average of the rate for 10-year and 30-year U.S. Treasury Constant Maturities, as published in the weekly Federal Reserve Statistical Release (H.15), plus two percentage points (200 basis points).

This limit (i) shall apply only to debt financing which is not exempt from federal income tax, and (ii) shall not be available to NF's which are eligible for such tax exempt financing unless and until a NF has demonstrated to the DMAS that the NF failed, in a good faith effort, to obtain any available debt financing which is exempt from federal income tax. For construction financing, the limit shall be determined as of the date on which commitment takes place. For permanent financing, the limit shall be determined as of the date of closing. The limit shall apply to allowable interest expenses during the term of the financing.

b. The new interest rate upper limit shall also apply, effective July 1, 1990, to construction financing committed to or permanent financing closed after December 31, 1986, but before July 1, 1990, which is not exempt from federal income tax. The limit shall be determined as of July 1, 1990, and shall apply to allowable interest expenses for the term of the financing remaining on or after July 1, 1990.

3. Variable interest rate upper limit.

a. The limitation set forth in §§ 2.4 B 1 and 2.4 B 2 shall be applied to debt financing which bears a variable interest rate as follows. The interest rate upper limit shall be determined on the date on which commitment for construction financing or closing for permanent financing takes place, and shall apply to allowable interest expenses during the term of such financing as if a fixed interest rate for the financing period had been obtained. A "fixed rate loan amortization schedule" shall be created for the loan period, using the interest rate cap in effect on the date of commitment for construction financing or the date of closing for permanent financing.

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b. If the interest rate for any cost reporting period is below the limit determined in subdivision 3 a above, no adjustment will be made to the providers' interest expense for that period, and a "carryover credit" to the extent of the amount allowable under the "fixed rate loan amortization schedule" will be created, but not paid. If the interest rate in a future cost reporting period is above the limit determined in subdivision 3 a above, the provider will be paid this "carryover credit" from prior period(s), not to exceed the cumulative carryover credit or his actual cost, whichever is less.

c. The provider shall be responsible for preparing a verifiable and auditable schedule to support cumulative computations of interest claimed under the "carryover credit," and shall submit such a schedule with each cost report.

4. The limitation set forth in § 2.4 B 1, 2, and 3 shall be applicable to financing for land, buildings, fixed equipment, major movable equipment, working capital for construction and permanent financing.

5. Where bond issues are used as a source of financing, the date of sale shall be considered as the date of closing.

6. The aggregate of the following costs shall be limited to 5.0% of the total allowable project costs:

- a. Examination Fees
- b. Guarantee Fees
- c. Financing Expenses (service fees, placement fees, feasibility studies, etc.)
- d. Underwriters Discounts
- e. Loan Points

7. The aggregate of the following financing costs shall be limited to 2.0% of the total allowable project costs:

- a. Legal Fees
- b. Cost Certification Fees
- c. Title and Recording Costs
- d. Printing and Engraving Costs
- e. Rating Agency Fees

C. DMAS shall allow costs associated with mortgage life insurance premiums in accordance with § 2130 of the HCFA-Pub. 15, Provider Reimbursement Manual (PRM-15).

D. Interest expense on a debt service reserve fund is an

allowable expense if required by the terms of the financing agreement. However, interest income resulting from such fund shall be used by DMAS to offset interest expense.

[E. Balloon loan reimbursement.

This subsection applies to the construction and acquisition of nursing facilities (as defined in §§ 2.2 and 2.5) and major capital expenditures (as defined in § 2.3) that are financed with balloon loans. A balloon loan requires periodic payments to be made that do not fully amortize the principal balance over the term of the loan; the remaining balance must be repaid at the end of a specified time period. Demand notes and loans with call provisions shall not be deemed to be balloon loans.

1. Incurred interest. Reimbursement for interest of a balloon loan and subsequent refinancings shall be considered a variable interest rate loan under § 2.4 B.

a. A standard amortization period of years, from the inception date of the original balloon loan, must be computed by the provider and submitted to DMAS and used as the amortization period for loans for renovation, construction, or purchase of a nursing facility.

b. A standard amortization period of 15 years, from the inception of the original balloon loan, must be used as the amortization period for loans on furniture, fixtures, and equipment.

c. A loan which is used partially for the acquisition of buildings, land, and land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for the purpose of determining the amortization period.

2. The allowable interest rate shall be limited to the interest rate upper limit in effect on the date of the original balloon loan, unless another rate is allowable under § 2.4 B.

3. The limitations on financing costs set forth in § 2.4 B shall apply to balloon loans. Financing costs exceeding the limitations set forth in these sections shall be allowed to the extent that such excess financing costs may be offset by any available interest savings.

a. A 27-year amortization period must be used for deferred financing costs associated with the construction or purchase of a nursing facility.

b. A 15-year amortization period must be used for deferred financing costs associated with financing of furniture, fixtures, and movable equipment.

c. Financing costs associated with a loan used partially for the acquisition of buildings, land, and

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land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for determination of the amortization period.

4. The computation of allowable interest and financing costs for balloon loans shall be calculated using the following procedures:

a. A standard amortization schedule of allowable costs based upon the upper limits for interest and financing costs shall be computed by the provider and submitted to DMAS for the applicable 27-year or 15-year periods on the original balloon loan.

b. For each cost reporting period, the provider shall be allowed the lesser of loan costs (interest and financing costs) computed in accordance with subdivision 4 a of this subsection, or the actual loan costs incurred during the period.

c. To the extent that there is a "credit" created by the actual loan costs being less than the loan costs computed on the amortization schedule in some periods, the provider may recover any otherwise allowable costs which result from the refinancing, extension, or renewal of the balloon loan, and any loan costs which have been disallowed because the loan costs are over the limitation for some periods. However, the cumulative actual loan cost reimbursement may not exceed the cumulative allowable loan cost as computed on the amortization schedule to that date.

d. In refinancing or refinancings of the original balloon loan which involve additional borrowings in excess of the balance due on the original balloon loan, the excess over the balance due on the balloon loan shall be treated as new debt subject to the DMAS financing policies and regulations. Any interest and financing costs incurred on the refinancing shall be allocated pro rata between the refinancing of the balloon loan and the new debt.

e. In the event of a sale of the facility, any unused balance of cumulative credit or cumulative provider excess costs would follow the balloon loan or the refinancing of the balloon loan if the balloon loan or its refinancing is paid by the buyer under the same terms as previously paid by the seller. Examples of this are: the buyer assumes the existing instrument containing the same rates and terms by the purchaser; or the balance of the balloon loan or its refinancings is financed by the seller to the buyer under the same rates and terms of the existing loan as part of the sale of the facility. If the loan is otherwise paid in full at any time and the facility is sold before the full 27-year or 15-year amortization period has expired, the balance of unused cumulative credit or cumulative provider excess costs shall expire and not be considered an allowable cost.

5. In accordance with § 2.4 A, no refinancing incentive shall be available for refinancings, extensions, or renewals of balloon loans.

6. The balloon loan and refinancing of the balloon loan shall be subject to all requirements for allowable borrowing, except as otherwise provided by this subsection.]

§ 2.5. Purchases of nursing facilities (NF).

A. In the event of a sale of a NF, the purchaser must have a current license and certification to receive DMAS reimbursement as a provider.

B. The following reimbursement principles shall apply to the purchase of a NF:

1. The allowable cost of a bona fide sale of a facility (whether or not the parties to the sale were, are, or will be providers of Medicaid services) shall be the lowest of the sales price, the replacement cost value determined by independent appraisal, or the limitations of Part XVI - Revaluation of Assets. Revaluation of assets shall be permitted only when a bona fide sale of assets occurs.

2. Notwithstanding the provisions of § 2.10, where there is a sale between related parties (whether or not they were, are or will be providers of Medicaid services), the buyer's allowable cost basis for the nursing facility shall be the seller's allowable depreciated historical cost (net book value), as determined for Medicaid reimbursement.

3. For purposes of Medicaid reimbursement, a "bona fide" sale shall mean a transfer of title and possession for consideration between parties which are not related. Parties shall be deemed to be "related" if they are related by reasons of common ownership or control. If the parties are members of an immediate family, the sale shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control." See § 2.10 C for definitions of "common ownership," "control," "immediate family," and "significant ownership or control."

4. The useful life of the fixed assets of the facility shall be determined by AHA guidelines.

5. The buyer's basis in the purchased assets shall be reduced by the value of the depreciation recapture due the state by the provider-seller, until arrangements for repayment have been agreed upon by DMAS.

6. In the event the NF is owned by the seller for less than five years, the reimbursable cost basis of the purchased NF to the buyer, shall be the seller's

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allowable historical cost as determined by DMAS.

C. An appraisal expert shall be defined as an individual or a firm that is experienced and specializes in multi-purpose appraisals of plant assets involving the establishing or reconstructing of the historical cost of such assets. Such an appraisal expert employs a specially trained and supervised staff with a complete range of appraisal and cost construction techniques; is experienced in appraisals of plant assets used by providers, and demonstrates a knowledge and understanding of the regulations involving applicable reimbursement principles, particularly those pertinent to depreciation; and is unrelated to either the buyer or seller.

D. At a minimum, appraisals must include a breakdown by cost category as follows:

1. Building; fixed equipment; movable equipment; land; land improvements.

2. The estimated useful life computed in accordance with AHA guidelines of the three categories, building, fixed equipment, and movable equipment must be included in the appraisal. This information shall be utilized to compute depreciation schedules.

E. Depreciation recapture.

1. The provider-seller of the facility shall make a retrospective settlement with DMAS in instances where a gain was made on disposition. The department shall recapture the depreciation paid to the provider by Medicaid for the period of participation in the Program to the extent there is gain realized on the sale of the depreciable assets. A final cost report and refund of depreciation expense, where applicable, shall be due within 30 days from the transfer of title (as defined below).

2. No depreciation adjustment shall be made in the event of a loss or abandonment.

F. Reimbursable depreciation.

1. For the purpose of this section, "sale or transfer" shall mean any agreement between the transferor and the transferee by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and possession of the property.

2. Upon the sale or transfer of the real and tangible personal property comprising a licensed nursing facility certified to provide services to DMAS, the transferor or other person liable therein shall reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing such services and subject to recapture under the provisions of the State Plan for Medical Assistance. The amount of reimbursable depreciation

shall be paid to the Commonwealth within 30 days of the sale or transfer of the real property unless an alternative form of repayment, the term of which shall not exceed one year, is approved by the director.

3. Prior to the transfer, the transferor shall file a written request by certified or registered mail to the director for a letter of verification that he either does not owe the Commonwealth any amount for reimbursable depreciation or that he has repaid any amount owed the Commonwealth for reimbursable depreciation or that an alternative form of repayment has been approved by the director. The request for a letter of verification shall state:

a. That a sale or transfer is about to be made;

b. The location and general description of the property to be sold or transferred;

c. The names and addresses of the transferee and transferor and all such business names and addresses of the transferor for the last three years; and

d. Whether or not there is a debt owing to the Commonwealth for the amount of depreciation charges previously allowed and reimbursed as a reasonable cost to the transferor under the Virginia Medical Assistance Program.

4. Within 90 days after receipt of the request, the director shall determine whether or not there is an amount due to the Commonwealth by the nursing facility by reason of depreciation charges previously allowed and reimbursed as a reasonable cost under DMAS and shall notify the transferor of such sum, if any.

5. The transferor shall provide a copy of this section and a copy of his request for a letter of verification to the prospective transferee via certified mail at least 30 days prior to the transfer. However, whether or not the transferor provides a copy of this section and his request for verification to the prospective transferee as required herein, the transferee shall be deemed to be notified of the requirements of this law.

6. After the transferor has made arrangements satisfactory to the director to repay the amount due or if there is no amount due, the director shall issue a letter of verification to the transferor in recordable form stating that the transferor has complied with the provisions of this section and setting forth the term of any alternative repayment agreement. The failure of the transferor to reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing service to DMAS in a timely manner renders the transfer of the nursing facility ineffective as to the Commonwealth.

7. Upon a finding by the director that such sale or transfer is ineffective as to the Commonwealth, DMAS may collect any sum owing by any means available by law, including devising a schedule for reducing the Medicaid reimbursement to the transferee up to the amount owed the Commonwealth for reimbursable depreciation by the transferor or other person liable therein. Medicaid reimbursement to the transferee shall continue to be so reduced until repayment is made in full or the terms of the repayment are agreed to by the transferor or person liable therein.

8. In the event the transferor or other person liable therein defaults on any such repayment agreement the reductions of Medicaid reimbursement to the transferee may resume.

An action brought or initiated to reduce the transferee's Medicaid reimbursement or an action for attachment or levy shall not be brought or initiated more than six months after the date on which the sale or transfer has taken place unless the sale or transfer has been concealed or a letter of verification has not been obtained by the transferor or the transferor defaults on a repayment agreement approved by the director.

Article 2. Operating Cost Component.

§ 2.6. Operating cost.

A. Operating cost shall be the total allowable inpatient cost less plant cost and NATCEPs costs. See Part VII for rate determination procedures for NATCEPs costs. To calculate the reimbursement rate, operating cost shall be converted to a per diem amount by dividing it by the greater of actual patient days, or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

B. For NFs of 30 beds or less, to calculate the reimbursement rate the number of patient days will continue to be computed as not less than 85% of the daily licensed bed complement.

§ 2.7. Nursing facility reimbursement formula.

A. Effective on and after October 1, 1990, all NFs subject to the prospective payment system shall be reimbursed under a revised formula entitled "The Patient Intensity Rating System (PIRS)." PIRS is a patient based methodology which links NF's per diem rates to the intensity of services required by a NF's patient mix. Three classes were developed which group patients together based on similar functional characteristics and service needs.

1. Any NF receiving Medicaid payments on or after October 1, 1990, shall satisfy all the requirements of § 1919(b) through (d) of the Social Security Act as they

relate to provision of services, residents' rights and administration and other matters.

2. In accordance with § 1.3, direct patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA, the Richmond-Petersburg MSA and the rest of the state. Direct patient care operating costs shall be as defined in VR 460-03-1491. Indirect patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA and for the rest of the state. Indirect patient care operating costs shall include all other operating costs, not defined in VR 460-03-1491 as direct patient care operating costs and NATCEPs costs.

3. Each NF's Service Intensity Index (SII) shall be calculated for each semiannual period of a NF's fiscal year based upon data reported by that NF and entered into DMAS' Long Term Care Information System (LTCIS). Data will be reported on the multidimensional assessment form prescribed by DMAS (now DMAS-95) at the time of admission and then twice a year for every Medicaid recipient in a NF. The NF's SII, derived from the assessment data, will be normalized by dividing it by the average for all NF's in the state.

See VR 460-03-4.1944 for the PIRS class structure, the relative resource cost assigned to each class, the method of computing each NF's facility score and the methodology of computing the NF's semiannual SIIs.

4. The normalized SII shall be used to calculate the initial direct patient care operating cost peer group medians. It shall also be used to calculate the direct patient care operating cost prospective ceilings and direct patient care operating cost prospective rates for each semiannual period of a NF's subsequent fiscal years.

a. The normalized SII, as determined during the quarter ended September 30, 1990, shall be used to calculate the initial direct patient care operating cost peer group medians.

b. A NF's direct patient care operating cost prospective ceiling shall be the product of the NF's peer group direct patient care ceiling and the NF's normalized SII for the previous semiannual period. A NF's direct patient care operating cost prospective ceiling will be calculated semiannually.

c. An SSI rate adjustment, if any, shall be applied to a NF's prospective direct patient care operating cost base rate for each semiannual period of a NF's fiscal year. The SII determined in the second semiannual period of the previous fiscal year shall be divided by the average of the previous fiscal year's SIIs to determine the SII rate adjustment, if any, to the first semiannual period of the subsequent

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fiscal year's prospective direct patient care operating cost base rate. The SII determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's SIIs to determine the SII rate adjustment, if any, to the second semiannual period of the subsequent fiscal year's prospective direct patient care operating cost base rate.

d. See VR 460-03-4.1944 for an illustration of how the SII is used to adjust direct patient care operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

5. An adjustment factor shall be applied to both the direct patient care and indirect patient care peer group medians to determine the appropriate initial peer group ceilings.

a. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during fiscal year 1991 under the prospective payment system in effect through September 30, 1990, as modified to incorporate the estimated additional NF reimbursement mandated by the provisions of § 1902(a)(13)(A) of the Social Security Act as amended by § 4211(b)(1) of the Omnibus Budget Reconciliation Act of 1987.

b. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during FY 1991 under the PIRS prospective payment system.

c. The DMAS shall determine the differential between a and b above and shall adjust the peer group medians within the PIRS as appropriate to reduce the differential to zero.

d. The adjusted PIRS peer group medians shall become the initial peer group ceilings.

B. The allowance for inflation shall be based on the percentage of change in the moving average of the Skilled Nursing Facility Market basket of Routine Service Costs, as developed by Data Resources, Incorporated, adjusted for Virginia, determined in the quarter in which the NF's most recent fiscal year ended. NFs shall have their prospective operating cost ceilings and prospective operating cost rates established in accordance with the following methodology:

1. The initial peer group ceilings established under § 2.7 A shall be the final peer group ceilings for a NF's first full or partial fiscal year under PIRS and shall be considered as the initial "interim ceilings" for calculating the subsequent fiscal year's peer group ceilings. Peer group ceilings for subsequent fiscal years shall be calculated by adjusting the initial "interim" ceilings by a "percentage factor" which

shall eliminate any allowances for inflation after September 30, 1990, calculated in both §§ 2.7 A 5 a and 2.7 A 5 c. The adjusted initial "interim" ceilings shall be considered as the final "interim ceiling." Peer group ceilings for subsequent fiscal years shall be calculated by adjusting the final "interim" ceiling, as determined above, by 100% of historical inflation from October 1, 1990, to the beginning of the NFs next fiscal year to obtain new "interim" ceilings, and 50% of the forecasted inflation to the end of the NFs next fiscal year.

2. A NF's average allowable operating cost rates, as determined from its most recent fiscal year's cost report, shall be adjusted by 50% of historical inflation and 50% of the forecasted inflation to calculate its prospective operating cost base rates.

C. The PIRS method shall still require comparison of the prospective operating cost rates to the prospective operating ceilings. The provider shall be reimbursed the lower of the prospective operating cost rates or prospective operating ceilings.

D. Nonoperating costs.

1. Allowable plant costs shall be reimbursed in accordance with Part II, Article 1. Plant costs shall not include the component of cost related to making or producing a supply or service.

2. NATCEPs cost shall be reimbursed in accordance with Part VII.

E. The prospective rate for each NF shall be based upon operating cost and plant cost components or charges, whichever is lower, plus NATCEPs costs. The disallowance of nonreimbursable operating costs in any current fiscal year shall be reflected in a subsequent year's prospective rate determination. Disallowances of nonreimbursable plant costs and NATCEPs costs shall be reflected in the year in which the nonreimbursable costs are included.

F. For those NFs whose operating cost rates are below the ceilings, an incentive plan shall be established whereby a NF shall be paid, on a sliding scale, up to 25% of the difference between its allowable operating cost rates and the peer group ceilings under the PIRS.

1. The table below presents four incentive examples under the PIRS:

Peer Group Ceilings	Allowable Cost Per Day	Difference	% of Ceiling	Sliding Scale	% Dif-ference
\$30.00	\$27.00	\$3.00	10%	\$.30	10%
30.00	22.50	7.50	25%	1.88	25%
30.00	20.00	10.00	33%	2.50	25%
30.00	30.00	0		0	

2. Separate efficiency incentives shall be calculated for both the direct and indirect patient care operating

ceilings and costs.

G. Quality of care requirement.

A cost efficiency incentive shall not be paid to a NF for the prorated period of time that it is not in conformance with substantive, nonwaived life, safety, or quality of care standards.

H. Sale of facility.

In the event of the sale of a NF, the prospective base operating cost rates for the new owner's first fiscal period shall be the seller's prospective base operating cost rates before the sale.

I. Public notice.

To comply with the requirements of § 1902(a)(28)(c) of the Social Security Act, DMAS shall make available to the public the data and methodology used in establishing Medicaid payment rates for nursing facilities. Copies may be obtained by request under the existing procedures of the Virginia Freedom of Information Act.

§ 2.8. Phase-in period.

A. To assist NFs in converting to the PIRS methodology, a phase-in period shall be provided until June 30, 1992.

B. From October 1, 1990, through June 30, 1991, a NF's prospective operating cost rate shall be a blended rate calculated at 33% of the PIRS operating cost rates determined by § 2.7 above and 67% of the "current" operating rate determined by subsection D below.

C. From July 1, 1991, through June 30, 1992, a NF's prospective operating cost rate shall be a blended rate calculated at 67% of the PIRS operating cost rates determined by § 2.7 above and 33% of the "current" operating rate determined by subsection D below.

D. The following methodology shall be applied to calculate a NF's "current" operating rate:

1. Each NF shall receive as its base "current" operating rate, the weighted average prospective operating cost per diems and efficiency incentive per diems if applicable, calculated by DMAS to be effective September 30, 1990.

2. The base "current" operating rate established above shall be the "current" operating rate for the NF's first partial fiscal year under PIRS. The base "current" operating rate shall be adjusted by appropriate allowance for historical inflation and 50% of the forecasted inflation based on the methodology contained in § 2.7 B at the beginning of each of the NF's fiscal years which starts during the phase-in period, October 1, 1990, through June 30, 1992, to determine the NF's prospective "current" operating

rate. See VR 460-03-4.1944 for example calculations.

§ 2.8. Nursing facility rate change.

For the period beginning July 1, 1991, and ending June 30, 1992, the per diem operating rate for each NF shall be adjusted. This shall be accomplished by applying a uniform adjustment factor to the rate of each NF.

Article 3. Allowable Cost Identification.

§ 2.9. Allowable costs.

Costs which are included in rate determination procedures and final settlement shall be only those allowable, reasonable costs which are acceptable under the Medicare principles of reimbursement, except as specifically modified in the Plan and as may be subject to individual or ceiling cost limitations and which are classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification).

A. Certification.

The cost of meeting all certification standards for NF requirements as required by the appropriate state agencies, by state laws, or by federal legislation or regulations.

B. Operating costs.

1. Direct patient care operating costs shall be defined in VR 460-03-4.1941.

2. Allowable direct patient care operating costs shall exclude (i) personal physician fees, and (ii) pharmacy services and prescribed legend and nonlegend drugs provided by nursing facilities which operate licensed in-house pharmacies. These services shall be billed directly to DMAS through separate provider agreements and DMAS shall pay directly in accordance with subsections e and f of Attachment 4.19 B of the State Plan for Medical Assistance (VR 460-02-4.1920).

3. Indirect patient care operating costs include all other operating costs, not identified as direct patient care operating costs and NATCEPs costs in VR 460-03-4.1941, which are allowable under the Medicare principles of reimbursement, except as specifically modified herein and as may be subject to individual cost or ceiling limitations.

C. Allowances/goodwill.

Bad debts, goodwill, charity, courtesy, and all other contractual allowances shall not be recognized as an allowable cost.

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D. Cost of protecting employees from blood borne pathogens.

Effective July 1, 1994, reimbursement of allowable costs shall be adjusted in the following way to recognize the costs of complying with requirements of the Occupational Safety and Health Administration (OSHA) for protecting employees against exposure to blood borne pathogens.

1. Hepatitis B immunization. The statewide median of the reasonable acquisition cost per unit of immunization times the number of immunizations provided to eligible employees during facility fiscal years ending during SFY 1994, divided by Medicaid days in the same fiscal period, shall be added to the indirect peer group ceiling effective July 1, 1994. This increase to the ceilings shall not exceed \$.09 per day for SFY 1995.

2. Other OSHA compliance costs. The indirect peer group ceilings shall be increased by \$.07, effective July 1, 1994, to recognize continuing OSHA compliance costs other than immunization.

3. Data submission by nursing facilities. Nursing facilities shall provide for fiscal years ending during SFY 1994, on forms provided by DMAS, (i) the names, job titles and social security numbers of individuals immunized, the number of immunizations provided to each and the dates of immunization; and (ii) the acquisition cost of immunization.

§ 2.10. Purchases/related organizations.

A. Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control shall be included in the allowable cost of the provider at the cost to the related organization, provided that such costs do not exceed the price of comparable services, facilities or supplies. Purchases of existing NFs by related parties shall be governed by the provisions of § 2.5 B 2.

Allowable cost applicable to management services furnished to the provider by organizations related to the provider by common ownership or control shall be lesser of the cost to the related organization or the per patient day ceiling limitation established for management services cost. (See VR 460-03-4.1943, Cost Reimbursement Limitations.)

B. Related to the provider shall mean that the provider is related by reasons of common ownership or control by the organization furnishing the services, facilities, or supplies.

C. Common ownership exists when an individual or individuals or entity or entities possess significant ownership or equity in the parties to the transaction. Control exists where an individual or individuals or entity or entities have the power, directly or indirectly,

significantly to influence or direct the actions or policies of the parties to the transaction. Significant ownership or control shall be deemed to exist where an individual is a "person with an ownership or control interest" within the meaning of 42 CFR 455.101. If the parties to the transaction are members of an immediate family, as defined below, the transaction shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control," as set forth above. Immediate family shall be defined to include, but not be limited to, the following: (i) husband and wife, (ii) natural parent, child and sibling, (iii) adopted child and adoptive parent, (iv) step-parent, step-child, step-sister, and step-brother, (v) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law and daughter-in-law, and (vi) grandparent and grandchild.

D. Exception to the related organization principle.

1. Effective with cost reports having fiscal years beginning on or after July 1, 1986, an exception to the related organization principle shall be allowed. Under this exception, charges by a related organization to a provider for goods or services shall be allowable cost to the provider if all four of the conditions set out below are met.

2. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of DMAS that the following criteria have been met:

a. The supplying organization is a bona fide separate organization. This means that the supplier is a separate sole proprietorship, partnership, joint venture, association or corporation and not merely an operating division of the provider organization.

b. A substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market for the type of goods or services furnished by the organization. In determining whether the activities are of similar type, it is important to also consider the scope of the activity.

For example, a full service management contract would not be considered the same type of business activity as a minor data processing contract. The requirement that there be an open, competitive market is merely intended to assure that the item supplied has a readily discernible price that is established through arms-length bargaining by well informed buyers and sellers.

c. The goods or services shall be those which commonly are obtained by institutions such as the provider from other organizations and are not a basic element of patient care ordinarily furnished

directly to patients by such institutions. This requirement means that institutions such as the provider typically obtain the good or services from outside sources rather than producing the item internally.

d. The charge to the provider is in line with the charge for such services, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such goods or services. The phrase "open market" takes the same meaning as "open, competitive market" in subdivision b above.

3. Where all of the conditions of this exception are met, the charges by the supplier to the provider for such goods or services shall be allowable as costs.

4. This exception does not apply to the purchase, lease or construction of assets such as property, buildings, fixed equipment or major movable equipment. The terms "goods and services" may not be interpreted or construed to mean capital costs associated with such purchases, leases, or construction.

E. Three competitive bids shall not be required for the building and fixed equipment components of a construction project outlined in § 2.2. Reimbursement shall be in accordance with § 2.10 A with the limitations stated in § 2 B.

§ 2.11. Administrator/owner compensation.

A. Administrators' compensation, whether administrators are owners or non-owners, shall be based on a schedule adopted by DMAS and varied according to facility bed size. The compensation schedule shall be adjusted annually to reflect cost-of-living increases and shall be published and distributed to providers annually. The administrator's compensation schedule covers only the position of administrator and assistants and does not include the compensation of owners employed in capacities other than the NF administrator (see VR 460-03-4.1943, Cost Reimbursement Limitations).

B. Administrator compensation shall mean remuneration paid regardless of the form in which it is paid. This includes, but shall not be limited to, salaries, professional fees, insurance premiums (if the benefits accrue to the employer/owner or his beneficiary) director fees, personal use of automobiles, consultant fees, management fees, travel allowances, relocation expenses in excess of IRS guidelines, meal allowances, bonuses, pension plan costs, and deferred compensation plans. Management fees, consulting fees, and other services performed by owners shall be included in the total compensation if they are performing administrative duties regardless of how such services may be classified by the provider.

C. Compensation for all administrators (owner and nonowner) shall be based upon a 40 hour week to

determine reasonableness of compensation.

D. Owner/administrator employment documentation.

1. Owners who perform services for a NF as an administrator and also perform additional duties must maintain adequate documentation to show that the additional duties were performed beyond the normal 40 hour week as an administrator. The additional duties must be necessary for the operation of the NF and related to patient care.

2. Services provided by owners, whether in employee capacity, through management contracts, or through home office relationships shall be compared to the cost and services provided in arms-length transactions.

3. Compensation for such services shall be adjusted where such compensation exceeds that paid in such arms-length transactions or where there is a duplication of duties normally rendered by an administrator. No reimbursement shall be allowed for compensation where owner services cannot be documented and audited.

§ 2.12. Depreciation.

The allowance for depreciation shall be restricted to the straight line method with a useful life in compliance with AHA guidelines. If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.

§ 2.13. Rent/Leases.

Rent or lease expenses shall be limited by the provisions of VR 460-03-4.1942, Leasing of Facilities.

§ 2.14. Provider payments.

A. Limitations.

1. Payments to providers, shall not exceed charges for covered services except for (i) public providers furnishing services free of charge or at a nominal charge (ii) nonpublic provider whose charges are 60% or less of the allowable reimbursement represented by the charges and that demonstrates its charges are less than allowable reimbursement because its customary practice is to charge patients based on their ability to pay. Nominal charge shall be defined as total charges that are 60% or less of the allowable reimbursement of services represented by these charges. Providers qualifying in this section shall receive allowable reimbursement as determined in this Plan.

2. Allowable reimbursement in excess of charges may be carried forward for payment in the two succeeding cost reporting periods. A new provider may carry forward unreimbursed allowable reimbursement in the five succeeding cost reporting periods.

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3. Providers may be reimbursed the carry forward to a succeeding cost reporting period (i) if total charges for the services provided in that subsequent period exceed the total allowable reimbursement in that period (ii) to the extent that the accumulation of the carry forward and the allowable reimbursement in that subsequent period do not exceed the providers' direct and indirect care operating ceilings plus allowable plant cost.

B. Payment for service shall be based upon the rate in effect when the service was rendered.

C. For cost reports filed on or after August 1, 1992, an interim settlement shall be made by DMAS within 180 days after receipt and review of the cost report. The 180-day time frame shall similarly apply to cost reports filed but not interim settled as of August 1, 1992. The word "review," for purposes of interim settlement, shall include verification that all financial and other data specifically requested by DMAS is submitted with the cost report. Review shall also mean examination of the cost report and other required submission for obvious errors, inconsistency, inclusion of past disallowed costs, unresolved prior year cost adjustments and a complete signed cost report that conforms to the current DMAS requirements herein.

However, an interim settlement shall not be made when one of the following conditions exists.

1. Cost report filed by a terminated provider;
2. Insolvency of the provider at the time the cost report is submitted;
3. Lack of a valid provider agreement and decertification;
4. Moneys owed to DMAS;
5. Errors or inconsistencies in the cost report; or
6. Incomplete/nonacceptable cost report.

§ 2.15. Legal fees/accounting.

A. Costs claimed for legal/accounting fees shall be limited to reasonable and customary fees for specific services rendered. Such costs must be related to patient care as defined by Medicare principles of reimbursement and subject to applicable regulations herein. Documentation for legal costs must be available at the time of audit.

B. Retainer fees shall be considered an allowable cost up to the limits established in VR 460-03-4.1943, Cost Reimbursement Limitations.

C. As mandated by the Omnibus Budget Reconciliation Act of 1990, effective November 5, 1990, reimbursement of

legal expenses for frivolous litigation shall be denied if the action is initiated on or after November 5, 1990. Frivolous litigation is any action initiated by the nursing facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action.

§ 2.16. Documentation.

Adequate documentation supporting cost claims must be provided at the time of interim settlement, cost settlement, audit, and final settlement.

§ 2.17. Fraud and abuse.

Previously disallowed costs which are under appeal and affect more than one cost reporting period shall be disclosed in subsequent cost reports if the provider wishes to reserve appeal rights for such subsequent cost reports. The reimbursement effect of such appealed costs shall be computed by the provider and submitted to DMAS with the cost report. Where such disclosure is not made to DMAS, the inclusion of previously disallowed costs may be referred to the Medicaid Fraud Control Unit of the Office of the Attorney General.

Article 4. New Nursing Facilities.

§ 2.18. Interim rate.

A. For all new or expanded NFs the 95% occupancy requirement shall be waived for establishing the first cost reporting period interim rate. This first cost reporting period shall not exceed 12 months from the date of the NF's certification.

B. Upon a showing of good cause, and approval of the DMAS, an existing NF that expands its bed capacity by 50% or more shall have the option of retaining its prospective rate, or being treated as a new NF.

C. The 95% occupancy requirement shall be applied to the first and subsequent cost reporting periods' actual costs for establishing such NF's second and future cost reporting periods' prospective reimbursement rates. The 95% occupancy requirement shall be considered as having been satisfied if the new NF achieved a 95% occupancy at any point in time during the first cost reporting period.

D. A new NF's interim rate for the first cost reporting period shall be determined based upon the lower of its anticipated allowable cost determined from a detailed budget (or pro forma cost report) prepared by the provider and accepted by the DMAS, or the appropriate operating ceilings or charges.

E. On the first day of its second cost reporting period, a new nursing facility's interim plant rate shall be converted to a per diem amount by dividing it by the number of patient days computed as 95% of the daily licensed bed complement during the first cost reporting period.

F. Any NF receiving reimbursement under new NF status shall not be eligible to receive the blended phase-in period rate under § 2.8.

G. During its first semiannual period of operation, a newly constructed or newly enrolled NF shall have an assigned SII based upon its peer group's average SII for direct patient care. An expanded NF receiving new NF treatment shall receive the SII calculated for its last semiannual period prior to obtaining new NF status.

§ 2.19. Final rate.

The DMAS shall reimburse the lower of the appropriate operating ceilings, charges or actual allowable cost for a new NF's first cost reporting period of operation, subject to the procedures outlined above in § 2.18 A, C, E, and F.

Upon determination of the actual allowable operating cost for direct patient care and indirect patient care the per diem amounts shall be used to determine if the provider is below the peer group ceiling used to set its interim rate. If costs are below those ceilings, an efficiency incentive shall be paid at settlement of the first year cost report.

This incentive will allow a NF to be paid up to 25% of the difference between its actual allowable operating cost and the peer group ceiling used to set the interim rate. (Refer to § 2.7 F.)

Article 5. Cost Reports.

§ 2.20. Cost report submission.

A. Cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, it is considered delinquent. The cost report shall be deemed complete for the purpose of cost settlement when DMAS has received all of the following, with the exception that the audited financial statements required by subdivisions 3 a and 6 b of this subsection shall be considered timely filed if received not later than 120 days after the provider's fiscal year end:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. a. The provider's audited financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of cash flows, the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, footnotes to the financial statements, and

the management report. Multi-facility providers shall be governed by § 2.20 A 6;

- b. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
 - c. Schedule of investments by type (stock, bond, etc.), amount, and current market value;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule;
6. NFs which are part of a chain organization must also file:
- a. Home office cost report;
 - b. Audited consolidated financial statements of the chain organization including the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, the management report and footnotes to the financial statements;
 - c. The NFs financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of cash flows;
 - d. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
 - e. Schedule of investments by type (stock, bond, etc.), amount, and current market value; and
7. Such other analytical information or supporting documentation that may be required by DMAS.

B. When cost reports are delinquent, the provider's interim rate shall be reduced by 20% the first month and an additional 20% of the original interim rate for each subsequent month the report has not been submitted. DMAS shall notify the provider of the schedule of reductions which shall start on the first day of the following month. For example, for a September 30 fiscal year end, notification will be mailed in early January stating that payments will be reduced starting with the first payment in February.

C. After the overdue cost report is received, desk reviewed, and a new prospective rate established, the amounts withheld shall be computed and paid. If the provider fails to submit a complete cost report within 180 days after the fiscal year end, a penalty in the amount of 10% of the balance withheld shall be forfeited to DMAS.

§ 2.21. Reporting form.

All cost reports shall be submitted on uniform reporting

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forms provided by the DMAS, or by Medicare if applicable. Such cost reports, subsequent to the initial cost report period, shall cover a 12-month period. Any exceptions must be approved by the DMAS.

§ 2.22. Accounting method.

The accrual method of accounting and cost reporting is mandated for all providers.

§ 2.23. Cost report extensions.

A. Extension for submission of a cost report may be granted if the provider can document extraordinary circumstances beyond its control.

B. Extraordinary circumstances do not include:

1. Absence or changes of chief finance officer, controller or bookkeeper;
2. Financial statements not completed;
3. Office or building renovations;
4. Home office cost report not completed;
5. Change of stock ownership;
6. Change of intermediary;
7. Conversion to computer; or
8. Use of reimbursement specialist.

§ 2.24. Fiscal year changes.

All fiscal year end changes must be approved 90 days prior to the beginning of a new fiscal year.

Article 6. Prospective Rates.

§ 2.25. Time frames.

A. For cost reports filed on or after August 1, 1992, a prospective rate shall be determined by DMAS within 90 days of the receipt of a complete cost report. (See § 2.20 A.) The 180-day time frame shall similarly apply to cost reports filed but for which a prospective rate has not been set as of August 1, 1992. Rate adjustments shall be made retroactive to the first day of the provider's new cost reporting year. Where a field audit is necessary to set a prospective rate, the DMAS shall have an additional 90 days to determine any appropriate adjustments to the prospective rate as a result of such field audit. This time period shall be extended if delays are attributed to the provider.

B. Subsequent to establishing the prospective rate DMAS shall conclude the desk audit of a providers' cost report

and determine if further field audit activity is necessary. The DMAS will seek repayment or make retroactive settlements when audit adjustments are made to costs claimed for reimbursement.

Article 7. Retrospective rates.

§ 2.26. The retrospective method of reimbursement shall be used for Mental Health/Mental Retardation facilities.

§ 2.27. (reserved)

Article 8. Record Retention.

§ 2.28. Time frames.

A. All of the NF's accounting and related records, including the general ledger, books of original entry, and statistical data must be maintained for a minimum of five years, or until all affected cost reports are final settled.

B. Certain information must be maintained for the duration of the provider's participation in the DMAS and until such time as all cost reports are settled. Examples of such information are set forth in § 2.29.

§ 2.29. Types of records to be maintained.

Information which must be maintained for the duration of the provider's participation in the DMAS includes, but is not limited to:

1. Real and tangible property records, including leases and the underlying cost of ownership;
2. Itemized depreciation schedules;
3. Mortgage documents, loan agreements, and amortization schedules;
4. Copies of all cost reports filed with the DMAS together with supporting financial statements.

§ 2.30. Record availability.

The records must be available for audits by DMAS staff. Where such records are not available, costs shall be disallowed.

Article 9. Audits.

§ 2.31. Audit overview.

Desk audits shall be performed to verify the completeness and accuracy of the cost report, and reasonableness of costs claimed for reimbursement. Field audits, as determined necessary by the DMAS, shall be performed on the records of each participating provider to

determine that costs included for reimbursement were accurately determined and reasonable, and do not exceed the ceilings or other reimbursement limitations established by the DMAS.

§ 2.32. Scope of audit.

The scope of the audit includes, but shall not be limited to: trial balance verification, analysis of fixed assets, indebtedness, selected revenues, leases and the underlying cost of ownership, rentals and other contractual obligations, and costs to related organizations. The audit scope may also include various other analyses and studies relating to issues and questions unique to the NF and identified by the DMAS. Census and related statistics, patient trust funds, and billing procedures are also subject to audit.

§ 2.33. Field audit requirements.

Field audits shall be required as follows:

1. For the first cost report on all new NF's.
2. For the first cost report in which costs for bed additions or other expansions are included.
3. When a NF is sold, purchased, or leased.
4. As determined by DMAS desk audit.

§ 2.34. Provider notification.

The provider shall be notified in writing of all adjustments to be made to a cost report resulting from desk or field audit with stated reasons and references to the appropriate principles of reimbursement or other appropriate regulatory cites.

§ 2.35. Field audit exit conference.

A. The provider shall be offered an exit conference to be executed within 15 days following completion of the on-site audit activities, unless other time frames are mutually agreed to by the DMAS and provider. Where two or more providers are part of a chain organization or under common ownership, DMAS shall have up to 90 days after completion of all related on-site audit activities to offer an exit conference for all such NFs. The exit conference shall be conducted at the site of the audit or at a location mutually agreeable to the DMAS and the provider.

B. The purpose of the exit conference shall be to enable the DMAS auditor to discuss such matters as the auditor deems necessary, to review the proposed field audit adjustments, and to present supportive references. The provider will be given an opportunity during the exit conference to present additional documentation and agreement or disagreement with the audit adjustments.

C. All remaining adjustments, including those for which additional documentation is insufficient or not accepted by the DMAS, shall be applied to the applicable cost report(s) regardless of the provider's approval or disapproval.

D. The provider shall sign an exit conference form that acknowledges the review of proposed adjustments.

E. After the exit conference the DMAS shall perform a review of all remaining field audit adjustments. Within a reasonable time and after all documents have been submitted by the provider, the DMAS shall transmit in writing to the provider a final field audit adjustment report (FAAR), which will include all remaining adjustments not resolved during the exit conference. The provider shall have 15 days from the date of the letter which transmits the FAAR, to submit any additional documentation which may affect adjustments in the FAAR.

§ 2.36. Audit delay.

In the event the provider delays or refuses to permit an audit to occur or to continue or otherwise interferes with the audit process, payments to the provider shall be reduced as stated in § 2.20 B.

§ 2.37. Field audit time frames.

A. If a field audit is necessary after receipt of a complete cost report, such audit shall be initiated within three years following the date of the last notification of program reimbursement and the on site activities, including exit conferences, shall be concluded within 180 days from the date the field audit begins. Where audits are performed on cost reports for multiple years or providers, the time frames shall be reasonably extended for the benefit of the DMAS and subject to the provisions of § 2.35.

B. Documented delays on the part of the provider will automatically extend the above time frames to the extent of the time delayed.

C. Extensions of the time frames shall be granted to the department for good cause shown.

D. Disputes relating to the timeliness established in §§ 2.35 and 2.37, or to the grant of extensions to the DMAS, shall be resolved by application to the Director of the DMAS or his designee.

PART III. APPEALS.

§ 3.1. Dispute resolution for nonstate operated nursing facilities.

A. NF's have the right to appeal the DMAS's interpretation and application of state and federal Medicaid and applicable Medicare principles of reimbursement in accordance with the Administrative

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Process Act, § 9-6.14.1 et seq. and § 32.1-325.1 of the Code of Virginia.

B. Nonappealable issues.

1. The use of state and federal Medicaid and applicable Medicare principles of reimbursement.
2. The organization of participating NF's into peer groups according to location as a proxy for cost variation across facilities with similar operating characteristics. The use of individual ceilings as a proxy for determining efficient operation within each peer group.
3. Calculation of the initial peer group ceilings using the most recent cost settled data available to DMAS that reflects NF operating costs inflated to September 30, 1990.
4. The use of the moving average of the Skilled Nursing Facility market basket of routine service costs, as developed by Data Resources, Incorporated, adjusted for Virginia, as the prospective escalator.
5. The establishment of separate ceilings for direct operating costs and indirect operating costs.
6. The use of Service Intensity Indexes to identify the resource needs of given NFs patient mix relative to the needs present in other NFs.
7. The development of Service Intensity Indexes based on:
 - a. Determination of resource indexes for each patient class that measures relative resource cost.
 - b. Determination of each NF's average relative resource cost index across all patients.
 - c. Standardizing the average relative resource cost indexes of each NF across all NF's.
8. The use of the DMAS Long Term Care Information System (LTCIS), assessment form (currently DMAS-95), Virginia Center on Aging Study, the State of Maryland Time and Motion Study of the Provision of Nursing Service in Long Term Care Facilities, and the KPMG Peat Marwick Survey of Virginia long-term care NF's nursing wages to determine the patient class system and resource indexes for each patient class.
9. The establishment of payment rates based on service intensity indexes.

§ 3.2. Conditions for appeal.

An appeal shall not be heard until the following conditions are met:

1. Where appeals result from desk or field audit adjustments, the provider shall have received a notification of program reimbursement (NPR) in writing from the DMAS.

2. Any and all moneys due to DMAS shall be paid in full, unless a repayment plan has been agreed to by the Director of the Division of Cost Settlement and Audit.

3. All first level appeal requests shall be filed in writing with the DMAS within 90 business days following the date of a DMAS notice of program reimbursement that adjustments have been made to a specific cost report.

§ 3.3. Appeal procedure.

A. There shall be two levels of administrative appeal.

B. Informal appeals shall be decided by the Director of the Division of Cost Settlement and Audit after an informal fact finding conference is held. The decision of the Director of Cost Settlement and Audit shall be sent in writing to the provider within 90 business days following conclusion of the informal fact finding conference.

C. If the provider disagrees with such initial decision the provider may, at its discretion, file a notice of appeal to the Director of the DMAS. Such notice shall be in writing and filed within 30 business days of the date of the initial decision.

D. Within 30 business days of the date of such notice of appeal, the director shall appoint a hearing officer to conduct the proceedings, to review the issues and the evidence presented, and to make a written recommendation.

E. The director shall notify the provider of his final decision within 30 business days of the date of the appointed hearing officer's written recommendation, or after the parties have filed exceptions to the recommendations, whichever is later.

F. The director's final written decision shall conclude the provider's administrative appeal.

§ 3.4. Formal hearing procedures.

Formal hearing procedures, as developed by DMAS, shall control the conduct of the formal administrative proceedings.

§ 3.5. Appeals time frames.

Appeal time frames noted throughout this section may be extended for the following reasons;

A. The provider submits a written request prior to the due date requesting an extension for good cause and it

DMAS approves the extension.

B. Delays on the part of the NF documented by the DMAS shall automatically extend DMAS's time frame to the extent of the time delayed.

C. Extensions of time frames shall be granted to the DMAS for good cause shown.

D. When appeals for multiple years are submitted by a NF or a chain organization or common owners are coordinating appeals for more than one NF, the time frames shall be reasonably extended for the benefit of the DMAS.

E. Disputes relating to the time lines established in § 3.3 B or to the grant of extensions to the DMAS shall be resolved by application to the Director of the DMAS or his designee.

§ 3.6. Dispute resolution for state-operated NFs.

A. Definitions.

"DMAS" means the Department of Medical Assistance Services.

"Division director" means the director of a division of DMAS.

"State-operated provider" means a provider of Medicaid services which is enrolled in the Medicaid program and operated by the Commonwealth of Virginia.

B. Right to request reconsideration.

1. A state-operated provider shall have the right to request a reconsideration for any issue which would be otherwise administratively appealable under the State Plan by a nonstate operated provider. This shall be the sole procedure available to state-operated providers.

2. The appropriate DMAS division must receive the reconsideration request within 30 business days after the date of a DMAS Notice of Amount of Program Reimbursement, notice of proposed action, findings letter, or other DMAS notice giving rise to a dispute.

C. Informal review.

The state-operated provider shall submit to the appropriate DMAS division written information specifying the nature of the dispute and the relief sought. If a reimbursement adjustment is sought, the written information must include the nature of the adjustment sought; the amount of the adjustment sought; and the reasons for seeking the adjustment. The division director or his designee shall review this information, requesting additional information as necessary. If either party so requests, they may meet to discuss a resolution. Any

designee shall then recommend to the division director whether relief is appropriate in accordance with applicable law and regulations.

D. Division director action.

The division director shall consider any recommendation of his designee and shall render a decision.

E. DMAS director review.

A state-operated provider may, within 30 business days after the date of the informal review decision of the division director, request that the DMAS Director or his designee review the decision of the division director. The DMAS Director shall have the authority to take whatever measures he deems appropriate to resolve the dispute.

F. Secretarial review.

If the preceding steps do not resolve the dispute to the satisfaction of the state-operated provider, within 30 business days after the date of the decision of the DMAS Director, the provider may request the DMAS director to refer the matter to the Secretary of Health and Human Resources and any other cabinet secretary as appropriate. Any determination by such secretary or secretaries shall be final.

PART IV. INDIVIDUAL EXPENSE LIMITATION.

In addition to operating costs being subject to peer group ceilings, costs are further subject to maximum limitations as defined in VR 460-03-4.1943, Cost Reimbursement Limitations.

PART V. COST REPORT PREPARATION INSTRUCTIONS.

Instructions for preparing NF cost reports will be provided by the DMAS.

PART VI. STOCK TRANSACTIONS.

§ 6.1. Stock acquisition.

The acquisition of the capital stock of a provider does not constitute a basis for revaluation of the provider's assets. Any cost associated with such an acquisition shall not be an allowable cost. The provider selling its stock continues as a provider after the sale, and the purchaser is only a stockholder of the provider.

§ 6.2. Merger of unrelated parties.

A. In the case of a merger which combines two or more unrelated corporations under the regulations of the Code of Virginia, there will be only one surviving corporation. If the surviving corporation, which will own the assets and

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liabilities of the merged corporation, is not a provider, a Certificate of Public Need, if applicable, must be issued to the surviving corporation.

B. The nonsurviving corporation shall be subject to the policies applicable to terminated providers, including those relating to gain or loss on sales of NFs.

§ 6.3. Merger of related parties.

The statutory merger of two or more related parties or the consolidation of two or more related providers resulting in a new corporate entity shall be treated as a transaction between related parties. No revaluation shall be permitted for the surviving corporation.

PART VII. NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAM AND COMPETENCY EVALUATION PROGRAMS (NATCEPs).

§ 7.1. The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) amended § 1903(a)(2)(B) of the Social Security Act to fund actual NATCEPs costs incurred by NFs separately from the NF's medical assistance services reimbursement rates.

§ 7.2. NATCEPs costs.

A. NATCEPs costs shall be as defined in VR 460-03-4.1941.

B. To calculate the reimbursement rate, NATCEPs costs contained in the most recently filed cost report shall be converted to a per diem amount by dividing allowable NATCEPs costs by the actual number of NF's patient days.

C. The NATCEPs interim reimbursement rate determined in § 7.2 B shall be added to the prospective operating cost and plant cost components or charges, whichever is lower, to determine the NF's prospective rate. The NATCEPs interim reimbursement rate shall not be adjusted for inflation.

D. Reimbursement of NF costs for training and competency evaluation of nurse aides must take into account the NF's use of trained nurse aides in caring for Medicaid, Medicare and private pay patients. Medicaid shall not be charged for that portion of NATCEPs costs which are properly charged to Medicare or private pay services. The final retrospective reimbursement for NATCEPs costs shall be the reimbursement rate as calculated from the most recently filed cost report by the methodology in § 7.2 B times the Medicaid patient days from the DMAS MMR-240.

E. Disallowance of nonreimbursable NATCEPs costs shall be reflected in the year in which the nonreimbursable costs were claimed.

F. Payments to providers for allowable NATCEPs costs

shall not be considered in the comparison of the lower allowable reimbursement or charges for covered services, as outlined in § 2.14 A.

PART VIII. CRIMINAL RECORDS CHECKS FOR NURSING FACILITY EMPLOYEES.

§ 8.1. Criminal records checks.

A. This section implements the requirements of § 32.1-126.01 of the Code of Virginia and Chapter 994 of the Acts of Assembly of 1993 (Item 313 T).

B. A licensed nursing facility shall not hire for compensated employment persons who have been convicted of:

1. Murder;
2. Abduction for immoral purposes as set out in § 18.2-48 of the Code of Virginia;
3. Assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia;
4. Arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2 of the Code of Virginia;
5. Pandering as set out in § 18.2-355 of the Code of Virginia;
6. Crimes against nature involving children as set out in § 18.2-361 of the Code of Virginia;
7. Taking indecent liberties with children as set out in §§ 18.2-370 or 18.2-370.1 of the Code of Virginia;
8. Abuse and neglect of children as set out in § 18.2-371.1 of the Code of Virginia;
9. Failure to secure medical attention for an injured child as set out in § 18.2-314 of the Code of Virginia;
10. Obscenity offenses as set out in § 18.2-374.1 of the Code of Virginia; or
11. Abuse or neglect of an incapacitated adult as set out in § 18.2-369 of the Code of Virginia.

C. The provider shall obtain a sworn statement or affirmation from every applicant disclosing any criminal convictions or pending criminal charges for any of the offenses specified in subsection B regardless of whether the conviction or charges occurred in the Commonwealth.

D. The provider shall obtain an original criminal record clearance or an original criminal record history from the Central Criminal Records Exchange for every person hired. This information shall be obtained within 30 days

from the date of employment and maintained in the employees' files during the term of employment and for a minimum of five years after employment terminates for whatever reason.

E. The provider may hire an applicant whose misdemeanor conviction is more than five years old and whose conviction did not involve abuse or neglect or moral turpitude.

F. Reimbursement to the provider will be handled through the cost reporting form provided by the DMAS and will be limited to the actual charges made by the Central Criminal Records Exchange for the records requested. Such actual charges will be a pass-through cost which is not a part of the operating or plant cost components.

PART IX. USE OF MMR-240.

All providers must use the data from computer printout MMR-240 based upon a 60-day accrual period.

PART X. COMMINGLED INVESTMENT INCOME.

DMAS shall treat funds commingled for investment purposes in accordance with PRM-15, § 202.6.

PART XI. PROVIDER NOTIFICATION.

DMAS shall notify providers of State Plan changes affecting reimbursement 30 days prior to the enactment of such changes.

PART XII. START-UP COSTS AND ORGANIZATIONAL COSTS.

§ 12.1. Start-up costs.

A. In the period of developing a provider's ability to furnish patient care services, certain costs are incurred. The costs incurred during this time of preparation are referred to as start-up costs. Since these costs are related to patient care services rendered after the time of preparation, they shall be capitalized as deferred charges and amortized over a 60-month time frame.

B. Start-up costs may include, but are not limited to, administrative and nursing salaries; heat, gas, and electricity; taxes, insurance; employee training costs; repairs and maintenance; housekeeping; and any other allowable costs incident to the start-up period. However, any costs that are properly identifiable as operating costs must be appropriately classified as such and excluded from start-up costs.

C. Start-up costs that are incurred immediately before a provider enters the Program and that are determined by

the provider, subject to the DMAS approval, to be immaterial need not be capitalized but rather may be charged to operations in the first cost reporting period.

D. Where a provider incurs start-up costs while in the Program and these costs are determined by the provider, subject to the DMAS approval, to be immaterial, these costs shall not be capitalized but shall be charged to operations in the periods incurred.

§ 12.2. Applicability.

A. Start-up cost time frames.

1. Start-up costs are incurred from the time preparation begins on a newly constructed or purchased building, wing, floor, unit, or expansion thereof to the time the first patient (whether Medicaid or non-Medicaid) is admitted for treatment, or where the start-up costs apply only to nonrevenue producing patient care functions or nonallowable functions, to the time the areas are used for their intended purposes.

2. If a provider intends to prepare all portions of its entire facility at the same time, start-up costs for all portions of the facility shall be accumulated in a single deferred charge account and shall be amortized when the first patient is admitted for treatment.

3. If a provider intends to prepare portions of its facility on a piecemeal basis (i.e., preparation of a floor or wing of a provider's facility is delayed), start-up costs shall be capitalized and amortized separately for the portion or portions of the provider's facility prepared during different time periods.

4. Moreover, if a provider expands its NF by constructing or purchasing additional buildings or wings, start-up costs shall be capitalized and amortized separately for these areas.

B. Depreciation time frames.

1. Costs of the provider's facility and building equipment shall be depreciated using the straight line method over the lives of these assets starting with the month the first patient is admitted for treatment.

2. Where portions of the provider's NF are prepared for patient care services after the initial start-up period, those asset costs applicable to each portion shall be depreciated over the remaining lives of the applicable assets. If the portion of the NF is a nonrevenue-producing patient care area or nonallowable area, depreciation shall begin when the area is opened for its intended purpose. Costs of major movable equipment, however, shall be depreciated over the useful life of each item starting with the month the item is placed into operation.

§ 12.3. Organizational costs.

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A. Organizational costs are those costs directly incident to the creation of a corporation or other form of business. These costs are an intangible asset in that they represent expenditures for rights and privileges which have a value to the enterprise. The services inherent in organizational costs extend over more than one accounting period and thus affect the costs of future periods of operations.

B. Allowable organizational costs shall include, but not be limited to, legal fees incurred in establishing the corporation or other organization (such as drafting the corporate charter and by-laws, legal agreements, minutes of organizational meeting, terms of original stock certificates), necessary accounting fees, expenses of temporary directors and organizational meetings of directors and stockholders and fees paid to states for incorporation.

C. The following types of costs shall not be considered allowable organizational costs: costs relating to the issuance and sale of shares of capital stock or other securities, such as underwriters fees and commissions, accountant's or lawyer's fees, cost of qualifying the issues with the appropriate state or federal authorities, stamp taxes, etc.

D. Allowable organization costs shall generally be capitalized by the organization. However, if DMAS concludes that these costs are not material when compared to total allowable costs, they may be included in allowable indirect operating costs for the initial cost reporting period. In all other circumstances, allowable organization costs shall be amortized ratably over a period of 60 months starting with the month the first patient is admitted for treatment.

PART XIII. DMAS AUTHORIZATION.

§ 13.1. Access to records.

A. DMAS shall be authorized to request and review, either through a desk or field audit, all information related to the provider's cost report that is necessary to ascertain the propriety and allocation of costs (in accordance with Medicare and Medicaid rules, regulations, and limitations) to patient care and nonpatient care activities.

B. Examples of such information shall include, but not be limited to, all accounting records, mortgages, deeds, contracts, meeting minutes, salary schedules, home office services, cost reports, and financial statements.

C. This access also applies to related organizations as defined in § 2.10 who provide assets and other goods and services to the provider.

PART XIV. HOME OFFICE COSTS.

§ 14.1. General.

Home office costs shall be allowable to the extent they are reasonable, relate to patient care, and provide cost savings to the provider.

§ 14.2. Purchases.

Provider purchases from related organizations, whether for services, or supplies, shall be limited to the lower of the related organizations actual cost or the price of comparable purchases made elsewhere.

§ 14.3. Allocation of home office costs.

Home office costs shall be allocated in accordance with § 2150.3, PRM-15.

§ 14.4. Nonrelated management services.

Home office costs associated with providing management services to nonrelated entities shall not be recognized as allowable reimbursable cost.

§ 14.5. Allowable and nonallowable home office costs.

Allowable and nonallowable home office costs shall be recognized in accordance with § 2150.2, PRM-15.

§ 14.6. Equity capital.

Item 398 D of the 1987 Appropriation Act (as amended effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers for periods or portions thereof on or after July 1, 1987.

PART XV. REFUND OF OVERPAYMENTS.

§ 15.1. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk audit, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS' determination of the overpayment.

§ 15.2. Offset.

If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall be used to reduce the balance of the overpayment.

§ 15.3. Payment schedule.

A. If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report

indicating that an overpayment has occurred, the provider shall request in writing an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request in writing an extended repayment schedule.

B. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of DMAS may approve a repayment schedule of up to 36 months.

C. A provider shall have no more than one extended repayment schedule in place at one time. If subsequent audits identify additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amounts.

D. If, during the time an extended repayment schedule is in effect, the provider ceases to be a participating provider or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

E. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered from interim payments to the provider or by lump sum payments.

§ 15.4. Extension request documentation.

In the written request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

§ 15.5. Interest charge on extended repayment.

A. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

B. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

C. The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or

(ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

PART XVI. REVALUATION OF ASSETS.

§ 16.1. Change of ownership.

A. Under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, reimbursement for capital upon the change of ownership of a NF is restricted to the lesser of:

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge Construction Cost Index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year, or
2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U) applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year.

B. To comply with the provisions of COBRA 1985, effective October 1, 1986, the DMAS shall separately apply the following computations to the capital assets of each facility which has undergone a change of ownership:

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge Construction Cost Index, or
2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U).

C. Change of ownership is deemed to have occurred only when there has been a bona fide sale of assets of a NF (See § 2.5 B 3 for the definition of "bona fide" sale).

D. Reimbursement for capital assets which have been revalued when a facility has undergone a change of

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ownership shall be limited to the lesser of:

1. The amounts computed in subsection B above;
2. Appraised replacement cost value; or
3. Purchase price.

E. Date of acquisition is deemed to have occurred on the date legal title passed to the seller. If a legal titling date is not determinable, date of acquisition shall be considered to be the date a certificate of occupancy was issued by the appropriate licensing or building inspection agency of the locality where the nursing facility is located.

VA.R. Doc. No. R95-207; Filed December 20, 1994, 11:35 a.m.

VIRGINIA WASTE MANAGEMENT BOARD

REGISTRAR'S NOTICE: The Virginia Waste Management Board has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Title of Regulation: VR 672-60-1. Waste Tire End User Reimbursement Regulation.

Statutory Authority: §§ 10.1-1402.11, 10.1-1422.3, and 10.1-1422.4 of the Code of Virginia.

Effective Date: December 20, 1994.

Summary:

This regulation provides guidelines for the partial reimbursement, from the Waste Tire Trust Fund, to end users of Virginia generated waste tires. This regulation will promote the use of waste tires by enhancing markets for waste tires, chips or similar materials. Enhanced markets can make it easier and less expensive to direct waste tires to processing areas other than landfills.

In accordance with DEQ's public participation guidelines, a technical advisory committee (TAC) was formed and five meetings were held. As a result of these meetings, with significant participation from industry representatives, a consensus was reached on this regulation. This regulation provides a balance for protecting public health and the environment, and providing for the efficient and economic performance of regulatory functions. This regulation is considered to be the least burdensome and intrusive means available that will address the identified need.

Agency Contact: Copies of the regulation may be obtained from Waste Tire Program, Department of Environmental Quality, P.O. Box 1009, 629 East Main Street, Richmond,

VA 23240-0009, telephone (804) 762-4215 or FAX (804) 762-4224.

VR 672-60-1. Waste Tire End User Reimbursement Regulation.

PART I. DEFINITIONS.

§ 1.1. Definitions.

A. The definitions set out in Part I of the Virginia Solid Waste Management Regulations (VR 672-20-10) are incorporated by reference.

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

"Applicant" means any person or persons seeking reimbursement under these regulations.

"Asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from waste tire materials which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses.

"Authorized signature" means the signature of an individual who has authority to sign on behalf of, or bind, the applicant.

"Available funds" means for a given calendar year, a maximum of 75% of the previous year's collection of the waste tire tax.

"Burning" means the controlled burning of waste tire materials for the purpose of energy recovery.

"Cost of use" means the equipment, leasehold improvements, buildings, land, engineering, transportation, operating, taxes, interest, and depreciation or replacement costs of using waste tire materials incurred by the end user after deducting any tipping fee received by the end user.

"Daily cover" means using waste tire material as an alternate cover placed upon exposed solid waste to control disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to human health and the environment.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or the director's designee.

"Embankment" means a raised earthen structure to carry a roadway.

"End user" means:

1. For energy recovery: the person who utilizes the heat content or other forms of energy from the burning or pyrolysis of waste tire materials;

2. For other eligible uses: the last person who uses the waste tire materials to make a product with economic value. If the waste tire materials are processed by more than one person in becoming a product, the end user is the last person to use the tire as waste tire materials. A person who produces waste tire materials and gives or sells them to another person to use is not an end user.

"Energy recovery" means utilizing the heat content or other forms of energy from the burning or pyrolysis of waste tire materials.

"Fill material for construction" means the material is used as a base or sub-base under the footprint of a structure, a paved parking lot, sidewalk, walkway or similar application.

"Generator" means any person whose act or process produces waste tires or whose act first causes a tire to become a solid waste.

"Hauler" means a person who picks up or transports waste tires for the purpose of removal to a permitted storage, processing or disposal facility.

"Partial reimbursement" means reimbursement that does not exceed the purchase price of waste tire materials or the cost of use if the waste tire materials were not purchased.

"Passenger tire equivalent" means a measure of passenger, truck tires, and oversize tires where: One passenger car tire equals 20 pounds or 1/100 ton. One truck tire 20-24 inch rim equals 100 pounds or 1/20 ton and a tire with over 24-inch rim equals 200 pounds or greater as computed by the end user.

"Processor" means a person engaged in the processing of waste tires including, but not limited to, stamping, stripping, shredding or crumbing; that operates under a permit issued by the local, state, or federal government; or is exempt from permit requirements.

"Pyrolysis" means thermal treatment of waste tire materials to separate it into other components with economic value.

"Retreading" means processing a waste tire by attaching a new tread to make a usable tire.

"Road bed base" means the foundation of a road prepared for surfacing.

"Tipping fee" means a fee charged to a person for

disposal of a waste tire.

"Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is transported, or by which they may be drawn on a highway.

"Tire pile" means an accumulation of waste tire materials that violates the Virginia Solid Waste Management Regulations (VR 672-20-10).

"Waste tire" means a tire that has been discarded because it is no longer suitable for its original intended purpose because of wear, damage or defect.

"Waste tire materials" means whole waste tires or waste tires that have been size reduced by physical or chemical process. This term includes waste tires or chips or similar materials as specified in §§ 10.1-1422.3 and 10.1-1422.4 of the Code of Virginia.

"Waste Tire Trust Fund" means the nonreverting fund set up by § 10.1-1422.3 of the Code of Virginia in which proceeds from the waste tire tax are deposited.

PART II. GENERAL INFORMATION.

§ 2.1. Purpose of regulations.

The purpose of these regulations is to define the types of uses eligible for partial reimbursement, to establish the procedures for application and processing of reimbursement, and to establish the amount of reimbursement.

§ 2.2. Regulation review.

These regulations will be reviewed every six months by the director to determine whether they should be continued, amended, or terminated based on the intent to enhance markets for waste tires, chips, or similar tire materials that is specified in the authorizing legislation.

PART III. ELIGIBILITY FOR REIMBURSEMENT.

§ 3.1. End uses of waste tires eligible for reimbursement.

A. The following uses of waste tire materials will be eligible for the reimbursement if the use complies with applicable local ordinances and regulations and the Virginia Solid Waste Management Regulations (VR 672-20-10) or the equivalent regulations in another state. The eligible uses are:

1. Civil engineering applications, which utilize waste tire materials as a substitute for soil, sand, or aggregate in a construction project such as land or surface applications, road bed base and embankments; fill material for construction projects; and daily cover

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at a permitted solid waste facility if the facility's permit is so modified.

2. Burning of waste tire materials for energy recovery.

3. Pyrolysis.

4. Products made from waste tire materials such as molded rubber products, rubberized asphalt.

B. Uses that are not eligible for reimbursement include:

1. Reuse as a vehicle tire;

2. Retreading;

3. Burning without energy recovery; and

4. Landfilling, except use as daily cover.

§ 3.2. Eligible end users.

A. To be eligible for a reimbursement, the applicant shall be the end user of the waste tire materials as defined in Part I of these regulations. The end user need not be located in Virginia.

B. To be eligible for a reimbursement, the waste tire materials utilized by the end user must be:

1. Waste tire materials from waste tires generated in Virginia and be documented as such according to the requirements in Part V of these regulations; and

2. Utilized through a method specified in § 3.1 of these regulations.

PART IV. REIMBURSEMENT RATES.

§ 4.1. The amount of reimbursement for purchased material.

As a partial reimbursement, the amount reimbursed shall be equal to the purchase price paid for the waste tire materials, subject to the maximum reimbursement rates listed in § 4.3 of these regulations.

§ 4.2. The amount of reimbursement for material used but not purchased.

As a partial reimbursement, the amount reimbursed shall be the cost of use of the waste tire materials, subject to the maximum reimbursement rates listed in § 4.3 of these regulations.

§ 4.3. Maximum rate of reimbursement.

The maximum amount of the reimbursement eligible uses shall be \$30 per ton.

§ 4.4. Available funds.

Applicants approved for reimbursement will be reimbursed their qualifying amount until such time as available funds are exhausted for the calendar year. If available funds for a calendar year are exhausted, no further reimbursement will be made for utilization of tires in that calendar year. Applications will be considered in order of receipt.

PART V. VIRGINIA GENERATED WASTE TIRES.

§ 5.1. Qualification as Virginia generated waste tires.

A Virginia generated waste tire is a waste tire that is:

1. Discarded as the result of a sale, trade, or exchange in Virginia; or

2. From a Virginia tire pile that existed prior to December 20, 1994; or

3. From a Virginia tire pile that was created without the property owner's knowledge or permission.

§ 5.2. Documentation.

To be considered as Virginia generated waste tire eligible for reimbursement, the waste tires must be documented as such in a manner acceptable to the director. Acceptable documentation must provide at a minimum a certifying statement signed by the end user stating that the waste tires are Virginia generated in accordance with the requirements of § 5.1 of these regulations. One type of acceptable documentation is form DEQ-WTC, completed in the following manner:

1. Completion of Part I by the generator. The generator, who has the waste tires for disposal, must fill in all pertinent information in Part I and sign the statement certifying that the waste tires are Virginia generated in accordance with the requirements of § 5.1 of these regulations. When the generator is not known, the property owner is the generator.

2. Completion of Part II by the hauler. The hauler must fill in all pertinent information in Part II and sign the statement certifying that he accepted the waste tire materials in the amounts indicated from the generator in Part I.

3. Completion of Part III by the collector, if applicable. The collector must fill in all pertinent information in Part III and sign the statement certifying that he accepted the waste tire materials in the amounts indicated from the hauler.

4. Completion of Part IV by the processor. The processor must fill in all pertinent information and sign the statement certifying that he accepted the

waste tire materials in the amounts indicated in Part II from the hauler or Part III from the collector.

PART VI. APPLICATION PROCEDURES.

§ 6.1. Application for reimbursement.

A. A person may apply to the director for reimbursement from the Waste Tire Trust Fund for utilizing waste tire materials if the request for reimbursement is complete and complies with other provisions of these regulations.

B. The minimum reimbursement application amount is 5,000 passenger tire equivalents or 50 tons of waste tire materials used.

C. In order to apply for reimbursement, the utilization of the waste tire materials must occur after December 20, 1994.

D. An applicant for reimbursement must file form DEQ-EURR with the director, providing at a minimum:

1. Applicant's name and address;
2. Name and location of facility where end use occurs;
3. A description of the end use;
4. A statement of the purchase price paid for the waste tire materials or, if the waste tire materials were not purchased, the cost of use;
5. An authorized signature.

E. Application for reimbursement will be accepted up to the last business day of the month following a calendar quarter. Applications received after the one month deadline will be considered late and reimbursement will not be considered for that calendar quarter. Such a late application will be considered in the following calendar quarter.

F. An applicant for a reimbursement for utilization of waste tire materials is subject to audit by the director. Applicants shall allow access to all records related to waste tire management activities during normal business hours for the purpose of determining compliance with these regulations for five years from the date of reimbursement.

G. In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information to the director in applying for a reimbursement shall be ineligible to receive any reimbursement under these regulations.

PART VII.

PROCESSING OF APPLICATIONS.

§ 7.1. Review of application.

A. The director shall review the reimbursement application form, DEQ-EURR, for completeness and eligibility within three days of receipt.

B. If an application is not complete as required in § 6.1 D, the director may require the applicant to submit the missing information. The director may delay reimbursement until the information is received.

C. The director will process for payment all applications for reimbursement that are complete and in compliance with the regulations up to the amount of funds available, but in no case will payments exceed 75% of the previous year's tax collection as certified by the Department of Taxation. The complete applications will be processed in the order received and until available funds are exhausted. Complete applications will be reviewed and acted on within three working days.

D. The first time that applications may be submitted is after December 20, 1994. The first payment will be processed beginning in the calendar quarter following December 20, 1994. After that applications will be received and processed as specified in § 6.1 E of these regulations.

E. When an applicant believes an error has been made in the review of or response to his application, he shall notify the director in writing within 30 days of receiving the director's response. The notice shall contain a copy of the application and the director's response, a brief statement describing the believed error, and copies of any documents supporting the statement.

The director shall review the notice and attached documents and may further investigate the matter. The director shall advise the applicant in writing in due course of his response to the applicant's notice of error.

If the director concludes that an error has been made, he shall reinstate the application and act on it. If the available funds are exhausted, and would not have been had the director acted correctly on the application originally, the reinstated application shall be carried over to the next year and paid from available funds.

VA.R. Doc. No. R95-208; Filed December 20, 1994, 12:08 p.m.

APPENDIX A

COMMONWEALTH OF VIRGINIA
WASTE TIRE CERTIFICATION

PART I - GENERATOR CERTIFICATION DATE _____

COMPANY NAME _____ # OF TIRES OR TONS OF MATERIAL _____
 ADDRESS _____ CAR OR LIGHT TRUCK TIRES _____
 CITY _____ STATE _____ ZIP _____ TRUCK TIRES _____
 TELEPHONE () _____ OVERSIZE TIRES _____
 TONS OF MATERIAL _____
 ID # _____

I certify under penalty of law that the information contained on this form is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for willful violations. I further certify that, to the best of my knowledge and belief, all the waste tire materials identified by me on this Waste Tire Certification and delivered to the hauler below were generated in the Commonwealth of Virginia in accordance with the Waste Tire End User Reimbursement (VR 672-60-1).

SIGNATURE _____

PART II - HAULER CERTIFICATION DATE _____

COMPANY NAME _____ # OF TIRES OR TONS OF MATERIAL _____
 ADDRESS _____ CAR OR LIGHT TRUCK TIRES _____
 CITY _____ STATE _____ ZIP _____ TRUCK TIRES _____
 TELEPHONE () _____ OVERSIZE TIRES _____
 TONS OF MATERIAL _____
 ID # _____

I certify that the waste tire materials were received from the generator in the amounts indicated, to the best of my knowledge and belief.

SIGNATURE _____

PART III - COLLECTOR CERTIFICATION DATE _____

COMPANY NAME _____ # OF TIRES OR TONS OF MATERIAL _____
 ADDRESS _____ CAR OR LIGHT TRUCK TIRES _____
 CITY _____ STATE _____ ZIP _____ TRUCK TIRES _____
 TELEPHONE () _____ OVERSIZE TIRES _____
 TONS OF MATERIAL _____
 ID # _____

I certify that the waste tire materials were received from the generator or hauler in the amounts indicated, to the best of my knowledge and belief.

SIGNATURE _____

PART IV - PROCESSOR CERTIFICATION DATE _____

COMPANY NAME _____ # OF TIRES OR TONS OF MATERIAL _____
 ADDRESS _____ CAR OR LIGHT TRUCK TIRES _____
 CITY _____ STATE _____ ZIP _____ TRUCK TIRES _____
 TELEPHONE () _____ OVERSIZE TIRES _____
 TONS OF MATERIAL _____
 ID # _____

I certify that the waste tire materials were received from the collector, hauler or generator in the amounts indicated, to the best of my knowledge and belief.

SIGNATURE _____

DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTE TIRE PROGRAM, 629 EAST MAIN STREET.
 RICHMOND, VA 23219 DEQ-WTC

APPENDIX B

COMMONWEALTH OF VIRGINIA
END USER REIMBURSEMENT REQUESTS

Company Name _____

Address _____

City _____ State _____ Zip _____

Phone _____ Contact _____

Location of End Use _____

Description of End Use _____

Use occurred between _____ and _____

Complete the calculation for purchase price or cost of use.

Purchase Price Calculation	Cost of Use Calculation
Tons of material purchased _____	Cost of use per ton _____
Purchase price per ton _____	Minus Tipping Fee _____
	Net cost of use _____
	Tons of material used _____

Certification: I certify that the waste tire material was used in the manner specified on this request during the period listed. I further certify that the documentation exists at the office of the company listed above that demonstrates that the waste tire material was from waste tires that were generated in Virginia as defined in the Waste Tire End User Reimbursement Regulations (VR 672-60-01). Additionally, I certify that records exist in our office, for review by DEQ, that shows the purchase price or cost of use and the amount of waste tire material that was used.

Signature _____ Date _____

For DEQ use only
 Use _____ Tons _____ Rate _____ Amount of Reimbursement due _____

Approved for Payment Processing _____ date _____

DEQ-EURR

STATE CORPORATION COMMISSION

EDITOR'S NOTE: The State Corporation Commission does not consider the following Plan to be a regulation, therefore, editorial changes, per the Style Manual, were not incorporated.

AT RICHMOND, DECEMBER 1, 1994

APPLICATION OF

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

CASE NO. INS940207

For approval of amended plan of
operation pursuant to Virginia
Code § 38.2-5017

ORDER APPROVING AMENDED PLAN OF OPERATION

ON A FORMER DAY came the Virginia Birth-Related Neurological Injury Compensation Program, by its counsel, and, pursuant to Virginia Code § 38.2-5017, filed with the Clerk of the Commission an amended plan of operation. The original plan of operation was approved by the Commission by Order dated November 20, 1987, in Case No. INS870294.

THE COMMISSION, having considered the amended plan of operation, the recommendation of the Bureau of Insurance that said plan be approved, and the law applicable in this matter, is of the opinion and orders that the amended plan of operation, which is attached hereto and made a part hereof, should be, and it is hereby, APPROVED.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Janice M. Sigler, Esquire, Office of the Attorney General, 900 East Main Street, Richmond, Virginia 23219; Elinor Pyles, Administrator, Virginia Birth-Related Neurological Injury Compensation Program, 700 East Main Street, Suite 1635, Richmond, Virginia 23219; and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister.

I. NAME

This program shall be known as the Virginia Birth-Related Neurological Injury Compensation Program established pursuant to Chapter 50 of Title 38.2, Va. Code Ann. §§ 38.2-5000 through 38.2-5021 (Michie Repl. Vol. 1990 & Supp. 1993).

II. DEFINITIONS

A. As used in this plan of operation, the following terms shall have the meanings in § 38.2-5001.

1. "Birth-related neurological injury" means injury to the brain or spinal cord of an infant caused by the

deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation in the immediate post-delivery period in a hospital which renders the infant permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled. In order to constitute a "birth-related neurological injury" within the meaning of the Virginia Birth-Related Neurological Injury Compensation Act, such disability shall cause the infant to be permanently in need of assistance in all activities of daily living. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality, degenerative neurological disease, or maternal substance abuse.

2. "Claimant" means any person who files a claim pursuant to § 38.2-5004 for compensation for a birth-related neurological injury to an infant. Such claims may be filed by any legal representative on behalf of an injured infant; and, in the case of a deceased infant, the claim may be filed by an administrator, executor, or other legal representative.

3. "Commission" means the Virginia Workers' Compensation Commission.

4. "Participating hospital" means a hospital licensed in Virginia which at the time of the injury (i) had in force an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, whereby the hospital agreed to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent, and upon approval of such program by the Commissioner of Health, to participate in its implementation, (ii) had in force an agreement with the State Department of Health whereby the hospital agreed to submit to review of its obstetrical service, as required by subsection C of § 38.2-5004, and (iii) had paid the participating hospital assessment pursuant to § 38.2-5020 for the period of time in which the birth-related neurological injury occurred.

5. "Participating physician" means a physician licensed in Virginia to practice medicine, who practices obstetrics or performs obstetrical services either full or part time or, as authorized in the plan of operation, a licensed nurse-midwife who performs obstetrical services, either full or part time, within the scope of such licensure and who at the time of the injury (i) had in force an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, whereby the physician agreed to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent, and upon approval of such program by the Commissioner of Health, to participate in its

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implementation, (ii) had in force an agreement with the Board of Medicine whereby the physician agreed to submit to review by the Board of Medicine as required by subsection B of § 38.2-5004, and (iii) had paid the participating physician assessment pursuant to § 38.2-5020 for the period of time in which the birth-related neurological injury occurred.

6. "Program" means the Virginia Birth-Related Neurological Injury Compensation Program established by the Virginia Birth-Related Neurological Injury Compensation Act.

B. As used in this plan of operation:

1. "Act" means the Virginia Birth-Related Neurological Injury Compensation Act.

2. "Assessment year" means the period from January 1 until December 31 of each year.

3. "Board" means the board of directors of the Program, as provided in Article IV of this plan.

4. "Director(s)" means member(s) of the board.

5. "Fund" means the Virginia Birth-Related Neurological Injury Compensation Fund, as provided in § 38.2-5015 and Article IX of this plan.

6. "Fund manager" means the person or entity appointed by the board pursuant to Article IX of this plan.

7. "Plan" means this plan of operation, as adopted by the board and approved by the State Corporation Commission.

8. "SCC" means the State Corporation Commission.

9. "Servicing company" means an entity appointed by the board pursuant to Article X of this plan to administer the processing and payment of claims against the Fund and to provide such other services related to the administration of the Program as deemed necessary or desirable by the board. The Program may, in lieu of appointing a servicing company, administer the processing and payment of claims against the Fund.

III. PURPOSE

It is the purpose of the Program to implement the Act, thereby seeking to assure the lifetime care of infants with birth-related neurological injuries, fostering an environment that will increase the availability of medical malpractice insurance at a reasonable cost for physicians and hospitals providing obstetrical services, and promoting the availability of obstetrical care to indigent and low-income patients.

IV. BOARD OF DIRECTORS ("BOARD")

A. Governance

The Program shall be governed by the board, which shall administer the plan.

B. Appointment

Directors shall be appointed by the Governor as provided in § 38.2-5016(C).

C. Term

Directors shall be appointed for a term of three years or until their successors are appointed and qualify for office.

D. Regular Meeting

The board shall meet annually for its organizational meeting in September of each year. The board may provide, by resolution, for the time and place of additional regular meetings to be held through-out each year as the board deems necessary. Notice to directors shall not be required for any regular meeting.

E. Special Meetings

Special meetings may be called by the chairman or any two directors. The chairman shall fix the time and place of a special meeting. Notice of a special meeting may be sent by mail, telephone, telegram or fax, provided such notice is dispatched at least 72 hours prior to the special meeting. Any director present at a special meeting shall be deemed to have waived any objection to lack of notice. No statement of purpose shall be required for the calling of a special meeting.

F. Quorum

Five directors shall constitute a quorum for the transaction of any business or the exercise of any power of the Program.

G. Rules of Procedure

The board may promulgate or adopt rules of procedure governing the conduct of its regular and special meetings as it deems necessary.

H. Officers

The board shall elect annually, from among its members at its organizational meeting, a chairman and a vice chairman/secretary to serve one-year terms or until their successors are elected and assume office. The chairman and the vice chairman/secretary shall serve at the pleasure of the board.

Any vacancy in the office of chairman or vic

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chairman/secretary shall be filled by election for the unexpired portion of the applicable term. The chairman shall preside at all regular and special meetings and discharge such other duties incidental to the office or as the board may require. The vice chairman/secretary shall cause to be issued all notices of regular or special meetings, cause to be recorded the minutes of such meetings, and discharge such other duties as may be incidental to the office or as the board may require.

I. Voting

Each director shall have one vote. The board shall act by majority vote. Any proposal or motion shall be carried if it receives an affirmative vote of a majority of the directors present at a duly constituted regular or special meeting. No proxy voting shall be permitted.

J. Committees

The board may establish special or standing committees as it deems necessary.

K. Powers

The board shall have the general power to administer and manage the Program and to administer and manage the Fund, which general power shall include, without limitation, the power to:

1. administer the processing and payment of claims against the Fund;
2. appoint a servicing company;
3. appoint a fund manager;
4. provide for the annual assessments of physicians, licensed nurse-midwives and hospitals wishing to participate in the Program, nonparticipating physicians and liability insurers, in accordance with the Act;
5. direct the investment and reinvestment of any surplus in the Fund over losses and expenses, provided any investment income generated remains in the Fund;
6. insure and reinsure the risks of the Fund, in whole or in part;
7. reduce for a stated period of time the annual participating physician assessment described in subsection A of § 38.2-5020 and the annual participating hospital assessment described in subsection C of § 38.2-5020 after the State Corporation Commission determines the Fund is actuarially sound in conjunction with actuarial investigations conducted pursuant to § 38.2-5021.
8. establish and maintain physical facilities and contract as necessary for space, equipment and

services;

9. provide for the keeping of, and access to, the records of the Program and the Fund;

10. provide for the audit and inspection of the financial books, papers and condition of the Program and the Fund;

11. open and maintain accounts at financial institution(s) and provide for financial, administrative and clerical services, as necessary;

12. arrange for the payment of awards made pursuant to the Act and for the payment of the expenses of administration of the Program and the Fund;

13. enforce its contractual and other rights;

14. defend the Fund and protect the Fund and the Program from fraud and deception;

15. purchase, hold and acquire real and personal property;

16. employ an executive director and other assistants as it deems necessary in the manner permitted by law;

17. appoint and authorize a person to sign bills, notes, acceptances, endorsements, checks, releases, receipts, contracts and other instruments;

18. obtain insurance against liability or damage to property as it deems necessary;

19. accept gifts, awards and donations to the Fund;

20. exercise the authority granted to it by the Act and this plan, as approved by the SCC.

21. review, consider and act on matters deemed by it to be necessary and proper for the administration of the Program; and

22. exercise such other powers as are necessary for the efficient operation of the Program.

L. Compensation

Directors shall serve without salary or other compensation. Directors shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties as directors.

M. Liability of Directors

The directors shall not be subject to any personal liability concerning the administration of the Program or the payment of any award. The Program shall indemnify the directors against personal liability and any other costs,

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as a cost of doing business, to the extent permitted by law.

N. Removal

Directors may be removed from office by the Governor, as provided in § 2.1-43(B).

O. Vacancies

Vacancies on the board shall be filled by the Governor for the unexpired portion of the current term.

V. FACILITIES

A. The offices of the Program initially shall be located in the City of Richmond, Virginia, or at such other place within the Commonwealth as the board may designate.

B. Permanent offices of the Program may be established as deemed necessary by the board.

C. The mailing address of the Program shall be 700 East Main Street, Suite 1635, Richmond, Virginia 23219.

D. The agent for service of process on the Program shall be the Attorney General of Virginia.

VI. PARTICIPATING PHYSICIANS

A. Certification of Execution of Required Agreements

As a condition imposed by law for participation in the Program, a participating physician shall certify to the Program, on a form accompanying the payment of his annual assessment, that he has executed the agreements required by § 38.2-5001, specifically:

1. an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent and, upon the approval of such a program by the Commissioner of Health, to participate in its implementation; and
2. an agreement with the Board of Medicine to submit to review by the Board of Medicine to determine whether there is reason to believe that the alleged birth-related neurological injury resulted from, or was aggravated by, substandard care on the part of the participating physician.

B. Payment of Assessment

A participating physician shall pay an annual participating physician assessment, as required by Article VIII of this plan.

C. Participation in Development and Implementation of

Indigent Care Program

A participating physician shall participate in the development and implementation of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent to the extent provided for in the required agreement with the Commissioner of Health.

D. Submission to Review by Board of Medicine

A participating physician shall submit to review and evaluation by the Board of Medicine, as required by the agreement executed with the Board of Medicine, to determine whether there is reason to believe that a birth-related neurological injury alleged in a petition resulted from, or was aggravated by, sub-standard care on the part of the participating physician.

E. Binding Effect of Findings of the Commission

All parties are bound for all purposes, including any suit at law against a participating physician or participating hospital, by the finding of the Commission (or any appeal therefrom) with respect to whether an alleged injury is a birth-related neurological injury.

F. Exclusive Remedy

Except as provided in § 38.2-5002(D), the rights and remedies granted by the Act and this plan to an infant on account of a birth-related neurological injury shall exclude all other rights and remedies of such infant, his personal representative, parents, dependents or next of kin, at common law or otherwise arising out of or related to a medical malpractice claim with respect to such injury.

A civil action arising out of or related to a birth-related neurological injury under the Act, brought by an infant, his personal representative, parents, dependents, or next of kin, shall not be foreclosed against a nonparticipating physician or hospital, provided that (i) no participating physician or hospital shall be made a party to any such action or related action, and (ii) the commencement of any such action, regardless of its outcome, shall constitute an election of remedies, to the exclusion of any claim under this Act; provided that if claim is made, accepted and benefits are provided by the Fund established under this Program, the Fund shall have the right, and be subrogated, to all of the common law rights, based on negligence or malpractice, which the said infant, his personal representative, parents, dependents or next of kin may have or may have had against the nonparticipating physician or hospital, as the case may be.

A civil action, however, shall not be foreclosed against a physician or a hospital where there is clear and convincing evidence that such physician or hospital intentionally or willfully caused or intended to cause a birth-related neurological injury, provided that such suit is filed prior to, and in lieu of payment of, an award under

the Act. Such suit shall be filed before the award of the Commission becomes conclusive and binding as provided for in § 38.2-5011.

G. Participating Physician to Receive Copy of Petition

A participating physician shall receive by mail, from the Commission, a copy of any petition that names the participating physician.

H. Cooperation with Medical Evaluation Panel

A participating physician shall cooperate in the medical evaluation of claims filed with the Commission as provided in Article XI of this plan.

I. Licensed Nurse-Midwives

1. In order to ensure access to obstetrical care in areas of the Commonwealth that otherwise would not have access to such care, a licensed nurse-midwife who performs obstetrical services, either full-time or part-time, may be deemed to be a participating physician in the Program if:

a. the nurse-midwife at the time of the injury

(1) had in force an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, whereby the nurse-midwife agreed to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent, and upon approval of such program by the Commissioner of Health, to participate in its implementation;

(2) had in force an agreement with the Board of Medicine whereby the nurse-midwife agreed to submit to review by the Board of Medicine as required by § 38.2-5004(B); and had paid the participating physician assessment pursuant to § 38.2-5020 for the period of time in which the birth-related neurological injury occurred.

b. an application is filed on behalf of the nurse-midwife(-ves), as required by Section I(2) of this Article.

c. the board determines that granting the application will provide the benefit of increased access to obstetrical care in areas of the Commonwealth that otherwise would not have access to such care, on a basis consistent with the sound management of risk to the Program; and the board finds such application to be in compliance with the criteria in Section I(3) of this Article.

2. Application Process

a. An application for a nurse-midwife(-ves) to be

deemed a participating physician(s) in the Program must be filed by a hospital on behalf of such nurse-midwife(-ves).

b. The application must be filed at least 120 days in advance of the dates by which an annual participating physician assessment is due.

c. To assist the board, or its designee, in making a determination pursuant to Section I(3) of this Article, an application shall include, at a minimum, the following information:

(1) the name(s) of the nurse-midwife(-ves) for whom participating status is sought and copies of the current license for such nurse-midwife(-ves).

(2) a copy of the program approved by the Commissioner of Health for delivery of obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent and a summary statement of how the nurse-midwife(-ves) is an integral part of such program of indigent care delivery. In the absence of such approved program or in the event such program is outdated, the application shall include a description of the steps being taken by the hospital or the participating physicians in the geographic area served by the hospital or participating physicians to develop or amend an approved program to ensure the participation of nurse-midwife(-ves) in the delivery of indigent care.

(3) written protocols approved by the obstetrical medical staff of the hospital that describe and direct the procedures to be followed and the delegated medical services to be performed by the nurse-midwife(-ves) in the delivery of obstetrical services. Such protocols shall include a description of the supervision to be provided by the nurse-midwife(-ves) by a participating physician-obstetrician who is on the medical staff of the hospital;

(4) a certified statement by the chairman of the obstetrical department of the hospital, on behalf of the obstetrical staff, and by the hospital that:

(a) the utilization of the nurse-midwife(-ves) is needed to ensure access to obstetrical care for a significant portion of the population served by the hospital that otherwise would not have access to such care;

(b) the nurse-midwife(-ves) for whom participating physician status is sought has affiliated medical staff privileges and credentials that have been reviewed and approved by the obstetrical medical staff of the hospital and by the hospital's governing body;

(c) the delivery of obstetrical services by the

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nurse-midwife(-ves) will be under the supervision of an obstetrician who is on the medical staff of the hospital and who is, or will be, during the time the nurse-midwife participates in the Program, a participating physician in the Program, and, further that such supervision will be in accordance with Regulations Governing the Certification of Nurse Practitioners approved by the Board of Nursing and Board of Medicine;

(d) contingent upon meeting the conditions of participation prescribed in the Act and this plan, the obstetricians providing supervision of the nurse-midwife(-ves) and the hospital will participate in the Program for the assessment year or any portion thereof in which the nurse-midwife(-ves) participates in the Program;

(5) any other information the hospital wishes to submit to demonstrate compliance with the criteria listed in Section I(3) of this Article.

d. The application shall be mailed to the board at the address in Article V(C) of this plan, or delivered to the primary business office of the Program.

e. The board, or its designee, shall review the application to determine its compliance with this plan. If a designee of the board determines that the application is complete, copies of the application shall be distributed to the board.

f. Within ten days following receipt of the application, any director may request that the board chairman appoint a subcommittee to review the application. In order to supply the expertise required to apply the criteria in Section I(3) of this Article, the subcommittee shall include at least one director representing participating physicians and participating hospitals. The subcommittee shall review the application to determine its consistency with the criteria detailed in Section I(3) of this Article and, based on these criteria, the subcommittee shall recommend approval or disapproval of the application. The subcommittee's recommendation to the board shall be in writing and shall set forth the basis for its recommendation.

g. At its next meeting following the review for completeness and, in the event a subcommittee is appointed, the review by the subcommittee as required by Section I(2)(f) of this Article, the board shall approve or disapprove the application. The board shall provide a written notification of its determination to the hospital filing the application and shall include in such written notification the basis for its decision.

h. The hospital may request a reconsideration of any adverse determination by providing written

notice to the board within 15 days after receipt of the board's decision. The notice of request for reconsideration shall set forth in detail any changed circumstances, new evidence or other grounds for reconsideration of the board's initial decision. A request for reconsideration may be granted for good cause, in the discretion of the board.

3. Criteria for Approval of Application

a. In order to approve an application filed pursuant to Section I(2) of this Article, the board shall determine that the application is in compliance with the following criteria and that granting the application will further the objective of increasing access to obstetrical care in areas of the Commonwealth that otherwise would not have access to such care on a basis consistent with sound management of risk to the Program:

(1) that the utilization of the nurse-midwife(-ves) on whose behalf the application is made is needed to provide access to obstetrical care for a significant portion of the population served by the hospital that otherwise would not have access to such care;

(2) that the nurse-midwife(-ves) practices in accordance with written protocols that have been approved by the obstetrical medical staff of the hospital and in accordance with affiliate medical staff privileges which have been reviewed and approved by the medical staff of the hospital and by the hospital's governing body; and

(3) that the nurse-midwife(-ves) delivering obstetrical services will be supervised by an obstetrician who is on the medical staff of the hospital and who is, or will be, during the time the nurse-midwife participates in the Program, a participating physician in the Program and that such supervising obstetrician will be readily available for medical consultation with the nurse-midwife(-ves) during the course of labor, delivery and resuscitation in the immediate postdelivery period in the hospital.

b. Any application determined to be complete pursuant to Section I(2)(e) of this Article and for which no request for review has been made as authorized by Section I(2)(f) shall be deemed to be in compliance with the criteria in Section I(3)(a).

VII. PARTICIPATING HOSPITALS

A. Certification of Execution of Required Agreements

As a condition imposed by law for participation in the Program, a duly authorized representative of a participating hospital shall certify to the Program, on a form accompanying the payment of its annual assessment that the agreements required by § 38.2-5001 have been

executed on behalf of the participating hospital, specifically:

1. an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent and, upon the approval of such program by the Commissioner of Health, to participate in its implementation; and

2. an agreement with the Department of Health to submit to review of its obstetrical service to determine whether there is reason to believe that the alleged birth-related neurological injury resulted from, or was aggravated by, substandard care on the part of the participating hospital at which the birth occurred.

B. Payment of Assessment

A participating hospital shall pay an annual participating hospital assessment, as required by Article VIII of this plan. A participating hospital with a residency training program accredited by the American Council for Graduate Medical Education may pay an annual participating physician assessment to the Program for residency positions in the hospital's residency training program, as authorized by Article VIII of this plan.

C. Participation in Development and Implementation of Indigent Care Program

A participating hospital shall participate in the development and implementation of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent to the extent provided for in the required agreement with the Commissioner of Health.

D. Submission to Review by Department of Health

A participating hospital shall submit to the review and evaluation by the Department of Health as required by the agreement executed with the Department of Health to determine whether there is reason to believe that a birth-related neurological injury alleged in a petition resulted from, or was aggravated by, substandard care on the part of the participating hospital at which the birth occurred.

E. Binding Effect of Findings of the Commission

All parties are bound for all purposes, including any suit at law against a participating physician or participating hospital, by the finding of the Commission (or any appeal therefrom) with respect to whether an alleged injury is a birth-related neurological injury.

F. Exclusive Remedy

The rights and remedies granted by the Act and this plan to an infant on account of a birth-related neurological injury shall exclude all other rights and remedies of such infant, his personal representative, parents, dependents or next of kin, at common law or otherwise, arising out of, or related to, a medical malpractice claim with respect to such injury.

G. Participating Hospital to Receive Copy of Petition

A participating hospital shall receive by mail, from the Commission, a copy of any petition that names the participating hospital.

H. Cooperation with Medical Evaluation Panel

A participating hospital shall cooperate in the medical evaluation of claims filed with the Commission as provided in Article XI of this plan.

VIII. ASSESSMENTS

A. Method of Payment

1. Method

Assessments shall be paid according to the procedure established by the fund manager and approved by the board.

2. Effective Date of Assessment

An assessment shall be deemed to have been paid on the date full payment of the assessment is received by the fund manager.

3. Assessment Year

The assessment year shall be from January 1 until December 31 of each year.

B. Participating Physicians

1. Annual Participating Physician Assessment

a. Physicians. A physician who otherwise qualifies as a participating physician pursuant to the Act may become a participating physician in the Program for a particular assessment year by paying an annual participating physician assessment to the Program in the amount of \$5,000 on or before December 1 of the previous year. See also Section C(2) of this Article.

b. Prorated Participating Physician Assessment. A physician may become a participating physician during the assessment year provided the physician gives written notice to the Program at least thirty days prior to the requested date for participation and pays to the Program a prorated participating assessment for the remaining portion of the year.

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c. A participating physician who has paid an annual assessment for a particular assessment year to the Program and who retires from the practice of medicine during that particular assessment year shall be entitled to a refund of one-half of his or her annual assessment for the assessment year if he or she retires on or before July 1 of that year.

d. Licensed Nurse-Midwives. A licensed nurse-midwife(-ves) who otherwise qualifies as a participating physician pursuant to Article VI(I) of this plan may be deemed to be a participating physician in the Program for a particular assessment year by paying an annual participating physician assessment to the Program in the amount of \$5,000 on or before December 1 of the previous year.

C. Participating Hospitals

1. Annual Participating Hospital Assessment

A hospital that otherwise qualifies as a participating hospital pursuant to the Act may become a participating hospital in the Program for a particular year by paying an annual participating hospital assessment to the Program, on or before December 1 of the previous year, amounting to \$50 per live birth for the prior year, as reported to the Department of Health in the Annual Survey of Hospitals. The participating hospital assessment shall not exceed \$150,000 for any participating hospital in any twelve-month period.

2. Annual Participating Physician Assessment for Residency Training Programs

A participating hospital with a residency training program accredited by the American Council for Graduate Medical Education may pay an annual participating physician assessment to the Program for residency positions in the hospital's residency training program. The participating hospital may pay an annual participating physician assessment to the Program in the amount of \$5,000 on or before December 1 of the previous year, for each residency position, rather than for each resident in the participating hospital's residency training program. No resident for whom a participating physician assessment has been paid pursuant to this paragraph shall become a participating physician in the Program until thirty days following written notification by the hospital to the Program of the name of the resident filling the particular position for which the annual participating physician assessment payment has been made, together with the specific beginning and ending date that the resident will fill the position for which the assessment payment has been made.

3. Prorated Participating Hospital Assessment. A hospital may become a participating hospital during

the assessment year, provided the hospital gives written notice to the Program at least thirty days prior to the requested date for participation and pays to the Program a prorated participating assessment for the remaining portion of the year.

D. Nonparticipating Physicians

1. Annual Assessments

All licensed physicians practicing in the Commonwealth on September 30 of a particular year, other than participating physicians, shall pay to the Program an annual assessment of \$250 for the following assessment year.

2. Notice of Obligation

Nonparticipating physicians shall be notified of their annual assessment obligation by the fund manager or the Program.

3. Nonparticipating Physicians Exempted from Assessment Obligation

Upon proper certification to the Program, the following physicians shall be exempt from the payment of the annual \$250 assessment:

a. A physician who is employed by the Commonwealth or federal government and whose income from professional fees is less than an amount equal to ten percent of the annual salary of the physician.

b. A physician who is enrolled in a full-time graduate medical education program accredited by the American Council for Graduate Medical Education.

c. A physician who has retired from active clinical practice.

d. A physician whose active clinical practice is limited to the provision of services, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106.

E. Insurance Carriers

1. Insurance Carriers Subject to Assessment Obligation

All insurance carriers licensed to write, and engaged in writing, liability insurance in the Commonwealth in a particular year shall be subject to an annual assessment obligation.

2. Definition of "Liability Insurance"

For the purpose of this section of the plan, the term "liability insurance" shall include the classes of insurance defined in §§ 38.2-117 through 38.2-119 and the liability portions of the insurance defined in §§ 38.2-124, 38.2-125 and §§ 38.2-130 through 38.2-132.

3. Amount of Annual Assessment

a. Taking into account the assessments collected pursuant to § 38.2-5020(A)-(C), if required to maintain the Fund on an actuarially sound basis, all insurance carriers licensed to write, and engaged in writing, liability insurance in the Commonwealth in a particular year shall pay into the Fund an annual assessment for the following year, in an amount determined by the SCC pursuant to § 38.2-5021(A).

b. All annual assessments against liability insurance carriers shall be made on the basis of net direct premiums written for the business activity which forms the basis for each entity's inclusion as a funding source for the Program in the Commonwealth during the prior year ending December 31, as reported to the SCC, and shall be in the proportion that the net direct premiums written by each on account of the business activity forming the basis for their inclusion in the Program bears to the aggregate net direct premiums for all such business activity written in this Commonwealth by all such entities. For purposes of the Act and this plan, the phrase "net direct premiums written" means gross direct premiums written in this Commonwealth on all policies of liability insurance less (i) all return premiums on the policy, (ii) dividends paid or credited to policyholders, and (iii) the unused or unabsorbed portions of premium deposits on liability insurance.

c. Insurance carriers subject to the annual assessment obligation under § 38.2-5020(E) shall not be individually liable for an annual assessment in excess of one quarter of one percent of that insurance carrier's net direct premiums written.

d. Liability insurance carriers shall be entitled to recover their initial and annual assessments through (i) a surcharge on future policies, (ii) a rate increase applicable prospectively, or (iii) a combination of the two, at the discretion of the SCC.

e. Whenever the SCC determines the Fund is actuarially sound in conjunction with actuarial investigations conducted pursuant to § 38.2-5021, it shall enter an order suspending the nonparticipating physician assessment. An annual assessment up to \$250 shall be reinstated whenever the SCC determines that such assessment is required to maintain the Fund's actuarial soundness.

4. Credits Against Malpractice Insurance Premiums

a. Each insurer issuing or issuing for delivery in the Commonwealth any personal injury liability policy which provides medical malpractice liability coverage for the obstetrical practice of any participating physician shall provide a credit on such physician's annual medical malpractice liability insurance premium in an amount that will produce premiums that are neither inadequate, excessive nor unfairly discriminatory, as required by § 38.2-1904, and as determined by the SCC.

b. Each insurer issuing or issuing for delivery in the Commonwealth any personal injury liability policy which provides medical malpractice liability coverage for the obstetrical services of any participating hospital shall provide a credit on such hospital's annual medical malpractice liability insurance premium in an amount that will produce premiums that are neither inadequate, excessive nor unfairly discriminatory, as required by § 38.2-1904, and as determined by the SCC.

F. Consequences of Nonpayment of Assessment Obligation

1. Participating Physicians

No physician or licensed nurse-midwife shall be a participating physician unless the assessment currently due has been paid.

2. Participating Hospitals

No hospital shall be deemed to be a participating hospital unless the assessment currently due has been paid.

3. Nonparticipating Physicians

Nonparticipating physicians subject to an assessment obligation shall remain liable for past and current assessments until all are paid.

4. Insurance Carriers

Liability insurance carriers subject to an assessment obligation shall remain liable for past and current assessments until all are paid.

5. Delinquent Assessments - Nonparticipating Physicians and Insurance Carriers

Annual assessments for nonparticipating physicians and liability insurance carriers shall be due on or before December 1 for the following assessment year. The board may adopt procedures to compel the payment of delinquent assessments. Such procedures may include resort to judicial or administrative process or petitioning the appropriate regulatory agency of the Commonwealth to compel the payment of delinquent assessments.

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6. Delinquent Assessments - Participating Physicians and Participating Hospitals

Annual assessments shall be due on or before December 1 for the following assessment year.

IX. THE BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION FUND ("FUND")

A. Source

The Fund shall be composed of all initial and annual assessments paid pursuant to the Act, all interest and income earned thereon, and all gifts, awards and donations thereto.

B. Purpose

The Fund shall be available to finance the payment of awards made pursuant to the Act and the payment of expenses associated with the administration of the Program, including the reasonable expenses of the Commission.

C. Restricted Account

The Fund shall be deposited in a restricted, interest-bearing checking account or accounts in any financial institution doing business in the Commonwealth or may be invested in interest-bearing time deposits or certificates of deposit in any financial institution doing business in the Commonwealth and whose deposits are federally insured, or treasury bills or notes of the government of the United States, or pursuant to such other investment policies as may be approved by the board.

The board shall determine what portion of the Fund shall be retained in a bank account or accounts and what portion, if any, shall be invested in the forms of investment previously listed.

D. Fund Manager

1. Appointment

The board shall appoint, subject to the provisions of the Virginia Public Procurement Act (Va. Code Ann. §§ 11-35 through 11-80), a fund manager who shall have responsibility for managing the income and expenditures of the Fund.

2. Duties

The duties of the fund manager shall include:

a. establishing and managing the account or accounts into which the assessments shall be deposited;

b. depositing the assessments paid into the Fund account(s);

c. supervising the investment and reinvestment of any surplus in the Fund over losses and expenses;

d. arranging for reinsurance of risks of the Fund, in whole or in part;

e. making disbursements from the Fund as required for payment of awards pursuant to the Act and for payment of expenses for the administration of the Program;

f. presenting to the board a quarterly statement which reports the Fund's transactions, condition, operations and affairs during the prior three-month period; and

g. filing with the Commissioner of Insurance, on or before the date(s) specified by the SCC, a statement in such format as may be prescribed by the SCC, which shall report the information deemed necessary for the SCC to undertake the actuarial investigation of the Fund required by § 38.2-5021.

3. Qualifications, Standards, Terms & Compensation

The board shall provide for the establishment of qualifications, standards, terms and compensation applicable to the fund manager.

4. Identity of Fund Manager and Servicing Company

The duties of the fund manager shall not be assigned to, or performed by, the same person or firm appointed as servicing company.

E. Actuarial Investigation of the Fund

1. The Bureau of Insurance of the SCC shall make an initial actuarial valuation of the assets and liabilities of the Fund at the conclusion of the first year of operation. This valuation, along with the results of additional investigation, shall be considered by the SCC in determining the requirements of the Fund and the amount of any assessment to be paid by the entities listed in § 38.2-5020(E) for the tax year beginning January 1, 1989.

2. In subsequent years, the SCC shall make an actuarial valuation of the Fund no less frequently than biennially. The results of such valuations shall be considered by the SCC in determining subsequent assessments applicable to entities listed in § 38.2-5020(E). No such entity, however, shall be liable for an annual assessment in excess of one quarter of one percent of that entity's net direct premiums written.

3. If the SCC finds that the Fund cannot be maintained on an actuarially sound basis subject to the maximum assessments permitted by statute, the SCC shall promptly notify the Speaker of the House of

Delegates, the President of the Virginia Senate, the board of the Program, and the Commission.

X. ADMINISTRATION OF CLAIMS

A. Appointment of Servicing Company

The board may appoint, subject to the provisions of the Virginia Public Procurement Act, a servicing company, which shall administer the processing of claims against the Fund, or the Program may, on its own, administer the processing of claims against the Fund.

B. Duties of Servicing Company

The duties of the servicing company shall include:

1. investigating the facts alleged in each petition and verifying records produced to make recommendations to the board whether a claimant is eligible for an award pursuant to the Act;
2. verifying the amount of expenses claimed in conjunction with each award providing compensation, including whether the items listed in § 38.2-5009(1)(a)-(d) apply to the amount claimed;
3. directing the fund manager to disburse award payments;
4. providing clerical and administrative services necessary for the processing of claims made against the Fund, and such other clerical and administrative duties as may be directed by the chairman of the board; and
5. presenting to the board an annual report concerning the operation of the claims processing procedure.

C. Qualifications, Standards, Terms & Compensation

The board shall provide for the establishment of qualifications, standards, terms and compensation applicable to the servicing company, if a servicing company is appointed.

D. Identity of Fund Manager and Servicing Company

The duties of the servicing company shall not be assigned to, or performed by, the same person or firm appointed as fund manager.

XI. CLAIMS PROCEDURE

A. Filing of Claims

1. For each claim made pursuant to the Act, the claimant shall file with the Commission a petition setting forth the following information:

- a. The name and address of the legal representative

and the basis for his or her representation of the injured infant;

b. The name and address of the injured infant;

c. The name and address of any physician or licensed nurse-midwife providing obstetrical services who was present at the birth and the name and address of the hospital at which the birth occurred;

d. A description of the disability for which claim is made;

e. The time and place where the birth-related neurological injury occurred;

f. A brief statement of the facts and circumstances surrounding the birth-related neurological injury giving rise to the claim;

g. All available relevant medical records relating to the person who allegedly suffered a birth-related neurological injury and an identification of any unavailable records known to the claimant and the reasons for their unavailability;

h. Appropriate statements, evaluations, prognoses and such other records and documents reasonably necessary for the determination of the amount of compensation to be paid to, or on behalf of, the injured infant due to a birth-related neurological injury;

i. Documentation of expenses and services incurred to date, which indicates whether such expenses and services have been for, and if so, by whom; and

j. Documentation of any applicable private or governmental source of services or reimbursement concerning, or resulting from, the birth-related neurological injury.

2. The claimant shall furnish the Commission with a filing fee of fifteen dollars and as many copies of the petition as required for service upon the Program, all physicians, licensed nurse-midwives and hospitals named, the Board of Medicine and the Department of Health.

3. Upon receipt of a petition, the Commission shall immediately serve a copy upon the agent designated in Article V by registered or certified mail, and shall mail copies of the petition to all physicians, licensed nurse-midwives and hospitals named in the petition, the Board of Medicine and the Department of Health.

B. Administrative Evaluations

1. Upon receipt of a petition, the Board of Medicine shall evaluate the claim. If it determines that there is reason to believe that the alleged injury resulted from,

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or was aggravated by, substandard care on the part of a physician, it shall take appropriate action consistent with the authority granted to it in §§ 54.1-2911 through 54.1-2928.

2. Upon receipt of a petition, the Department of Health shall evaluate the claim. If it determines that there is reason to believe that the alleged birth-related neurological injury resulted from, or was aggravated by, substandard care on the part of a hospital, it shall take appropriate action consistent with the authority granted to it under Title 32.1.

C. Response of the Program

Within thirty days of the date of service of the petition, the Program shall file with the Commission a response which shall present relevant written information relating to whether the injury alleged is a "birth-related neurological injury," as defined in the Act and this plan. The claimant or Program may amend its petition or response at any time prior to the hearing pursuant to § 38.2-5006, and after the filing of the report of the medical evaluation panel in § 38.2-5008(B).

D. Hearing Scheduled

1. Immediately after the petition is received, the Commission shall set a date for a hearing, which shall be no sooner than 45 days and no later than 120 days after the petition is filed.

2. The Commission shall notify the parties, i.e., the claimant and the Program, of the time and place of the hearing.

3. The hearing shall be held in the city or county where the alleged injury occurred, or in a contiguous city or county unless otherwise agreed to by the parties and authorized by the Commission.

E. Prehearing Proceedings

1. Any party to a proceeding may, upon application to the Commission setting forth the materiality of the evidence sought, serve interrogatories and cause the depositions of witnesses to be taken.

2. The costs associated with such discovery may be recovered by a claimant as expenses incurred in connection with the filing of a claim pursuant to § 38.2-5009(4).

3. Depositions shall be taken only after giving notice in the manner prescribed for depositions in actions at law, except that such notice shall be directed to the Commission, Commissioner or Deputy Commissioner before whom the proceeding may be pending.

F. Determination of Claims

1. The hearing shall be conducted pursuant to the Commission's rules of practice and procedure, unless otherwise required by the Act.

2. The Commission shall determine, based on evidence presented to it, the following:

a. Whether the injuries claimed are birth-related neurological injuries as defined in § 38.2-5001. A rebuttable presumption shall arise that the injury alleged is a birth-related neurological injury where it has been demonstrated, to the satisfaction of the Commission, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury, and that the infant was thereby rendered permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled. If either party disagrees with such presumption, that party shall have the burden of proving that the injuries alleged are not birth-related neurological injuries within the meaning of the Act.

b. Whether obstetrical services were delivered by a participating physician at the birth.

c. Whether the birth occurred in a participating hospital.

d. How much compensation, if any, should be awarded pursuant to § 38.2-5008 and this plan.

3. The report of the medical evaluation panel, filed pursuant to § 38.2-5006, shall be considered by the Commission. At the request of the Commission, one member of the panel shall be available to testify at the hearing. The Commission, however, shall not be bound by the panel's recommendations.

4. If the Commission determines (i) that the injury alleged is not a birth-related neurological injury as defined in § 38.2-5001, or (ii) that obstetrical services were not delivered by a participating physician at the birth and that the birth did not occur in a participating hospital, it shall dismiss the petition and cause a copy of its order of dismissal to be sent immediately to the parties by registered or certified mail.

5. Upon determining (i) that an infant has sustained a birth-related neurological injury, and (ii) that obstetrical services were delivered by a participating physician at the birth or that the birth occurred in a participating hospital, the Commission shall make an award providing compensation for the following items concerning the injury:

a. Actual medically necessary and reasonable expenses of medical and hospital, rehabilitative, residential and custodial care and service, special

equipment or facilities, and related travel, such expenses to be paid as they are incurred. However, such expenses shall not include:

(1) Expenses for items or services that the infant has received, or is entitled to receive, under the laws of any state or the federal government except to the extent prohibited by federal law;

(2) Expenses for items or services that the infant has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity;

(3) Expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or federal government except to the extent prohibited by federal law; and

(4) Expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, pursuant to the provisions of any health or sickness insurance policy or other private insurance program.

b. Expenses of medical and hospital services under paragraph (a), above, shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured person.

c. Loss of earnings from the age of eighteen are to be paid in regular installments beginning on the eighteenth birthday of the infant. An infant found to have sustained a birth-related neurological injury shall be conclusively presumed to have been able to earn income from work from the age of eighteen through the age of sixty-five, if he had not been injured, in the amount of fifty percent of the average weekly wage in the Commonwealth of workers in the private, nonfarm sector.

d. Reasonable expenses incurred in connection with the filing of a claim under the Act and this plan, including reasonable attorneys' fees, which shall be subject to the approval and award of the Commission.

6. A copy of the award shall be sent immediately by registered or certified mail to the parties.

G. Review of Commission Determination or Award

1. If a hearing held pursuant to this Article was not held before the full Commission, a party may apply for the review of any determination of award made. Such application shall be made to the Commission within twenty days from the date of such determination or award and, if such application for

review is made, the full Commission, excluding any member who made the determination or award, shall review the evidence.

2. If deemed advisable, the full Commission may instead conduct a rehearing and issue an affirming or amended determination or award, as deemed appropriate.

3. Upon such review or rehearing, a statement of the findings of fact, conclusions of law and other matters pertinent to the questions at issue shall be filed with the record of the proceeding and shall be sent immediately to the parties.

H. Appeal

1. The determination of the Commission concerning the eligibility of a claimant for compensation or with regard to the amount of any such award, if not reviewed within the time prescribed by § 38.2-5010, or upon such review as provided in this Article, shall be conclusive and binding as to all questions of fact. No appeal may be taken from the decision of one commissioner until a review has been had before the full Commission.

2. Appeals shall lie from the full Commission to the Court of Appeals in the manner provided in the Rules of the Supreme Court.

3. A notice of appeal shall be filed with the clerk of the Commission within thirty days of the date of such determination or award or within thirty days after receipt by registered or certified mail of notice of such determination or award, whichever occurs last. A copy of the notice of appeal shall be filed with the clerk of the Court of Appeals, as provided in the Rules of the Supreme Court.

4. Cases appealed shall be placed upon the privileged docket of the Court and be heard at the next ensuing term. In case of an appeal from an award of the Commission to the Court of Appeals, the appeal shall operate as a suspension of the award, and the Program shall not be required to make payment of the award involved in the appeal until the questions at issue shall have been fully determined.

XII. SETTLEMENT ORDERS

A. Settlement Orders Authorized

At any time after the report of the medical evaluation panel has been filed with the Commission concerning a claim against the Fund, the board may enter into an agreed order with the claimant and the claimant's attorney, if any, to be presented to the Commission for approval.

B. Execution of Settlement Order

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An agreed order shall be executed by the claimant, the claimant's attorney, if any, and the duly authorized representative of the Program.

C. Commission Approval

The Program, the claimant and the attorney for the claimant, if any, shall jointly petition the Commission to review any agreed order. An agreed order shall be effective only upon the approval of the Commission.

D. Force and Effect of Approved Orders

An agreed order approved by the Commission shall have the same force and effect as a Commission determination made pursuant to §§ 38.2-5008(A) and 38.2-5009.

XIII. MEDICAL EVALUATION OF CLAIMS

A. Review of Medical Evaluation Panel

Each claim filed with the Commission shall be reviewed by a panel of three qualified and impartial physicians according to the plan developed by the deans of the medical schools of the Commonwealth, as required by § 38.2-5008(B).

B. Cooperation of Claimants, Participating Physicians and Participating Hospitals

Claimants, participating physicians and participating hospitals shall cooperate with the medical evaluation panel in its evaluation of claims. This cooperation shall include, but not be limited to:

1. Access to a claimant's medical records; and
2. The physical examination of the claimant by a panel member or members.

C. Panel Report

A panel shall file its report and recommendations whether the injury alleged is a birth-related neurological injury, as defined in § 38.2-5001, with the Commission at least ten days prior to the date set for a hearing pursuant to § 38.2-5006 and Article XI of this plan.

D. Availability of Report

The report of a panel shall be mailed or delivered to the Program, the claimant and any participating physician and participating hospital named in the petition.

XIV. LEGAL SERVICES

Legal services for the Program shall be provided by the Office of the Attorney General of Virginia, or by other counsel appointed with the approval of the Attorney General of Virginia.

XV. NOTICE TO OBSTETRICAL PATIENTS

The Program will provide informational brochures to all physicians and hospitals providing obstetrical services in the Commonwealth for distribution to obstetrical patients. The brochure will include a clear and concise explanation of a patient's rights and limitations under the Act.

XVI. AMENDMENT TO THE PLAN

Amendments to this plan may be made by the board subject to the approval of the SCC.

XVII. EFFECTIVE DATE AND DURATION

This plan shall be effective upon its adoption by the board and its approval by the SCC. The plan shall continue in force and effect until rescinded by the board or abrogated by the General Assembly.

XVIII. CONFLICT WITH STATE LAW

If any provision of state law is found to be in conflict with the provisions of this plan, the statute shall control.

VA.R. Doc. No. R95-196; Filed December 15, 1994, 3:09 p.m.

* * * * *

Title of Regulation: Insurance Regulation No. 38. Rule Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers.

Statutory Authority: §§ 12.1-13, 38.2-223 and 38.2-3419.1 of the Code of Virginia.

Effective Date: December 7, 1994

AT RICHMOND, NOVEMBER 22, 1994

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940147

Ex Parte: In the matter of adopting revised Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein October 3, 1994, all interested persons were ordered to take notice that the Commission would enter an order subsequent to November 15, 1994, adopting a revised regulation proposed by t

State Corporation Commission

Bureau of Insurance unless on or before November 15, 1994, any person objecting to the adoption of the regulation filed a request for a hearing with the Clerk of the Commission.

WHEREAS, as of the date of this order, no request for hearing has been filed with the Clerk of the Commission;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers" which is attached hereto and made a part hereof should be, and it is hereby, ADOPTED to be effective December 1, 1994.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order, together with a copy of the regulation to all insurers, health services plans, and health maintenance organizations licensed to issue accident and sickness insurance in the Commonwealth of Virginia.

* * *

AT RICHMOND, DECEMBER 15, 1994

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940147

Ex Parte: In the matter of
adopting revised Rules Governing
the Reporting of Cost and
Utilization Data Relating to
Mandated Benefits and Mandated
Providers

AMENDING ORDER

WHEREAS, by order entered herein November 22, 1994, the Commission adopted a regulation entitled "Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers"; and

WHEREAS, the Commission has determined that its regulations should conform to the Virginia Register Form, Style and Procedure Manual;

THEREFORE, IT IS ORDERED that the regulation entitled "Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers," which is attached hereto and made a part hereof, be, and it is hereby, amended to conform to the requirements of the Virginia Register Form, Style

and Procedure Manual.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky.

Insurance Regulation No. 38. Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers.

§ 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223 and 38.2-3419.1 of the Code of Virginia.

§ 2. § 1. Purpose.

The purpose of this regulation is to implement § 38.2-3419.1 of the Code of Virginia with respect to mandated health insurance benefits and providers:

This regulation is designed to:

- (a) 1. Provide the format for the reporting of costs and utilization associated with mandated benefits and providers;
- (b) 2. Describe the system for reporting such data;
- (c) 3. Define the information that is required to be reported; and
- (d) 4. Report general data related to costs and utilization associated with mandated benefits and mandated providers. However, due to the numerous means of filing claims through various procedure codes, the regulation limits the data requested to that information required to be submitted.

§ 3. Effective Date.

This Regulation shall be effective on October 1, 1991.

§ 4. § 2. Scope.

A. This regulation shall apply to every insurer, health services plan and health maintenance organization ~~issuing licensed to issue policies of accident and sickness insurance or, subscription contracts, or evidences of coverage in this Commonwealth unless exempted by subsection B of this section.~~

B. This regulation does not apply to:

1. Insurers with Virginia annual written premiums for accident and sickness policies or subscription contracts of less than \$500,000; or
2. Cooperative nonprofit life benefit companies and mutual assessment life, accident and sickness insurers;

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or

3. Insurers that solely issue policies not subject to the mandated benefits or mandated provider requirements of §§ 38.2-3408 through 38.2-3419 and 38.2-4221 of the Code of Virginia.

§ 5: § 3. Definitions.

For the purposes of this regulation:

"Applicable policy" or "contract" means any accident and sickness insurance policy providing hospital, medical and surgical or major medical coverage on an expense incurred basis or any accident and sickness subscription contract or any health care plan provided by a health maintenance organization issued or issued for delivery in the Commonwealth of Virginia.

A. "Earned premiums" means the aggregate of the earned premium on all policies during a given period. The figure is calculated by adding the premiums written to the unearned premiums as of the beginning of the period and subtracting the unearned premiums as of the end of the period.

B. "Incurred claims" means the total losses sustained whether paid or unpaid.

"Insurer" means any association, aggregate of individuals, business, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society engaged in the business of making contracts of insurance, as set forth in § 38.2-100 of the Code of Virginia.

C. "Mandated benefits" means those benefits that must be included or offered in policies delivered or issued for delivery in the Commonwealth as required by §§ [38.2-3408 38.2-3409 through 38.2-3419 of the Code of Virginia.

D. "Mandated providers" means those practitioners that are listed in §§ 38.2-3408 and 38.2-4221 of the Code of Virginia.

E. "Paid claims" means the aggregate of loss payments, less deductions for all credits, except that no deduction is made for reinsurance recoveries, during a given period.

"Reporting period" means the calendar year immediately preceding the May 1 reporting date.

F. "Written premiums" means gross premiums written minus premiums on policies cancelled and all returned premiums during a given period. Premiums paid to reinsurance carriers on reinsurance ceded are not deducted.

§ 4. Reporting requirements.

A. Full report required. Except as set forth in subsections B and C of this section, all insurers, health services plans and health maintenance organizations licensed to issue policies of accident and sickness insurance or subscription contracts in the Commonwealth of Virginia must file a full and complete Form MB-1 report in accordance with the provisions of § 5 of these rules.

B. Exemption: No report required. Any insurer, health services plan or health maintenance organization whose total Virginia annual written premiums for all accident and sickness policies or subscription contracts, as reported to the commission on its Annual Statement for a particular reporting period is less than \$500,000 shall, for that reporting period, be exempt from filing a report as required by these rules, and shall not be required to notify the commission of such exemption other than through the timely filing of its Annual Statement.

C. Eligibility to file abbreviated report. Any insurer, health services plan or health maintenance organization that does not qualify for an exemption under subsection B of this section may file an abbreviated report, as described in subsection D of this section if its Virginia annual written premiums for applicable policies or contracts, as defined in § 3 of these rules, that were subject to the requirements of § 38.2-3408 or § 38.2-4221, and the requirements of §§ 38.2-3409 through 38.2-3419 of the Code of Virginia during the reporting period total less than \$500,000.

D. Abbreviated report defined. The abbreviated report shall include a completed first page of the Form MB-1 report format prescribed by the commission in Appendix A of these rules, or as later modified pursuant to § 6 of these rules, along with a breakdown of the insurer's, health services plan's, or health maintenance organization's Virginia written premiums for all accident and sickness policies or contracts for the reporting period by policy type (e.g., Medicare supplement, major medical, disability income, limited benefit) and by situs (e.g., Virginia, Illinois).

§ 6: § 5. Procedures.

A. Each insurer, health services plan or health maintenance organization shall submit a full and complete Form MB-1 report for the preceding calendar year's claims on mandated benefits and mandated providers to the Bureau of Insurance by May 1, of each year beginning in 1992 unless exempted from this requirement by the provisions of subsection 4B of this Regulation. :

1. It is exempted from this requirement by § 4 B of these rules; or

2. It is eligible to file an abbreviated report pursuant to § 4 C of these rules. Abbreviated reports must be submitted by May 1 of each year.

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B. The Form MB-1 report shall be filed in the format prescribed in the Appendices to this Regulation Appendix A of these rules. The experience of group and non-group business shall be reported separately. Information shall be converted to the required coding systems by the insurer, health services plan or health maintenance organization prior to submission to the Bureau of Insurance.

C. Reports may be filed by use of machine readable computer diskettes issued by the Bureau of Insurance expressly for this purpose, although typewritten reports are acceptable provided that the exact format set forth in these rules, and as subsequently modified as set forth in § 6 of these rules, is utilized.

§ 6. Annual notification and modification of reporting form.

The Bureau of Insurance shall be permitted to modify the data requirements of the MB-1 reporting form and data reporting instructions on an annual basis. Any such modifications, including but not limited to the addition of new benefit or provider categories as necessitated by the addition of new mandated benefit or provider requirements to the Code of Virginia, shall be provided to all entities described in § 2 of these rules, in the form of an administrative letter sent by regular mail to the entity's mailing address shown in the bureau's records. Failure by an entity to receive such annual notice shall not be cause for exemption or grounds for noncompliance with the reporting requirements set forth in these rules.

§ 7. Penalties.

The failure by an insurer, health services plan or health maintenance organization, unless exempt pursuant to [§ 4 B § 2 B] of these rules, to file a substantially complete and accurate report on cost and utilization data relating to mandated benefits and mandated providers as required by these rules by the required day date may be considered a willful violation and is subject to an appropriate penalty in accordance with §§ 38.2-218 and 38.2-219 of the Code of Virginia.

§ 8. Severability.

If any provision of this Regulation these rules or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of this Regulation these rules and the application of such provision to other persons or circumstances shall not be affected thereby.

Appendix A. Data Reporting Instructions and Form MB-1

A. Format and Timing of Reports.

1. Cost and utilization data relating to mandated benefits and mandated providers must be submitted in the format prescribed in Appendix B of this

Regulation and must be submitted no later than May 1 of each year beginning in 1992. A separate report is required for each insurer.

2. It is preferred that reports be filed by the use of machine readable computer diskettes, although written reports are acceptable provided that the exact format set forth in this regulation is utilized. The Automated Systems Section of the State Corporation Commission's Bureau of Insurance should be contacted at (804) 371-0304 for details regarding the computerized transmission of reports.

3. Insurers writing less than \$500,000 of accident and sickness premiums in a given year in the Commonwealth of Virginia are exempt from the reporting requirements for that year according to § 4 of this Regulation. Each insurer claiming an exemption for a given calendar year is responsible for notifying the Bureau of Insurance by completing and filing Page 1 of Form MB-1 prior to May 1, of the following year in lieu of a full report.

B. A. Specifications for Cost and Utilization Data.

1. Parts A and B of Form MB-1 require specific claims and other actuarial data for individual business on Benefit Worksheet #1 and Provider Worksheet #1 and for group business on Benefit Worksheet #2 and Provider Worksheet #2. In determining the cost of each mandate, it is expected that actual claims or actuarial data will be used. Use Claims for the CPT-4 or ICD-9CM Codes listed under each mandate in Appendix C B of this Regulation these rules are to be used to determine claim costs. In addition, §§ 38.2-3408 through 38.2-3419 and 38.2-4221 of the Code of Virginia must be consulted for complete definitions of the required benefits and providers.

2. Part C of Form MB-1 requires that a standard policy be defined and the annual premium disclosed. The portions of that premium attributable to Virginia's mandated benefits and providers are to be outlined with respect to single and family coverage within both the individual and group categories of business. Additional questions are also asked information is also required.

3. Part D of Form MB-1 requires that utilization and claims data be disclosed for various providers and procedures.

4. The Physician's Current Procedural Terminology, Fourth Edition (CPT-4) and the Internal Classification of Disease 9th Revision Clinical Modification Third Edition (ICD-9CM) should be used as the basis for defining the information to be reported. Companies using a system other than CPT-4 or ICD-9CM should report the required data under a comparable system in use by that company that has been converted to CPT-4 or ICD-9CM.

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5. Provider information should be reported by category of provider as they are listed. ~~We are requesting~~ Information is required only for the providers mandated by § 38.2-3408 and 38.2-4221 and the physician counterpart for that provider. Place of service can be identified by Uniform Billing Code Numbers (UB-82). A partial listing of UB-82 codes is included in Appendix E B of this Regulation these rules .

6. For data regarding group coverage, include only benefits claims paid or incurred for master contracts delivered or issued for delivery to group policyholders located in Virginia.

7. Report claim amounts separately for group and individual contracts.

8. For newborn children coverage data, include claims for newborns less than 32 days old.

9. For dependent children coverage, include all health care claims for dependents beyond the age for cut-off for coverage of dependents that is specified in your contracts in the absence of a physical handicap/mental retardation (identified in this manner will be those claims for dependents other than those routinely covered).

10. 7. Claims may be reported on an "incurred claims" or "paid claims" basis. ~~Indicate if not on a "paid claims" basis.~~ The same basis must be used throughout the report.

11. 8. All costs of health care provided because of a mandated benefit or mandated provider should be attributed to that mandate for Parts A, B and C.

Appendix [B.] Form MB-1

Form MB-1

Annual Report of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers Pursuant to § 38.2-3419.1 of the Code of Virginia

Reporting Year Period

Company Name

Group Name

Mailing Address

NAIC # Group NAIC #

Name of Person Completing Report

Title

Direct Telephone #

Mailing Address

Total accident and sickness premiums written in Virginia for all accident and sickness lines including credit, disability income, and all others, whether subject to §§ 38.2-3408 or 38.2-4221 and §§ 38.2-3409 through 38.2-3419 of the Code of Virginia or not, as reported on the Company's Annual Statement for the reporting period: \$

Total accident and sickness premiums written in Virginia on applicable policies and contracts, as defined in § 3 of these rules that are subject to §§ 38.2-3408 or 38.2-4221 and §§ 38.2-3409 through 38.2-3419 for the reporting period : \$

in the year the amount of \$

Is the reporting company a cooperative nonprofit life benefit company or mutual assessment life, accident and sickness insurer?

Yes No

Does this company solely issue policies not subject to the mandated benefits and mandated provider requirements of §§ 38.2-3408 through 38.2-3419 and 38.2-4221 of the Code of Virginia?

Yes No

Does this company claim an exemption eligibility to file an abbreviated report under Section 4 § 4 C of Regulation No. 38 for this reporting year period ?

Yes, and filing only this page the abbreviated report allowed for in § 4 C.

No, and filing a complete report.

Signature Date

Part A: Benefit Worksheet # 1 - Individual Claim Information - Benefits*

Enter the basis on which claim data presented throughout this report was collected (either "paid" or "incurred"):

*Benefit INDIVIDUAL

<u>Va. Code</u> <u>Section</u>	<u>Description</u>	<u>a</u> <u>Number</u> <u>of Visits</u>	<u>b</u> <u>Number</u> <u>of Days</u>	<u>c</u> <u>Total</u> <u>Claims</u> <u>Payments</u>	<u>d</u> <u>Number</u> <u>of</u> <u>Contracts</u>	<u>e</u> <u>Claim</u> <u>Cost Per</u> <u>Contract</u>	<u>f</u> <u>Annual</u> <u>Administrative</u> <u>Cost</u>	<u>g</u> <u>Percent of</u> <u>Total Health</u> <u>Claims Paid</u>
38.2-3409	Dependent Children Coverage (Handicapped)							
38.2-3410	Doctor to Include Dentist							
38.2-3411	Newborn Children							
38.2-3412.1	Inpatient Mncal / Emotional / Nervous							
	<u>Inpatient</u>							
	<u>Partial Hospital</u>							
38.2-3412.1	<u>Alcohol and Drug Dependence</u>							
	<u>Inpatient</u>							
	<u>Partial Hospital</u>							
	Obstetrical Services							
38.2-3418	Pregnancy from Rape / Incest							
38.2-3418.1	Mammography							
38.2-3411.1	Child Health Supervision							

Enter total claims paid or incurred on individual policies subject to the above requirements (this figure should be used in calculating the figures required for column g):

- * include information and amounts paid or incurred on hospital bills and other providers
- a: number of provider and physician visits
- b: number of inpatient or partial hospital days in-facility (if applicable)
- c: total of claims paid or incurred for this mandate
- d: number of contracts in force in Virginia containing the required or optional coverage
- e: claim cost per contract = column c divided by column d
- f: the administrative cost of complying with this mandate during the reporting year period
- g: claims paid or incurred for this benefit as a percentage of the total amount of health claims paid or incurred on individual policies or contracts subject to this reporting requirement for Virginia-policyholders-by-this company

Benefit Worksheet # 2 - Group

* Benefit GROUP		a	b	c	d	e	f	g
Va. Code Section	Description	Number of Visits	Number of Days	Total Claims Payments	Number of Contracts Certificates	Claim Cost Per Contract Certificate	Annual Administrative Cost	Percent of Total Health Claims Paid
38.2-3409	Dependent Children Coverage (Handicapped)							
38.2-3410	Doctor to Include Dentist							
38.2-3411	Newborn Children							
38.2-3412.1	Mental / Emotional / Nervous:							
	Inpatient							
	Partial Hospital							
	Outpatient							
38.2-3412.1	Alcohol and Drug Dependence							
	Inpatient							
	Partial Hospital							
	Outpatient							
38.2-3414	Obstetrical Services							
	Normal Pregnancy							
	All Other							
38.2-3418	Pregnancy from Rape / Incest							
38.2-3418.1	Mammography							
38.2-3411.1	Child Health Supervision							

Enter total claims paid or incurred on group policies that are subject to the above requirements (this figure should be used in calculating the figures required for column g):

* include information and amounts paid or incurred on hospital bills and other providers (for all health care expenses incurred because of this mandate)

- a: number of provider and physician visits
- b: number of inpatient or partial hospital days in facility (if applicable)
- c: total of claims paid or incurred for this mandate
- d: number of certificates in Virginia (with this coverage) containing the required or optional coverage
- e: claim cost per contract certificate = column c divided by column d
- f: the administrative cost of complying with this mandate during the reporting year period
- g: claims paid or incurred for this benefit as a percentage of the total amount of (all) health claims paid or incurred on group policies or contracts subject to this reporting requirement for Virginia policyholders by this company

Part B: Provider Worksheet # 1 - Individual Claim Information - Providers

Provider INDIVIDUAL

<u>Va. Code Sections</u> <u>38.2-3408 &</u> <u>38.2-4221</u>	<u>a</u> Number of Visits	<u>b</u> Total Claims Payments	<u>c</u> Cost Per Visit	<u>d</u> Number of Contracts	<u>e</u> Claim Cost Per Contract	<u>f</u> Annual Administrative Cost	<u>g</u> Percent of Total Health Claims Paid
Chiropractor							
Optometrist							
Optician							
Psychologist							
Clinical Social Worker							
Podiatrist							
Professional Counselor							
Physical Therapist							
Clinical Nurse Specialist*							
Audiologist							
Speech Pathologist							

* rendering mental health services

- a: number of visits to this provider group for which claims were paid or incurred in Virginia
- b: total dollar amount of claims paid to this provider group in Virginia
- c: cost per visit = column b divided by column a
- d: number of individual contracts in force in Virginia subject to this reporting requirement
- e: claim cost per contract = column b divided by column d
- f: the annual administrative cost associated with compliance of complying with this mandate during the reporting period
- g: claims paid or incurred for services administered by this each provider group type as a percentage of the total amount of health claims paid or incurred on individual policies or contracts subject to this reporting requirement for Virginia policyholders by this company

Provider Worksheet # 2 - Group

Provider GROUP Va. Code Sections 38.2-3408 & 38.2-4221	a Number of Visits	b Total Claims Payments	c Cost Per Visit	d Number of Contracts Certificates	e Claim Cost Per Contracts Certificate	f Annual Administrative Cost	g Percent of Total Health Claims Paid
Chiropractor							
Optometrist							
Optician							
Psychologist							
Clinical Social Worker							
Podiatrist							
Professional Counselor							
Physical Therapist							
Clinical Nurse Specialist*							
Audiologist							
Speech Pathologist							

* rendering mental health services

- a: number of visits to this provider group for which claims were paid or incurred in Virginia
- b: total dollar amount of claims paid to this provider group in Virginia
- c: cost per visit = column b divided by column a
- d: number of certificates in Virginia subject to this reporting requirement
- e: claim cost per contract certificate = column b divided by column d
- f: the annual administrative cost associated with compliance of complying with this mandate during the reporting period
- g: claims paid or incurred for services administered by this each provider group type as a percentage of the total amount of health claims paid or incurred on group contracts subject to this reporting requirement for Virginia policyholders by this company

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Part C : Premium Information

1. Please use what you consider to be your standard policy to answer this question. For the individual policy used as your base calculations in the question below:

- What is the deductible?
- What is the coinsurance?
- What is the individual/employee out-of-pocket maximum?

For the group policy used as your base calculation in the question below:

- What is the deductible?
- What is the coinsurance?
- What is the individual/employee out-of-pocket maximum?

For your *standard* health insurance policy in Virginia, what is provide the total annual premium including mandates, and what amount is added to that would be charged per unit of coverage assuming inclusion of all of the benefits and providers listed below. In addition, provide the portion (dollar amount) of the annual premium of for each type policy for that is attributable to each mandate listed ? . If the company does not have a "Family" rating category, coverage for two adults and two children is to be used when calculating the required family premium figures.

Please indicate where coverage under your policy exceeds Virginia's mandates.

	Va. Code Section	Individual Policy		Group Certificates	
		Single	Family	Single	Family
Total Annual Policy Premium for Standard Policy Described Above		.....	.....	.....	.....
Premium for Attributable to Each Mandate :					
Dependent Children Coverage (Handicapped)	38.2-3409	.....	.....	.....	.....
Doctor to Include Dentist	38.2-3410	.....	.....	.....	.....
Newborn Children	38.2-3411	.....	.....	.....	.....
Mental/Emotional/Nervous (Mental Disabilities)	38.2-3412.1	.....	.....	.....	.....
Inpatient		.....	.....	.....	.....
Partial Hospitalization		.....	.....	.....	.....
+ Outpatient		.....	.....	.....	.....
+ Alcohol and Drug		.....	.....	.....	.....

Dependence	38.2-3412.1	.....	.....
Inpatient		.....	.....
Partial Hospitalization		.....	.....
Outpatient		.....	.....
*Obstetrical Services	38.2-3414	.....	.....
Normal Pregnancy		.....	.....
All Other		.....	.....
Pregnancy from Rape or Incest	38.2-3418	.....	.....
*Mammography	38.2-3418.1	.....	.....
*Child Health Supervision	38.2-3411.1	.....	.....
*Denotes mandated offer			
Chiropractor	38.2-3408/38.2-4221	.....	.....
Optometrist	38.2-3408/38.2-4221	.....	.....
Optician	38.2-3408/38.2-4221	.....	.....
Psychologist	38.2-3408/38.2-4221	.....	.....
Clinical Social Worker	38.2-3408/38.2-4221	.....	.....
Podiatrist	38.2-3408/38.2-4221	.....	.....
Professional Counselor	38.2-3408/38.2-4221	.....	.....
Physical Therapist	38.2-3408/38.2-4221	.....	.....
Clinical Nurse Specialist **	38.2-3408/38.2-4221	.....	.....
Audiologist	38.2-3408/38.2-4221	.....	.....
Speech Pathologist	38.2-3408/38.2-4221	.....	.....

** rendering mental health services

2. What is the number of individual policies and/or group certificates issued or renewed by your the Company in 1991 in Virginia during the reporting period ?

	Single	Family
Individual
Group

3. What is the number of individual policies and/or group certificates in force for your company in Virginia as of December 31, 1991 in Virginia the last day of the reporting period ?

	Single	Family
Individual

State Corporation Commission

Group

4. What would be the annual premium for an individual policy with no mandated benefits or mandated providers for a 30 year old male in the Richmond area in your standard premium class? What would be the cost for a policy for the same individual with present mandates? (Assume coverage including \$250 deductible, \$1,000 stop-loss limit, 80% co-insurance factor, \$250,000 policy maximum.) If you do not issue a policy of this type, please provide the premium for a 30 year old male in your standard premium class for the policy that you offer that is most similar to the one described and summarize the differences from the described policy.

Without Mandates \$

With Mandates \$

Differences in Policy

.....

.....

.....

.....

5. Do you add an amount to the annual premium of a group certificate to cover the cost of conversion to an individual policy? Yes No

If yes, what is the average dollar amount:

Single Family

If no, is that cost covered in the annual premium of the individual policy? Yes No

The following questions concern the cost of converting group coverage to an individual policy. Answer only those questions which are relevant to your company's practices.

a. If the company adds an amount to the annual premium of a group policy or certificate to cover the cost of conversion to an individual policy, provide the average dollar amount per certificate:

Single: Family:

b. If the cost of conversion is instead covered in the annual premium of the individual policy, provide the average dollar amount attributable to the conversion requirement:

Single: Family:

c. If the cost of conversion is instead covered by a one-time charge made to the group policyholder for each conversion, provide the average dollar amount:

Single: Family:

Part D: Utilization and Expenditures for Selected Procedures by Provider Type

Select *Selected* Procedure Codes are listed here to obtain information about utilization and costs for specific types of services. Please identify expenditures and ~~only~~ visits for the Procedure Codes indicated. Other claims should not be included here. *Individual and group data must be combined for this part of the report.*

1. Procedure Code 90015 99203

Office Visit, Intermediate Service to New Patient

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor
Clinical Social Worker
Physical Therapist
Podiatrist
Professional Counselor
Psychologist
Physician

2. Procedure Code 90844

Medical Psychotherapy, 45 to 50 Minute Session

	Number of Visits	Claims Payments	Cost Per Visit
Clinical Nurse Specialist *
Clinical Social Worker
Professional Counselor
Psychiatrist
Psychologist
Physician

3. Procedure Code 90853

Group Medical Psychotherapy

	Number of Visits	Claims Payments	Cost Per Visit
Clinical Nurse Specialist *
Clinical Social Worker
Professional Counselor
Psychiatrist
Psychologist
Physician

* rendering mental health services

4. Procedure Code 92507

Speech, Language or Hearing Therapy; Individual

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Excision of ~~Ingrown Toenail~~ Nail and Nail Matrix, Partial or Complete, for Permanent Removal

	Number of Visits	Claims Payments	Cost Per Visit
Audiologist
Clinical Social Worker
Physical Therapist
Professional Counselor
Speech Pathologist
Physician

	Number of Visits	Claims Payments	Cost Per Visit
--	---------------------	--------------------	-------------------

Physician	.....	.....	.....
Podiatrist	.....	.....	.....

Appendix C: B. CPT-4, ICD-9CM, and UB-82 References.

A. CPT and ICD-9CM Codes

*Va. Code Section 38.2-3410: Doctor to Include Dentist
(Medical services legally rendered by dentists and
covered under contracts other than dental)*

ICD Codes

520-529 Diseases of oral cavity, salivary glands and jaws

524 Dentofacial anomalies, including malocclusion

525 Other diseases and conditions of the teeth and supporting structure

526 Diseases of the jaws

*Va. Code Section 38.2-3411: Newborn Children
(children less than 32 days old)*

ICD Codes

~~740-759.9~~ 740-759 Congenital anomalies

760-763 ~~Certain conditions originating in the perinatal period~~ Maternal causes of perinatal morbidity and mortality

764-779 Other conditions originating in the perinatal period

CPT Codes

99295 Initial NICU care, per day, for the evaluation and management of a critically ill neonate or infant

99296 Subsequent NICU care, per day, for the evaluation and management of a critically ill and unstable neonate or infant

99297 Subsequent NICU care, per day, for the evaluation and management of a critically ill and stable neonate or infant

99225 99431 History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation of hospital records

99432 Normal newborn care in other than hospital or birthing room setting including physical examination of baby and conference(s) with parent(s)

5. Procedure Code 97110

Physical Medicine Treatment, 30 Minutes, Therapeutic Exercise

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor
Physical Therapist
Physician
Podiatrist
Speech Pathologist

6. Procedure Code 97124

Physical Medicine Treatment, Massage

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor
Physical Therapist
Physician
Podiatrist

7. Procedure Code 97128

Physical Medicine Treatment, Ultrasound

	Number of Visits	Claims Payments	Cost Per Visit
Chiropractor
Physical Therapist
Physician
Podiatrist

8. Procedure Code 92352

Fitting of Spectacle Prosthesis for Aphakia, monofocal

	Number of Visits	Claims Payments	Cost Per Visit
Ophthalmologist
Optician
Optometrist
Physician

9. Procedure Code ~~11765~~ 11750

State Corporation Commission

~~90282~~ 99433 ~~Normal Newborn Services~~ Subsequent hospital care for the evaluation and management of a normal newborn, per day

99440 Newborn resuscitation: care of the high risk newborn at delivery, including, for example, inhalation therapy, aspiration, administration of medication for initial stabilization

Va. Code Section 38.2-3412.1:

Mental/Emotional/Nervous Disorders

(must use UB-82 place-of-service codes from Section B of this Appendix to differentiate between inpatient, partial hospitalization, and outpatient claims where necessary)

ICD Codes

290, 293-294 Organic Psychotic Conditions

295-299 Other psychoses

300-302, 306-316 Neurotic disorders, personality disorders, other non-psychotic mental disorders

317-319 Mental retardation

CPT Codes -Distinguish between inpatient and outpatient

90825 Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes

90801 Psychiatric diagnostic interview examination, including history, mental status, or disposition

99221-99223 Initial hospital care, per day, for the evaluation and management of a patient

99231-99233 Subsequent hospital care, per day, for the evaluation and management of a patient

99238 Hospital discharge day management

~~90600-90643~~ 99241-99263 Consultation for psychiatric evaluation of a patient includes examination of a patient and exchange of information with primary physician and other informants such as nurses or family members, and preparation of report.

90801 Psychiatric diagnostic interview examination, including history, mental status, or disposition

90820 Interactive medical psychiatric diagnostic interview examination

90825 Psychiatric evaluation of hospital records, other psychiatric reports, psychometric and/or projective tests, and other accumulated data for medical diagnostic purposes

90830 Psychological testing by physician, with written report per hour

90835 Narcosynthesis for psychiatric diagnostic and therapeutic purposes

90841 Individual medical psychotherapy by a physician, with continuing medical diagnostic evaluation and drug management when indicated, including insight oriented, behavior modifying or supportive psychotherapy; time unspecified

90842 approximately 75 to 80 minutes (90841)

90843 approximately 20 to 30 minutes (90841)

90844 approximately 45 to 50 minutes (90841)

90845 Medical psychoanalysis

90846 Family medical psychotherapy (without the patient present)

90847 Family medical psychotherapy (conjoint psychotherapy) by a physician, with continuing medical diagnostic evaluation, and drug management when indicated

90849 Multiple family group medical psychotherapy by a physician, with continuing medical diagnostic evaluation and drug management when indicated

90853 Group medical psychotherapy by a physician, with continuing medical diagnostic evaluation, and drug management when indicated

90855 Interactive individual medical psychotherapy

90857 Interactive group medical psychotherapy

90862 Pharmacologic management, including prescription use, and review of medication with no more than minimal medical psychotherapy

90870 Electro convulsive therapy, single seizure

90871 Multiple seizures, per day

Other Psychiatric Therapy

90880 Medical hypnotherapy

90882 Environmental intervention for medical management purposes on a psychiatric patient's behalf with agencies, employers, or institutions

90887 Interpretation or explanation of results of psychiatric, other medical examinations and procedures, or other accumulated data to family or other responsible persons, or advising them to assist patient

90889 Preparation of report of patient's psychiatric status, history, treatment, or progress (other than for legal or consultative purposes) for other physicians, agencies, or insurance carriers

Other Procedures

90899 Unlisted psychiatric service/procedure

Va. Code Section 38.2-3412.1: Alcohol and Drug Dependence

ICD Codes

291-291.9 291 Alcohol Psychoses

303 Alcohol dependence syndrome

ICD Codes

292-292.9 292 Drug Psychoses

304 Drug dependence

305-305.9 305 Nondependent abuse of drugs

CPT Codes

Same as listed above for Mental/Emotional/Nervous Disorders, but for above listed conditions.

Va. Code Section 38.2-3414: Obstetrical Services

Normal Pregnancy

ICD Codes

650 Normal delivery without abnormality or complication classifiable elsewhere in categories 630-676, and with spontaneous cephalic delivery, without mention of fetal manipulation or instrumentation

CPT Codes

Any codes in the maternity care and delivery range of 59000-59899 associated with ICD Code 650 listed above

All Other Obstetrical Services

ICD Codes

630-648, 651-676 Complications of pregnancy, childbirth, and puerperium

CPT Codes

Incision, Excision, Introduction, and Repair

59000 Amniocentesis, any method

9012 Cordocentesis (intrauterine), any method

59015 Chorionic villus sampling, any method

59020 Fetal contraction stress test

59025 Fetal scalp blood sampling

59050 Initiation and/or supervision of internal monitoring during labor by consultant with report (separate procedure)

59100 Hysterotomy, abdominal (e.g., for hydatidiform mole, abortion)

59120 Surgical treatment of ectopic pregnancy; tubal or ovarian, requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach

59121 tubal or ovarian, without salpingectomy and/or oophorectomy (59120)

59130 abdominal pregnancy (59120)

59135 interstitial, uterine pregnancy requiring total hysterectomy (59120)

59136 interstitial, uterine pregnancy with partial resection of uterus (59120)

59140 cervical, with evacuation (59120)

59150 Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy

59151 with salpingectomy and/or oophorectomy (59150)

59160 Curettage, postpartum (separate procedure)

59200 Insertion of cervical dilator (e.g., laminaria, prostaglandin) (separate procedure)

59300 Episiotomy or vaginal repair, by other than attending physician

59320 Cerclage or cervix, during pregnancy; vaginal

59325 abdominal (59320)

59350 Hysterorrhaphy of ruptured uterus

Delivery, Antepartum and Postpartum Care

CPT Codes

59400 Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy, and/or forceps) and postpartum care

59409 Vaginal delivery only (with or without episiotomy and/or forceps)

540410 59410 Vaginal delivery only (with or without

State Corporation Commission

~~epistiotomy and/or forceps~~ including postpartum care (59409)

~~549412~~ 59412 External cephalic version, with or without tocolysis ~~(list in addition to code(s) for delivery)~~

549414 59414 Delivery of placenta following delivery of infant outside of hospital

59420 Antepartum care only (separate procedure)

59425 Antepartum care only; 4-6 visits

59426 7 or more visits (59425)

~~54930~~ 59430 Postpartum care only (separate procedure)

Cesarean Delivery

59510 Routine obstetric care including antepartum care, cesarean delivery, and postpartum care

59514 Cesarean delivery only

59515 Cesarean delivery only including postpartum care (59514)

59525 Subtotal or total hysterectomy after cesarean delivery (list in addition to 59510 or 59515)

Abortion

~~90000-90280~~ 99201-99233 Medical treatment of spontaneous complete abortion, any trimester

59812 Treatment of ~~spontaneous~~ incomplete abortion, any trimester, completed surgically

~~58920~~ 59820 Treatment of missed abortion, completed surgically, first trimester

~~58921~~ 59821 second trimester (59820)

~~58930~~ 59830 Treatment of septic abortion, completed surgically

59840 Induced abortion, by dilation and curettage

59841 Induced abortion, by dilation and evacuation

59850 Induced abortion, by one or more intra-amniotic injections (amniocentesis-injections), including hospital admission and visits, delivery of fetus and secundines;

59851 with dilation and curettage and/or evacuation (59850)

59852 with hysterotomy (failed intra-amniotic injection) (59850)

Other Procedures

59870 Uterine evacuation and curettage for hydatidiform mole

~~58990~~ 59899 Unlisted procedure, maternity care and delivery

Anesthesia

00850 Cesarean

00855 Cesarean hysterectomy

00857 Continuous epidural analgesia for labor and cesarean section

Va. Code Section 38.2-3418: Pregnancy from Rape/Incest

Same Codes as Obstetrical Services/Any Other Appropriate in cases where coverage is provided solely due to the provisions of § 38.2-3418 of the Code of Virginia

Va. Code Section 38.2-3418.1: Mammography

CPT Codes

76092 Screening Mammography, bilateral

Va. Code Section 38.2-3411.1: Child Health Supervision, Services (Well Baby Care)

CPT Codes

90700 Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)

90701 Immunization, active; Diphtheria and tetanus toxoids and pertussis vaccine (DTP)

90702 Diphtheria and tetanus toxoids (DT)

90703 Tetanus toxoid

90704 Mumps virus vaccine, live

90705 Measles virus vaccine, live, attenuated

90706 Rubella virus vaccine, live

90707 Measles, mumps and rubella virus vaccine, live

90708 Measles, and rubella virus vaccine, live

90709 Rubella and mumps virus vaccine, live

90710 Measles, mumps, rubella, and varicella vaccine

90711 Diphtheria, tetanus, and pertussis (DTP) and injectable poliomyelitis vaccine

90712 Polio virus vaccine, live, oral (any type (s))

State Corporation Commission

90716 *Varicella (chicken pox) vaccine*

90720 *Diphtheria, tetanus, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine*

90737 Hemophilus influenza B

New Patient

90755 **Infant care to one year of age, with a maximum of 12 office visits during regular office hours, including tuberculin skin testing and immunization of DPT and Oral polio**

99381 *Initial evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures, new patient; infant (age under 1 year)*

99382 *early childhood (age 1 through 4 years) (99381)*

99383 *late childhood (age 5 through 11 years) (99381)*

Established Patient

Interval history and exam related to the healthy individual, including anticipatory guidance, periodic type exam

90762 *Late childhood (Age 5-6 years)*

90763 *Early childhood (Age 1 through 4 years)*

90764 *Infant (Age under 1 year)*

99391 *Periodic reevaluation and management of a healthy individual requiring a comprehensive history, comprehensive examination, the identification of risk factors and the ordering of appropriate laboratory/diagnostic procedures, established patient; infant (age under 1 year)*

99392 *early childhood (age 1 through 4 years) (99391)*

99393 *late childhood (age 5 through 11 years) (99391)*

90774 99178 *Administration and medical interpretation of developmental tests*

81000 *Urinalysis*

84030 *Phenylalanine (PKU), blood*

86580 *Tuberculosis-intradermal*

86585 *Tuberculosis, tine test*

90752 *late childhood (age 5 through 11)*

90753 *early childhood (age 1 through 4)*

90754 *infant (age under 1 year)*

B. Uniform Billing Code Numbers (UB-82)

PLACE OF SERVICE CODES

Field Values		Report As:
10	Hospital, inpatient	Inpatient
1S	Hospital, affiliated hospice	Inpatient
1Z	Rehabilitation hospital, inpatient	Inpatient
20	Hospital, outpatient	Outpatient
2F	Hospital-based ambulatory surgical facility	Outpatient
2S	Hospital, outpatient hospice services	Outpatient
2Z	Rehabilitation hospital, outpatient	Outpatient
30	Provider's office	Outpatient
3S	Hospital, office	Outpatient
40	Patient's home	Outpatient
4S	Hospice (Home hospice services)	Outpatient
51	Psychiatric facility, inpatient	Inpatient
52	Psychiatric facility, outpatient	Outpatient
53	Psychiatric day-care facility	Outpatient Partial Hospitalization
54	Psychiatric night-care facility	Outpatient Partial Hospitalization
55	Residential substance abuse treatment facility	Inpatient
56	Outpatient substance abuse treatment facility	Outpatient
60	Independent clinical laboratory	Outpatient
70	Nursing home	Inpatient
80	Skilled nursing facility/extended care facility	Inpatient
90	Ambulance; ground	Outpatient
9A	Ambulance; air	Outpatient
9C	Ambulance; sea	Outpatient
00	Other unlisted licensed facility	Outpatient

VA.R. Doc. No. R95-205; Filed December 19, 1994, 11:11 a.m.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER FORTY-ONE (94)

VIRGINIA'S FOURTH ON-LINE GAME LOTTERY; "CASH 5," FINAL RULES FOR GAME OPERATION; REVISED.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the revised rules for game operation in Virginia's fourth on-line game lottery, "Cash 5." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order supersedes Director's Order Number Three (93), issued January 29, 1993. This Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
November 30, 1994

VA.R. Doc. No. R95-197; Filed December 15, 1994, 10:14 a.m.

DIRECTOR'S ORDER NUMBER FORTY-TWO (94)

VIRGINIA'S SECOND ON-LINE GAME LOTTERY; "LOTTO," FINAL RULES FOR GAME OPERATION; FOURTH REVISION

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the revised rules for game operation in Virginia's second on-line game lottery, "Lotto." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order supersedes Director's Order Number Twenty-One (94), issued June 23, 1994. This Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle

Director
November 30, 1994

VA.R. Doc. No. R95-198; Filed December 15, 1994, 10:16 a.m.

DIRECTOR'S ORDER NUMBER FORTY-THREE (94)

VIRGINIA'S FIRST ON-LINE GAME LOTTERY; "PICK 3," FINAL RULES FOR GAME OPERATION; THIRD REVISION

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the revised rules for game operation in Virginia's first on-line game lottery, "Pick 3." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order supersedes Director's Order Number Thirty-Six (90), issued December 11, 1990. This Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
November 30, 1994

VA.R. Doc. No. R95-199; Filed December 15, 1994, 10:16 a.m.

DIRECTOR'S ORDER NUMBER FORTY-FOUR (94)

VIRGINIA'S THIRD ON-LINE GAME LOTTERY; "PICK 4," FINAL RULES FOR GAME OPERATION; REVISED.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the revised rules for game operation in Virginia's third on-line game lottery, "Pick 4." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of on-line game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order supersedes Director's Order Number Twenty-Two (91), issued September 4, 1991. Thi

Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
November 30, 1994

VA.R. Doc. No. R95-200; Filed December 15, 1994, 10:16 a.m.

DIRECTOR'S ORDER NUMBER FORTY-SIX (94)

"QUICK START," VIRGINIA LOTTERY RETAILER STOCKING PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Quick Start," Virginia Lottery Retailer Stocking Promotional Program Rules for the lottery retailer incentive program which will be conducted from Monday, February 27, 1995 through Sunday, March 12, 1995. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P. O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until March 31, 1995, unless otherwise extended by the Director.

/s/ Penelope W. Kyle
Director
December 10, 1994

VA.R. Doc. No. R95-201; Filed December 15, 1994, 10:17 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Title of Regulation: **VR 470-01-01. Public Participation
Guidelines (REPEAL).**

Title of Regulation: **VR 470-01-01:1. Public Participation
Guidelines.**

Governor's Comment:

The proposed regulation is mandated by state law. Consequently, I do not object to this regulation. However, my approval of the final regulations will be made after review of the public's comments.

/s/ George Allen
Governor

Date: December 12, 1994

V.A.R. Doc. No. R95-204; Filed December 15, 1994, 10:18 a.m.

Virginia Tax Bulletin

Virginia Department of Taxation

December 1, 1994

94-10

Application of the Sales Tax to Disposal Fees on Waste Tires and Other Environmentally Hazardous Materials

This bulletin is intended to notify members of Virginia's automobile and tire industries of the Virginia Retail Sales and Use Tax application to disposal fees on waste tires and other environmentally hazardous materials, such as anti-freeze, motor oil, etc.

Current Departmental Policy

Code of Virginia § 58.1-602 defines "sales price" to include the total amount for which tangible personal property or services are sold, including any services that are a part of the sale. Under Virginia Regulation 630-10-97.1, any services that are included in or in connection with the sale of tangible personal property are taxable.

Dealers in the business of selling tires, anti-freeze, motor oil, and other like automotive accessories, who charge a disposal fee in connection with the sale of such items, are required to collect the tax on the disposal fee, whether or not the disposal fee is separately stated.

By contrast, dealers who provide disposal services totally independent of the sale or provision of tangible personal property, are deemed to be providing a nontaxable service, and are not required to collect the tax on such transactions.

Prospective Compliance

All tire and automotive dealers will be expected to properly charge the tax to their customers beginning January 1, 1995.

Virginia Tax Bulletin

Virginia Department of Taxation

DECEMBER 15, 1994

94-14

INTEREST RATES FIRST QUARTER 1995

Rates remain unchanged: State and certain local interest rates are subject to change every quarter based on changes in the federal rates established pursuant to I.R.C. § 6621. The federal rates for the first quarter of 1995 remain at 9% for tax underpayments (assessments), 8% for tax overpayments (refunds), and 11% for "large corporate underpayments" as defined in I.R.C. § 6621(c). Code of Virginia § 58.1-15 provides that the underpayment rate for Virginia taxes will be 2% higher than the corresponding federal rates. Accordingly, the Virginia rates for the first quarter of 1995 remain at 11% for tax underpayments, 8% for tax overpayments, and 13% for "large corporate underpayments."

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on December 31, 1994: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen) or Form 500C (for corporations), the first quarter of 1995 11% underpayment rate will apply through the due date of the return, April 17, 1995, (for corporations) and May 1, 1995, (individuals and fiduciaries).

Local Tax

Assessments: Localities assessing interest on delinquent taxes pursuant to Code of Virginia § 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater, for the second and subsequent years of delinquency. For the first quarter of 1995, the federal underpayment rate is 9%.

Refunds: Localities which have provided for refund of erroneously assessed taxes may provide by ordinance that such refund be repaid with interest at a rate which does not exceed the rate imposed by the locality for delinquent taxes.

Recent Interest Rates

Accrual Period		Overpayment	Underpayment	Large Corporate
<u>Beginning</u>	<u>Through</u>	<u>(Refund)</u>	<u>(Assessment)</u>	<u>Underpayment</u>
1-Jan-87	30-Sep-87	8%	9%	---
1-Oct-87	31-Dec-87	9%	10%	---
1-Jan-88	31-Mar-88	10%	11%	---
1-Apr-88	30-Sep-88	9%	10%	---
1-Oct-88	31-Mar-89	10%	11%	---
1-Apr-89	30-Sep-89	11%	12%	---
1-Oct-89	31-Mar-91	10%	11%	---
1-Apr-91	30-Jun-91	9%	10%	---
1-Jul-91	31-Dec-91	9%	12%	14%
1-Jan-92	31-Mar-92	8%	11%	13%
1-Apr-92	30-Sep-92	7%	10%	12%
1-Oct-92	30-Jun-94	6%	9%	11%
1-Jul-94	30-Sep-94	7%	10%	12%
1-Oct-94	31-Mar-95	8%	11%	13%

For additional information: Contact the Taxpayer Assistance Section, Office of Taxpayer Services, Virginia Department of Taxation, P. O. Box 1880, Richmond, Virginia 23282-1880, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8037
Withholding Tax	(804) 367-8037
Soft Drink Excise Tax	(804) 367-8098
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Notice to the Public

In accord with the Anti-Drug Abuse Act of 1988 (Public Law 100-690, Title VI, Subtitle C), as amended, the Department of Criminal Justice Services announces its intention to submit an application for federal funds to the Bureau of Justice Assistance, U.S. Department of Justice.

The application will be submitted not later than January 15, 1995, and will request \$10,748,000, which is Virginia's allocation for federal fiscal 1995 under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program.

The Department of Criminal Justice Services will use these funds to make grants to localities and state agencies to support anti-crime and criminal justice system improvement projects.

In addition to the Standard Form 424, "Application for Federal Assistance," the application to be submitted to the Bureau of Justice Assistance contains a discussion of the state's drug and violent crime problems, identifies needs and priorities, and indicates ways the federal funds will be used to address the needs and priorities.

Public review and comment are invited. Single copies of the application may be obtained by contacting Joe Marshall, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-1577.

DEPARTMENT OF EDUCATION

State Special Education Plan for Fiscal Year 1996-98

Under the provisions of the Individuals with Disabilities Education Act (IDEA), all states are required to develop a State Special Education Plan and Preschool Grant Application in order to be eligible for federal funds. In accordance with these requirements, the State Board of Education and the Department of Education have made the State Plan and Preschool Application available for public review from Monday, December 5, 1994, to Monday, February 6, 1995. Copies of the plan are available for review at local libraries and at local school board offices

during normal business hours.

During this period, interested parties may submit written comments regarding the state plan and the preschool grant application to the Department of Education. Written comments regarding the state plan and preschool grant application should be received no later than Monday, February 6, 1995.

During the public comment period, the Board of Education and the Department of Education will hold two public hearings. One will be on **Tuesday, January 4, 1995, 7 p.m., at the General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia.** The second hearing will be on **Wednesday, January 5, 1995, 7 p.m., at Northside High School, Auditorium, 6758 Northside High School Road, Roanoke, Virginia.**

Written comments and inquiries regarding the hearings or matters related to the State Plan and the Preschool Grant Application may be directed to Ms. Suzanne Creasey, Office of Special Education Services, Department of Education, P.O. Box 2120, Richmond, Virginia 23216-2120, telephone (804) 225-2675.

DEPARTMENT OF HEALTH

Waterworks Regulations

† General Notice Requesting Comment on Recycle of Certain Drinking Water Plant Wastewaters

Recent concerns of health threats posed by *Cryptosporidium* and *Giardia* are among the issues of the recycled flow of certain drinking water treatment plant waste waters (not including sanitary wastewater). This recycled flow would be conveyed to the first step in the drinking water treatment process. Such flows may contain concentrated elements that may increase risks to the proper treatment of the drinking water.

Although recycle is not directly addressed under current regulation, the Department of Health's engineering staff make situation specific decisions in their review of proposed construction designs or modifications to existing drinking water treatment plants.

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with th

regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

† General Notice Requesting Comment on Viability and Comprehensive Business Plan for Certain Drinking Water Systems

Concerns, both statewide and nationwide, have focused on certain owners of waterworks that do not have the financial, technical, managerial, and operational capabilities necessary for the long-term operation of this important health-related activity. Some waterworks are created in conjunction with some other business venture and are not given due planning consideration as a waterworks. There are existing waterworks that, for various reasons, cannot maintain compliance with federal and state regulations.

During 1993, the State Water Commission heard testimony on this issue and the 1994 General Assembly enacted clarifying and mandatory statutory language directing the Department of Health to recognize these capabilities relative to an owner's ability to provide safe drinking water (§§ 32.1-169 and 32.1-172 of the Code of Virginia).

The Department of Health is determining the need to develop a regulation addressing this issue. The department is interested in your comments relative to the need for regulation and content of any such regulation or alternatives to the development of a regulation. If the comment is such as to merit proceeding with the regulatory process, the regulatory process will be initiated in compliance with the Administrative Process Act and Governor's Executive Order Number 13(94).

Written comments on this issue should be submitted by Wednesday, February 15, 1995, to Thomas B. Gray, P.E., Office of Water Programs, Room 109, Department of Health, P.O. Box 2448, Richmond, VA 23218, Voice (804) 786-5566; FAX (804) 786-5567.

COMMISSION ON LOCAL GOVERNMENT

† Approved Modifications of Schedule of Local Mandate Assessments

Pursuant to the provisions of §§ 2.1-7.1 and 15.1-945.3(6) of the Code of Virginia and to Paragraph 7 of Executive Memorandum 5-94, notice is hereby given that the following modifications of the schedule of local mandate assessments have been approved by the Governor and the Secretary of Administration, effective September 22, 1994:

The commencement date for assessment of the Department of Environmental Quality mandate summarized as "Hazardous waste management: compliance with federal, state standards, regulations required" has been changed to June 1, 1995. The completion date for submission of the assessment has been changed to May 31, 1996.

The commencement date for assessment of the Department of Environmental Quality mandate summarized as "Above-ground storage tanks: approved contingency plan required to protect environment in event of oil discharge" has been changed to May 1, 1995. The completion date for submission of the assessment has been changed to February 28, 1995.

The completion date for submission of the assessment of the Department of Criminal Justice Services mandate summarized as "Court-appointed special advocates program participation: compliance with regulations required" has been postponed until 1996, after new rules have been promulgated.

The original schedule for the assessments of state and federal mandates on local governments was established by the Commission on Local Government and approved by Governor Allen. In conducting assessments, agencies will follow the process established by Executive Memorandum 5-94, which became effective April 22, 1994. For further information, call Adele MacLean, Policy Analyst, Commission on Local Government, telephone (804) 786-6508.

DEPARTMENT OF REHABILITATIVE SERVICES

Department of Rehabilitative Services Mailing List Update

Any individuals, groups, and organizations who are interested in (i) advising the department in developing or amending existing state regulations, (ii) participating in developing or amending the department's strategic plans and state plans for vocational rehabilitation, supported employment, and independent living services, and (iii) receiving notice of the department's public hearings, should contact the department to be added to the mailing list. Please include your name (and organization's name and your title), and mailing address. The deadline is January 31, 1995. Write to Ms. Dale Riley, Department of Rehabilitative Services, P.O. Box K300, Richmond, Virginia 23288-0300; or call 1-800-552-5019, ext. 7611, FAX (804) 662-9532.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code

General Notices/Errata

Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

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

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
☒ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

January 22, 1995 - 2:30 p.m. – Open Meeting
January 23, 1995 - 10 a.m. – Open Meeting
January 24, 1995 - 8 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☒

The following committees will meet on Sunday, January 22, 1995, on matters requiring committee action: Regulatory Review Committee - 2:30 p.m., CPE Committee - 4 p.m. A public hearing on proposed fees and education will be held, followed by a regular board meeting to review correspondence, applications, review and disposition of enforcement files and other routine board business. The Enforcement Committee will meet at 4 p.m. on Monday, January 23, 1995. A public comment period will be scheduled during the meeting. No public comment will be accepted after that period. However, the meeting is open to the public. Persons desiring to participate in the public hearing or meetings and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman, Assistant Director, or Les Newton, Administrative Assistant, at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA

23230-4917, telephone (804) 367-8590.

GOVERNOR'S ADVISORY BOARD OF AGING

January 17, 1995 - 1 p.m. – Open Meeting
January 18, 1995 - 8:30 a.m. – Open Meeting
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.
☒ (Interpreter for the deaf provided upon request)

The board's regular quarterly business meeting including a discussion of the restructure of aging and long-term care.

Contact: Bill Peterson, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2803, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

VIRGINIA AGRICULTURAL COUNCIL

January 24, 1995 - 9:30 a.m. – Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A one-day orientation session for newly-appointed board members. The board will not entertain public comments at this session. Any person who needs special accommodations during the meeting should contact Thomas R. Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

January 11, 1995 - 1 p.m. – Open Meeting
Fairgrounds on Strawberry Hill, 600 East Laburnum Avenue, Exhibition Hall, Washington Room, Richmond, Virginia. ☒

At this regular meeting, the board plans to discuss regulations and fiscal matters and will receive reports from the staff of the Department of Agriculture and Consumer Services. The board may consider other matters relating to its responsibilities. At the conclusion of the other business, the board will review

Calendar of Events

public comments for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535 or (804) 371-6344/TDD ☎

Virginia Corn Board

February 15, 1995 - 9 a.m. – Open Meeting
February 16, 1995 - 9 a.m. – Open Meeting
Williamsburg Hilton and Conference Center, 50 Kingsmill Road, Williamsburg, Virginia. ☎

A meeting to review projects currently underway and to consider projects for FY 95-96. 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 in the meeting should contact Rosser Cobb at least five days before the meeting date so that suitable arrangements can be made.

Contact: Rosser Cobb, Program Director, P.O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710.

Virginia Egg Board

† **January 12, 1995 - 10 a.m. – Open Meeting**
State Fairgrounds, Strawberry Hill, Richmond, Virginia. ☎

A regular meeting. 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 Cecilia Glembocki at least five days before the meeting date so that suitable arrangements can be made.

Contact: Cecilia H. Glembocki, Executive Director, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984.

Virginia Horse Industry Board

† **February 9, 1995 - 10 a.m. – Open Meeting**
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. ☎

A regular meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist, Virginia Horse Industry Board, 1100 Bank St., #906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

Virginia Irish Potato Board

† **January 26, 1995 - 2 p.m. – Open Meeting**
Eastern Shore Agricultural Research and Extension Center, Painter, Virginia. ☎

An organizational meeting of the board to (i) elect a chairman and a vice-chairman; (ii) discuss programs (promotion, research and education); and (iii) discuss other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

Contact: J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (804) 787-5867.

Pesticide Control Board

January 12, 1995 - 10 a.m. – Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☎

Pesticide Control Board committee meetings. At 6 p.m. the 24th Annual Virginia Agribusiness Appreciation Banquet at the State Fairgrounds on Strawberry Hill, 600 East Laburnum Avenue, Richmond, Virginia, will be held. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin L. Lawson, Program Manager, Office of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

January 13, 1995 - 9 a.m. – Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Richmond, Virginia. ☎

A general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda at 9:30 a.m. Any person who needs any accommodation in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office

of Pesticide Management, Department of Agriculture and Consumer Services, P.O. Box 1163, 1100 Bank St., Room 401, Richmond, VA 23209, telephone (804) 371-6558.

Virginia Pork Industry Board

January 13, 1995 - 2 p.m. - Open Meeting
Virginia State Fairgrounds, 600 East Laburnum Avenue, Washington Room, Richmond, Virginia. ☒

A regular meeting. 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 John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Virginia Pork Industry Board, 1012 Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-7092.

Virginia Winegrower's Advisory Board

January 11, 1995 - 10 a.m. - Open Meeting
Washington Building, 1100 Bank Street, 9th Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The board will hear committee and project monitor reports and review old and new business. Public comment is welcome following the conclusion of board business. Any person who needs any accommodation in order to participate in the meeting should contact Mary Davis-Barton, identified in this notice at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Bacon, Secretary, Virginia Winegrower's Advisory Board, 1100 Bank St., Suite 1009, Richmond, VA 23219, telephone (804) 786-0481.

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

January 9, 1995 - 9:30 a.m. - Open Meeting
January 23, 1995 - 9:30 a.m. - Open Meeting
February 6, 1995 - 9:30 a.m. - Open Meeting
February 22, 1995 - 9:30 a.m. - Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

January 17, 1995 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

Informal fact-finding conferences in regard to the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects v. N.E. Edgerton - 9 a.m.; J.T. Cox - 9 a.m.; Alan E. Adler - 10 a.m.; Balzer & Associates, Inc. - 11:30 a.m. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8500. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance for consideration.

Contact: Carol A. Mitchell, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524.

Board for Interior Designers

† January 31, 1995 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct applicant interviews and any board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at (804) 367-8514 at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

January 10, 1995 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

A regular meeting.

Contact: David E. Dick, Assistant Director, Board for Asbestos Licensing and Lead Certification, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

Calendar of Events

AUCTIONEERS BOARD

† **January 13, 1995 - 9 a.m.** – Open Meeting
Hospitality House, 415 Richmond Road, Williamsburg,
Virginia. ☒

A meeting to conduct any board business, and also to hold a public hearing in accordance with Executive Order 15(94) and on proposed regulations. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Board for Auctioneers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

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January 13, 1995 - 2:30 p.m. – Public Hearing
Hospitality House, 415 Richmond Road, Williamsburg,
Virginia.

February 12, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Auctioneers Board intends to **repeal** regulations entitled: **VR 150-01-2, Rules and Regulations for the Virginia Board of Auctioneers** and **adopt** regulations entitled: **VR 150-01-2:1, Rules and Regulations for the Virginia Board of Auctioneers**. The proposed regulations establish entry requirements for licensure of auctioneers and auction firms, examination for licensure, licensure by reciprocity, standards of practice regarding advertising, contracts, escrow accounts, records and standards of conduct for auctioneers. The proposed regulations are a result of legislative amendments enacted to § 54.1-603 of the Code of Virginia which repealed the registration and certification program for auctioneers and established a single licensure program.

Statutory Authority: §§ 54.1-201 and 54.1-602 of the Code of Virginia.

Contact: Mark N. Courtney, Assistant Director, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

January 18, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,
Richmond, Virginia.

A meeting to begin study of efficiency of mandating continuing education requirements and to study definitions of assistants and aides.

Contact: Carol King-Robinson, Licensure Technician, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

BOARD FOR BARBERS

January 9, 1995 - 8 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 develop test specifications for the Virginia barber written, instructor and practical examinations.

Contact: George O. Bridewell, Examination Administrator, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

February 6, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **January 20, 1995 - 10 a.m.** – Open Meeting
The Jackson Center, 501 North 2nd Street, 1st Floor
Conference Room, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to hear administrative appeals concerning building and fire codes and other regulations of the department. The board will also issue interpretations and formalize recommendations to the Board of Housing and Community Development concerning future changes to the regulations.

Contact: Vernon W. Hodge, Building Code Supervisor, State Building Code Office, Department of Housing and Community Development, Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170 or (804) 371-7089/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Central Area Review Committee

† **January 19, 1995 - 2 p.m.** – Open Meeting
† **February 16, 1995 - 2 p.m.** – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the central area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

† **February 16, 1995 - 10 a.m.** – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the northern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

† **January 25, 1995 - 10 a.m.** – Open Meeting
Location to be announced.

† **February 22, 1995 - 10 a.m.** – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219,

telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† **January 12, 1995 - 9:30 a.m.** – Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Conference Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. A public comment period will begin at noon. Please call ahead of time for possible changes in meeting time. A contingent snow date is January 20, 1995.

Contact: Richard Martin, Division of Management and Customer Service, Department of Social Services, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1825.

STATE BOARD FOR COMMUNITY COLLEGES

January 11, 1995 - 2:30 p.m. – Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

January 12, 1995 - 9 a.m. – Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled state board meeting.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

BOARD FOR CONTRACTORS

January 11, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regular scheduled meeting of the board which will address policy and procedural issues; review and render decisions on applications for contractor's licenses, and review and render case decisions on

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matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session.

Contact: Geralde W. Morgan, Regulatory Boards Administrator Senior, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

BOARD OF CORRECTIONS

January 18, 1995 - 10 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Administration Committee

January 18, 1995 - 8:30 a.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia. ☒

A meeting to discuss administration matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Correctional Services Committee

January 17, 1995 - 1 p.m. – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

January 19, 1995 - 9:30 a.m. – Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

A meeting to discuss criminal justice matters.

Contact: Vivian Toler, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

January 30, 1995 - 10 a.m. – Open Meeting
March 27, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Telecommunications Relay Services Advisory Board

January 18, 1995 - 10 a.m. – Open Meeting
Department for the Deaf and Hard-of-Hearing, 1100 Bank Street, 12th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular business meeting. This meeting is open to the public. Public comment will be permitted with advance notice.

Contact: Loretta H. Barker, Administrative Assistant, Department for the Deaf and Hard-of-Hearing, 1100 Bank St., 12th Floor, Richmond, VA 23219, telephone (804) 371-7892/(V/TTY), toll-free 1-800-552-7917/(V/TTY) or (804) 225-2570/TDD ☎

DEPARTMENT OF EDUCATION (BOARD OF)

January 12, 1995 - 8:30 a.m. – Open Meeting
Henrico County School Administration, 3810 Nine Mile Road, Glen Echo Building, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2924 or toll-free 1-800-292-3820.

* * * * *

† **February 1, 1995 - 6 p.m. – Public Hearing**

Richmond Technical Center, 2020 Westwood Avenue, Richmond, Virginia.

† **March 10, 1995** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **VR 270-01-0014. Management of the Student's Scholastic Record in the Public Schools of Virginia.** The purpose of the proposed amendment is to require adherence by local education agencies to applicable state and federal laws regarding the management of student records.

Statutory Authority: §§ 22.1-16, 22.1-287.1, 22.1-288.2, and 22.1-289 of the Code of Virginia and § 4 of Article VIII of the Constitution of Virginia.

Contact: Thomas A. Elliott, Division Chief, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 371-2522 or toll-free 1-800-292-3820.

STATE BOARD OF ELECTIONS

† **January 27, 1995 - 10 a.m.** – Open Meeting
Ninth Street Office Building, 6th Floor Conference Room, Richmond, Virginia. ☒

A meeting to review and discuss possible certification of voting equipment.

Contact: Diane Anderson, Regulatory Coordinator, 200 N. Ninth St., Room 101, Richmond, VA 23219, telephone (804) 786-6551 or toll-free 1-800-552-9745.

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

† **January 25, 1995 - 6:30 p.m.** – Open Meeting
Gloucester Administration Building, Conference Room, Gloucester, Virginia. ☒ (Interpreter for the deaf provided upon request)

The winter quarterly meeting of the committee will address election of officers, discuss membership appointments, and review the proposed spring exercise.

Contact: Georgette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042 or (804) 693-1479/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - HENRICO COUNTY

† **January 18, 1995 - 2 p.m.** – Open Meeting
Henrico County Public Safety Building, Division of Fire,

Parham and Hungary Springs Roads, 3rd Floor, Richmond, Virginia. ☒

A meeting to satisfy requirements of the Superfund Amendment and Reauthorization Act of 1986.

Contact: W. Timothy Liles, Assistant Emergency Services Coordinator, Division of Fire, P.O. Box 27032, Richmond, VA 23273, telephone (804) 672-4906.

LOCAL EMERGENCY PLANNING COMMITTEE - ROANOKE VALLEY

January 25, 1995 - 9 a.m. – Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ☒

A meeting to (i) receive public comment; (ii) receive report from community coordinators; and (iii) receive report from standing committee.

Contact: Chief Dan Hall, Fire Chief/Coordinator of Emergency Services, Salem Fire Department, 105 S. Market St., Salem, VA 24153, telephone (703) 375-3080.

VIRGINIA EMPLOYMENT COMMISSION

State Advisory Board

† **January 31, 1995 - 8:30 a.m.** – Open Meeting
Virginia Employment Commission, 703 East Main Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The first general meeting of the newly appointed State Advisory Board.

Contact: Nancy L. Munnikhuisen, Manager, Employer Relations and Customer Services, Virginia Employment Commission, 703 E. Main St., Richmond, VA 23219, telephone (804) 371-6004 or (804) 371-8050/TDD ☎

DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Group on Detection/Quantitation Levels

January 18, 1995 - 1:30 p.m. – Open Meeting
Department of Environmental Quality, 4949 Cox Road, Lab Training Room, Room 111, Glen Allen, Virginia.

The department has established a work group on detection/quantitation levels for pollutants in the regulatory and enforcement programs. The work group will advise the Director of Environmental Quality. Other meetings of the work group have been scheduled at the same time and location for February 15, March 15, April 5, April 19, May 3, May 17, June 7, and June 21, 1995. However, these dates are not

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firm. Persons interested in the meetings of this work group should confirm the date.

Contact: Alan J. Anthony, Chairman, Work Group on Detection/Quantitation Levels, Department of Environmental Quality, 629 E. Main St., 2nd Floor, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4120.

Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

January 11, 1995 - 9 a.m. - Open Meeting
January 18, 1995 - 9 a.m. - Open Meeting
January 25, 1995 - 9 a.m. - Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Piedmont Room, No. 1275, Richmond, Virginia. ☒

A meeting to assist the Department of Environmental Quality in formulation of the draft of the Vegetative Waste Management and Yard Waste Composting Regulations.

Contact: Robert G. Wickline, P.E., Department of Environmental Quality, Waste Management Division, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4213 or (804) 762-4021/TDD ☎

FAMILY AND CHILDREN'S TRUST FUND

† January 10, 1995 - 10 a.m. - Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia. ☒

A Board of Trustees meeting.

Contact: Jane Weirich, Executive Director, Family and Children's Trust Fund, 9010 Norwick Rd., Richmond, VA 23229, telephone (804) 692-1823.

VIRGINIA MUSEUM OF FINE ARTS

Finance Committee

† January 19, 1995 - 11 a.m. - Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ☒

A meeting to review budgets. No public comment will be heard.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† January 19, 1995 - Noon - Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ☒

A bi-monthly meeting of the full board to conduct budget reviews, and review committee and staff reports. Public comment will not be heard.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

VIRGINIA FIRE SERVICES BOARD

Executive Committee and Legislative/Liaison Committee

† January 17, 1995 - 10 a.m. - Open Meeting
Department of Fire Programs, 2807 Parham Road, Suite 200, Richmond, Virginia. ☒

A work session to discuss fire programs fund reporting policies.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Virginia Fire Services Board, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

Training Committee

† January 18, 1995 - 10 a.m. - Open Meeting
Virginia Power Fire Training Center, 1100 Coxendale Road, Chester, Virginia.

A training and course development work session.

Contact: Bobby L. Stanley, Jr., Acting Executive Director, Department of Fire Programs, 2807 Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

BOARD OF FORESTRY

January 12, 1995 - 9 a.m. - Open Meeting
Marriott Hotel, 500 East Broad Street, Richmond, Virginia. ☒

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, Department of Forestry, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-1375, Ext. 3346 or (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

January 9, 1995 - 3 p.m. - Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to conduct general business.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

January 10, 1995 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A joint meeting for information exchange with Virginia Funeral Directors Association and Virginia Morticians Association. A routine meeting will follow board adjournment.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

January 10, 1995 - 9 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A public hearing on preneed proposed regulations and trainee proposed regulations, also a general board meeting and formal administrative hearing.

Contact: Carol King-Robinson, Licensure Technician, Board of Funeral Directors and Embalmers, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9111 or (804) 662-7197/TDD ☎

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January 10, 1995 - 9:30 a.m. – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

January 13, 1995 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-3. Preneed Funeral Planning Regulations.** The proposed amendments are designed to amend regulations in compliance with changes to federal law, clarify disclosure requirements for funeral homes to make to consumers and correct editorial errors and comply with Registrar's format.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

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January 10, 1995 - 9:30 a.m. – Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

January 13, 1995 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **VR 320-01-04. Regulations of the Resident Trainee Program for Funeral Service.** The purpose of the proposed amendments is to address maximum limit on apprenticeship, supervision of trainee who has completed program, requirements for final reporting, failure to report, editorial changes, supervision for active trainees, and reporting requirements for active trainees.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2817 of the Code of Virginia.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907.

DEPARTMENT OF HEALTH (STATE BOARD OF)

† **January 25, 1995 - 9:30 a.m. – Open Meeting**
Virginia Tech Seafood Experiment Station, 102 South King Street, Hampton, Virginia.

The Division of Shellfish Sanitation will hold a meeting with the Shellfish and Crustacea Advisory Committee to review regulations pertaining to the closure of shellfish growing areas.

Contact: B. Keith Skiles, Program Manager, Department of Health, Division of Shellfish Sanitation, 1500 East Main St., Room 109, Richmond, VA 23219, telephone (804) 786-7937.

† **January 25, 1995 - 1 p.m. – Open Meeting**
James Madison Building, 109 Governor Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A business meeting. An informal dinner will be held at 7 p.m. at the Radisson Hotel, 555 East Canal Street, Richmond.

Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

† **January 26, 1995 - 7:30 a.m. – Open Meeting**
General Assembly Building, 910 Capitol Square, House Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Public health awareness day.

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Contact: Rosanne Kolesar, Health Programs Analyst, Department of Health, 1500 E. Main St., Suite 214, Richmond, VA 23219, telephone (804) 786-3564.

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February 24, 1995 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-28-300. Regulations for the Immunization of School Children.** Chapter 62 of the 1994 Acts of the General Assembly (HB 1280) requires that children born on or after January 1, 1994, be immunized against hepatitis B before their first birthday. The regulations are being amended to add hepatitis B vaccine to the list of vaccines already required for children to be admitted to day care centers and schools.

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

Contact: Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076.

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February 10, 1995 - 9 a.m. – Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor Conference Room, Richmond, Virginia.

February 15, 1995 - 10 a.m. – Public Hearing
NOTE: CHANGE IN LOCATION
Holiday Inn Crowne Plaza, 601 Main Street, Lynchburg, Virginia.

February 27, 1995 – Written comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (Neonatal Services).** Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on February 27, 1995, to Nancy R. Hofheimer, Director of the Office of Health Facilities Regulation, Department of Health, 3600 W. Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Stephanie Sivert, Director, Acute Care Service, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2104 or FAX (804) 367-2149.

Food Service Advisory Committee

January 9, 1995 - 10 a.m. – Open Meeting

January 31, 1995 - 10 a.m. – Open Meeting
Department of Housing and Community Development, Jackson Center, 501 North Second Street, Second Floor Conference Room, Richmond, Virginia. ☒

Meetings to address the Governor's Executive Order Number 15 (Comprehensive Review of Regulations). Under discussion will be whether to amend, delete or keep in present form the Rules and Regulations of the Board of Health Governing Restaurants.

Contact: John E. Benko, Director, Division of Food and Environmental Services, Department of Health, 1500 E. Main St., Suite 115, Richmond, VA 23219, telephone (804) 786-3559.

Commissioner's Waterworks Advisory Committee

† **January 19, 1995 - 10 a.m.** – Open Meeting
Sydnor Hydrodynamics, Inc., 2111 Magnolia Street, Richmond, Virginia.

A general business meeting. The committee meets the third Thursday of odd months. Future meetings are planned on March 16 and May 18, 1995. Locations will be announced.

Contact: Thomas B. Gray, P.E., Special Projects Manager, Division of Water Supply Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-5566.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 24, 1994 - 9:30 a.m. – Open Meeting
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

January 9, 1995 - 9 a.m. - Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodations at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

January 10, 1995 - 9:30 a.m. - Open Meeting
Virginia State University, Petersburg, Virginia. ☒
(Interpreter for the deaf provided upon request)

February 21, 1995 - 10 a.m. - Open Meeting
Omni Hotel, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

March 14, 1995 - 9:30 a.m. - Open Meeting
Council of Higher Education, 101 North 14th Street,
Council Conference Room, Richmond, Virginia. ☒

A general business meeting. Contact the council for more information.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2639.

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

† **January 13, 1995 - 8 a.m. - Open Meeting**
† **March 3, 1995 - 8 a.m. - Open Meeting**
Holiday Inn Historic District, 301 West Franklin Street,
Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will continue its activities in planning HIV prevention for Virginia. The committee will discuss counseling and testing programs.

Contact: Elaine G. Martin, Coordinator AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877, toll-free 1-800-533-4148/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 7, 1995 - 9 a.m. - Open Meeting
March 7, 1995 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road,
Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **January 17, 1995 - 11 a.m. - Open Meeting**
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

This will be the regular meeting of the Board of Commissioners. The board will review and, if appropriate, approve the minutes from the prior monthly meeting; consider for approval and ratification mortgage loan commitments under its various programs; review the authority's operations for the prior month; and consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

STATEWIDE INDEPENDENT LIVING COUNCIL

† **January 10, 1995 - 10 a.m. - Open Meeting**
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia.

A regular business meeting of the council.

Contact: Catherine Northan, Chairperson, or Kathy Hayfield, SILC Staff, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134 (Hayfield) or (804) 850-5922 (Northan), toll-free 1-800-552-5019/TDD ☎ or (804) 662-9040/TDD ☎

COUNCIL ON INFORMATION MANAGEMENT

† **January 18, 1995 - 10 a.m. - Open Meeting**
110 South 7th Street, 4th Floor Auditorium, Richmond,

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Virginia. ☒

The first in a series of meetings to be held January through early March to develop policy and the strategic plan for the implementation of a state-of-the-art information technology infrastructure as outlined in Governor Allen's "Opportunity Virginia." Technology experts from state agencies, the educational community, local government, and private industry will be invited to participate.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

LIBRARY BOARD

January 20, 1995 - 10:30 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of The Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Automation and Networking Committee

† **January 12, 1995 - 10 a.m. – Open Meeting**
January 20, 1995 - 8:45 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss automation and networking matters related to The Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

By-Laws Committee

January 20, 1995 - 8:15 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss possible revisions to the by-laws of the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Executive Committee

January 19, 1995 - 7 p.m. – Open Meeting
The Library of Virginia. Location to be announced.

A meeting to discuss matters pertaining to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

General Library Committee

January 20, 1995 - 8 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Office of the Director of General Library Division, Richmond, Virginia. ☒

A meeting to discuss general library matters as they relate to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Legislative and Finance Committee

January 20, 1995 - 9:30 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss legislative and financial matters related to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Nominating Committee

January 20, 1995 - 8 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss nominations relating to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

January 20, 1995 - 9:30 a.m. – Open Meeting
The Library of Virginia, 11th Street at Capitol Square, Library Development and Networking Division, Room 4-24, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to public library development and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Publications and Cultural Affairs Committee

January 20, 1995 - 9:30 a.m. - Open Meeting
The Library of Virginia, 11th Street at Capitol Square,
Office of the Director of Publications and Cultural Affairs,
Richmond, Virginia. ☒

A meeting to discuss matters related to publications
and cultural affairs and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian,
11th Street at Capitol Square, Richmond, VA 23219,
telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

January 18, 1995 - 11 a.m. - Open Meeting
February 15, 1995 - 11 a.m. - Open Meeting
March 15, 1995 - 11 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting; subject to cancellation unless there
are action items requiring the council's consideration.
Persons interested in attending should call one week
prior to the meeting date to ascertain whether or not
the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the
Treasury, P.O. Box 1879, Richmond, VA 23215, telephone
(804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

January 9, 1995 - 10 a.m. - Open Meeting
Richmond area; site to be determined.

March 21, 1995 - 9 a.m. - Open Meeting
Ashland area; site to be determined.

A regular meeting of the commission to consider such
matters as may be presented. Persons desiring to
participate in the meeting and requiring special
accommodations or interpreter services should contact
the commission's office.

Contact: Barbara Bingham, Administrative Assistant,
Commission on Local Government, 702 8th Street Office
Bldg., Richmond, VA 23219, telephone (804) 786-6508 or
(804) 786-1860/TDD ☎

March 20, 1995 - 11 a.m. - Open Meeting
March 20, 1995 - 7:30 p.m. - Public Hearing
Ashland area; site to be determined.

A meeting and a public hearing regarding the
proposed voluntary settlement between the Town of
Ashland and Hanover County. Persons desiring to
participate in the commission's proceedings and

requiring special accommodations or interpreter
services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant,
Commission on Local Government, 8th Street Office Bldg.,
Room 702, Richmond, VA 23219, telephone (804) 786-6508
or (804) 786-1860/TDD ☎

LONG-TERM CARE COUNCIL

Advisory Committee on Aging

† **January 10, 1995 - 10 a.m. - Open Meeting**
† **January 11, 1995 - 9 a.m. - Open Meeting**
Department of Social Services, 730 East Broad Street,
Richmond, Virginia. ☒

The committee will hear presentations of current
examples of state and local initiatives on aging and
long-term care services and continue to work on the
plan to ensure the coordination and enhancement of
service delivery at the local level.

Contact: Cathy Saunders, Director, Long-Term Care
Council, Department of Medical Assistance Services, 600 E.
Broad St., Richmond, VA 23219, telephone (804) 225-2912
or (804) 343-0634/TDD ☎

STATE LOTTERY DEPARTMENT

† **January 25, 1995 - 10 a.m. - Open Meeting**
State Lottery Department, 2201 West Broad Street,
Richmond, Virginia. ☒ (Interpreter for the deaf provided
upon request)

A regular monthly meeting of the board. Business will
be conducted according to items listed on the agenda
which has not yet been determined. Two periods for
public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State
Lottery Department, 2201 W. Broad St., Richmond, VA
23220, telephone (804) 367-3106 or FAX (804) 367-3116.

MARINE RESOURCES COMMISSION

† **January 24, 1995 - 9:30 a.m. - Open Meeting**
Marine Resources Commission, 2600 Washington Avenue,
4th Floor, Room 403, Newport News, Virginia. ☒

The commission will hear and decide marine
environmental matters at 9:30 a.m.; permit applications
for projects in wetlands, bottom lands, coastal primary
sand dunes and beaches; appeals of local wetland
board decisions; policy and regulatory issues. The
commission will hear and decide fishery management
items at approximately noon. Items to be heard are as
follows: regulatory proposals, fishery management

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plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 24, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-01-11 and VR 460-02-2.1100. Virginia Medicaid Qualifying Health Maintenance Organizations (HMOs)**. The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the state define health maintenance organizations in the state plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the state plan to define a Medicaid health maintenance organization as required.

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

Written comments may be submitted until February 24, 1995, to Susan Bareford, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

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

BOARD OF MEDICINE

January 12, 1995 - 9:30 a.m. – Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

January 13, 1995 - 9:30 a.m. – Open Meeting
Holiday Inn - Downtown, 814 Capitol Landing Road, Williamsburg, Virginia. ☎

† **January 18, 1995 - 9:30 a.m.** – Open Meeting
† **January 19, 1995 - 9:30 a.m.** – Open Meeting
Holiday Inn-Fredericksburg-North, U.S. 17 and I95, Falmouth, Virginia. ☎

January 18, 1995 - 9:30 a.m. – Open Meeting
Radisson Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia. ☎

January 26, 1995 - 9:30 a.m. – Open Meeting
Virginia Employment Commission, 3501 Lafayette Boulevard, Fredericksburg, Virginia. ☎

The informal conference committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

February 9, 1995 - 8 a.m. – Open Meeting
February 10, 1995 - 8 a.m. – Open Meeting
February 11, 1995 - 8 a.m. – Open Meeting
February 12, 1995 - 8 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The board will meet on February 9, 1995, in open session to conduct general board business, receive committee and board reports, nominate officers, and discuss any other items which may come before the board. The board will meet on February 9, 10, 11, and 12 to review reports, interview licensees, and make decisions on disciplinary matters. The board will also review any regulations that may come before it. The board will entertain public comment during the first 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Credentials Committee

February 11, 1995 - 8:15 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street

5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ⁶

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the committee. The committee will receive public comments of those persons appearing on behalf of candidates.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Legislative Committee

† **January 25, 1995 - 1:30 p.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ⁶ (Interpreter for the deaf provided upon request)

A meeting to discuss revenue sharing with the Board of Psychology and/or consider legislative amendments to resolve specific regulatory matters; approve regulatory review agenda for the public participation guidelines, physical therapy, physicians assistants, occupational therapy, and respiratory therapy; and discuss General Regulations 1.9(b), "Short Term Use of Pharmacotherapy for Weight Loss." The committee will entertain public comments during the first 15 minutes on any agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Licensure, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board of Occupational Therapy

January 10, 1995 - 10 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. ⁶ (Interpreter for the deaf provided upon request)

A meeting to receive reports from the chairperson and vice-chair, review regulations and public comments on regulatory review, elect officers, and discuss any other business that may come before the board. The chairperson will entertain public comments during the first 15 minutes of the meeting.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

Advisory Board on Physical Therapy

January 13, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street,

5th Floor, Board Room 4, Richmond, Virginia. ⁶
(Interpreter for the deaf provided upon request)

A meeting to review current regulations, respond to public comments concerning regulatory review and such other business that may come before the advisory board. The chairperson will entertain public comments following the adoption of the agenda for 15 minutes on agenda items.

Contact: Eugenia K. Dorson, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9923 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD)

† **January 15, 1995 - 4 p.m.** – Open Meeting
† **January 16, 1995 - 8 a.m.** – Open Meeting
Ramada Inn, Parham and Quioccasin Roads, Richmond, Virginia. ⁶

A regular monthly board meeting. Agenda can be obtained by calling Jane Helfrich.

Sunday Informal session-4 p.m.

Monday Informal session-8 a.m.
Tours-10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 787-3921.

State Human Rights Committee

January 27, 1995 - 9 a.m. – Open Meeting
Southside Complex, West Washington Street, Petersburg, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988.

Virginia Mental Health Planning Council

January 9, 1995 - 11 a.m. – Open Meeting
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Glen Allen, Virginia. ⁶

Calendar of Events

(Interpreter for the deaf provided upon request)

The council meets at least four times per year. Its mission is to advocate for a consumer and family oriented, integrated and community based system of mental health care of the highest quality. The council continuously monitors and evaluates the implementation of the state's mental health plan.

Contact: Jeanette DuVal, Planning Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 371-0359 or (804) 371-8977/TDD ☎

VIRGINIA MILITARY INSTITUTE

Board of Visitors

February 11, 1995 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall, Lexington, Virginia. ⚡

A meeting to receive committee reports and reports on visits to academic departments.

Contact: Col. Edwin L. Dooley, Jr., Secretary, Board of Visitors, Virginia Military Institute, Superintendent's Office, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINES, MINERALS AND ENERGY

February 1, 1995 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ⚡ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

January 9, 1995 - 9:30 a.m. – Open Meeting

February 13, 1995 - 9:30 a.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ⚡ (Interpreter for the deaf provided upon request)

A meeting of the Permit Streamlining/Standardization Work Group to advise the agency on development of standardized, streamlined permit applications. This workgroup meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† **February 3, 1995 - 9 a.m. – Open Meeting**
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ⚡

The meeting will include reports from the executive, finance, legislative, marketing, outreach, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the September meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave Martinsville, VA 24112, telephone (703) 666-8616 or (703) 666-8638/TDD ☎

BOARD OF NURSING

† **January 23, 1995 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. ⚡ (Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the Board of Nursing will conduct formal hearings in the afternoon. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

† **January 24, 1995 - 9 a.m. – Open Meeting**
† **January 25, 1995 - 9 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. ⚡ (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to nursing education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. The board will consider

report of the comprehensive review of the Public Participation Guidelines at 1 p.m. on January 24, 1995. Public comment will be received during an open forum beginning at 11 a.m. on Tuesday, January 24, 1995.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

† **January 26, 1995 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. Ⓢ (Interpreter for the deaf provided upon request)

A panel of the Board of Nursing will conduct formal hearings. If the agenda for the panel is not filled with formal hearings, two special conference committees will conduct informal conferences as time permits. Public comment will not be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

† **January 17, 1995 - 9 a.m.** – Open Meeting
† **January 18, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to conduct informal conferences.

Contact: Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

BOARD FOR OPTICIANS

† **February 10, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. Ⓢ

A meeting to review new enforcement procedures and contact lens sales by pharmacies and mail-order houses, discuss apprenticeship training program and other matters requiring board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF OPTOMETRY

† **January 11, 1995 - 8 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. Ⓢ (Interpreter for the deaf provided upon request)

Informal conference committee meetings. Brief public comment will be received at the beginning of the meeting.

Contact: Carol Stamey, Administrative Assistant, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS

February 17, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. Ⓢ (Interpreter for the deaf provided upon request)

A regular meeting to consider committee reports; consider recommendations on fees and standards of practice for Certified Rehabilitation Providers; consider comments on Regulations Governing the Certification of Substance Abuse Counselors; and respond to any correspondence and any other matters under the jurisdiction of the board. This is a public meeting and there will be a public comment period from 9:15 a.m. to 9:45 a.m.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912.

Advisory Board on Rehabilitation Providers

† **January 13, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. Ⓢ

A meeting to consider standards of practice and education and experience requirements for the certification of rehabilitation providers.

Contact: Janet Delorme, Research Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

Calendar of Events

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **January 12, 1995 - Noon** – Open Meeting
Soza and Company, 8550 Arlington Boulevard, Fairfax, Virginia.

A three-member committee of the board will discuss the Virginia Condominium Regulations. This review is pursuant to Executive Order 15(94).

Contact: Debra Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-9142.

BOARD OF PSYCHOLOGY

† **January 24, 1995 - 10 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct general board business. Public comment will be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

Advisory Committee on Certified Practices

† **January 19, 1995 - 10 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A meeting to consider standards of practice, and education and experience requirements for the certification of sex offender treatment providers.

Contact: Janet Delorme, Research Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

Credentials Committee

† **January 24, 1995 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

The Credentials Committee will conduct an informal credentials conference in accordance with §§ 9-6.14:11 and 54.1-2400(7) of the Code of Virginia to determine the eligibility of an applicant for licensure. No public comment will be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9913.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **January 12, 1995 - 10 a.m.** – Open Meeting
Richmond Marriott, 500 East Broad Street, Richmond, Virginia.

A quarterly meeting. Agenda will include a presentation on legislative updates, confirmation of executive committee actions, and other items of public telecommunications interest.

Contact: Carol Crawley, Executive Secretary, Virginia Public Telecommunications Board, 110 S. 7th St., 1st Floor, Richmond, VA 23219.

REAL ESTATE APPRAISER BOARD

January 31, 1995 - 10 a.m. – Open Meeting
March 7, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

Plastics Subcommittee

January 10, 1995 - 10 a.m. – Open Meeting
Fauquier National Bank Board Room, 10 Courthouse Plaza, Warrenton, Virginia.

A meeting to discuss barriers to the development of markets for recycled plastics and alternatives.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 762-4488.

VIRGINIA RESOURCES AUTHORITY

January 10, 1995 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

February 14, 1995 - 9:30 a.m. – Open Meeting
Virginia Resources Authority, The Mutual Building, 909 East Main Street, Board Room, Suite 607, Richmond, Virginia.

The board will meet to (i) approve minutes of its prior meeting; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

February 1, 1995 - 10 a.m. – Open Meeting
Ramada Inn, 1130 Motel Drive, Allegheny Room, Woodstock, Virginia. ☒

† **March 8, 1995 - 10 a.m.** – Open Meeting
City Hall, Municipal Building, Patton Street, City Council Chambers, Danville, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

STATE BOARD OF SOCIAL SERVICES

January 18, 1995 - 9 a.m. – Open Meeting
January 19, 1995 - 9 a.m. – Open Meeting
Koger Executive Center West, 1604 Santa Rosa Road, Wythe Building, Richmond, Virginia. ☒

A work session and formal business meeting.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

BOARD OF SOCIAL WORK

January 19, 1995 - 1 p.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒

A regularly scheduled board meeting to discuss training curriculum.

Contact: Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9914.

January 20, 1995 - 8:30 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Room 3, Richmond, Virginia. ☒

A formal hearing.

Contact: Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9914.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **January 19, 1995 - 9 a.m.** – Open Meeting
Colonial Farm Credit, 6526 Mechanicsville Pike, Mechanicsville, Virginia. ☒

A regular bi-monthly business meeting.

Contact: Linda J. Cox, Administrative Assistant, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

COMMONWEALTH TRANSPORTATION BOARD

† **January 18, 1995 - 10 a.m.** – Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Ad Hoc Committee to Study Costs will meet to study ways to reduce costs associated with rest areas, consulting fees, and other expenditures of the department.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

January 18, 1995 - 2 p.m. – Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

January 19, 1995 - 10 a.m. – Open Meeting
Department of Transportation, 1401 East Broad Street,

Calendar of Events

Richmond, Virginia. ^{si} (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

VIRGINIA TRANSPORTATION SAFETY BOARD

February 2, 1995 - 9 a.m. – Open Meeting

NOTE: CHANGE IN LOCATION

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ^{si}

A quarterly meeting of the board. The board will confer with the Secretary of Transportation and the Commissioner of Motor Vehicles regarding transportation safety issues.

Contact: Angelisa Jennings, Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-2026.

TREASURY BOARD

January 18, 1995 - 9 a.m. – Open Meeting

February 15, 1995 - 9 a.m. – Open Meeting

March 15, 1995 - 9 a.m. – Open Meeting

James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Room, Richmond, Virginia. ^{si}

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

VIRGINIA RACING COMMISSION

† January 18, 1995 - 9:30 a.m. – Open Meeting

Tyler Building, 1300 East Main Street, Richmond, Virginia.

^{si}

A regular commission meeting including a review of regulations and a progress report on Colonial Downs.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

BOARD FOR THE VISUALLY HANDICAPPED

January 19, 1995 - 2 p.m. – Open Meeting

Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ^{si} (Interpreter for the deaf provided upon request)

A quarterly meeting to review policy and procedures. The board reviews and comments on the department's budget.

Contact: Mary Schellenger, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145 or toll-free 1-800-622-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Council

February 25, 1995 - 10 a.m. – Open Meeting

State Library for the Visually and Physically Handicapped, 395 Azalea Avenue, Richmond, Virginia. ^{si} (Interpreter for the deaf provided upon request)

The council meets quarterly to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is February 11, 1995, at 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

January 19, 1995 - 10:30 a.m. – Open Meeting

Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products pertaining to the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

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VIRGINIA WAR MEMORIAL FOUNDATION

Board of Trustees

† **January 17, 1995 - 3 p.m.** – Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia. Ⓢ (Interpreter for the deaf provided
upon request)

A regular business meeting.

Contact: Jon C. Hatfield, Deputy Director for
Administration, Division of Engineering and Buildings,
Department of General Services, 805 E. Broad St., Room
101, Richmond, VA 23219, telephone (804) 786-3263 or
(804) 786-6152/TDD ☎

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **February 2, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. Ⓢ

An informal fact-finding conference in regard to the
Board for Waterworks and Wastewater Works
Operators v. Warren Hunter Martin. Persons desiring
to participate in the meeting and requiring special
accommodations or interpreter services should contact
the department at least 10 days prior to the meeting
so that suitable arrangements can be made for
appropriate accommodations. The department fully
complies with the Americans with Disabilities Act.

Contact: Carol A. Mitchell, Assistant Director, Board for
Waterworks and Wastewater Works Operators, 3600 W.
Broad St., Richmond, VA 23230-4917 or (804) 367-8524.

THE COLLEGE OF WILLIAM AND MARY

February 26, 1995 – Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that The College of William
and Mary intends to amend regulations entitled: **VR
187-01-02. Motor Vehicle Parking and Traffic Rules
and Regulations.** The purpose of the proposed
amendment is to make minor changes in fees and lot
designations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until February 26,
1995, to Nancy S. Nash, Office of Administration and
Finance, The College of William and Mary, P.O. Box 8795,
Williamsburg, Virginia 23187-8795.

Contact: Mark Gettys, Associate Director, Auxiliary

Services, The College of William and Mary, P.O. Box 8795,
Williamsburg, VA 23187-8795, telephone (804) 221-2435.

BOARD OF YOUTH AND FAMILY SERVICES

January 11, 1995 - 10 a.m. – Open Meeting
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond,
Virginia. Ⓢ

The committee meets to hear presentations on various
aspects of the operations of the Department of Youth
and Family Services and the responsibilities and duties
of the board.

Contact: Donald R. Carignan, Policy Coordinator,
Department of Youth and Family Services, P.O. Box 1110,
Richmond, VA 23208-1110, telephone (804) 371-0692.

January 12, 1995 - 10 a.m. – Open Meeting
700 Centre, 7th and Franklin Streets, 4th Floor, Richmond,
Virginia. Ⓢ

A general meeting to review programs recommended
for certification or probation; consider adoption of
draft policies, and other matters that may come
before the board.

Contact: Donald R. Carignan, Policy Coordinator,
Department of Youth and Family Services, P.O. Box 1110,
Richmond, VA 23208-1110, telephone (804) 371-0692.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 9, 1995

Alcoholic Beverage Control Board, Virginia
Barbers, Board for
Funeral Directors and Embalmers, Board of
Health, Department of
- Food Service Advisory Committee
Hearing Aid Specialists, Board for
Local Government, Commission on
Mines, Minerals and Energy, Department of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Virginia Mental Health Planning Council

January 10

Asbestos Licensing and Lead Certification, Board for
† Family and Children's Trust Fund
Funeral Directors and Embalmers, Board of
Higher Education for Virginia, State Council on
† Independent Living Council, Statewide
† Long-Term Care Council

Calendar of Events

- Advisory Committee on Aging Medicine, Board of
- Advisory Board on Occupational Therapy

Recycling Markets Development Council, Virginia

- Plastics Subcommittee

Resources Authority, Virginia

January 11

Agriculture and Consumer Services, Department of

- Virginia Winegrower's Advisory Board

Community Colleges, State Board for

Contractors, Board for

Environmental Quality, Department of

- Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

† Long-Term Care Council

- Advisory Committee on Aging

† Optometry, Board of

Youth and Family Services, Board of

January 12

Agriculture and Consumer Services, Department of

- Virginia Egg Board
- Pesticide Control Board

† Child Day-Care Council

Community Colleges, State Board for

Education, Board of

Forestry, Board of

Medicine, Board of

† Professional and Occupational Regulation, Board for

† Public Telecommunications Board, Virginia

Youth and Family Services, Board of

January 13

Agriculture and Consumer Services, Department of

- Pesticide Control Board
- Virginia Pork Industry Board

† Auctioneers Board

† HIV Prevention Community Planning Committee, Virginia

Medicine, Board of

- Advisory Board on Physical Therapy

† Professional Counselors, Board of

- Advisory Board on Rehabilitation Providers

January 15

† Mental Health, Mental Retardation and Substance Abuse Services, State Board of

January 16

† Mental Health, Mental Retardation and Substance Abuse Services, State Board

January 17

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

Corrections, Board of

- Correctional Services Committee

† Fire Services Board, Virginia

- Executive Committee and Legislative/Liaison

Committee

† Housing Development Authority, Virginia

† Nursing Home Administrators, Board of

† War Memorial Foundation, Virginia

- Board of Trustees

January 18

Audiology and Speech-Language Pathology, Board of

Corrections, Board of

- Administration Committee

Deaf and Hard-of-Hearing, Department of

- Telecommunications Relay Services Advisory Board

† Emergency Planning Committee, Local - Henrico County

Environmental Quality, Department of

- Work Group on Detection/Quantitation Levels
- Technical Advisory Committee on Vegetative Waste Management and Yard Waste Composting Regulations

† Fire Services Board, Virginia

- Training Committee

† Information Management, Council on

Local Debt, State Council on

Medicine, Board of

† Nursing Home Administrators, Board of

Social Services, State Board of

Transportation Board, Commonwealth

Treasury Board

† Virginia Racing Commission

January 19

† Chesapeake Bay Local Assistance Board

- Central Area Review Committee

Corrections, Board of

- Liaison Committee

† Fine Arts, Virginia Museum of

- Board of Trustees

† Health, Department of

- Commissioner's Waterworks Advisory Committee

Library Board

- Executive Committee

† Medicine, Board of

† Psychology, Board of

- Advisory Committee on Certified Practices

Social Services, State Board of

Social Work, Board of

† Soil and Water Conservation Board

Transportation Board, Commonwealth

Visually Handicapped, Board for the

Voluntary Formulary Board, Virginia

January 20

† Building Code Technical Review Board, State

Library Board

- Automation and Networking Committee
- By-Laws Committee
- General Library Committee
- Legislative and Finance Committee
- Nominating Committee
- Public Library Development Committee
- Publications and Cultural Affairs Committee

Calendar of Events

- Social Work, Board of
- January 22**
Accountancy, Board for
- January 23**
Accountancy, Board for
Alcoholic Beverage Control Board, Virginia
† Nursing, Board of
- January 24**
Accountancy, Board for
Agricultural Council, Virginia
Health Services Cost Review Council, Virginia
† Marine Resources Commission
† Nursing, Board of
- January 25**
† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
† Emergency Planning Committee, Local - Gloucester
Emergency Planning Committee, Local - Roanoke Valley
Environmental Quality, Department of
- Technical Advisory Committee on Vegetative Waste
Management and Yard Waste Composting
Regulations
† Health, Board of
† Lottery Department, State
† Medicine, Board of
- Legislative Committee
† Nursing, Board of
† Psychology, Board of
- Credentials Committee
- January 26**
† Agriculture and Consumer Services, Department of
- Virginia Irish Potato Board
† Health, Board of
Medicine, Board of
† Nursing, Board of
- January 27**
† Elections, State Board of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- State Human Rights Committee
- January 30**
Cosmetology, Board for
- January 31**
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board of
- Board for Interior Designers
† Employment Commission, Virginia
- State Advisory Board
Health, Department of
- Food Service Advisory Committee
Real Estate Appraiser Board
- February 1**
Mines, Minerals and Energy, Department of
Sewage Handling and Disposal Appeals Review Board
- February 2**
Transportation Safety Board, Virginia
† Waterworks and Wastewater Works Operators, Board
for
- February 3**
† Natural History, Virginia Museum of
- Board of Trustees
- February 6**
Alcoholic Beverage Control Board, Virginia
Barbers, Board for
- February 7**
Hopewell Industrial Safety Council
- February 9**
† Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Medicine, Board of
- February 10**
Medicine, Board of
† Opticians, Board for
- February 11**
Medicine, Board of
- Credentials Committee
Military Institute, Virginia
- February 12**
Medicine, Board of
- February 13**
Mines, Minerals and Energy, Department of
- February 14**
Resources Authority, Virginia
- February 15**
Agriculture and Consumer Services, Department of
- Virginia Corn Board
Local Debt, State Council on
Treasury Board
- February 16**
Agriculture and Consumer Services, Department of
- Virginia Corn Board
† Chesapeake Bay Local Assistance Board
- Central Area Review Committee
- Northern Area Review Committee
- February 17**
Professional Counselors, Board of
- February 22**
Alcoholic Beverage Control Board, Virginia

Calendar of Events

† Chesapeake Bay Local Assistance Board
- Southern Area Review Committee

February 25

Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

March 3

† HIV Prevention Community Planning Committee,
Virginia

March 7

Hopewell Industrial Safety Council
Real Estate Appraiser Board

March 8

† Sewage Handling and Disposal Appeals Review
Board

March 15

Local Debt, State Council on
Treasury Board

March 20

Local Government, Commission on

March 21

Local Government, Commission on

March 27

Cosmetology, Board for

PUBLIC HEARINGS

January 10, 1995

Funeral Directors and Embalmers, Board of

January 13

Auctioneers Board

February 1

† Education, Board of

February 10

Health, Board of

February 15

Health, Board of

March 20

Local Government, Commission on