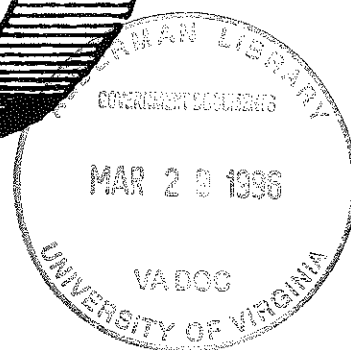
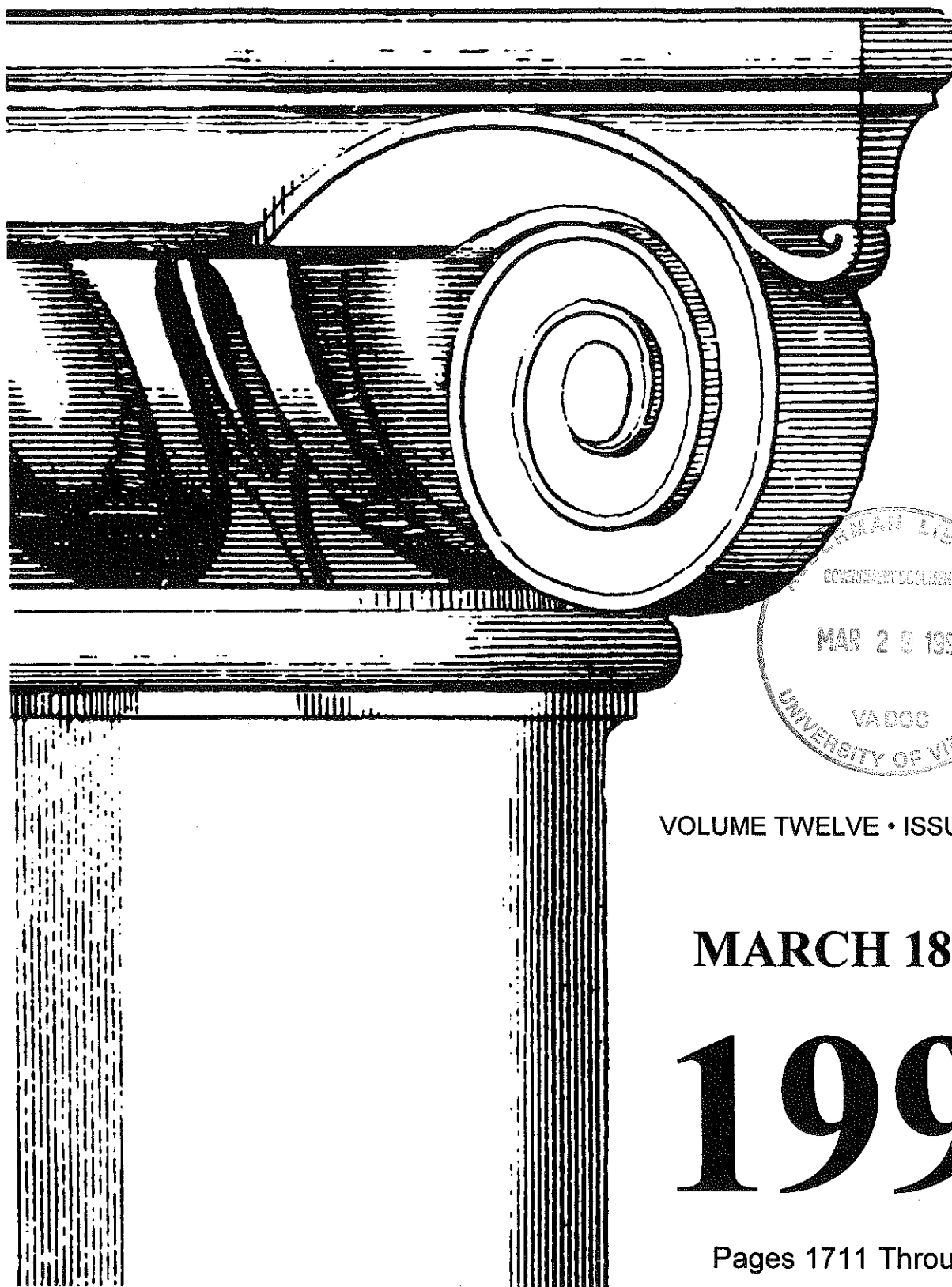


CDD 5/R 26/12-13 0.2

# THE VIRGINIA REGISTER

OF REGULATIONS



VOLUME TWELVE • ISSUE THIRTEEN

MARCH 18, 1996

# 1996

Pages 1711 Through 1838

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in *The Virginia Register of Regulations*. In addition, the *Virginia Register* is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the *Virginia Tax Bulletin* issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

#### ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration

of the 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

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

#### EMERGENCY REGULATIONS

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

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

#### STATEMENT

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

#### CITATION TO THE VIRGINIA REGISTER

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

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Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman; W. Tayloe Murphy, Jr., Vice Chairman; Robert L. Calhoun; Russell M. Carneal; Bernard S. Cohen; Jay W. DeBoer; Frank S. Ferguson; E. M. Miller, Jr.; Jackson E. Reasor, Jr.; James B. Wilkinson.

Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

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# PUBLICATION DEADLINES AND SCHEDULES

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## March 1996 through December 1996

**Material Submitted  
By Noon Wednesday**

**Will Be Published On**

**Volume 12**

February 28, 1996

March 18, 1996

**INDEX 2 - Volume 12**

**April 1996**

March 13, 1996

April 1, 1996

March 27, 1996

April 15, 1996

April 10, 1996

April 29, 1996

April 24, 1996

May 13, 1996

May 8, 1996

May 27, 1996

May 22, 1996

June 10, 1996

June 5, 1996

June 24, 1996

**INDEX 3 - Volume 12**

**July 1996**

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July 8, 1996

July 3, 1996

July 22, 1996

July 17, 1996

August 5, 1996

July 31, 1996

August 19, 1996

August 14, 1996

September 2, 1996

August 28, 1996

September 16, 1996

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**October 1996**

**Volume 13**

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September 30, 1996

September 25, 1996

October 14, 1996

October 9, 1996

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October 23, 1996

November 11, 1996

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November 25, 1996

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**January 1997**

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# NOTICES OF INTENDED REGULATORY ACTION

## Symbol Key

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

### DEPARTMENT OF CORRECTIONAL EDUCATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Correctional Education intends to consider promulgating regulations entitled: **6 VAC 10-10-10 et seq. Public Participation Guidelines**. The purpose of the proposed action is to provide interested parties with the means to request the development, amendment or repeal of a regulation. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-6.14:7.1 and 22.1-343 of the Code of Virginia.

Public comments may be submitted until April 5, 1996.

**Contact:** Mark Monson, Budget Manager, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-3310, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

VA.R. Doc. No. R96-219; Filed February 13, 1996, 11:49 a.m.

### DEPARTMENT OF EDUCATION (BOARD OF)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to consider promulgating regulations entitled: **8 VAC 20-610-10 et seq. Regulations Governing Alternative Education Pilot Projects**. The purpose of the proposed regulation is to satisfy the need to provide direction for the establishment and operation of certain alternative education programs in accordance with the Code of Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 22.1-253.13:1 and 22.1-279.3 of the Code of Virginia.

Public comments may be submitted until March 22, 1996, to Diane L. Jay, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120.

**Contact:** James E. Laws, Jr., Administrative Assistant to the Superintendent for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or FAX (804) 225-2524.

VA.R. Doc. No. R96-202; Filed January 30, 1996, 1:50 p.m.

### DEPARTMENT OF HEALTH (STATE BOARD OF)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control**. The purpose of the proposed action is to add a new section addressing HIV testing protocol for gamete donors to comply with Chapter 519 of the 1995 Virginia Acts of Assembly (§§ 32.1-45.3 and 54.1-2971.1 of the Code of Virginia). The proposed amendment will address such testing and the rejection of ova and sperm of donors who test HIV positive prior to the use of such gametes for treating infertility. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-45.3 of the Code of Virginia.

Public comments may be submitted until April 4, 1996.

**Contact:** Casey W. Riley, Director, Bureau of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 225-4844 or FAX (804) 225-3517.

VA.R. Doc. No. R96-218; Filed February 13, 1996, 10:29 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**. The purpose of the proposed action is to establish a new application review process for certificate of public need proposals involving the establishment of new nursing homes or the addition of beds to existing nursing homes. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until April 4, 1996.

**Contact:** Wendy V. Brown, Project Review Manager, Office of Resources Development, Department of Health, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7463 or FAX (804) 786-6776.

VA.R. Doc. No. R96-216; Filed February 13, 1996, 10:29 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-360-10 et seq. Virginia State Medical Facilities Plan: Nursing Home Services**. The purpose of the proposed action is to

# Notices of Intended Regulatory Action

amend the project review standards for nursing home certificate of public need applications to specify the need projection methods to be used in the new application review process established in 12 VAC 5-220-10 et seq., Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until April 4, 1996.

**Contact:** Wendy V. Brown, Project Review Manager, Office of Resources Development, Department of Health, 1500 E. Main St., Suite 105, Richmond, VA 23219, telephone (804) 786-7463 or FAX (804) 786-6776.

VA.R. Doc. No. R96-217; Filed February 13, 1996, 10:29 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-120-360 et seq., Part VI, MEDALLION II**, and amending regulations entitled **12 VAC 30-10-60 et seq., Coverage and Eligibility; and 12 VAC 30-10-530, Utilization and Control**. The purpose of the proposed action is to promulgate permanent regulations to replace the emergency regulations implementing the MEDALLION II mandatory HMO enrollment program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until March 20, 1996, to Susan Prince, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

VA.R. Doc. No. R96-204; Filed January 30, 1996, 4:10 p.m.

## BOARDS OF NURSING AND MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled: **18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners**. The purpose of the proposed action is to implement editorial amendments recommended by the regulatory review pursuant to Executive Order 15(94) and consider changes to 18 VAC 90-40-100 requiring monthly site

visits and chart review. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until April 17, 1996.

**Contact:** Nancy Durrett, Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-245; Filed February 28, 1996, 11:34 a.m.

## BOARD OF PSYCHOLOGY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology**. The purpose of the proposed action is to consider an increase in fees for licensees as required by statutory mandate in order to cover expenses of administering its regulatory program. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until April 17, 1996.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-244; Filed February 28, 1996, 11:34 a.m.

## VIRGINIA WASTE MANAGEMENT BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to consider promulgating regulations entitled: **9 VAC 20-160-10 et seq. Voluntary Remediation**. The purpose of this proposal is to promulgate voluntary remediation regulations to remain consistent with Chapters 609 and 622 of the 1995 Acts of Assembly, which established a voluntary remediation program in Virginia. The adopted legislation added §§ 10.1-1429.1 through 10.1-1429.3 to the Code of Virginia.

**Basis and Statutory Authority:** The basis for this proposed regulatory action is § 10.1-1429.1 of the Code of Virginia. Specifically, § 10.1-1429.1 A requires the Virginia Waste Management Board (Board) to promulgate regulations to allow persons who own, operate, have a security interest in or enter into a contract for the purchase of contaminated

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## Notices of Intended Regulatory Action

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property to voluntarily remediate releases of hazardous substances, hazardous waste, solid waste or petroleum.

**Need:** The promulgation of these regulations is required § 10.1-2439.1 A of the Code of Virginia.

**Subject Matter and Intent:** The board proposes to create Voluntary Remediation Regulations. The regulations will establish standards and procedures for persons conducting voluntary remediation at sites where remediation has not been clearly mandated by the Environmental Protection Agency, the department, or a court pursuant to the Comprehensive Environmental Response and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where the jurisdiction of those statutes has been waived. The regulations shall provide for:

1. The establishment of methodologies to determine site specific risk-based remediation standards.
2. The establishment of procedures that minimize delay and expense of the remediation, to be followed by a person volunteering to remediate a release and by the department in the processing of submissions and overseeing remediation.
3. The issuance of certifications of satisfactory completion of remediation, based on then-present conditions and available information, where voluntary cleanup achieves applicable cleanup standards or where the department determines that no further action is required.
4. Procedures to waive or expedite issuance of any permits required to initiate and complete a voluntary cleanup consistent with applicable federal law.
5. Registration fees to be collected from persons conducting voluntary remediation to defray the actual reasonable costs of the voluntary remediation program expended at the site not to exceed the lesser of \$5,000 or one percent of the cost of the remediation.

**Estimated Impacts:** The intent of the proposed regulations is to provide a program that allows persons to voluntarily clean up property and to obtain a certification from DEQ that no further action is required once the property has attained applicable cleanup standards. These applicable standards would be developed through the regulations based on concern about human health and the environment and the available technology for cleanup. The department will solicit comments from the public regarding the economic impact of the regulations.

**Alternatives:** The board is required to promulgate Voluntary Remediation Regulations pursuant to § 10.1-1429.1 of the Code of Virginia. The regulations can be developed using presumptive standards, performance standards, risk based standards, and/or other alternative approaches. Comments made during the NOIRA process will be considered during the drafting of the regulations.

**Comments:** The department seeks oral and written comments from interested persons on the intended regulatory action.

Written comments should be submitted to Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-1009, (804) 762-4218, TDD (804) 762-4021, Fax (804) 762-4224.

**Intent to Hold a Public Hearing:** The board intends to hold at least one public hearing on this proposed action after it is published in the Virginia Register of Regulations.

Statutory Authority: § 10.1-1429 of the Code of Virginia.

Public comments may be submitted until April 20, 1996.

**Contact:** Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 762-4218, FAX (804) 762-4224, or (804) 762-4021/TDD ☎

VA.R. Doc. No. R96-208; Filed January 31, 1996, 11:47 a.m.



# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

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

### DEPARTMENT OF HEALTH (STATE BOARD OF)

**May 20, 1996 - 7 p.m.** -- Public Hearing  
Loudoun County Government Center, Market Street,  
Leesburg, Virginia.

For more information contact: Larry Yates (703) 777-0234

**May 20, 1996 - 7 p.m.** -- Public Hearing  
Franklin County Board of Supervisors Meeting Room, Main  
Street, Rocky Mount, Virginia.

For more information contact: Tim Baker (540) 638-2311

**May 21, 1996 - 7 p.m.** -- Public Hearing  
Juvenile Court Building, 701 Princess Anne Street,  
Fredericksburg, Virginia.

For more information contact: Gary Switzer (540) 899-4797

**May 21, 1996 - 7 p.m.** -- Public Hearing  
Eastern Shore Community College, Melfa, Virginia.

For more information contact: Artie Miles (804) 787-5886

**May 22, 1996 - 7 p.m.** -- Public Hearing  
Newport News Health Department Auditorium, 416 J. Clyde  
Morris Boulevard, Newport, News, Virginia.

For more information contact: Larry Nycum (804) 253-4813

**May 22, 1996 - 7 p.m.** -- Public Hearing  
Lord Fairfax Community College Meeting Room, Woodstock,  
Virginia.

For more information contact: Kelly Vanover (540) 722-3480

**May 23, 1996 - 7 p.m.** -- Public Hearing  
Central Library Auditorium, Virginia Beach, Virginia.

For more information contact: Frank "Skip" Scanlon (804)  
491-5940

**May 23, 1996 - 7 p.m.** -- Public Hearing  
Augusta County Government Center, Route 11, Verona,  
Virginia.

For more information contact: Allen Gutshall (540) 332-7830

**May 28, 1996 - 7 p.m.** -- Public Hearing  
Board of Supervisors Room, Richmond, Virginia.

For more information contact: Mike Campbell (804) 672-  
4530

**May 29, 1996 - 7 p.m.** -- Public Hearing  
Farmville Area Bus Station, Farmville, Virginia.

For more information contact: Wayne Lynhart (804) 392-  
3984

**May 29, 1996 - 7 p.m.** -- Public Hearing  
Blacksburg Municipal Building, 300 South Main Street,  
Blacksburg, Virginia.

For more information contact: Bruce Hicks (540) 676-5520

**May 30, 1996 - 7 p.m.** -- Public Hearing  
Washington County Library, Oak Hill and Valley Street,  
Abingdon, Virginia.

For more information contact: Bruce Hicks (540) 676-5520

**May 31, 1996** -- Public comments may be submitted until this  
date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-610-10 et seq. Sewage Handling and Disposal Regulations.** The purpose of the proposed amendments is to (i) increase the separation distance to a water table below a drainfield from two to 20 inches to 18 or 24 inches; (ii) increase the separation distance to bedrock below a drainfield from 12 inches to 18 inches; (iii) encourage the use of new and innovative onsite wastewater technologies by granting provisional approval to promising new systems; (iv) increase ground water protection standards for large onsite systems (mass drainfields); (v) reduce the installation depth for conventional systems from 18 inches to six to 12 inches; (vi) add provisions that will make it easier for homeowners to know when to pump their septic tank; and (vii) make administrative changes designed to revise cumbersome portions of the regulations and make it easier for the public to comply with the regulations (i.e., reduced "red tape").

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, P.O. Box 2448, Suite 117,

# Public Comment Periods - Proposed Regulations

Richmond, VA 23218, telephone (804) 786-1750 or FAX (804) 225-4003.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

**April 22, 1996 - 10 a.m.** -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.

**May 20, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-70-10 et seq. Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code/1993.** The purpose of the proposed amendments is to establish standards for automatic sprinkler systems in patient rooms and other areas customarily used for patient care in hospitals, regardless of when such facilities were constructed.

Statutory Authority: § 36-99.9:1 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7170.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**May 17, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **12 VAC 30-120-450 through 12 VAC 30-120-480. Part VII: Assisted Living Services for Individuals Receiving Auxiliary Grants Residing in Adult Care Residences.** The proposed regulation will allow the Department of Medical Assistance Services (DMAS) to establish coverage criteria for two types of assisted living to recipients of auxiliary grants residing in licensed adult care residences: (i) regular assisted living for those individuals who do not meet the criteria for waiver services but who require at least a moderate level of assistance with activities of daily living, and (ii) intensive assisted living for those individuals who meet the criteria for waiver services. This regulation was originally begun in 1994. It was delayed because the Department of Social Services (DSS) had to promulgate regulations prior to DMAS developing its program. These DMAS regulations have been revised to conform to the DSS regulations now in place.

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

Public comments may be submitted until May 17, 1996, to Cindi Bowling, LTC Policy Division, Department of Medical

Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

## BOARD OF NURSING

**March 26, 1996 - 1 p.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia.

**May 17, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to adopt regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The purpose of the proposed amendment is to replace an emergency regulation, which established a biennial renewal fee of \$20 for certified nurse aides.

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

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909.

## BOARD OF PHARMACY

**March 26, 1996 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

**May 17, 1996** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Regulations of the Board of Pharmacy.** The purpose of the proposed amendments is to permit more flexibility in the use of technology for the transmittal and delivery of prescription drugs, to relax its requirements for continuing education, and to conform with state and federal law. The board also proposes requirements for the compounding of sterile products consistent with recognized industry standards.

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

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911.

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## Symbol Key

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

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### DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: 12 VAC 5-610-10 et seq. Sewage Handling and Disposal Regulations (amending 12 VAC 5-610-120, 12 VAC 5-610-170, 12 VAC 5-610-250, 12 VAC 5-610-260, 12 VAC 5-610-370, 12 VAC 5-610-470, 12 VAC 5-610-700, 12 VAC 5-610-810, 12 VAC 5-610-820, 12 VAC 5-610-950, 12 VAC 5-610-1080, and 12 VAC 5-610-1140; adding 12 VAC 5-610-441 through 12 VAC 5-610-449 and 12 VAC 5-610-815; repealing 12 VAC 5-610-110, 12 VAC 5-610-150, 12 VAC 5-610-830, 12 VAC 5-610-840, and 12 VAC 5-610-1150).

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Public Hearing Dates:

May 20, 1996 - 7 p.m. (Leesburg)  
May 20, 1996 - 7 p.m. (Rocky Mount)  
May 21, 1996 - 7 p.m. (Fredericksburg)  
May 21, 1996 - 7 p.m. (Eastern Shore)  
May 22, 1996 - 7 p.m. (Newport News)  
May 22, 1996 - 7 p.m. (Woodstock)  
May 23, 1996 - 7 p.m. (Virginia Beach)  
May 23, 1996 - 7 p.m. (Verona)  
May 28, 1996 - 7 p.m. (Henrico County)  
May 29, 1996 - 7 p.m. (Farmville)  
May 29, 1996 - 7 p.m. (Blacksburg)  
May 30, 1996 - 7 p.m. (Abingdon)

Public comments may be submitted until May 31, 1996.  
(See Calendar of Events section  
for additional information)

Basis: The authority for the Sewage Handling and Disposal Regulations is found in § 32.1-164 of the Code of Virginia. The Code specifically authorizes the Board of Health to adopt regulations governing the location and construction of septic systems, and other onsite sewage systems, so that public health is protected and ground and surface water contamination is prevented.

Purpose: The proposed revisions remove restrictions in the current regulations, provide equal or better environmental protection, and provide for better flexibility in adopting to changing technology. The revisions will generally provide the citizens of Virginia with both more development options and more environmentally sound development options. The proposed changes were initiated primarily from recommendations made by the Task Force on Septic Tank Regulations which was charged with examining the adequacy of the regulations relative to ground water contamination. The task force was comprised of individuals representing the development community, environmental interests, private sector soil scientists, industry, academia and affected regulatory agencies. In July of 1991 the task force issued a report suggesting 11 changes to improve the onsite program.

Subsequently, the USEPA issued regulatory guidelines for the siting and operation of onsite systems under Section 6217 of the Coastal Zone Management Act. The USEPA requires "...states with coastal zone management programs to develop coastal nonpoint pollution programs to control sources of nonpoint pollution which degrade coastal water quality or face the loss of federal grant funds." The increased separation distance to water table and rock, septic tank maintenance, and mass drainfield requirements are necessary to comply with the EPA recommendations.

Substance: The proposed revisions include:

1. Increasing the separation distance to a water table below a drainfield from 2 to 20 inches to 18 or 24 inches.
2. Increasing the separation distance to bedrock below a drainfield from 12 inches to 18 inches.
3. Wording to encourage the use of new and innovative onsite wastewater technologies by granting provisional approval to promising new systems.
4. Increasing ground water protection standards for large onsite systems (mass drainfields).
5. Reducing the installation depth for conventional systems from 18 inches to 6 to 12 inches.
6. Adding provisions that will make it easier for homeowners to know when to pump their septic tank.
7. Making administrative changes designed to revise cumbersome portions of the regulations and make it easier for the public to comply with the regulations (i.e., reduced "red tape").

Issues: There are two primary advantages of the proposed regulation changes to the public and the Commonwealth. First, ground water contamination due to septic systems will be reduced. This will provide protection against waterborne illnesses and minimize the need for localities and the Commonwealth to provide for public water and sewerage facilities. Second, this increase in ground water protection will occur while simultaneously allowing an increase in the number of approvable sites. In addition to providing individual citizens with new building options the Commonwealth and localities will benefit from the expanding tax base. This two-fold advantage is possible because of careful regulatory revisions which incorporate recent scientific research findings.

There are no disadvantages to the agency or Commonwealth of implementing the proposed amendments to the regulation. The primary short-term economic disadvantage to the public of the proposed amendments is that mass drainfield requirements impose new restrictions on large scale onsite development. These increased restrictions include the installation of ground water monitoring wells, ground water sampling requirements, and a 100% repair area to replace the system when it fails. Long term advantages include

having the ability to repair the system onsite rather than having to provide sanitary sewer facilities, and identifying ground water contamination before the levels exceed public health standards and jeopardize nearby residents. The proposed revisions also formalize existing requirements to evaluate the impact of nitrogen loading and ground water mounding which have been implemented under general authority provisions of the current regulations. These requirements are included in the least intrusive manner that appears to comply with USEPA guidance on mass drainfields. The department believes the long-term advantages outweigh the short-term disadvantages.

**Estimated Impact:** The department typically processes over 32,000 applications per year for onsite wastewater systems. The department's denial rate varies but generally runs between eight and 10%. The proposed changes have been carefully developed to eliminate, or at least minimize, any adverse impact on the development community while simultaneously increasing environmental and public health protection. Statewide, the department's eight to 10% denial rate is expected to decline slightly. A slight increase in the denial rate may occur in some localized areas having coarse sandy soils, with the primary impact being on the Eastern Shore. For example, based on previous year's work, the department expects an increase of about 12 permit denials in Accomack County, out of approximately 440 applications processed annually. A possible solution has been identified and a committee of public and private sector individuals has been established to evaluate the appropriate use of sand-on-sand fills.

Approximately 99.9% of all sites which can presently be developed will remain so. Moreover, some sites which cannot be developed under current implementation of the present regulations will be opened for development. The net result should be an increase in the number of sites that the department can permit. Additionally, new provisions are incorporated which encourage innovative technology that will promote this trend over time.

Some of the proposed changes will reduce negative environmental impacts but none of the revisions will eliminate the impact of onsite systems on the environment. Some changes will increase the cost of developing some, but not all, property. None of the costs are expected to be exorbitant and every attempt has been made to minimize impact on residential development. Some of the rule changes will open up heretofore undevelopable land; however, not to a great extent. The proposed changes are modest and realistic and overall are believed to have a net positive impact for the public at large. A discussion of the rationale and impact of each proposed revision to the regulations follows.

## 1. Increased Stand-Off to Water Table

### Cause for Change

The first and primary recommendation of the Task Force on Septic Tank Regulations specifies:

"Virginia should increase its vertical separation distance requirements to a minimum of 24 inches of separation between the bottom of septic trenches and the seasonal high water table in Group I soils and a minimum of 18 inches of separation between the bottom of septic

trenches and the seasonal high water table in Group II and III soils."

USEPA requirements under section 6217 of the Coastal Zone Management Act include several references to maintaining an adequate, but undefined, separation distance between septic field trench bottoms and a water table. Management strategies 1, 2, 3 and 4 for new systems, and strategy 1 for existing systems apply.

### Impact

This regulation revision increases the stand-off distance between a water table and a drainfield trench. The present regulation uses a sliding scale from 2 inches of separation in sandy soils to 20 inches in clayey soils. In sandy soils (Texture Group I) the proposed stand-off will be 24 inches. In loamy, silty and clayey soils (Texture Groups II, III and IV) the stand-off distance will be 18 inches.

This change will have the greatest effect on approximately one-third of the systems installed east of I-95. Some sites with very sandy soils (Texture Group I) will require a shallower installation depth or pretreatment (ex. sandfilter). In some cases, both may be required.

When comparing the existing regulation to the proposed regulation, there will be a few additional denials in Texture Group I, sandy soils. A review of applications received in the areas of greatest impact reveal that about 2.0% of the 400 permits issued (eight permits) in Accomack County and about 8.0% of the 60 permits (four permits) issued in Chincoteague would be denied under the proposed regulation but would be issued under the existing regulation. The survey data used to develop these estimates appear as the Appendix at the conclusion of this impact statement.

The department is evaluating research in progress at VPI&SU on the use of fill material to treat and dispose of effluent. Additionally, a committee of both public and private sector representatives has been formed to evaluate ways to use "sand-on sand" fill to eliminate any additional denials due to the regulation changes. It is hoped (and expected) that its recommendations could be incorporated into the proposed regulations as part of the public comment process.

Texture Group II soils (loamy textured soils) will require significantly fewer system design changes than noted above for Texture Group I soils. These soils already require 3 to 12 inches of stand-off between a trench bottom and a water table. This effectively means the water table must be 21 inches to 30 inches from the ground surface to obtain a permit (18 inches minimum installation depth plus 3 inches to 12 inches stand off). The proposed changes will allow systems to be installed in soils with water tables occurring at 18 inches from the ground surface when pretreatment is utilized. The majority of systems will be installed either shallower or with no design changes. Only sites where the water table occurred between 18 inches and 23 inches would require pretreatment. Overall, some additional permits would be issued with the proposed change and no additional permits would be denied.

There would be a net gain in permits issued in Texture Group III and IV soils (silty and clayey soils) and no increase in permit denials. Stand-off distances are currently 12 to 20

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# Proposed Regulations

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inches and the proposed stand-off would become 18 inches as measured from the drainfield trench bottom. By reducing the installation depth from 18 inches to 6 inches and by allowing the separation distance to be reduced to 12 inches with pretreatment, significant numbers of new sites may become future development sites.

## 2. Provisional System Regulations

### Cause for Change

The fourth recommendation of the Task Force on Septic Tank Regulations specifies:

"Virginia should do everything it can to expedite consideration of promising new technologies and encourage responsible use of alternative onsite treatment technologies by continuing to do research and monitoring of existing and new technologies, by providing training and certification for proper installation of these technologies, and by establishing regulatory incentives for the use of proven technologies."

The official policy of the department is to encourage the development and use of innovative technology. The current regulations have been restrictive in the use and evaluation of new technology. This proposed change grants provisional status to promising new systems which is intended to improve the acceptance of new technology without unduly jeopardizing public health or the environment.

### Impact

This new regulation is designed to create a mechanism to encourage the development, demonstration, and use of new onsite system technology. It will rely heavily on the private sector to fund and demonstrate new and developing technologies and will use third party review to provide an impartial evaluation.

Several companies have expressed interest in pursuing this option should it become available. Citizens will benefit by having more options in terms of possible types of sewage systems for which they can get permits. Over time, the department hopes that these alternative systems will expand the envelope of useable soils and sites and that environmentally safe development will be able to occur on property currently being denied.

If adopted, Virginia's regulations would be among the most favorable in the Eastern United States for manufacturers proposing new and innovative technology. It is hoped that a healthy, cooperative public-private relationship would ensue and that this would spur the development of environmentally sound wastewater technologies and economic development within the Commonwealth.

The cost to evaluate the technical merits of these alternative systems is estimated to be \$25,000 per year per system and a minimum five-year evaluation is being proposed. Since the industry funding the research would stand to benefit from satisfactory findings, it seems appropriate that industry bears the cost. Preliminary discussions with industry indicate that funding an evaluation program at this level is not unreasonable. This would provide a mechanism for proprietary systems to be evaluated.

No corresponding method exists to evaluate nonproprietary systems. It is believed that some nonproprietary systems may be developed that are equal in effectiveness to proprietary systems and may be less expensive to install. Since the program does not yet exist, funding for it has not been provided. No resources within the Division of Onsite Sewage and Water Services have been identified that can be diverted to cover this new program without serious impact on services delivered to the public. Future options available to review nonproprietary systems would include providing general fund support, seeking private funding through grants, and placing a "surcharge" on the review of proprietary systems to cover nonproprietary systems.

## 3. Mass Drainfield Requirements

### Cause for Change

The ninth recommendation of the Task Force on Septic Tank Regulations specifies:

"Virginia should consider requiring the use of alternative technologies which provide treatment of nitrogen where there are clusters of drainfields and high loading rates in a limited geographic area and nitrate contamination is a concern."

Management strategy 5 for new systems and strategy 3 for existing systems of the USEPA's nonpoint source guidance document also address the need to remove nitrate from wastewater to reduce ground water contamination.

The USEPA document does not differentiate between mass drainfields and smaller systems. VDH's knowledge of and experience with nitrogen reduction strategies is that they can be expensive on small scale applications and that smaller systems (i.e., those under 1,200 gallons per day or GPD) have a questionable impact on the nitrogen delivered to sensitive surface waters. Consequently, VDH drafted regulations that excluded systems that discharged less than 1,200 GPD on an acre of land. Except where drainfields are clustered, or wastewater flows combined, residential development will not be affected.

### Impact

Mass drainfields typically serve multi-family dwellings such as resort condominiums and commercial establishments, such as restaurants over 24 seats and shopping centers. In the event of system failure, these establishments need to be able to repair their sewage system quickly and with a high degree of certainty that the repair will work. The public health risk associated with a failing mass drainfield is significantly greater than with a failing single family system. The wastewater flows are substantially greater, as are the number of individuals potentially exposed and the variety of pathogenic organisms which may be present.

The Sewage Handling and Disposal Regulations were originally written to address residential wastewater flows and strengths. Mass drainfields, because of their higher flow and variable strengths, pose different risks and technical problems than residential wastewater. This regulation is proposed to provide long term groundwater protection against nitrate and bacterial contamination.

The department has been operating since 1987 under a mass drainfield policy which requires a water mounding analysis and an evaluation of the concentration of nitrates leaving the site. Authority for the policy comes from 12 VAC 5-610-250 B and 12 VAC 5-610-290 A. These sections of the regulation formalize the requirements of the policy and add several additional requirements.

Two new provisions are proposed that may result in permit denials. These are a 100% reserve area requirement and limiting nitrate contamination to 10 mg/l or less. Currently all systems (residential, commercial and mass drainfields) must have a 50% reserve area only when the percolation rate exceeds 45 minutes per inch. At faster percolation rates no reserve area is required for any system regardless of size.

The development of property on mass drainfields will face two additional requirements that will increase development costs. These are: providing a 100% repair area and installing at least four monitoring wells. Additionally, the users (or owners) of the system will face the ongoing cost of semi-annual monitoring of fecal coliforms, nitrates and chlorides. Sampling costs will vary but should be between \$50 and \$100 per sample point every six months.

#### 4. Redefinition of Rock and Stand-off to Rock

##### Cause for Change

The third recommendation of the Task Force on Septic Regulations specifies:

"Virginia should examine the adequacy of current separation distance requirements to rock and consider whether these requirements also need to be increased."

Management strategy 2 of the USEPA's nonpoint source pollution management program addresses maintaining an undefined but adequate stand-off distance to rock.

##### Impact

The stand-off distance to rock is being increased from 12 inches to 18 inches. The proposed regulation requires a 24-inch separation distance to rock in Texture Group I soils. Texture Group I soils make up less than 1.0% of the soils in Virginia and essentially all occur in the Tidewater area where rock is not an issue.

The current regulations provide for a minimum of 30 inches from the ground surface to rock. This is based on a 12-inch separation distance from the trench bottom and a minimum trench installation distance of 18 inches. The proposed regulations will require a minimum of 24 inches from the ground surface to rock because the minimum installation depth is reduced from 18 inches to 6 inches while the separation distance is increased from 12 inches to 18 inches. Both the existing and proposed regulations require identical increases in the minimum installation as slope increases. In short, more sites should become permitable under the proposed regulations because of the decreased installation depth.

The impact to the public seeking permits should be positive; some undevelopable sites should become useable. Further, the Virginia Cooperative Extension has reported up to 49% bacterial contamination rates in some Northwestern counties

in Virginia (Evaluating Household Water Quality in Warren County, Virginia. B.B. Ross, et. al. 1991). Some of this contamination can be attributed to improperly sited septic fields. The primary mode of contamination of groundwater by a drainfield, in the Northwestern portion of the state, is through rock fractures. This proposed regulation will reduce that potential significantly.

#### 5. Reduced Installation Depth

##### Cause for Change

The Task Force on Septic Tank Regulations recommended reducing the installation of systems from 18 inches to 12 inches as a way of allowing permits to be issued on some currently unsuitable land while providing better wastewater treatment. The recommendation specified:

"Virginia should reduce the installation depth requirement to 12 inches for low pressure distribution systems for more effective drainfield use."

Research conducted by VPI&SU on Piedmont soils indicated that installation depths could be reduced to make better use of the capacity of soils to renovate effluent.

##### Impact

This change by itself will result in an increase in permits issued. When taken in conjunction with the increase in stand-off distance to water table and rock the net result will be an overall increase in permits issued. The details of the changes were discussed in 1, Increased Stand-Off to Water Table.

Onsite systems that are installed shallower will benefit from being placed in the most biologically active soil zone. This should provide additional effluent renovation and better ground water quality protection. In some cases this additional stand-off distance may be utilized at the discretion of the department to optimize treatment even though deeper installations may be possible.

#### 6. Septic Tank Maintenance

##### Cause for Change

The Task Force on Septic Regulations recommended the following:

"Virginia should require the necessary maintenance and oversight of all onsite systems to ensure that they continue to function well over time. This should include requirements for maintenance agreements for alternative systems serving clusters of two or more houses, to establish clear legal responsibility for the long-term operation and maintenance of these onsite waste disposal systems."

The USEPA made similar recommendations in recommendation 1 for existing systems.

A VDH appointed, citizen advisory committee considered these recommendations and concluded that the existing regulations adequately protected the public where were clustered systems existed with multiple owners. For single family homes, it recommended not to mandate maintenance but rather to modify the design of new septic tanks to make it

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# Proposed Regulations

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convenient for a homeowner to determine if maintenance is necessary. The change involves adding a piece of plastic pipe to the top of the septic tank to access the tank so that the sludge depth may be checked without uncovering the tank. The change is analogous to using a dipstick on an automobile to check the oil. In short, the department decided a minor design change to new septic tanks was the least onerous way to encourage homeowners to maintain their system.

## Impact

This requirement is not a basis for issuing or denying a construction permit. Hence, there will be no permitting impact.

It is estimated that the cost of a septic tank will increase by less than \$50. The cost of materials for the inspection port (PVC pipe and fitting) is less than \$25. The remainder of the expense is for labor and profit. This increased cost will be offset by increased drainfield longevity on systems that are properly maintained. Complete residential septic systems cost between \$1,800 and \$3,500 or more depending on the size and location of the system. Well over half of this cost is for the drainfield, and proper maintenance will extend the life expectancy of the drainfield.

## 7. Administrative Changes

### Cause for Change

These changes were initiated by VDH to reduce paperwork, bureaucracy and better serve the public.

### Impact

These changes are exclusively red tape reduction efforts and should increase the speed of processing an application.

### Department of Planning and Budget's Economic Impact Analysis:

The Department of Health has proposed amendments to its sewage handling and disposal regulations that significantly alter the requirements for on-site waste disposal systems (OSWDS) and that change the certification process for new disposal technologies. The primary function of the changes is to increase the protection against contamination of the ground water by domestic wastes. Some of the provisions are designed to reduce the cost of achieving the increased protection.

The proposals can be grouped into 3 main parts. First, they change the restrictions on the vertical displacement of drainfields from the underlying rock, the water table, and the surface. Second, they increase the requirements for large (mass) drainfields, requiring a 100 percent reserve area, a minimum level of monitoring and a minimum level of dilution of the plume at the property line. Finally, the regulations provide for a small change in septic tank design that will make it easier for homeowners to determine when their septic tanks need pumping.

## Introduction

For most rural (and many suburban) households, OSWDS are the only economically feasible method for disposing of domestic wastes.<sup>1</sup> More than half of Virginia localities have 60 percent or more of households served by OSWDS. According to the Department of Health (DOH), use is increasing each year by from 30,000 to 40,000 units. Increased use of OSWDS increases the potential for pollution of ground water. Very little is known about the amount of illness that is due to ground water contamination from OSWDS, although one study indicates that 40 percent of the outbreaks of waterborne disease in the U.S. may be attributed to OSWDS.<sup>2</sup>

The current Virginia standards for construction of OSWDS are probably the most lenient in the country. This has led to some areas of the state having high rates of contamination of ground water and hence drinking water. In some areas of the state, as many as 49 percent of the drinking water wells are contaminated.<sup>3</sup> Again, it is not known what part of this problem is due to OSWDS failure. The main problems are due to contamination of ground water by human pathogenic viruses and bacteria and by nitrates.

Moderate elevations in the concentration of nitrates in drinking water can cause serious illness, even death, in infants ("blue baby" syndrome). Otherwise, they do not themselves pose a significant health hazard. Water-borne pathogens, on the other hand, can sicken even healthy adults. The rate of illness due to water-borne pathogens is about 30,000 per year nationally.<sup>4</sup> It is not known how many of these are due to OSWDS failure; some are caused by animal wastes and some are caused by the breakdown of municipal sewage systems. For healthy adults, the illness associated with water-borne pathogens is generally not life-threatening. The symptoms are generally confined to intestinal distress.

For one subset of the population, exposure to water-borne pathogens has much more serious consequences. For anyone whose immune system is suppressed, these pathogens that imply discomfort and lost productivity for a normal adult, may be deadly. Immuno-suppressive groups in the population include the very young, the very old, those suffering from immuno-suppressive illness such as HIV, and anyone on drugs that reduce the effectiveness of the immune system. These include cancer patients on chemotherapy and anyone taking steroid-based anti-inflammatory drugs; for example, asthma patients using cortisone-based inhalers. The size of the immuno-suppressive population is rising, hence, so is the population susceptible to water-borne pathogens.

These characteristics of the immuno-suppressive group also define a group with a disproportionate representation in the lower income brackets. Thus, we would expect the incidence of water-borne illness to be quite regressive. Aside from any

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<sup>1</sup> This section relies heavily on Stolt and Reneau (1991).

<sup>2</sup> Cruan, G.F. (1985).

<sup>3</sup> See B. B. Ross et al. (1991).

<sup>4</sup> See Cruan, G.F. (1985).

ethical implications, this result is important because lower income generally implies less education. The members of this group may have a lower awareness of the need for and availability of precautionary measures. If we were to attempt to measure the value of avoiding water-borne illness by observing defensive expenditures, say on bottled water, we might underestimate the value if a significant fraction of the population is unaware of the hazard they face or the possible preventive measures available.

### Estimating the benefits of the regulations

Because so little is known about how much illness is caused by OSWDS effluent, it is not possible to give a reasonable point estimate of the health benefits of reducing contamination. The best that can be done is to provide a range of possible values that might occur under different sets of assumptions. In Table 1, we provide health benefits calculations under three possible scenarios: low, middle and high health impacts. We must emphasize that we cannot describe the middle estimate as a best guess. There is so little data that the actual outcome in any year could be anywhere in this range or could even fall outside. Under the circumstances, we should consider whether a greater effort to gather information would be worthwhile. The range of possible health effects is enormous mostly due to uncertainties about the number and values of lives lost in Virginia in a given year due to OSWDS effluent.

Table 1: Health Costs			
	Scenarios		
	Low	Medium	High
Symptom days	1	3	5
Value of day ill	\$50	\$100	\$150
National incidence	30,000	30,000	30,000
Virginia's share	1%	2%	3%
% due to OSWDS	10%	25%	40%
Deaths (in Va.)	0	2	4
Value of a death	\$1,000,000	\$3,000,000	\$5,000,000
<hr/>			
Valuation			
Illness	\$1,500	\$45,000	\$270,000
Deaths	\$0	\$6,000,000	\$20,000,000
<b>Total health costs</b>	<b>\$1,500</b>	<b>\$6,045,000</b>	<b>\$20,270,000</b>

The figures presented in Table 1 are the total value of health effects from all OSWDS installations. As such, they greatly overstate the impact of these regulations in the short run since these regulations only affect new or replacement installations. However, there is some feeling among the experts in this area that newer installations are being placed on increasingly marginal sites, and these installations may be expected to have a higher failure rate unless the standards for drainfields are updated.

There are other consequences of water contamination by human pathogens. A significant proportion of the closures of Virginia shellfish beds is due to the presence of coliform contamination. Nationally, one quarter of all shellfish beds are closed due to coliform contamination. Again, it is not known what part of this contamination is due to OSWDS, however, as the incidence of OSWDS contamination increase, it is reasonable to assume that the proportion of closures due to OSWDS will also increase. The closure of shellfish beds has significant economic impact and often these impacts are quite localized, so the associated hardships are very unevenly distributed.

In addition, to these benefits of regulating OSWDS, there is an impact on land values. In rural areas, an OSWDS may be essential for a piece of property to have any value for residential development. However, the same is true of clean ground water as the source of potable water for the household. Thus, a drainfield that poses a significant threat of ground water contamination reduces the value of both the property on which it is situated and any neighboring properties that may be contaminated. So, on land that is very marginal for drainfield effectiveness, a regulation prohibiting the construction of ineffective drainfields should not reduce property values.

One possible response to a failure of rural or suburban residential drainfields is to extend municipal sewer and water service. This is a very expensive capital investment. Any changes in drainfield design that delays or reduces the need for extending municipal services into less densely populated areas can be expected to save on investment in infrastructure. The size of this effect is unknown but is known to be positive and could be large. Certainly the size of these savings would be expected to increase over time.

Given that the homeowner using an ineffective drainfield is likely to suffer first from the contamination of ground water, it is important to ask why ineffective drainfields are built in the first place. A home buyer clearly has incentive to make sure that the septic drainfield on the property purchased is not going to contaminate the drinking water supply for that property. And yet academic, government, environmental group, and construction industry representatives all agree that residences do often have drainfields that pose a hazard to the drinking water serving that same residence. There appears to be some sort of market failure here but little research has been done on why homeowners under-invest in sewage treatment. This is important because, if we knew more about how households make these choices, regulations could be better targeted to reduce ground water contamination at the lowest cost.

There is one more subtle impact of regulations for improved drainfields. Virginia has been subject to some very negative publicity related to its level of protection of ground water. The image of Virginia as a clean and healthy place to live is of great value in attracting business to the state. This is especially true of businesses employing a more highly skilled work force. These are particularly attractive businesses for the state. Improving Virginia's ranking on ground water protection will probably contribute to its economic development.



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There are a number of reasons why ground water contamination should not be treated as a matter of simple nuisance between adjoining landowners. First, proving the source of contamination is a very expensive process, and in many cases is not even possible. Second, a single landowner can have serious impact on many other nearby pieces of property as well as on the quality of surface waters. This would reduce the probability that negotiation or common law remedies could result in an efficient outcome. Third, the effects are invisible and can be serious. Thus, the consumption of the water before the contamination is discovered can lead to serious injury, even death. There are a number of documented cases of serious injury due to ground water contamination in Virginia.

### Issue 1: The vertical positioning of drainfields

The current requirements in Virginia for the distance between septic drainfields and the water table are probably the most lenient in the country, allowing as little as 2 inches separation. Increasing the separation between the drainfield and the underlying water table and bedrock will greatly reduce the potential for ground water contamination due to OSWDS. The vertical separation distance is being increased to 18 inches<sup>5</sup>, a level that is widely considered to be the minimum effective amount of soil column needed to protect ground water.<sup>6</sup> Of Virginia's neighboring states, Maryland requires 48 inches, Delaware requires 36 inches, and North Carolina requires 18 inches. The 1990 recommended national standard for private sewage disposal is 36 inches.

Current scientific research appears to confirm that a properly constructed drainfield with 18 inches of separation can perform effectively for about 25 years. It is important to point out, however, that this standard leaves little room for error. Any error in the evaluation of the site or construction of the drainfield could compromise its effectiveness. Since the effectiveness of a drainfield is difficult to evaluate after the fact, it is very important that either the field be properly constructed or that the system be robust to human error. It may be that the 18 inch separation is the best choice but there is simply no way to know without more information on how the systems built and used by private individuals actually perform. It is not clear from the proposed regulation what strategy the Department of Health has for developing the information needed to make an informed choice about this matter.

The costs of this proposal have been kept to a minimum by relying on recent research showing that drainfields may be placed closer to the surface than previously thought without significantly compromising the safety or performance of the system. The minimum depth of the drainfield has been reduced to as little as 6 inches in appropriate soils. The reduction of this distance means that there will actually be an increase in the number of permissible sites even after the increased separation distance is implemented. Thus, for counties west of I-95, there will be both an increase in ground

water protection and an increase in the number of sites eligible to use OSWDS.

The reduced depth of the drainfield does make the drainfield more susceptible to possible damage, say by vehicles passing over the field. However, the homeowner has great incentive to avoid this damage since the consequences would be cost of repairing the field. It is not expected that the decreased depth will lead to a significant increase in drainfield failure.

Thus, for the western part of the state, these regulations both reduce the costs associated with permit denial (and possibly of field construction) and increase ground water protection. The effect is clearly a net economic gain for the region.

For the coastal plain, where the water table is very high, the increased separation distance will result in the denial of some permits, at least in the short-run. There simply may not be enough separation available to achieve the 12 inches allowed with pre-treatment. For the counties east of I-95, denials could increase by as much as 25 sites a year. Again, it is unclear whether this denial actually has any impact on property values on average. There will be individual cases where the potential damage from contaminating the ground water is not great because the local drinking water is taken from deep wells not affected by drainfields. However, the opinion of experts in the field is that the potential for contaminated ground water will offset any immediate financial gain from an ineffective drainfield installation.

The Department of Health has indicated that the increase in permit denials is very probably a short-term impact because new drainfield designs and pre-treatment technologies will allow the sites rejected due to insufficient separation distance to be permitted in the near future. Consultations with independent experts confirmed this potential. The newer designs will be more expensive; one builder experienced an incremental cost of \$10,000 for the newer design that allowed him to install a field that had previously been denied.<sup>7</sup> This was higher than what he expects these new systems will cost in the future. According to DOH, a more reasonable figure would be \$4,000 - \$5,000. As many as 1,100 additional sites could require such a system under the new regulations,<sup>8</sup> the maximum direct increased expenditures resulting from this regulation would be \$4,400,000 to \$5,500,000. Not all of this expenditure is social cost. The portion of these payments that is profit to the firms building the systems is a transfer of income not a cost to society. Naturally, any costs will be offset by reduced costs associated with ground water contamination and by the increase in permissible sites west of I-95.

For those sites where the regulations will require an additional expenditure, property values could actually increase by more than the added cost of the more expensive treatment system. This would happen if the value of increased protection of the property's drinking water supply were worth more than the cost of protecting it. In other cases, the benefits will not all accrue to the property owner

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<sup>5</sup> And in more marginal soils, 24 inches.

<sup>6</sup> A separation of 12 inches may be allowed if pre-treatment of the effluent is provided.

<sup>7</sup> Robert Leipertz, Construction 2000, personal conversation, October 24, 1995.

<sup>8</sup> A figure suggested by DOH.

with the increased costs but to neighboring pieces of property as well.

There is general agreement among the experts and interested parties who gave their opinions for this analysis that, in aggregate, the value of the new requirements on the 1,100 sites east of I-95 exceeds the costs. Many of these benefits will accrue to the property on which the more advanced treatment is built. However, a significant (but unknown) portion of the benefit will accrue to neighboring property owners and to any others downstream who might have been harmed by the treatment failures in the older systems.

On balance, these regulations, combined with the new technologies that are expected to become available in the next few years, appear to have a significant positive net economic impact. However, because of the weakness of the data, this conclusion must be based on the informed opinion of experts and of people with considerable practical experience in the industry rather than on scientific studies. On the basis of current information, we cannot determine whether an even greater separation requirement or some other technical requirements would be worthwhile. Given the great uncertainties, additional information may have considerable value for the people of Virginia.

One problem that is not considered in the regulations is what happens at the end of the 25 year life of drainfields. Most housing stock is expected to last much longer than 25 years. Some locations have 100% reserve area requirements which extend the potential deadline for another 25 years. Again, because of the dearth of good data on rates of contamination at the end of a drainfield's life, there is no way, at this time, of calculating the net benefits of requiring a longer design life for drainfields. It is important to keep in mind that most drainfields at the end of their useful life can be repaired at a cost. Suppose that it would cost \$3,500 to repair an old drainfield at the end of its life. At 5 percent interest, that is worth only \$1,034 today. Thus, any incremental cost greater than this to double the life of a drainfield would not be worth the expense. At the higher interest rates routinely attributed to individual consumers, this effect would be even more dramatic. An 8 percent discount rate would justify an incremental expenditure of no more than \$515.

#### Issue 2: An observation port for new septic tanks

The regulations proposed by the Department of Health require that all new septic tanks be fitted with a piece of PVC pipe that allows the homeowner or a contractor to readily determine whether the septic tank needs to be pumped out. The failure to pump out a septic tank when it is needed can cause drainfield failure and leaks at the surface. Many homeowners fail to pump out septic tanks frequently enough even though it could prevent costly repairs to the drainfield. As a result, some counties in Virginia require regular preventative cleaning of septic tanks. This is a very costly approach, since it means that homeowners who make low demands on their tanks will nonetheless be required to clean them frequently.

The observation port, at a cost of about \$50-150 per tank would make it much easier for the homeowner to measure the sludge level in the tank. Since the homeowner has the

most to gain by the proper maintenance of the septic tank, this should encourage more appropriate septic tank maintenance. Inspection of the state of the septic tank would be easier for potential home buyers. This inspection port may also allow counties that have considered regular prophylactic tank cleaning to opt for periodic inspection by licensed agents instead. Thus, tanks would only be cleaned as needed. Such a program may be considerably cheaper than requiring regular cleaning regardless of need.

It should be noted that an increase in requirements for regular cleaning of septic tanks would very quickly use up the current capacity for septage disposal. The increased capacity would certainly be forthcoming but would probably be more expensive. Thus, the increased pumping requirements would probably lead to an increase in the cost of septage disposal.

The effectiveness of the required observation port is unknown because we do not know why many homeowners fail to clean their septic tanks in a timely fashion. Such information would be very useful in designing programs to prevent drainfield failure. However, experts questioned on this issue seem to believe that easier inspection may lead to significant improvements in septic management.

At about 30,000 new septic systems a year, the annual cost of the observation ports will be approximately \$1,500,000 to \$4,000,000. Since some portion of this amount will be profit for the contractor, the social cost will be this price paid minus contractor profit. At a 25% markup for the installation of the port, the economic cost of the ports will range from \$1,125,000 to \$3,000,000. The balance will be a transfer among the various parties to the transaction.

Good data on drainfield failure due to overloaded septic tanks is not available. However it would only take from 600 to 1,500 repairs avoided for \$2,000 each to justify the expenditure. Any other savings due to fewer unnecessary cleanings and lower septage management costs would be added to these benefits. It appears, then, that the money spent installing observation ports is probably a good investment.

That said, one is inclined to ask why, if it is such a good idea, haven't homeowners demanded such a port as a matter of course? Again, knowing why would be useful information for formulating policy.

#### Issue 3: Mass drainfield requirements

This part of the regulation requires, among other things, that all mass drainfields have a 100% repair area. Since this is already being done even before the regulation<sup>9</sup>, the codification of this requirement has little impact one way or the other.

Second, the mass drainfield provisions include a requirement that four monitoring wells be drilled and semi-annual samples taken. The sampling wells will cost between \$600 and \$4,000 (or more) each depending on whether rock is

<sup>9</sup> This can probably be credited to "jawboning" by DOH field staff although some 100% reserve requirements are required under the Chesapeake Bay Agreement.

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encountered. Thus each new mass drainfield will incur an up-front cost of from \$2,400 to \$16,000 to drill the wells and an annual monitoring cost of from \$400 to \$800. With approximately 20 mass drainfields permitted each year, the annual additional capital expenditures for the wells is between \$48,000 and \$320,000. The total annual increment to operating expenses will be \$8,000 to \$16,000. Since mass drainfields are more prone to failure than are residential fields and since the consequences are invariably greater due to the higher flow rates, it is expected that these additional costs will produce net gains in terms of reduced ground water contamination over the expected life of the field.

Mass drainfields will be subject to one additional (and possibly costly) requirement; the effluent must be sufficiently diluted to ensure that the ground water does not have a nitrate concentration greater than 10 mg/l at the property boundary. This regulation is designed to protect downstream property owners against contamination of well-water. Ten mg/l of nitrate is the federal standard for drinking water. Even at this level, when there are very young children in the household, some parents (assuming they are aware of the nitrate concentration) will want to purchase water with lower nitrate levels for their children.

The dilution requirement may require that a significant amount of land be available between the drainfield and the property boundary. Part of this requirement may be satisfied by the reserve area, but there are circumstances where the land area needed for dilution will require land in addition to the reserve area. The potential expense of this provision is greatly mitigated by the ability of a landowner to obtain an easement on neighboring land for use as part of the dilution area. This allows the party interested in installing a mass drainfield to avoid the expense of identifying a dilution area if it would be cheaper to buy the property right from a neighbor.

There is one problem with this provision. The permit for the mass drainfield requires the landowner to keep the 100% reserve area and the dilution area together as part of the property served by the drainfield. However, there is no requirement that this restriction be recorded as an appurtenance to the land. Thus it would be possible for the drainfield owner to subdivide the land and sell off the dilution area and even the reserve area with little prospect that the permit requirement would be detected or enforced. The Department of Health reports only one known instance of a violation of this type. Yet, as land values rise, the incentive to violate the terms of the permit will increase.

The requirement that the permit restrictions be recorded as a restriction on the alienability of the property would cost no more than \$100 at the time of the permit and would act as a very effective enforcement mechanism to prevent permit violations. It would help increase transferability of land by reducing the amount of expensive pre-purchase inquiries that would be required in absence of recording the permit restrictions.

### Conclusions

These regulations have been designed in a way that greatly increases ground water protection in many parts of the state but with only very modest increases in costs. In fact some of the provisions may actually lead to lower costs, although

there is not sufficient data to draw a firm conclusion on this. The range of possible values for the health effects of ground water contamination is uncomfortably wide. Most observers, including those from industry, environmental groups, academia and government, seem to feel that the figure is unlikely to be at the low end of the range given. However, there is a very great need for more data on the effects of OSWDS on water quality and disease. Until this data is available, we can have little confidence that we have chosen the proper amount of ground water protection.

Also, given that some of these regulations protect consumers from the effects of their own choices, we should ask why these provisions are needed at all. Again, most observers agree that consumers often turn a blind eye toward the problems of managing their wastewater stream even if it means high costs in the future. It would be very useful to have additional information about how households make septage management decisions so that regulations can address the cause of the problem rather than its symptom. This may allow for a lower cost way of solving the problem.

Finally, the mass drainfield provisions could be improved by requiring that any permit restrictions on the transferability of property be recorded so that all future buyers would automatically be made aware of the restrictions. This would make the policy self-enforcing and would greatly reduce the temptation landowners would otherwise have to violate their permit restrictions. This requirement would be very inexpensive at a total state-wide cost of around \$2,000 per year.

### Sources

Cruan, G.F. *A Summary of Waterborne Illness Transmitted Through Contaminated Groundwater*. J. Environ. Health. 48:122-127. (1985).

Ross, B. B. et al., *Evaluating Household Water Quality in Warren County, Virginia*. (1991).

Stolt, M. H. and R. B. Reneau. *Potential for Contamination of Ground and Surface Waters from On-site Wastewater Disposal Systems: Final Report to the Virginia Department of Health*. June (1991).

### Agency's Response to Department of Planning and Budget's Economic Impact Analysis:

The Department of Health (VDH) substantially agrees with the Department of Planning and Budget's (DPB) economic impact analysis. The analysis notes that there is general agreement among experts and interested parties that, in aggregate, the benefits of the regulations will exceed the costs. This finding is reflective of the process for the development of these regulations; VDH has proceeded slowly and deliberately, with input being sought from individuals with economic, environmental, scientific and public health interests in the proposed changes. VDH has responded below to the three issues discussed in the DPB analysis.

DPB notes that the rate of illness due to waterborne pathogens is about 30,000 nationally, based on a 1985 reference. Since 1985, *Cryptosporidium* has become increasingly common and is a significant additional agent of waterborne disease. The American Water Works

Association noted the increasing importance of *Cryptosporidium* in 1995 when it reported the following data: in 1981 there were 7 reported cases of *Cryptosporidium* worldwide; in 1985 there were 47 cases in Brown Station, Texas; in 1987 there were 13,000 cases in Carrollton, Georgia; in 1992 there were 15,000 cases in Jackson County, Oregon; and in 1993 there were 403,000 cases in Milwaukee, Wisconsin, including 104 deaths. As housing density increases, the potential risk for waterborne disease outbreaks increases. The proposed regulations are intended to minimize this risk by providing additional wastewater treatment without significantly restricting development. In fact, in most of the Commonwealth, risk can be significantly reduced while allowing sites to be developed that currently cannot be developed.

### Issue 1: The Vertical Positioning of Drainfields

DPB notes the benefits of the regulations west of I-95 in terms of increased ability of VDH to issue permits. VDH concurs and notes that there are other intangible benefits resulting from better protection against groundwater contamination. One of the benefits may be a growing tax base as a result of less restrictive development constraints. These benefits extend to other geographic areas of the state. VDH, however, believes the benefits of being able to issue permits on many unpermissible lots also extends east of I-95. Only texture Group I soils have a negative impact and that impact has been evaluated and found to be minor. Texture Group III and IV soils are found east of I-95 and these areas will receive immediate benefits from the proposed regulation changes.

More important in the long term, the regulations propose to make using innovative technology easier. VDH has taken a proactive approach to bring in new technology, including drip disposal, spray irrigation, Bord na Mona and discharging systems for homeowners. The current structure of the regulations has hindered onsite innovation and VDH is making significant changes to the regulations in terms of innovative systems. It is expected that all areas of the state will benefit significantly beginning with the adoption of these regulations. It would appear very reasonable to assume that most of the developments in wastewater pretreatment will benefit the eastern part of the Commonwealth far more than any other area. This is because the eastern part of the state has high watertables (i.e., natural treatment is low) and soil disposal is not difficult to achieve.

DPB notes that VDH's proposal to reduce drainfield installation depth from 18 inches to six inches would make the drainfield more susceptible to possible damage. As proposed, a drainfield using the reduced installation depth would be required to place additional cover over the field as required by 12 VAC 5-610-950 C which states:

"All systems shall be provided with at least 12 inches of cover to prevent frost penetration and provide physical protection to the absorption trench..."

This 12 inches of cover is nominally equivalent to the cover in a system installed at 18 inches in the current regulations. Hence, the regulations as proposed should not make the drainfield more susceptible to possible damage.

DPB notes that the average drainfield life expectancy is 25 years and that housing stock is expected to last much longer. It is further noted that it is not clear in the regulations what strategy VDH has for developing the information needed to make an informed choice about whether an 18-inch stand-off is adequate. VDH is not aware of any research that correlates greater separation distance with increasing system longevity. A greater separation distance would provide additional ground water protection security. The most practical way to provide a life expectancy greater than 25 years is to provide a reserve area to replace the drainfield. Proposing either a stand-off distance greater than 18 inches or requiring a 100% repair area would cause significant increase in permit denials. Consequently, VDH chose a stand-off distance that is widely recognized to be a vast improvement over the current two-inch stand-off distance.

There is a significant body of scientific information showing that a stand-off distance of 12 inches or less is unequivocally inadequate to protect public health. Further, research conducted over the past 20 years has consistently shown two to four feet of separation distance is safe. In Virginia, VPI & SU has shown that 18 inches of stand-off can provide safe, adequate and proper wastewater treatment. DPB notes the studies by Ross (B.B. Ross, et. al. 1991) showing up to 49% well contamination rates in Virginia. While there are certainly a variety of sources for this contamination, it would not be unreasonable to assume a portion of it comes from septic systems meeting only the minimum requirements of the current regulations.

Relative to data collection, VDH has a program under development that will allow the collection of information on drainfield longevity necessary to determine a cost-effective life expectancy. The hardware and software components are planned to be completed in early 1997. At that time data collection can begin.

The DPB economic analysis considers the cost of replacing a system but does not address the more serious issue of assuring that there is an adequate area available that will support a sewage system. If after 25 years the septic system fails and no repair area was provided for initially, it may not be possible to adequately repair the system. It is not realistic to assume that a suitable \$3,500 repair will automatically be available when a system fails. As land prices increase, and lots become smaller, the likelihood of finding a suitable repair area diminishes. In those instances where a site cannot be found to treat and dispose of effluent in a safe and esthetically acceptable manner, the property value and "salability" of the property will be substantially diminished. This reduction in value would almost certainly exceed the estimated \$3,500 cost to provide a replacement site at the time of construction. Homeowners living in such a dwelling have to dramatically reduce their water use habits and, in some cases, accommodate sewage surfacing in their yard.

While the issue of repairs is very important, VDH is not proposing to alter the current repair area requirements in the regulations. When the data is available to make an informed decision, the department will decide whether to proceed with further regulations governing repair area requirements.

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## Issue 2: An Observation Port for New Septic Tanks

DPB notes that if homeowners pump out their septic tanks, as recommended by VDH (i.e., when tanks are one-third full of sludge), septage disposal capacity will be temporarily exceeded and then the cost of septage disposal will increase. This problem has been studied by VPI & SU for the areas east of I-95 (covered by the Chesapeake Bay Act). Its findings were that adequate and accessible septage disposal capacity is available.

For areas west of I-95, VDH agrees with DPB that septage disposal capacity most probably is not adequate, if everyone maintained their system properly. This was part of the basis for VDH proposing an inspection port rather than mandating routine pump out, as initially proposed by the Secretaries Task Force Studying Septic Regulations. VDH does not expect everyone will inspect and pump their tank out; however, individuals will have a feasible way to readily inspect their tank and decide if they wish to have their tank pumped. This proposed inspection port is analogous to an oil dip stick in one's personal vehicle; it provides the opportunity to monitor the level and condition of the oil but it does not assure that maintenance will occur.

As for cost, there is at least one safe, low cost septage disposal method that could be made available in Virginia. Lime stabilization of septage is a proven (and EPA recognized and approved) low-tech solution that does not require expensive infrastructure such as a secondary wastewater treatment plant or lagoons to make available. It is well suited to rural areas where agricultural land is available for land disposal. At the present time, lime stabilization is prohibited by the Code of Virginia. Should the prohibition on lime stabilization be rescinded, VDH believes adequate septage disposal capacity should be available statewide.

## Issue 3: Mass Drainfield Requirements

VDH agrees with the analysis as presented. Further, the observation that property restrictions related to mass drainfields could be recorded with the deed is an excellent point and will be considered as part of the comment process.

### Summary:

*The proposed amendments (i) increase the separation distance to a water table below a drainfield from 2 to 20 inches to 18 or 24 inches; (ii) increase the separation distance to bedrock below a drainfield from 12 inches to 18 inches; (iii) encourage the use of new and innovative onsite wastewater technologies by granting provisional approval to promising new systems; (iv) increase ground water protection standards for large onsite systems (mass drainfields); (v) reduce the installation depth for conventional systems from 18 inches to 6 to 12 inches; (vi) add provisions that will make it easier for homeowners to know when to pump their septic tank; and (vii) make administrative changes designed to revise cumbersome portions of the regulations and make it easier for the public to comply with the regulations (i.e., reduced "red tape").*

## 12 VAC 5-610-110. [Repealed.]

## 12 VAC 5-610-120. Definitions.

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

"Agent" means a legally authorized representative of the owner.

"Alluvial soil" means a soil developing from recently deposited alluvium and exhibiting essentially no horizon development or modification of the recently deposited materials.

"Alluvium" means mineral materials, either weathered or unweathered, that are transported by flowing water and deposited or redeposited in a flood-plain or marine terrace.

"Aquifer" means water-bearing portion of a geologic formation that transmits water.

~~"Bureau" means the Bureau of Wastewater Engineering, Division of Water Programs, State Health Department.~~

"Colluvial soil" means a soil developing from recently deposited colluvium and exhibiting essentially no horizon development or modification of the recently deposited materials.

"Colluvium" means an accumulation of soil material, or a mixture of stone fragments and soil material, deposited at the base of slopes or in depressional areas, primarily by gravity.

"Commissioner" means the State Health Commissioner or his subordinate who has been delegated powers in accordance with 12 VAC 5-610-40 B.

~~"District health department" means a consolidation of local health departments as authorized in Title 32.1 § 21.1-34 § 32.1-31 C of the Code of Virginia as amended. (See APPENDIX A).~~

~~"Division" means the Division of Onsite Sewage and Water Services, Office of Environmental Health Services, State Health Department.~~

"Drainfield acre" means any imaginary square or rectangularly shaped area of land, consisting of 43,560 square feet, covering the area where a drainfield, or part of a drainfield, exists or is proposed. In the case of rectangularly shaped areas, the shortest side must be 75% (or more) of the length of the longest side.

"Existing construction" (with failing sewage disposal systems) means an existing structure where the sewage disposal system serving the structure has failed or is currently in violation of state law or regulations and requires correction.

"General approval" means approval granted to systems which are thoroughly proven and tested in terms of theory and application, such as a conventional drainfield, a low-pressure system or elevated sand mound, and which are described in Part IV (12 VAC 5-610-660 et seq.).

"Gray color" means a chroma-2 or less on the Munsell Color Chart.

"Impervious strata" means soil or soil materials with an estimated or measured percolation rate in excess of 120 minutes per inch.

"Local health department" means a branch of the State Health Department established in each city and county in accordance with Title 32-1 § 32.1-30 of the Code of Virginia as amended. (See APPENDIX A).

"Mass sewage disposal system" means a sewage disposal system or systems which will discharge effluent to a single absorption area or multiple absorption areas with or without combined flows, such that the loading rate exceeds 1,200 gallons per day for any drainfield acre.

"Mineral soil" means a soil consisting predominantly of, and having its properties determined predominantly by, mineral matter. A mineral soil usually contains less than 20% organic matter, but it may contain an organic surface layer up to 12 inches thick.

"New construction" means construction of a building for which a building permit is required.

"Office" means the Office of Management for Community Health Services, State Health Department Environmental Health Services.

"Owner" means the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"Paralithic" or "Cr" means partially weathered igneous, metamorphic, or sedimentary rock, with characteristics similar to rock, but which is not soft, loose, or friable like saprolite. When evaluated in place, it is compact and grinds when encountered by an auger but may be penetrated with an auger or backhoe.

"Person" means an individual, corporation, partnership, association or any other legal entity.

"Pump and haul" means any unusual circumstance wherein sewage is permitted to be transported by vehicle to a point of disposal. The term pump and haul includes all facilities and appurtenances necessary to collect and store the sewage for handling by a contractor having a valid sewage handling permit.

"Rock" or "bedrock" means an aggregate of minerals which is usually consolidated, hard, dense or indurated and which may have one or more of the following characteristics: jointing, bedding planes, schistosity or strike and dip. Rock does not have soil structure and may in some instances be penetrable with a hand auger or rippable with a backhoe.

"Saprolite" means material weathered from igneous or metamorphic rock, without soil structure, which is soft, loose, and friable in place and can be penetrated easily with an auger. Saprolite is defined as a C horizon and may have potential to treat and dispose of effluent.

"Septage" means material accumulated in a pretreatment system (see 12 VAC 5-610-780 and 12 VAC 5-610-570) or privy.

"Sewage" means water carried and nonwater carried human excrement, kitchen, laundry, shower, bath or lavatory wastes separately or together with such underground, surface, storm or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage disposal system" means a sewerage system or treatment works designed not to result in a point source discharge.

"Sewage handling" means the vehicular conveyance of sewage (See "Transportation" in § 32.1-163 of the Code of Virginia in APPENDIX A).

"Sewerage system" means pipe lines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

"Shrink-swell soils" means soils with horizons that contain montmorillonite and other clays that excessively shrink upon drying and swell upon wetting.

"Sink hole" means a depression in the topography without a surface outlet for drainage from the low point. Sink holes are common in areas containing limestone and generally result from the collapse of solution cavities.

"Soil" means the weathered mineral fraction of the earth's mantle, which is less than or equal to 2.0 mm in size as measured in place. Soil is comprised of sands, silts or clays or combinations of these textures and may contain larger aggregate materials such as rock or paralithic material. Soil includes the A, B, C, and E horizons.

"Soil horizon" means a layer of soil or soil material approximately parallel to the land surface and different from adjacent genetically related layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistency, kinds and numbers of organisms present, degree of acidity or alkalinity, etc.

"Subdivision" means multiple building lots derived from a parcel or parcels of land.

"Subsurface soil absorption" means a process which utilizes the soil to treat and dispose of effluent from a treatment works. (Also see "Subsurface Drainfields APPENDIX A drainfield" in § 32.1-163 of the Code of Virginia).

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluent resulting from such treatment.

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## 12 VAC 5-610-150. Effective date of regulations.

~~The effective date of these regulations is November 1, 1982, except as noted in paragraphs A and B below. [Repealed.]~~

~~A. The effective date for those parts of sections or the sections of the regulations pertaining to the requirements for a sewage handling permit is January 1, 1983.~~

~~B. The effective date for those parts of sections, or the sections of the regulations pertaining to the requirements for an approved disposal site for the handling and treatment of septage is January 1, 1985.~~

~~C. Where the applicant can demonstrate that approved public or private sewage treatment facilities are not reasonably available to handle the disposal and treatment of septage, and the applicant has submitted a plan by October 1, 1984, that sets forth specific action steps (including dates) for compliance with 12 VAC 5-610-380 D, then the effective date listed under paragraph B of this section may be extended until July 1, 1985.~~

## 12 VAC 5-610-170. Enforcement regulations.

All sewage handling and disposal facilities shall be constructed and operated in compliance with the requirements as set forth in this chapter.

A. Notice. Subject to the exceptions indicated below whenever the commissioner or the district or local health department has reason to believe a violation of any of these regulations has occurred or is occurring, the alleged violator shall be notified. Such notice shall be made in writing, shall be delivered personally or sent by certified mail, shall cite the regulation or regulations that are allegedly being violated, shall state the facts which form the basis for believing the violation has occurred or is occurring, shall include a request for a specific action by the recipient by a specified time and shall state the penalties associated with such violations (See APPENDIX-A § 32.1-27 of the Code of Virginia). When the commissioner deems it necessary he may initiate criminal prosecution or seek civil relief through mandamus or injunctive relief prior to giving notice.

B. Pursuant to the authority granted in § 32.1-26 of the Code of Virginia the commissioner may issue orders to require any owner to comply with the provisions of this chapter. The order shall be signed by the commissioner and may require:

1. The immediate cessation ~~and/or~~ or correction, or both, of the violation;
2. The acquisition or use of additional land, equipment, supplies or personnel to insure that the violation does not recur;
3. The submission of a plan to prevent future violations to the commissioner for review and approval;
4. The submission of an application for a variance; and
5. Any other corrective action deemed necessary for proper compliance with the regulations.

C. Hearing before the issuance of an order. Before the issuance of an order described in paragraph subsection B of this section, a hearing must be held, with at least 30 days notice to the affected owner of the time, place and purpose thereof, for the purpose of adjudicating the alleged violation or violations of these regulations. The procedure at the hearing shall be in accordance with 12 VAC 5-610-200 B of the regulations and with §§ 9-6.14:10 through 9-6.14:12 of the Code of Virginia.

D. Order when Order; when effective. All orders shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the owner violating this chapter. Violation of an order is a misdemeanor. (See § 32.1-27 of the Code of Virginia (APPENDIX-A).)

E. Compliance with effective orders. The commissioner may enforce all orders. Should any owner fail to comply with any order, the commissioner may:

1. Apply to an appropriate court for an injunction or other legal process to prevent or stop any practice in violation of the order;
2. Seek mandamus against any owner that is a municipal corporation;
3. Request the Attorney General to bring an action for civil penalty;
4. Request the Commonwealth's Attorney to bring a criminal action.

F. Not exclusive means of enforcement. Nothing contained in this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

## 12 VAC 5-610-250. Procedures for obtaining a construction permit for a sewage disposal system.

Construction permits are issued by the commissioner but all requests for a sewage disposal construction permit shall be directed initially to the district or local health department.

A. Type I. A Type I sewage disposal system is an individual sewage disposal system incorporating a septic tank and subsurface soil absorption (septic tank-subsurface drainfield) serving a single residence. The submission of an application is all that is normally necessary to initiate procedure for obtaining a permit under this subsection. If after a site investigation, it is determined that pumping, enhanced flow distribution (see 12 VAC 5-610-930 A) or low pressure distribution (see 12 VAC 5-610-940) is necessary, the system shall be considered a Type II system.

B. Type II. A Type II sewage disposal system is a sewage disposal system incorporating a septic tank and resurface soil absorption system which serves a commercial or other establishment, more than a single family dwelling unit, or where pumping, enhanced flow distribution (see 12 VAC 5-610-930 A) or low pressure distribution (see 12 VAC 5-610-940) is necessary. The procedure for obtaining a permit includes the following steps:

1. The submission of an application;
2. A preliminary conference as necessary; and
3. The submission of informal plans, specifications, design criteria, and other data, as may be required by the district or local health department. Depending on the size and complexity of the system, the submission of formal plans and specifications may be required.

C. Type III. A Type III sewage disposal system is a sewage disposal system other than a septic tank subsurface soil absorption system or a privy. The procedure for obtaining a permit under this subsection includes the following steps:

1. The submission of an application;
2. A preliminary conference; and
3. The submission of formal plans, specifications and design criteria. Other supporting data may be required on a case-by-case basis. In the case of septage disposal facilities the plans and specifications shall include sufficient land area for disposal of the design production volume accumulated during a year long operating period. For the purpose of compliance with § 32.1-164.2 of the Code of Virginia, as amended, relating to land disposal of stabilized septage, local government will be notified by the department following satisfactory completion of steps 1 and 2 listed above.

D. Type IV-Privies. The submission of an application is all that is normally necessary to initiate the procedure for obtaining a permit under this section.

#### E. Application.

1. All applications for any type sewage disposal system except a special facility for handling and disposal of septage shall be made on an application form provided by the district or local health department and approved by the department. ~~A copy of a model form can be found in APPENDIX B.~~
2. Applications for special facilities for handling and disposal of septage shall be in letter form to the department requesting permission to establish a septage disposal facility.

F. Preliminary conference. A preliminary conference with the district or local health department will be held for Type II and Type III systems. When a Type III system for septage disposal is planned, the conference shall be with the department. At such conference the owner and/or his agent shall be prepared to set forth the sewage disposal problems and the proposed solution in such a manner to support his conclusions and recommendations.

#### G. Formal plans.

1. All formal plans for sewage disposal systems shall bear a suitable title showing the name of the owner and shall show the scale in feet, a graphical scale, the north point, date, and the name of the licensed professional engineer by or under whom prepared. The cover sheet and each plan sheet shall bear the same general title identifying the overall sewage disposal project and each

shall be numbered. Appropriate subtitles should be included on the individual sheets.

The plans shall be clear and legible. They shall be drawn to a scale which will permit all necessary information to be plainly shown. The size of the plans should be no larger than 30 inches by 48 inches. Data used should be indicated. Location, when made, shall be shown on the plans. Logs of test borings shall be given either on plans or in the specifications.

Detailed plans shall consist of plan views, elevations, sections, and supplementary views which together with the specifications and general layouts provide the working information for the contract and construction of the work, including dimensions and relative elevations of structures, the location and outline form of equipment, the location and size of piping, water levels, ground elevations, and erosion control abatement facilities.

2. Geographical and other features. Topography, elevations (contour lines), existing or proposed streets and all bodies of water, ditches, buildings, springs, cisterns and wells within 100 feet horizontally of the proposed sewage disposal system site and/or well, and all property lines shall be clearly shown.

3. General layout. The general layout shall show the following:

- a. Test borings, groundwater elevation (if observed), and soil profiles;
- b. Size and location of sewage disposal systems;
- c. Schematic flow diagram showing the flow through the various disposal system units;
- d. Piping; and
- e. Hydraulic profile showing the flow of sewage.

4. Detailed plans. Detailed plans shall show the following:

- a. Location, dimensions and elevations of existing or proposed system facilities;
- b. Pertinent data concerning the rated capacity of pumps, blowers, motors and other mechanical devices. All or part of such data may be included in the specifications by suitable reference on the plans;
- c. Average and maximum hydraulic flow in profile; and
- d. Adequate description of any features not otherwise covered by the specifications.

H. Formal specifications. Complete technical specifications for the construction of the sewage disposal system and all appurtenances shall accompany the plans. The specifications accompanying construction drawings shall include, but not be limited to, all construction information not shown on the drawings, which is necessary to inform the builder in detail of the design requirements as to the quality of material workmanship and fabrication of the project, type, size, strength, operating characteristics, and rating of equipment; allowable infiltration, machinery, valves, piping, and jointing of pipe, electrical apparatus, wiring and meters;



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operating tools and construction materials; special filter materials such as stone, sand, gravel or slag; miscellaneous appurtenances; chemicals when used; instructions for testing materials and equipment as necessary to meet design standards and operating test for the complete works and component units.

I. Special requirements for certain sewage disposal systems. A construction permit for a single sewage disposal system proposed to serve a dwelling unit with multiple living units, multiple dwelling units or multiple lots with dwelling units shall be issued only to a single owner. The owner shall provide legal documentation to insure operation and the maintenance of the system for the expected life of the living units or dwellings.

## J. Construction permit with conditions.

1. Definition: Conditional construction permit means a permit authorizing the installation of a septic tank subsurface soil absorption system which does not fully conform to the criteria in Part IV (12 VAC 5-610-660 et seq.) of this chapter pertaining to septic tank size, subsurface soil absorption system size and certain groundwater table conditions as indicated by soil evaluation, but which, under the conditions to which the permit is subject, can be reasonably expected to function without danger to public health.

2. The purpose of this section is to allow for the issuance of conditional construction permits. Procedures for obtaining a conditional construction permit are the same as those contained in paragraphs subsections A, B, C and D of this section.

3. Conditional construction permits may be issued for any one or more of the following use conditions when satisfactory substantiation is provided by the applicant:

- a. Reduced water flow based on permanent water saving plumbing devices;
- b. Limitations on the number of persons occupying the dwelling or using the facility served by the proposed septic tank system;
- c. Intermittent or seasonal use of the dwelling or facility served by the septic tank system; and
- d. Temporary use of the septic tank system for a specified time period not to exceed one year. Such permits may be renewable when the commissioner determines there is a good cause for renewal.

### 4. Criteria.

- a. The septic tank and/or drainfield size may be reduced based on the use conditions contained in subdivision 3 a, b, c, or d above of this subsection.
- b. In areas with seasonal fluctuating water table(s), where the seasonally high water table would cause failure if the system were to be used continuously, septic tank systems may be installed when the period of use of the septic tank system coincides with the period when the groundwater table, as indicated by free water, is at its lowest level. Acceptable separation

distances to free standing groundwater shall be as follows:

### Minimum Separation Distances to Seasonal Water Table

Percolation Rate Minutes/Inch	Distance from Trench Bottom Inches
5	2
17	3
46	12
90	18
120	20

Table 2.1  
Minimum Separation Distances to Water Table

Texture Group	Percolation Rate (minutes per inch)	Separation Distance (inches)	
		without pretreatment	with pre-treatment <sup>1</sup>
Group I	1 to 16	24	18
Group II	17 to 45	18	12
Group III	46 to 90	18	12
Group IV	90 to 120	18	12

<sup>1</sup>Pretreatment in this context refers to sewage that has been treated to reduce both BOD and suspended solids to 30 mg/l or less.

c. Because of the increased risk of failure, a conditional permit shall not be issued, in an area with a seasonally fluctuating water table if the proposed absorption area is within 200 feet of a shellfish growing area, recreational waters or a public water supply impoundment.

5. The district or local health department shall affix to the conditional construction permit a clear and concise statement relating the conditions and circumstances which formed the basis for issuing the conditional permit as well as the owner's obligations under the permit.

6. The holder of any conditional construction permit shall have the permit recorded and indexed in the grantee index under the holder's name in the land records of the clerk of the circuit court having jurisdiction over the site of the septic tank system. District or local health departments shall be provided with certification that the conditional septic tank system permit has been recorded in the land records of the circuit court. The conditional permit shall become effective one day after the district or local health department receives notification of recordation. The district or local health department shall advise the local building official that conditional septic tank system permits are not valid without certification that the permits have been properly recorded as required and shall forthwith notify the local building official when the conditional permit becomes effective. Final approval of the construction of the septic tank subsurface soil absorption system shall not be given until or unless the system is constructed in accordance with the conditions of the permit. The operation permit will be issued in accordance with 12 VAC 5-610-340.

7. As per § 32.1-164.1 of the Code of Virginia, the holder of the permit and any subsequent holders of the permit

shall be bound by the conditions stated in the permit unless the holder or subsequent holder obtains an additional permit for modification or alteration of the septic tank system to meet any new use conditions.

**12 VAC 5-610-260. Requirements for the submission of formal plans, specifications and other data.**

A. In accordance with the provisions of *Title 54.1* of the Code of Virginia, ~~§§ 54-17.1 through 54-41~~ all formal drawings, specifications, reports, and other documents submitted for approval shall be prepared by or under the supervision of a licensed professional engineer. The front cover of each set of drawings, of each copy of data and each copy of the specifications submitted shall bear the original imprint of the seal and signature of the licensed professional engineer by or under whom prepared. In addition each drawing submitted shall bear an imprint or a legible facsimile of such seal.

B. If revisions to the formal plans, specifications or documents are necessitated, a letter will be sent to the engineer outlining the revisions and requesting submission of the revised documents within 30 calendar days.

**12 VAC 5-610-370. Special permits for experimental methods, processes and equipment.**

A. New construction. Sewage treatment and disposal methods, processes, and equipment which (i) are not covered by criteria in Part IV (12 VAC 5-610-660 *et seq.*) and which (ii) in principle and/or application are new or unconventional are subject to a special permitting procedure in lieu of that set forth in 12 VAC 5-610-250. All applications for such processes, methods, and equipment shall be made to the *bureau division* through the district or local health department.

1. Submission of data on experimental methods, processes, and equipment. The policy of the *bureau division* is to encourage the development of any new methods, processes, and equipment which appear to have application for the treatment and disposal of sewage; however, new developments shall have been thoroughly tested in a full scale or representative pilot system utilizing this process and equipment. Results of this testing must be submitted to the *bureau division*. The testing required on new developments will generally follow these guidelines:

- a. All procedures used in validating the process shall be conducted under the supervision of an *accredited university*, a licensed professional engineer experienced in the field of sanitary engineering, or by a testing firm acceptable to the *bureau division*;
- b. The tests shall be performed under maximum design conditions and over extended periods of time in the geographical area of the proposed installation;
- c. The data shall be from a continuous operation of a full scale or pilot installation treating or conveying the type of sewage to be handled;
- d. Flow measuring equipment shall be provided and total flow shall be recorded daily;

e. The minimum sampling and analysis program will be established by the *bureau division* in accordance with the process under investigation; and

f. All analyses will be made in accordance with the ~~current edition of~~ Standard Methods for Examination of Water and Wastewater, 1992 (*American Public Health Association*), or analytical methods approved by the *bureau division*.

g. *The sampling shall establish the impact of the experimental sewage treatment and disposal methods, processes, or equipment on ground water and public health.*

2. Detailed plans must be submitted showing how in case of noncompliance, the method, equipment or process will be converted to or replaced with a proven system. In order to assure that funds are available to convert or replace the experimental method, equipment or process with a proven system, bonding or other assurances shall be provided. A proven system shall be a Type I, II, or III system, a point source discharge system or connection to an existing approved sewerage system or treatment works. The application for the experimental system shall be accompanied by one of the following: (i) ~~an application for a National Virginia Pollution Discharge Elimination System (NPDES VPDES) permit, or~~ (ii) *a General Permit Registration Statement issued by the State Water Control Board and a construction permit for an alternative discharging sewage treatment system issued by the commissioner, certification from the owner of the existing sewage system or treatment works that connection is available or a valid construction permit for a Type I, II, or III system.*

3. Issuance of a construction permit. After review of the plans and testing data by the *bureau division* and approval of a proven system (see ~~subsection A subdivision 2 of this chapter subsection~~) the commissioner shall issue a construction permit in accordance with the procedures of such in 12 VAC 5-610-250, if reasonably satisfied that the method, process, or equipment will provide satisfactory sewage disposal.

4. Issuance of an experimental operation permit. Upon completion of construction or modification, a permit to operate for a definite period of time will be issued for the operation of the provisionally approved methods, processes and equipment. The number of experimental systems of similar design characteristics to be installed for an evaluation period shall be determined by the *bureau division* and where soil dependent systems are utilized the number shall be limited to not more than four (4) for each physiographic province (See Appendix K). *There shall be no limit on the number of experimental systems allowed to be installed when an approved back-up system is constructed in accordance with subdivision 2 of this subsection, and plumbing is provided to the back-up system. In this instance, a flow diversion valve shall be installed to divert wastewater flow between the two systems as necessary. The provisional permit to operate the experimental system shall require that (4)*

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the evaluation period shall be a minimum of 18 months and no longer than 36 months, *under design conditions*, and (2) the holder of the experimental operation permit shall submit reports on operation during the evaluation period as required by the bureau *division*.

5. Issuance of an operation permit. The commissioner shall issue an operation permit upon expiration of the experimental permit if, on the basis of testing during that period, the bureau *division* finds that the experimental method, processes or equipment provides satisfactory sewage disposal. If these conditions are not met, then the commissioner shall issue an order which will require the owner to alter the sewage disposal system in a manner that will enable the conditions to be met.

B. Existing construction. Sewage treatment and disposal methods, processes and equipment which (i) are not covered by the criteria in Part IV (12 VAC 5-610-660 *et seq.*) of this chapter and which (ii) in principle and/or application are new or unconventional may be utilized where a conventional sewage disposal system serving an occupied dwelling has failed and it is not possible to provide an alternate sewage disposal system having a discharge to state waters. The procedures for obtaining a permit for such systems shall generally follow those set forth in subsection A of this section with the following exceptions:

1. The detailed plans required need not show how in case of nonacceptance, the sewage disposal system will be converted to or replaced with a proven process nor are bonds or assurances required;
2. More than four permits for soil dependent experimental systems of similar design characteristics may be issued per physiographic province; and
3. If the disposal system fails to work satisfactorily on a year round basis, further correction to the system may be required.

C. Waiver of issuance of an experimental operating permit. Sewage treatment and disposal methods, processes and equipment which have been tested and have demonstrated operational competence, to the satisfaction of the commissioner, but are not covered by criteria in Part IV of this chapter (12 VAC 5-610-660 *et seq.*), shall be waived from the requirements of subsections A and B of this section and shall be subject to the requirements of 12 VAC 5-610-250. If the wastewater to be treated is substantially different in flow and/or characteristics from one which was used during testing, the commissioner shall require that an experimental operating permit be issued and further testing conducted until operational competence is demonstrated.

D. Issuance of design and construction criteria. When sewage treatment and disposal methods, processes and/or equipment have demonstrated operational competence to the satisfaction of the commissioner, *provisional system approval shall be granted and design and construction criteria shall be developed in Part IV of this chapter when deemed appropriate in accordance with Article 2 (12 VAC 5-610-441 et seq.) of this part.* The criteria shall include as a minimum the *siting criteria, design and installation standards,*

performance, monitoring and service requirements of the methods, processes and equipment.

### Article 2.

#### Systems with Provisional Approval.

#### 12 VAC 5-610-441. *Provisionally approved systems; overview.*

A. Sewage treatment and disposal systems, methods, processes, technology and equipment that are not covered by criteria in Part IV (12 VAC 5-610-660 *et seq.*) and have not received general approval for use under the provisions of these regulations may be eligible for provisional approval. Depending upon the complexity of system, method, process, technology or equipment, provisional approval may be granted requiring individual applications for either a Type II or Type III system, as described in 12 VAC 5-610-250. After the evaluation period described in 12 VAC 5-610-445, a provisionally approved system may be given general approval and be incorporated into the regulations.

B. The purpose of the provisional approval process is to use, evaluate, and develop criteria for the use of new and innovative technology. The evaluation process allows the department a realistic amount of time, under true field conditions, to develop and refine siting, construction, operation and maintenance criteria applicable to conditions and uses occurring in Virginia. During this evaluation period, residents of the Commonwealth have the benefit of the systems and the department can review, evaluate, revise and refine all aspects of criteria related to the system.

#### 12 VAC 5-610-442. *Applying for provisional approval.*

A. Applications for provisional approval shall be made in writing to the division and shall request provisional approval for a specific system, technology, method or process. The application shall comply with 12 VAC 5-610-240 regarding the submission of detailed plans and specifications.

B. The application shall include the following:

1. A description of the system's operation including the accepted scientific and engineering principles upon which the system technology, method or process is based.
2. A description of the site criteria required for successful operation of the system.
3. Design criteria for sizing the system to meet all relevant site conditions and waste flow characteristics.
4. Construction procedures for successfully installing a system.
5. Operation criteria and maintenance requirements for the successful use of the system over the life expectancy of the system.
6. Proposed performance standards that the system is expected to meet to determine the success or failure of the system.
7. Documentation giving factual evidence that the system has at least a reasonable potential for treating and disposing of effluent, and that the system granted

has competency beyond experimental status but it does not need to demonstrate full competency.

8. Documentation of at least 50 comparable systems of identical design and capacity having been installed in Virginia or other states. Only systems installed under similar soil and site conditions (if applicable) to the site and soil conditions for which approval is sought in Virginia shall be considered. Additionally, the wastewater flows, strength and other characteristics shall be similar in both the demonstration systems and the proposed use in the provisional application.

9. Data indicating that the 50 systems identified in subdivision 8 of this subsection have provided both treatment and disposal equivalent to a conventional septic tank-drainfield system over a period of time not less than three years.

10. Test results and certifications conducted by an accredited college or university, the National Sanitation Foundation, entities accredited by the American National Standards Institute, or other testing groups that may be acceptable to the division and the Sewage Handling and Disposal Advisory Committee as being impartial and competent in testing or evaluating wastewater treatment and disposal methods.

C. An application submitted according to this section and containing all of the above information shall be considered a completed application.

## **12 VAC 5-610-443. Evaluation process for provisional system applications.**

A. Preliminary evaluation. Upon receiving an application, the division shall review it for completeness. The division shall request additional information from the applicant if the application does not contain all of the requested information. Once the application is complete, the division shall prepare a summary and a preliminary evaluation of the proposal.

B. Review by advisory committee. The division shall present its summary and preliminary evaluation to the Sewage Handling and Disposal Advisory Committee. The applicant shall be invited to attend the meeting and make a presentation to the committee. The committee shall review the application, the division's summary and preliminary evaluation, and any additional information presented at the meeting. The purpose of the committee's review is to ensure that the perspectives and expertise of the committee are provided to the department and are included in the department's decision making process. After review and consideration of the application, the advisory committee shall make a report to the division making a recommendation that the commissioner approve, deny or request additional information on the application. Further the committee report shall include the basis for the recommendation.

C. Division evaluation and recommendation. The division shall evaluate all completed applications and make a recommendation to the commissioner concerning the application. The recommendation, if favorable, shall include proposed criteria for installing, operating and maintaining the system. The division shall consider the following:

1. Whether the demonstrations and test results required by 12 VAC 5-610-442 to be included in the application have been met and are satisfactory.

2. The impact of the system on ground water and public health.

3. The comments and recommendations of the Sewage Handling and Disposal Advisory Committee.

4. The operation of the system in other states. The division shall solicit evaluations and comments from health officials in other states where the system, method, process, equipment or technology has been used. Whenever possible, comments shall be solicited from field environmental health specialists with first hand experience, and from the appropriate individual or individuals in the state regulatory agency with responsibility for evaluating new methods and technologies.

5. A review of the manufacturer's or the distributor's records relating to system maintenance and customer complaints. Failure to maintain accurate and up-to-date records of maintenance actions and customer complaints may delay or prevent completing a product review.

6. A review of any sample results which may be collected from or around any of the systems.

7. The practicability of preventative maintenance and the frequency of the required maintenance.

8. Other information as deemed appropriate by the division which relates to evaluating the effect of the system, method or process on ground water or public health.

D. Decision by commissioner. In making a decision, the commissioner shall review the recommendations of the division, and the comments and recommendations made by the advisory committee. The commissioner may elect to approve or deny the application, or approve the application with conditions or with requirements for additional testing. The commissioner's provisional approval shall set forth the criteria for filing an application (i.e., Type II or Type III system), installing, operating, maintaining and testing the provisionally approved system. The commissioner may limit the number of any specific type of provisionally approved system that may be permitted. The commissioner's approval shall indicate that the provisional approval may be modified as set forth in 12 VAC 5-610-446 D.

## **12 VAC 5-610-444. Appeals.**

A. Denial of provisional status. Pursuant to the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia), any aggrieved applicant seeking provisional approval for a specific type of system may appeal the final case decision of the commissioner to an appropriate circuit court.

B. Denial of an applicant for use of a provisionally approved system. Aggrieved applicants who have been denied use of a system having provisional approval may request a hearing in accordance with 12 VAC 5-610-210.

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### **12 VAC 5-610-445. Permits for constructing and operating provisionally approved systems.**

A. *Construction permit application.* Homeowners can apply for a construction permit to install a provisionally approved system in the same manner provided for in 12 VAC 5-610-250 for Type II or Type III systems depending upon the nature of the provisional approval granted by the commissioner. Appeals from the denial of a permit application for a provisionally approved system shall conform to the requirements of 12 VAC 5-610-210.

B. *Operation permit status.* Homeowners installing a provisionally approved system in accordance with the construction permit issued by the commissioner and provisional siting, design and construction criteria for that system shall be issued an operation permit. Such operation permit shall be valid until the system ceases to operate in a safe and sanitary manner, as determined by the department. The validity of any individual operation permit, issued for a system having provisional approval, shall not be dependent upon ultimate approval or denial of that specific type of provisionally approved system for general approval under these regulations.

C. *Recordation.* All permits for provisionally approved systems shall be recorded with the clerk of the circuit court in the county where the system is permitted in accordance with 12 VAC 5-610-250 J 6.

D. *Repair area.* A 100% repair area, meeting or exceeding the requirements of these regulations, or an approved discharge permit, shall be identified prior to permitting a site for a provisional system. The repair area shall be reserved for the exclusive use of the repair system. A 100% repair area meeting the requirements of the provisional approval shall be considered adequate toward meeting this repair area provision.

E. *Maintenance.* Whenever deemed appropriate by the commissioner, the department shall require operation and maintenance procedures and schedules appropriate for the method proposed.

### **12 VAC 5-610-446. Evaluation period for provisionally approved system.**

A. *Evaluation criteria.* Prior to receiving general approval and being incorporated into these regulations, systems with provisional approval shall be evaluated for not less than five years. An annual review shall normally be completed for systems with provisional approval. The review, at a minimum, shall include the following:

1. A field review of a sample of the systems installed. The sample shall include a representation of systems of newer and older installations and systems installed under different site and system limitations. System limitations will frequently be unique to each system and therefore the criteria used to select systems of different manufacturers will vary according to the nature and design of the system. The division shall determine the sample size to be evaluated and the criteria for sample selection.

2. An interview with a sample of system owners to determine customer satisfaction and customer opinions. This sample may or may not be the same as the sample of systems reviewed under 12 VAC 5-610-441 B 1.

3. A review of the manufacturer's or the distributor's records relating to system maintenance and customer complaints. Failure to maintain accurate and up-to-date records of maintenance actions and customer complaints may delay or prevent completing a product review.

4. A review of any sample results which may be collected from or around any of the systems.

5. Other information as deemed appropriate by the division which relates to evaluating the effect of the system, method or process on ground water or public health.

B. *Reporting.* The division shall distribute copies of the annual review to the manufacturer and the Sewage Handling and Disposal Advisory Committee.

C. *Tracking of site locations.* The manufacturer and the department shall keep records on the numbers, locations and operation of all provisionally approved systems.

D. *Revisions to provisional approval.* During the period of provisional approval, the department may revise any aspect of the site, soil and design requirements for that system based on experience gained during the use of the systems. The department shall work with the applicant to revise the approval by agreement, but shall not be prohibited from doing so without the consent of the applicant if warranted by health or environmental concerns. The revised provisional approval shall apply to any systems for which an application is filed after the revision is made.

### **12 VAC 5-610-447. General approval of provisionally approved systems.**

A. After the evaluation period specified in 12 VAC 5-610-446 is completed, design and construction criteria shall be developed in Part IV (12 VAC 5-610-660 et seq.) if the commissioner is satisfied that the sewage treatment and disposal system, method, process or equipment has demonstrated operational competency equal to or better than that of a gravity flow septic tank drainfield absorption system. These criteria shall be incorporated into the regulations in accordance with the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The criteria shall include as a minimum the site conditions necessary for permitting a system, design considerations, installation criteria, performance, monitoring and service requirements of the methods, processes and equipment.

B. After the evaluation period specified in 12 VAC 5-610-446 is completed, design and construction criteria shall not be developed in Part IV (12 VAC 5-610-660 et seq.) if the commissioner concludes that the sewage treatment and disposal system, method, process or equipment has not demonstrated operational competency equal to or better than that of a gravity flow septic tank-drainfield absorption system. The conditional system approval may be extended or rescinded for any system failing to show equivalency with a gravity flow septic tank-drainfield absorption system. After a

provisional approval for a system has been rescinded, any future installations of systems utilizing the same design shall comply with all provisions of these regulations for experimental systems.

## Article 3.

### Mass Sewage Disposal Systems.

#### **12 VAC 5-610-448. Special requirements for mass sewage disposal systems.**

The criteria contained in this article apply to mass sewage disposal systems and shall supersede any other conflicting criteria contained elsewhere in this chapter.

1. **Ownership.** Mass sewage disposal systems shall have a single owner as described in 12 VAC 5-610-250.
2. **Low pressure distribution.** All mass sewage disposal systems shall be designed using low pressure distribution.
3. **Plans and specifications.** All mass sewage disposal systems shall be considered Type II systems requiring formal plans and specifications.
4. **Reserve areas.** A separate reserve area or reserve areas meeting the requirements of the original absorption area or areas, and equaling 100% of the required area, shall be provided adjacent to the proposed system.
5. **Recordation.** In addition to the subsurface absorption system protection provided for in 12 VAC 5-610-700 a dedication document duly recorded with the clerk of the circuit court shall be furnished to the department stating that the sewage disposal areas and reserve areas will be used only for sewage renovation and may not be excavated or used for permanent structures while the mass sewage disposal system is utilized.

#### **12 VAC 5-610-449. Ground water modeling and verification.**

A. **Nitrate evaluation.** The prevention of ground water contamination shall be addressed by the applicant. Documentation shall include, but not be limited to, demonstrating that nitrogen concentrations in the ground water will be limited to 10 mg/l or less at the perimeter of the property.

1. **Dilution areas.** Dilution areas, if utilized, shall be adjacent to the mass sewage disposal system and shall be in line with the direction of local ground water flow when known. If the direction of local ground water flow is not known and cannot be readily determined, the regional ground water direction may be used.
2. **Mass balance.** Nitrogen calculations shall be based on a mass balance principle.
  - a. Unless demonstrated otherwise, the wastewater shall be assumed to have 70 mg/l of nitrogen concentration of which not more than 30% will be denitrified as a result of gaseous losses prior to entering a saturated zone.

b. No reduction in nitrate-nitrogen loading rate shall be given for reduced water flow. For the purposes of determining nitrate-nitrogen loads from residential wastewater, a flow of 75 gallons per person per day shall be utilized. Nothing contained in this subsection prevents the use of water saving fixtures. Furthermore, reduced absorption areas may be permitted pursuant to 12 VAC 5-610-680.

3. All drinking water wells shall be prohibited from being located anywhere within the plume of the mass sewage disposal system, where the nitrate concentration of the plume will exceed 10 mg/l.

4. When the nitrate level leaving the property exceeds 10 mg/l, the department shall require the system owner to cease discharging within six months unless a plan to take remedial action has been proposed, reviewed and approved by the department and installed, inspected and approved for use by the department.

B. **Water mounding evaluation.** The potential for effluent mounding below the absorption area shall be addressed by the applicant. The evaluation shall consider the impact of mass sewage disposal system facilities, proposed or existing, within 1,500 feet of the proposed mass sewage disposal system. Data shall be submitted which will demonstrate how a minimum of 24 inches of unsaturated soil will be maintained below the trench bottom. All water mounding calculations shall use measured hydraulic conductivity readings; estimating hydraulic conductivity without measured data shall be prohibited.

C. **Location.** In general, not less than four monitoring wells will be required. The monitoring wells shall be located to intercept any potential plume from the mass sewage disposal system and establish that adequate dilution is occurring. The department may require specific well locations to be designated by a certified professional geologist. Whenever a water supply is located within 500 feet down gradient from any part of a mass sewage disposal system or systems, at least one additional monitoring well shall be required between the water supply and the mass sewage disposal system.

D. **Sampling.** Ground water, soil and effluent sampling shall be required based on local hydrogeologic conditions. Sampling parameters shall be established by the department on a case-by-case basis but shall at a minimum include fecal coliform, chlorides and nitrates. Sampling frequency shall be every six months.

1. **Responsibility for sampling.** The owner of the mass sewage disposal system shall be responsible for ensuring that all samples are collected, analyzed, and reported to the department in accordance with these regulations. All laboratory tests shall be conducted in accordance with either Standard Methods for the Examination of Water and Wastewater, 1992 (American Public Health Association), or Methods for Determination of Inorganic Substances in Environmental Samples, August 1993 (USEPA).

2. **Reporting requirements.** All sample results shall be submitted on or before the last work day of the month in

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which the sample is due. Sample results shall be submitted to the district health department office by the owner or the owner's representative. Results may be submitted on any form agreed to by the department prior to sampling.

E. Background sampling. At least one background sample from each well shall be required prior to permitting the mass sewage disposal system. Sampling may occur at any time satisfactory to the applicant. Where the background nitrate level is less than 10 mg/l, the system shall be designed to ensure that the nitrate level does not increase above 10 mg/l. Where the background nitrate level of any sample exceeds 10 mg/l, at the property boundary, the application for a mass sewage disposal system shall be denied.

## 12 VAC 5-610-470. Physical features.

A. Marshes and swamps. Placement of subsurface soil absorption systems on or in swamps and marshes is prohibited.

B. Slope. Subsurface soil absorption systems shall not be placed on slopes greater than 50% unless terraced.

### C. Drainage ways.

1. Definition. A drainage way is a concave portion of the landscape in which surface water or rain water run-off gathers intermittently to flow to a lower elevation.

2. Placement. Subsurface soil absorption systems shall not be placed at a position in a drainage way subject to intermittent flooding.

D. Fill material. Fill material means soil transported and deposited by man as well as soil recently transported and deposited by natural erosion forces. Recent natural soil transportation and deposit is evidenced by one or more of the following.

1. No or indistinct soil horizons;
2. Depositional stratification;
3. Presence of a buried organic layer; and
4. Position in the landscape.

Placement of subsurface soil absorption systems in fill material is normally prohibited. However, fill material consisting of colluvial soil derived from sandstone (noncarbonaceous) in the mountainous area, may be considered on a case-by-case basis for placement of subsurface soil absorption systems.

### E. Rock and impervious strata.

~~1. Separation distances to rock and impervious strata are contained in Table 4.4. The rock requirements pertain to continuous solid rock formations and outcroppings associated with the parent material and should not be confused with "stoniness".~~

~~2. Rock is defined as any material that is continuous and cannot be penetrated with a hand auger or hand posthole digger.~~

~~3. Impervious strata is defined as soil or soil materials with an estimated or measured percolation rate in excess of 120 minutes/inch.~~

### E. Soil material required beneath a drainfield for treatment.

1. Eighteen or 24 inches of soil (see Table 2.1 in 12 VAC 5-610-250) meeting all the requirements contained in these regulations for the installation of a subsurface absorption trench, must exist below and beside all soil absorption trenches for the purpose of renovating sewage effluent before entering rock or other material not capable of treating effluent.

2. Where 18 inches or 24 inches of soil (see Table 2.1 in 12 VAC 5-610-250) meeting all the requirements contained in these regulations cannot be provided below a drainfield trench prior to encountering rock or water table, the separation distance may be reduced by six inches provided adequate pretreatment is provided. The minimum adequate pretreatment shall be considered to be sand filtration or other pretreatment capable of producing effluent containing not more than 30 mg/l BOD and 30 mg/l suspended solids at least 95% of the time on a continuous basis as measured by grab samples. Additional pretreatment may be required to address site specific concerns such as nitrate or bacterial contamination.

3. When pretreatment is utilized with a subsurface sewage disposal system, the permit shall be issued with conditions, as described in 12 VAC 5-610-250 J, and shall require monitoring and maintenance as described in Article 4 (12 VAC 5-640-490 et seq.) of Part III of the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings including monitoring and maintenance contracts.

F. Sink holes. Placement of a subsurface soil absorption system at the low point of a sink hole is prohibited. For set back distance see 12 VAC 5-610-930, Table 4.4.

G. Flood plains. Subsurface soil absorption systems shall not be placed in flood plains subject to annual or more frequent sustained (24 hours) flooding.

H. Artificial drainage. Where soils are artificially drained, soil coloration may no longer be an accurate indicator of the position of the seasonal water table.

Three types of artificial drainage systems which are generally considered are as follow:

1. A water table depressor system of buried conduits i.e., agricultural drainage tile;

2. A lateral groundwater movement interceptor is a buried conduit for the purpose of intercepting lateral groundwater movement i.e., a French drain; and

3. Open ditches with the bottom elevation of the ditch below the seasonal water table.

I. Setback distances. Minimum setback distance between subsurface soil absorption systems and various structures and topographical features may be found in Part IV of this chapter 12 VAC 5-610-930, Table 4.4.

12 VAC 5-610-700. Site preparation and alteration.

A. Preservation of soil structure. The preservation of the original structure of the soil in the area selected for placement of the absorption trenches is essential to maintaining the percolative capacity of the soil.

1. Prohibition on construction. Subsurface soil absorption systems shall not be constructed in Texture Group III and IV soils during periods of wet weather when the soil is sufficiently wet at the depth of installation to exceed its plastic limit. For the purpose of this chapter the plastic limit of a soil shall be considered to have been exceeded when the soil can be rolled between the palms of the hands to produce threads 1/8 inch in diameter without breaking apart and crumbling.

Table 4.1  
Sewage Flows

Discharge Facility	Design Unit	Flow gpd	BOD #/day	S.S \$#/day	Flow Duration (Hour)
Dwelling <sup>1</sup>	per person total	75	0.2	0.2	24
Food Preparation		15			
Toilet Facilities		20			
Bathing Facilities		20			
Hand Washing Facilities		5			
Laundering		15			
Schools with shower and cafeteria	per person	16	0.04	0.04	8
Schools without showers and with or without cafeteria	per person	10	0.025	0.025	8
Boarding Schools	per person	75	0.2	0.2	16
Motels at 65 gals/person (rooms only)	per person	130	0.26	0.26	24
Trailer Courts	per person	75	0.2	0.2	24
Restaurants	per seat	50	0.2	0.2	16
Interstate or through highway restaurants	per seat	100-180	0.7	0.7	16
Interstate Rest Areas Service Stations	per person per vehicle serviced	5 10	0.01 0.01	0.01 0.01	24 16
Factories & Office Buildings	per person per 8-hr shift	15-35	0.03-0.07	0.03-0.07	Operating Period
Shopping Centers	per 1000 ft. of ultimate floor space	200-300	0.1	0.1	12
Hospitals	per bed	300	0.6	0.6	24
Nursing Homes	per bed	200	0.3	0.3	24
Homes for the Aged	per bed	100	0.2	0.2	24
Doctors Office in Medical Center	per 100 ft.	500	0.1	0.1	12
Laundromats, 9 to 12# machines	per machine	500	0.3	0.03	16
Community Colleges	per student and faculty	15	0.03	0.03	12
Swimming Pools	per swimmer	10	0.001	0.001	12
Theaters, Drive-In Type	per car	5	0.01	0.01	4
Theaters, Auditorium Type	per seat	5	0.01	0.01	12
Picnic Areas	per person	5	0.01	0.01	12
Camps, Resort Day and Night with limited plumbing	per campsite	50	0.05	0.05	24
Luxury Camps with Flush toilets	per camp site	100	0.1	0.1	24
Dump Station	per camp site	50	0.05	0.05	24

<sup>1</sup>For all dwelling units the design shall be based on two person persons per bedroom

2. Soil compaction. Special caution shall be taken in allowing wheeled and tracked vehicles to traverse the area selected for placement of the absorption systems before, during and after construction of the trenches, especially during wet weather. Precaution is especially important where Texture Group III and IV soils are involved. Alteration of soil structure by movement of vehicles may be grounds for rejection of the site and/or system.

3. Soil smearing. Excavating equipment utilized to construct the absorption system shall be so designed as not to compress or smear the sidewalks or bottom of the system. Excessive smearing of the usable absorption trench sidewalls or bottom during construction may result in irreversible damage to the soil infiltrative surface and may be grounds for rejection of the site and/or system.

B. Removal of vegetation. Vegetation such as maple, cottonwood, willows and other plant species with extremely hydrophilic (water loving) root systems shall be removed for a minimum of 10 feet from the actual absorption areas. Other trees should be removed from the absorption area.

C. Grading.

1. Pregrading. The proposed site for the subsurface soil absorption system shall not be graded until the district or local health department has completed the site evaluation contained in Part III, Article 1 of this chapter.

2. Interim grading. Interim grading means site grading during or immediately preceding the construction of the absorption system. Any such grading shall be done in accordance with the conditions contained in the construction permit. The district or local health department may require notification upon completion of the interim grading but before actual installation of the absorption system.

3. Final grading. Final grading of the absorption area site for diversion of surface water (e.g. crowning) for the purpose of eliminating surface water from flowing or ponding on the site, preparation for seeding, etc. shall be accomplished to avoid damaging the absorption area. Prior to grading, the distribution box, pretreatment unit and absorption area shall be clearly staked.

D. Drainage.

1. Surface water. The area surrounding the absorption area shall be graded to divert surface water from the absorption area site. The absorption area site shall also be graded to eliminate the ponding of water.

2. Roof drains, basement sump discharges (nonsewage), floor drains, footing drains, etc. are prohibited from being connected to the sewage disposal system and shall be directed away from the absorption area site in a manner to preclude water flow into, through or over the site. Discharge of sewage into a basement sump collecting water from floor drains, storm water, etc. is prohibited.

3. Lateral groundwater movement interceptors (LGMI e.g. French drains) may be required to divert groundwater movement away from the absorption area



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site. The LGMI shall be placed perpendicular to the general slope of the land and generally parallel to the absorption trenches. A tight drain from the LGMI shall be constructed to discharge into a natural or manmade drainage way.

## E. Protection of subsurface soil absorption system.

1. No structures shall be placed over the subsurface soil absorption system. Driveways or parking lots shall not be constructed on the subsurface soil absorption system unless the invert of the lead or header lines or top of the gravel in the absorption trenches is deeper than 30 inches below the ground surface and the driveway or parking lot is paved with portland cement or bituminous concrete to prevent compaction of the trench bottom. Driveways and parking lots shall not be constructed over the distribution box unless adequate structural and access provisions are provided.

2. Where all or part of a subsurface soil absorption system is proposed to be installed on property other than the owners, an easement in perpetuity shall be recorded with the clerk of the court prior to issuance of a construction permit (see 12 VAC 5-610-280). The easement shall be of sufficient area to permit access, construction, required reserve area (see 12 VAC 5-610-710), and maintenance of the system.

3. Where the sewer line from the building to the pretreatment unit or the conveyance line is to be placed underneath a state road or in a Virginia Department of Transportation right-of-way, the requirement for a recorded easement in perpetuity can be waived for that portion of the system located underneath the road or in the right-of-way. In its place, the applicant shall obtain the appropriate permit or permits from the Department of Transportation to construct the sewer or conveyance line in its right-of-way. The construction permit for the sewage disposal system shall not be issued until the applicant provides the local health department with a copy of the permit issued by the Department of Transportation. Under no circumstances shall the pretreatment unit, the distribution box, or the soil absorption portion of the system be installed in the Department of Transportation right-of-way.

F. Preplacement and post-placement of utilities. Subsurface soil absorption systems shall not be placed in an underground utility easement. No buried utility service, e.g. water lines, electrical lines, gas lines etc., shall traverse the subsurface soil absorption system area nor shall the buried service be closer than 10 feet to the system.

## 12 VAC 5-610-810. Anaerobic biological systems.

Septic tanks are the most commonly used pretreatment systems and under normal circumstances are the most inexpensive units which give acceptable results with a minimum of maintenance.

A. 1. Location. Minimum separation distances for septic tanks to various structures and features are the same as those contained in 12 VAC 5-610-930, Table 4.4, entitled Minimum Separation Distances; except that for Class III wells the distance shall be 50 feet.

B. 2. Materials. The preferred material for use in constructing septic tanks is concrete. Other materials may be considered on a case-by-case basis. All materials must be resistant to corrosion, both chemical and electrolytic and must have sufficient structural strength to contain sewage and resist lateral compressive and bearing loads.

## C. Design. 12 VAC 5-610-815. Septic tank design.

4. A. Tank capacity. The minimum hydraulic detention time shall be 48 hours based on daily design flow. In no case shall the septic tank capacity be less than 750 gallons. Table 4.2 contains the minimum required septic tank capacities for dwelling units.

Table 4.2  
Septic Tank Capacities for Dwelling Units

No. Bedrooms	Approximate Tank Volume in Gallons
1	750
2	750
3	900
4	1200
5	1500

2. B. Tank dimensions. Septic tanks shall be rectangular in plan, cross-section and longitudinal view. The length to liquid depth to width ratio should be approximately equal or greater than 2 to 1 to 1 (2:1:1) and less than or equal to 3 to 1 to 1 (3:1:1). In no case shall the liquid depth be less than four feet or greater than eight feet. A minimum of one foot free board shall be provided. Inlet and outlet structures shall be placed on the longitudinal axis of the tank. Typical tank dimensions are found in Table 4.3.

Table 4.3  
Typical Septic Tank Dimensions in Feet

Approximate Gallons	Length	Width	Liquid Depth	Freeboard
750	7	3.5	4	1
900	8	4	4	1
1200	9	4.5	4	1
1500	9.5	5	4.7	1

## 3. C. Inlet-outlet structure.

a. 1. General. The inlet and outlet structures shall function as a baffle. The invert of the inlet structure shall be greater than one inch but less than two inches higher than the invert of the outlet structure with the tank installed. The inlet structure shall extend six to eight inches below and eight to 10 inches above the normal liquid level. The outlet structure shall extend below the normal liquid surface to a distance of 35 to 40% of the liquid depth and eight to 10 inches above the normal liquid level. The inlet and outlet structures shall have an open space not less than four inches by four inches in cross-section or four inches in diameter.

b. 2. Materials. All materials used for inlet and outlet structures shall have long term resistance to chemical and electrolytic corrosion. When pipe tees are used as

inlet and outlet structures, the material shall be compatible with the material used in the sewer.

4. D. Top access and watertightness. All septic tanks shall be watertight and shall be provided with a watertight top. As a minimum, access manholes shall be provided over the inlet and outlet structures and shall have a minimum open space of 18 inches by 18 inches. When the septic tank has in excess of 30 inches of soil cover an access manhole shall be brought to within 18 inches of the ground surface and shall be provided with a tight fitting cover. In wet areas the manhole covers shall be watertight.

E. Inspection port. All septic systems installed or repaired after July 1, 1994, and utilizing a septic tank for pretreatment, shall be equipped with a 4-inch to 6-inch (or larger) inspection port. The inspection port shall terminate at or above grade and be designed to allow an inspection of sludge build up in the septic tank. The inspection port shall be constructed of schedule 40 PVC pipe, or equivalent, and shall be fitted with a water-tight threaded cap. The recommended location of the inspection port shall be in or near the manhole cover on the inlet side of the septic tank away from the inlet tee. Other locations may be approved by the district health department on a case-by-case basis.

D. F. Construction of septic tanks. The contractor and/or manufacturer shall design and construct the septic tank to withstand the lateral and bearing loads to which the septic tank is expected to be subjected. Suggested design and construction criteria are contained in Appendix N.

E. G. Placement of septic tanks. The precast septic tank shall be bedded with at least six inches of sand or fine gravel where rock or other undesirable conditions are encountered. The tank shall be placed level. Where excavation is required the hold shall be sufficiently large to permit placement of the tank. Backfilling the excavation for all septic tanks shall be done in layers with sufficient tamping to avoid settling. Backfill material shall be free of large stones and debris.

**12 VAC 5-610-820. Miscellaneous.**

A. Multiple septic tanks in series. The required volume for a septic tank may be satisfied by the utilization of two septic tanks in series, however, the first septic tank in series shall equal to 1/2 to 2/3 the required total volume.

12 VAC 5-610-830. B. Physical and/or chemical systems. Physical and/or or chemical systems, or both, utilized as pretreatment for subsurface disposal of sewage shall meet the applicable criteria contained in 12 VAC 5-580-930 through 12 VAC 5-580-960 of the Sewerage Regulations.

12 VAC 5-610-840. C. Water stop. A water stop is a method for sealing the annular space around a conduit and/or or pipe, or both, for the purpose of preventing infiltration and/or or exfiltration, or both. Conduits and/or pipes passing through the walls of a pretreatment unit shall be provided with a water stop.

**12 VAC 5-610-950. Absorption areas.**

The absorption area is the undisturbed soil medium beginning at the soil gravel or sand interface which is utilized for absorption of the effluent. The absorption area includes

the infiltrative surface in the absorption trench and the soil between and around the trenches.

A. Minimum soil conditions necessary for placement of absorption trenches.

1. Suitability of soil horizon. The absorption trench bottom shall be placed in the soil horizon or horizons with the "fastest" average estimated or measured percolation rate. Soil horizons are to be identified in accordance with 12 VAC 5-610-480. The soil horizon must meet the following minimum conditions:

a. It shall have an estimated or measured percolation rate equal to or less than 120 minutes per inch.

b. The soil horizon or horizons shall be of sufficient thickness so that at least 12 inches of absorption trench sidewall is exposed to act as an infiltrative surface; and

c. If no single horizon meets the conditions in paragraph A subdivision 1 b above of this subsection, a combination of adjacent horizons may be utilized to provide the required 12 inch sidewall infiltrative surface. However, no horizon utilized shall have an estimated or measured percolation rate greater than 120 minutes/inch.

2. Distance to rock, rock outcroppings, impervious strata and pans. The minimum acceptable separation distance, both vertical and horizontal, from the absorption trench bottom and sidewalls to rock, rock outcroppings, impervious strata and pans is one foot. (See Table 4.4 "Minimum Separation Distances")

3. Minimum depth to seasonal water table. As used herein the term seasonal water table means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray or black. The depth in the soil at which these conditions first occur is termed "seasonal water table". The minimum separation distance from the absorption trench bottom to the seasonal water table for various soil percolation rates is tabulated in Table 4.5.

Table 4.5  
Minimum Separation Distances to Seasonal Water Table

Percolation Rate Minutes/Inch	Distance from Trench Bottom Inches
5	2
17	3
46	12
90	18
120	20

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**Table 4.5**  
Minimum Separation Distances to Water Table.

Texture Group	Percolation Rate (minutes per inch)	Separation Distance (inches)	
		without pretreatment	with pre-treatment <sup>1</sup>
Group I	1 to 16	24	18
Group II	17 to 45	18	12
Group III	46 to 90	18	12
Group IV	90 to 120	18	12

<sup>1</sup>Pretreatment in this context refers to sewage that has been treated to reduce both BOD and suspended solids to 30 mg/l or less.

4. Placement of absorption trenches below soil restrictions. Placement of the soil absorption trench bottom below soil restrictions as defined in 12 VAC 5-610-490 E, whether or not there is evidence of a perched water table as indicated by free standing water or gray mottlings or coloration, requires a special design based on the following criteria:

- a. The soil horizon into which the absorption trench bottom is placed shall be a Texture Group I, II or III soil, or have an estimated or measured percolation rate of less than 91 minutes per inch.
- b. The soil horizon shall be a minimum of three feet thick and shall exhibit no characteristics that indicate wetness or restriction of water movement. The absorption trench bottom shall be placed so that at least two feet of the soil horizon separates the trench bottom from the water table and/or rock. At least one foot of the absorption trench side wall shall penetrate the soil horizon;
- c. A lateral groundwater movement interceptor (LGMI) shall be placed upslope of the absorption area. The LGMI shall be placed perpendicular to the general slope of the land. The invert of the LGMI shall extend into, but not through, the restriction and shall extend for a distance of 10 feet on either side of the absorption area (See 12 VAC 5-610-700 D 3); and
- d. Pits shall be constructed to facilitate soil evaluations as necessary.

## B. Sizing of absorption trench area

1. Required area. The total absorption trench bottom area required shall be based on the average estimated or measured percolation rate for the soil horizon or horizons into which the absorption trench is to be placed. If more than one soil horizon is utilized to meet the sidewall infiltrative surface required in paragraph A 1 of this chapter subdivision A 1 of this section, the absorption trench bottom area shall be based on the average estimated or measured percolation rate of the "slowest" horizon. The trench bottom area required in square feet per 100 gallons (Ft<sup>2</sup>/100 Gals) of sewage applied for various soil percolation rates is tabulated in Table 4.6. The area requirements are based on the equation:

$$\log y = 2.00 + 0.008 (x)$$

$$\text{where } y = \text{Ft}^2/100 \text{ Gals}$$

x = Percolation rate in minutes/inch

Notwithstanding the above, the minimum absorption area for single family residential dwellings shall be 400 square feet.

2. Area reduction. See Table 4.6 for percent area reduction when low pressure distribution is utilized. A reduction in area shall not be permitted when flow diversion is utilized with low pressure distribution.

**Table 4.6**  
Area Requirements for Absorption Trenches

Percolation Rate Minutes/Inch	Area Required Ft <sup>2</sup> /100 Gals		Area Required Ft <sup>2</sup> /Bedroom	
	Low Pressure		Low Pressure	
	Gravity	Distribution	Gravity	Distribution
5	110	110	165	165
10	120	120	180	180
15	132	132	198	198
20	146	146	218	218
25	158	158	237	237
30	174	164	260	255
35	191	170	286	260
40	209	176	314	264
45	229	185	344	279
50	251	193	376	293
55	275	206	412	309
60	302	217	452	325
65	331	228	496	342
70	363	240	544	359
75	398	251	596	375
80	437	262	656	394
85	479	273	718	409
90	525	284	786	424
95	575	288	862	431
100	631	316	946	473
105	692	346	1038	519
110	759	379	1138	569
115	832	416	1248	624
120	912	456	1368	684

## C. Minimum cross section dimensions for absorption trenches.

1. Depth. The minimum trench sidewall depth as measured from the surface of the mineral soil shall be 48 six inches when placed in a landscape with a slope less than 10%. ~~Mineral soil is a soil consisting predominantly of, and having its properties determined predominantly by mineral matter. A mineral soil usually contains less than 20% organic matter, but it may contain an organic surface layer up to 12 inches thick.~~ The installation depth shall be measured on the downhill side of the absorption trench. When the installation depth is less than 18 inches, the depth shall be measured from the lowest elevation in the microtopography. All systems shall be provided with at least 12 inches of cover to prevent frost penetration and provide physical protection to the absorption trench; however, this requirement for

*additional cover shall not apply to systems installed on slopes of 30% or greater. Where additional soil cover must be provided to meet this minimum, it must be added prior to construction of the absorption field, and it must be crowned to provide positive drainage away from the absorption field.* The minimum trench depth shall be increased by at least five inches for every 10% increase in slope. Sidewall depth is measured from the ground surface on the downhill side of the trench.

2. Width. All absorption trenches utilized with gravity distribution shall have a width of from 18 inches to 36 inches. All absorption trenches utilized with low pressure distribution shall have a width of eight inches to 24 inches.

D. Lateral separation of absorption trenches. The absorption trenches shall be separated by a center to center distance no less than three times the width of the trench for slopes up to 10%. However, where trench bottoms are two feet or more above rock, pans and impervious strata, the absorption trenches shall be separated by a center to center distance no less than three times the width of the trench for slopes up to 20%. The minimum horizontal separation distance shall be increased by one foot for every 10% increase in slope. In no case shall the center to center distance be less than 30 inches.

E. Slope of absorption trench bottoms.

1. Gravity distribution. The bottom of each absorption trench shall have a uniform slope not less than two inches or more than four inches per 100 feet.

2. Low pressure distribution. The bottom of each absorption trench shall be uniformly level to prevent ponding of effluent.

F. Placement of absorption trenches in the landscape.

1. The absorption trenches shall be placed on contour.

2. When the ground surface in the area over the absorption trenches is at a higher elevation than any plumbing fixture or fixtures, sewage from the plumbing fixture or fixtures shall be pumped.

G. Controlled blasting. When rock or rock outcroppings are encountered during construction of absorption trenches the rock may be removed by blasting in a sequential manner from the top to remove the rock. Percolation piping and sewer lines shall be placed so that at least one foot of compacted clay soil lies beneath and on each side of the pipe where the pipe passes through the area blasted. The area blasted shall not be considered as part of the required absorption area.

## 12 VAC 5-610-1080. Anaerobic lagooning of septage.

A. General. An anaerobic lagoon for the purpose of this chapter is a nondischarging facility consisting of an open impervious structure, constructed of earth or other material specifically designed for receiving and stabilizing septage and other sewage sludges. Industrial waste sludges and sludges containing toxic material shall not be placed in these lagoons.

B. General site requirements.

1. Engineering, geologic, soil and hydrologic evaluation. Geologic information required by the district or local health department and the bureau division shall include, but not be limited to, soil characteristics, percolation information, maximum groundwater table, direction of groundwater movement and permeability.

2. Location.

a. Minimum setback distances for topographic features are the same as those for subsurface soil absorption systems and are contained in Table 4.4.

b. Buffer zone. Buffer zone criteria are contained in Appendix I.

c. Flood protection. The anaerobic lagoon and operational components shall be located at an elevation which is not subject to the 100-year flood/wave action or shall otherwise be adequately protected against the 100-year flood/wave action damage. The anaerobic lagoon shall remain fully operational during the 25-year flood/wave action.

d. Surface runoff. Adequate provisions shall be made to divert storm water around the anaerobic lagoon and otherwise protect the lagoon's embankments.

3. Access. An all weather access road shall be provided.

4. Fencing. The facility site to include treatment units and appurtenances shall be fenced with a five foot fence (woven wire plus barbed wire); gates and locks to provide controlled entry into the facility. The fence shall be posted with signs identifying the facility, safety and health dangers and trespass penalties. The fence shall not be constructed closer than 10 feet to the outside edge of any treatment unit or appurtenance.

C. Design requirements (See Figure IV-1 for typical sections).

1. Receiving facilities.

a. An impervious pad or sufficient strength to support a loaded tank truck and with drainage to the lagoon shall be provided at the point or points where the contents of the tank truck is offloaded into the lagoon or receiving facilities.

b. The receiving and inlet facilities shall be designed to transport the septage into the lagoon, to distribute the septage as evenly as possible throughout the lagoon and to minimize generation of odors and suspension of solids.

2. Treatment units.

a. Anaerobic lagoons.

(1) Number and capacity. A minimum of two lagoons shall be provided. The combined total capacity of the lagoons shall provide eight months storage based on the average daily discharge into the lagoon.

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(2) Operating depth. The normal operating depth shall be from three to five feet.

(3) Lagoon bottom. The lagoon bottom shall be level, constructed of impervious material ( $10^{-6}$  cm/sec) and be a minimum of two feet above the seasonal water table or at the original ground surface.

For Typical Anaerobic Lagoon Inlet Structure, see Virginia Administrative Code print product.

(4) Lagoon embankments. Embankments and/or dike walls shall be impervious and structurally stable. They shall be designed to permit access of equipment by appropriate lining or internal barriers necessary for sludge removal in a nuisance free and safe manner, and to minimize risk, supervision, operation and maintenance. Earthen embankments shall be sloped (minimum 1:3) and seeded with proper cover, subject to soil characteristics, to minimize erosion.

(5) Freeboard. A minimum freeboard of two feet above the normal depth shall be provided.

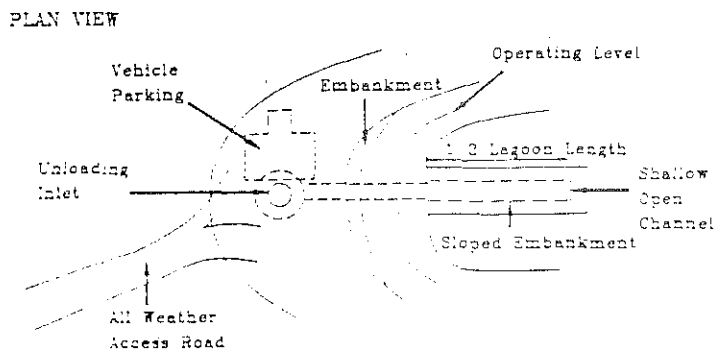
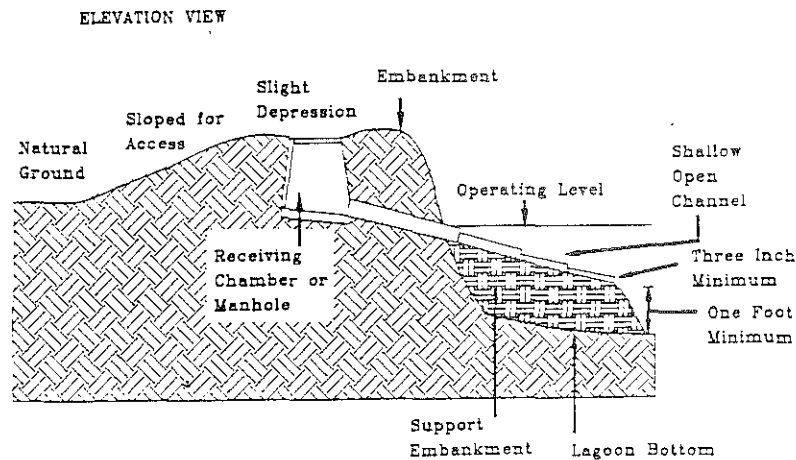
(6) Shape. A uniform shape shall be provided i.e. round, square, or rectangular with no narrow or

elongated portions. The lagoon shall not contain islands, peninsulas or coves unless they are part of the inlet/outlet design.

b. Sludge dewatering. When sludge dewatering units are provided they shall be designed in accordance with 12 VAC 5-580-700, Sludge Dewatering, Virginia Sewerage Regulations contained in Appendix J.

3. Supernatant disposal. Normally the lagoon supernatant should be included in the sludge mixed liquor which is disposed of on the land. When a system is designed to provide for separate supplemental supernatant disposal it shall be by subsurface soil absorption system. The minimum subsurface soil absorption system field size shall be based on the anticipated average daily supernatant generation rate and shall meet all applicable criteria contained in Part III, Article 1 (12 VAC 5-610-560 et seq.) of Part III and Part IV, Article 5 (12 VAC 5-610-900) of Part IV of this chapter. The lagoon outlet shall be designed to minimize the solids content of the supernatant withdrawn for disposal in the subsurface soil absorption system and shall be provided with a means to control the rate and quantity of supernatant withdrawal.

Figure IV-1



**12 VAC 5-610-1140. General.**

Authority for this article is found in § 32.1-164 B 6 of the Code of Virginia. This article pertains only to new construction where a nonpublic water supply, *other than a private well*, is to be constructed and utilized in conjunction with an onsite sewage disposal system. Approval of the water supply is an integral part of the issuance of an operation permit for a sewage disposal system (see 12 VAC 5-610-340) and no separate permit is required. An approval of a water supply under this section connotes a water supply meeting the quantity, quality and construction standards of a satisfactory water supply at the time of approval.

**A. Quantity.**

1. The system shall be capable of supplying water in adequate quantity for its intended usage. Failure to provide adequate capacity may cause intermittent flows and negative pressures which may cause contamination of the system through cross connections or other system deficiencies.
2. The source shall have a capacity to produce 150 gallons per bedroom per day for residential use.
3. The minimum system capacity (source plus storage) should be capable of delivering a sustained flow of five gallons per minute per connection for 10 minutes for ordinary residential use.
4. ~~When wells are utilized the yield and drawdown of the well shall be determined by one of the following methodologies:~~
  - a. ~~All wells, air lift, bail or pump for a minimum of 30 minutes.~~
  - b. ~~Bored wells only: Bail down water level and measure recovery over a 30 minute period; if flow into well is slow, bail the well and measure recovery after 24 hours.~~

~~A completed GW-2 Form shall be used to certify the yield of the well.~~

**B. Quality.**

1. Water sources described in this section shall be considered satisfactory if the water sample or samples test negative for coliform organisms. Sources with positive coliform counts, but with less than 100 MPN/100ml shall be provided with a means for continuous disinfection (chlorination).
2. A sample tap shall be provided at or near the water entry point into the system so that samples may be taken directly from the source; this requirement may be met by utilizing the first tap on the line near where the plumbing enters the house (may be a hose bib), provided the tap precedes any water treatment devices.
3. The entire water system including the well shall be disinfected prior to use. After operating the well to remove any remaining disinfectant, a sample of the water from the well shall be collected by the district or local health department for bacteriological examination. The sample may be collected by the owner or well driller

, or an agent designated by the owner, provided the sample is submitted to a private, certified (by Division of Consolidated Laboratory Services) laboratory for analysis.

4. If tests indicate that the water is unsatisfactory and no other approval source is available, adequate approved methods of water treatment shall be applied. The district or local health department shall be consulted when treatment is necessary.

C. Approval. All water supplies covered by this chapter shall be approved by the district or local health department before being placed into service as a satisfactory water supply.

**12 VAC 5-610-1150. Wells. [Repealed.]**

**A. General.**

~~1. Drinking water wells covered under this chapter. All nonpublic water supply wells used, or intended to be used, for a drinking water supply to residential, commercial or industrial buildings or facilities that are constructed in conjunction with the construction of an onsite sewage disposal system are covered by this chapter.~~

~~2. Nonpublic drinking water wells not covered under this chapter. This chapter does not apply to nonpublic drinking water wells already in existence on the effective date of this chapter.~~

~~3. Classes of water wells. The following classes of drinking water wells are established for purposes of this chapter. These clauses are in addition to those established in the current Commonwealth of Virginia Waterworks Regulations and are intended for use for nonpublic drinking water systems:~~

- a. ~~Class III A (drilled wells).~~
- b. ~~Class III B (bored wells).~~
- c. ~~Class III C (jetted wells).~~
- d. ~~Class III D (dug wells).~~

**B. Well location.**

~~1. Sanitary survey. Any obvious source of toxic or dangerous substances in the vicinity of the proposed water well shall be investigated by the district or local health department. If the source of contamination would affect the well adversely, the well shall be prohibited. The minimum separation distance between the well and sources of pollution shall be the same as that for the subsurface soil absorption system. See Table 4.4 Minimum Separation Distances and 12 VAC 5-610-810 A.~~

~~2. Downslope siting of wells from potential sources of pollution. Special precaution shall be taken when locating a well within a 60 degree arc directly downslope from any part of any existing or intended onsite disposal system or other known source of pollution, including, but not limited to, buildings subject to termite or vermin treatment or used to store polluting substances or~~

# Proposed Regulations

storage tanks or storage areas for petroleum products or other deleterious substances. The minimum separation distance shall be increased by 25 feet for every five percent of slope and/or an increase be made to the minimum depth of grout and casing in the amount of five feet for every five percent of slope.

3. Sites in swampy areas, low areas, or areas subject to flooding. No water well covered by this chapter shall be located in areas subject to annual flooding or in other areas subject to the collection of pollutants.

## C. Site protection.

1. No objects, articles, or materials of any kind which are not essential to the operation of the well should be placed or stored in a well house, on the well head or well pump or water treatment system, or within close proximity to them.

2. The application of agricultural fertilizers, pesticides, and/or herbicides within close proximity to the well or treatment system should be prohibited.

3. The minimum distance from any well subject to this chapter to any property line shall be 10 feet.

4. Fencing of the well lot may be required under certain conditions such as to prohibit livestock access to the well head.

5. If necessary, the area around the well shall be graded to divert surface water away from the well.

## D. Materials.

1. General. All materials used in drinking water wells shall have long term resistance to corrosion and sufficient strength to withstand hydraulic, lateral and bearing loads.

2. Casing. Materials used for casing shall be watertight and shall consist of ductile iron, wrought iron, concrete tile, clay tile, steel, stainless steel or plastic, all designed for water well use or other suitable materials as determined by the district or local health department on a case-by-case basis. Driven casings shall consist of ductile iron, steel or stainless steel and shall be equipped with a suitable drive boot.

3. Screens. Where utilized, screens shall be construed of stainless steel, bronze, copper or plastic or other suitable materials as determined by the district or local health department on a case-by-case basis.

4. Joints. Joints shall be watertight, and mechanically sound. Welded joints shall have smooth interior surfaces and shall be welded in accordance with acceptable welding practice.

5. Gravel. Gravel utilized for gravel-packed wells shall be uniformly graded, clean, washed and of a suitable size.

## E. Construction; general.

1. Casing. All Class III wells shall be cased to a minimum depth of 20 feet or terminated one foot in bedrock when bedrock is encountered at a depth less

than 20 feet. Casings shall be extended at least 12 inches above ground. When the casing is extended to the aquifer and the aquifer is overlain by consolidated materials, the casing shall extend at least one foot into the consolidated material, however, when in unconsolidated material, the casing shall terminate in the aquifer.

2. Screens. When used, for the prevention of entry of foreign materials, screens shall be free of rough edges, irregularities, or other defects. A positive watertight seal between the screen and the casing shall be provided.

## 3. Grouting.

a. Purpose. The annular space between the casing and well bore is one of the principal avenues through which undesirable water and contaminants may gain access to a well. Therefore, the annular space shall be filled with neat cement grout. Neat cement grout shall consist of cement and water with not more than six gallons of water per sack (94 pounds) of cement.

Exception: When exceptional conditions require the use of a less fluid grout, to bridge voids, a mixture of cement, sand and water in the proportion of not more than two parts by weight of sand to one part of cement with not more than six gallons of clean water per bag of cement may be used if approved by the district or local health department, or for bored wells only, a concrete (1-1-2 mix with all aggregates passing a 1/2 inch sieve) grout with not more than six gallons of clean water per bag of cement may be used provided a minimum three inch annular space is available and its use approved by the district or local health department.

In cases where an open borehole has been drilled below the depth to which the casing is to be grouted, the lower part of the hole must be backfilled, or a bridge must be set in the hole, to retain the slurry at the desired depth. Backfilling the hole with gravel and capping with sand is a common procedure. Material ordinarily sold as plaster or mortar sand is usually satisfactory; more than half the sand should be of grain sizes between 0.012 inches and 0.024 inches.

b. Depth. All Class III wells shall be grouted to a minimum depth of 20 feet when the casing depth is equal or greater than 20 feet. When the casing depth is less than 20 feet in accordance with 12 VAC 5-610-1150 E above, the casing shall be grouted from the bedrock to the surface. Alternate grouting depths may be accepted for bored wells when the sole source aquifer lies between 10 and 20 feet provided the following conditions are met:

(1) The grouting shall terminate at least one foot above the aquifer but must not be less than 10 feet in depth from the ground surface.

(2) The slope between the wells and any source of contamination shall not exceed five percent, and if the soil absorption system meets the conditions of subdivision E 4 of this section. The well must also meet the requirements of the section. If the sole

source is less than 10 feet in depth, the owner may apply for a variance.

The provisions of continuous treatment, i.e., disinfecting, along with information on surrounding soil conditions, and distances to sources of pollution would be necessary as a minimum to support the variance request.

c. Installation. All Class III wells shall be grouted. A neat cement bentonite grout is preferable over any other grout mixture. The grout shall be installed by means of a grout pump or tremie pipe from the bottom of the annular space upward in one operation until the annular space is filled, whenever the grouting depth exceeds 20 feet. Pouring of grout is acceptable for both drilled and bored wells whenever grouting depth does not exceed 20 feet. Grouting shall be brought to the ground surface and flared to provide a seal with the soil. When an outer casing is utilized during the construction of the well, the outer casing shall be pulled simultaneously with the grouting operation. The outer casing shall not be allowed to remain after the grouting operation.

d. Annular space. The clear annular space around the outside of the casing and the well bore must be at least 1 1/2 inches on all sides. (See exception for bored wells subdivision E 3 a of this section.)

4. Additional casing and grouting. When the subsurface soil absorption system is placed at a depth greater than five feet below the ground surface the casing and grouting of the water well shall be increased to maintain at least a 15 foot vertical separation between the trench bottom and the lower terminus of the casing and grouting.

#### 5. Well head.

a. General. No open wells or well heads or unprotected openings into the interior of the well will be permitted.

b. Mechanical well seals. Mechanical well seals shall be used on all wells with metallic or plastic casing.

c. Other. Large diameter wells shall be provided with a watertight overlapping (shoebox) type cover, constructed of reinforced concrete or steel.

#### 6. Appurtenances passing through casing.

a. General. All openings through well casings shall be provided with a positive water stop.

b. Pitless well adapters. Pitless well adapters shall be subject to approval by the bureau. All pitless adapters shall be installed according to the manufacturer's recommendations.

7. Venting. Venting shall be provided in such a manner as to allow for the passage of air but not water, insects, or foreign materials into the well.

F. Disinfection. All wells shall be disinfected before placing the well or wells in service. Disinfection shall be accomplished with a 50 mg/l solution of chlorine for 24 hours.

G. Information to be reported. A copy of a Water Well Completion Report (State Water Control Board Form GW2) and the results of the yield and drawdown testing shall be provided to the district or local health department, the owner and the Water Control Board within 30 days of the completion of the well.

H. Well abandonment. Well abandonment shall be in conformance with the current guidelines of the State Water Control Board.

Appendix A. [Repealed.]

Appendix B. [Repealed.]

Appendix C. [Repealed.]

Appendix D. [Repealed.]

Appendix E. [Repealed.]

Appendix N. [Repealed.]

Appendix O. [Repealed.]

#### Documents Incorporated by Reference FORMS

Application for a Sewage Disposal System Construction Permit, C.H.S. 200 (Rev. 4/83).

Sewage Disposal System Construction Permit, C.H.S. 202A (Rev. 6/84).

Schematic Drawing of Sewage Disposal System and Topographic, C.H.S. 202B (Rev. 6/84).

Application for Sewage Handling Permit, B.W.E. 23-1.

Application for Pump and Haul, B.W.E. 25-1.

Pump and Haul Storage Facility Construction Permit, B.W.E. 26-1.

Soil Evaluation Form, C.H.S. 201 (Rev. 4/83).

Soils Evaluation Percolation Test Data.

Record of Inspection-Non-Public Drinking Water Supply System.

Completion Statement, C.H.S. 203 204 (Rev. 4/83).

#### DOCUMENTS INCORPORATED BY REFERENCE

*Standard Methods for the Examination of Water and Wastewater*, American Public Health Association, American Waterworks Association, Water Pollution Control Federation, 1992.

*Methods for Determination of Inorganic Substances in Environmental Samples*, United States Environmental Protection Agency, August 1993.

V.A.R. Doc. No. R96-243; Filed February 28, 1996, 10:25 a.m.



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# Proposed Regulations

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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: 13 VAC 5-70-10 et seq. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993 (amending 13 VAC 5-70-10 and 13 VAC 5-70-90, and adding 13 VAC 5-70-100).

Statutory Authority: §§ 36-98 and 36-99.9:1 of the Code of Virginia.

Public Hearing Date: April 22, 1996 - 10 a.m.  
Public comments may be submitted until May 20, 1996.  
(See Calendar of Events section for additional information)

Basis: Section 36-99.9:1 of the Code of Virginia provides the basis for these amendments to the regulations. This statutory authority directs the Board of Housing and Community Development to promulgate regulations establishing standards for automatic sprinkler systems in existing hospitals.

Purpose: The purpose of the proposed amendments is to establish standards for automatic sprinkler systems in existing hospitals for suppressing fire in patient rooms and other areas of the hospital customarily used for patient care.

Substance: These proposed amendments to the Uniform Statewide Building Code, Volume II, will require existing hospitals to install an automatic sprinkler system in patient rooms and other areas of the hospital customarily used for patient care unless the hospital is already equipped with a system which complies with board regulations.

Issues: The advantages of this regulatory action will be to provide patients in hospitals without a sprinkler system with a greater degree of safety by requiring those existing hospitals to install an "automatic sprinkler system." There are no anticipated disadvantages for the public or the agency.

### Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected number of persons and employment positions to be affected; the projected costs to affected businesses or entities to implement or comply with the regulation; and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

The proposed regulation amends USBC Volume II by adding new standards. These standards require existing hospitals to have automatic sprinkler systems in specified areas of the hospital that meet the requirements of the National Fire Protection Association Standard 13-91. Hospitals can be temporarily exempted from this standard if:

- the hospital can demonstrate inability to comply with the standard and the Commissioner of the Virginia Department of Health, at his or her discretion, elects to grant an exemption, such exemption not to extend beyond July 1, 1998; or
- the hospital is located in a city with a population between 16,100 and 18,000, or a county with a population between 17,350 and 17,500, such exemption not to extend beyond July 1, 2003.

The proposed new standard will have two primary economic effects: 1) it will impose additional compliance costs on hospitals; and 2) it will decrease the likelihood of fire-related death or injury for hospital patients. Both of these effects have previously been examined in a series of briefing documents prepared by DHCD for the General Assembly.<sup>1</sup>

### Increased Compliance Costs

At the time of this analysis, the only available recent estimate of likely compliance costs was one produced by the Virginia Hospital Association (VHA). Based on a survey of member hospitals, VHA puts the cost of existing hospitals coming into compliance with the proposed standard at approximately \$28 million.<sup>2</sup> This figure is below previous 1992 estimates provided by VHA (\$46 million) and the State Fire Marshal (\$64 million) and may indicate that some facilities have already voluntarily upgraded to meet the standard.<sup>3</sup> In addition, there is at least one reason to believe that even the \$28 million figure may overestimate actual compliance costs - unlike the earlier proposals for which these cost estimates were developed, the proposed regulation requires sprinkler protection only in "patient sleeping rooms, operating and emergency treatment rooms and spaces adjoining such rooms," not all rooms. Correcting for this error and replicating the VHA survey to obtain a precise measure of the likely overestimate would be cost prohibitive however.

### Decreased Likelihood of Fire-Related Death or Injury

According to statistics provided by the National Fire Protection Association, over the period from 1983 to 1987 there were an average of 6,100 fires per year in U.S. hospitals, and these fires resulted in 175 civilian injuries and ten civilian deaths.<sup>4</sup> By contrast, over the same period the annual average for all U.S. structures was 826,800 fires, 23,820 fire-related civilian injuries, and 4,950 fire-related civilian deaths.<sup>5</sup> This means that, nationally, hospitals accounted for only 0.7 percent of all structural fires, 0.7

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<sup>1</sup> See: "The Feasibility and Need of Requiring Certain Facilities to be Equipped with Fire Suppression Systems," Senate Document No. 7, 1991; "The Need and Feasibility for Equipping General Inpatient, Outpatient, and Psychiatric Hospitals with Fire Suppression Systems," Senate Document No. 7, 1992; and "Means and Methods to Enhance Hospital Fire Safety," Senate Document No. 14, 1993.

<sup>2</sup> This information was provided by Susan Ward of VHA in a telephone interview with DPB personnel and is based on a January, 1995 survey of 82 VHA member hospitals.

<sup>3</sup> "The Need and Feasibility for Equipping General Inpatient, Outpatient, and Psychiatric Hospitals with Fire Suppression Systems," Senate Document No. 7, 1992, Figure 2a.

<sup>4</sup> Senate Document No. 7, 1992, page 2.

<sup>5</sup> *ibid.*

percent of all fire-related civilian injuries, 0.2 percent of all fire-related civilian deaths.

Moreover, these same data indicate that 61 percent of the fire-related fatalities occurring in hospitals during the period involved individuals who were intimate with the fire — generally individuals whose clothing or bedding had been ignited with a lighted cigarette or match.<sup>6</sup> Arguably, these fatalities would still have occurred even if sprinkler systems were installed.

When dealing with such issues, however, statistical averages must be weighed against the tragedy associated with the preventable loss of human life. In particular, immediately prior to introduction of the legislation that led to this proposed regulation, a New Years Eve 1994 fire in a Petersburg hospital resulted in multiple fire-related fatalities. It is likely that several of these deaths could have been prevented if the hospital had been equipped with a sprinkler system like that required by the proposed regulation. Although the probability of such a tragedy being repeated is small, the consequences would not be.

The proposed regulation particularly affects Virginia hospitals and hospital patients.

No localities are particularly affected by the proposed regulation.

The proposed regulation is not anticipated to have a measurable effect on employment.

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

The proposed regulation is expected to cause an increase in hospital compliance costs of not more than \$28 million. In addition, the proposed regulation is expected to decrease the likelihood of fire-related death or injury in Virginia hospitals, potentially preventing losses in human life that might otherwise occur.

#### Agency's Response to Department of Planning and Budget's Economic Impact Analysis:

The department agrees with the DPB's assessment of economic impacts.

#### Summary:

*This amendment to the Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993 provides replacement provisions for the emergency regulations promulgated by the Board of Housing and Community Development. The proposed amendments establish standards for automatic sprinkler systems in patient rooms and other areas customarily used for patient care in hospitals, regardless of when such facilities were constructed.*

13 VAC 5-70-10 et seq. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1993.

#### ~~PART I, CHAPTER 1.~~ ADMINISTRATION.

#### **13 VAC 5-70-10. General.**

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1993 edition of the Virginia Uniform Statewide Building Code (USBC). Except as otherwise indicated, Building Maintenance Code (BMC) or code, shall mean Volume II - Building Maintenance Code of the 1993 edition of the USBC. "Chapter" means a chapter in the Uniform Statewide Building Code, Vol. II.

Note: See Volume I - New Construction Code (13 VAC 5-60-10 et seq.) of the USBC for regulations applicable to new construction.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, (§ 36-97 et seq.) Title 36, of the Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on December 13, 1993. This order was prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The Building Maintenance Code shall become effective on April 1, 1994.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that have been or may be enacted or adopted, except as modified by § 100.6, below.

Note: This will not prevent adoption in accordance with Chapter 1 (§ 15.1-1 et seq.) of Title 15.1 of the Code of Virginia or other special or general legislation, or requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.6. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the USBC shall be maintained in compliance with the Building Maintenance Code. No provisions of the Building Maintenance Code shall require alterations to buildings or equipment unless an unsafe or unhealthy condition exists.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of § 408-9 13 VAC 5-70-90.

<sup>6</sup> Senate Document No. 7, 1992, page 3.

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100.6.2. Nursing homes and homes for adults: Pre-USBC nursing homes licensed by the Virginia Department of Health, and pre-USBC homes for adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of ~~§ 408-0~~ 13 VAC 5-70-90.

100.6.3. Reserved.

100.6.4. *Hospitals: Pre-USBC hospitals shall also comply with applicable provisions of 13 VAC 5-70-90.*

100.7. Application to post-USBC buildings: Buildings or portions thereof that were subject to the USBC when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

100.7.1. Hotels and motels: Post-USBC hotels and motels shall also comply with applicable provisions of ~~§ 408-8~~ 13 VAC 5-70-90.

100.7.2. Nursing homes and homes for adults: Post-USBC nursing homes licensed by the Virginia Department of Health, and post-USBC homes for adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of ~~§ 408-0~~ 13 VAC 5-70-90.

100.7.3. Reserved.

100.7.4 *Hospitals: Post-USBC hospitals shall also comply with applicable provisions of 13 VAC 5-70-90.*

100.8. Exemptions for certain equipment: The provisions of the Buildings Maintenance Code shall not apply to equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

Exception: Buildings or service equipment associated with the exempt equipment.

100.9. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code.

Exception: Farm structures lying within a flood plain or in a mudslide prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

100.10. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

### 13 VAC 5-70-90. Special provisions.

108.1. General: The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions

shall apply equally to both pre-USBC and post-USBC buildings.

108.2. Hotels and motels: Existing hotels and motels shall comply with the provisions of this section.

108.2.1. Fire sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.
2. Hotels and motels which are three stories or less in height.

108.2.2. Single and multiple station smoke detectors: Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels.

Exception: Hotels and motels that are equipped throughout with single and multiple station smoke detectors.

108.3. Nursing homes and nursing facilities: Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

108.3.1. Automatic sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities as follows:

1. NFIPA 13D Standard for one story buildings.
2. NFIPA 13R Standard for buildings two or three stories in height.
3. NFIPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

108.3.1.1. Quick response sprinklers: Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to § 108.3.1.

108.3.1.2. Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFIPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 1987 Edition, Third Amendment including, but not limited to, the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)
5. Section 808 (Capacity of Egress Components)
6. Section 809 (Number of Exits)
7. Section 810 (Exit Access Passageways and Corridors)
8. Section 921 (Firestopping and Draftstopping)

108.3.2. Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective signaling system.

108.3.3. Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

108.3.3.1. Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from § 108.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

108.4. Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

108.4.1. Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in homes for adults by August 1, 1994.

Exception: Homes for adults that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

108.4.2. Single and multiple station smoke detectors: Battery or AC-powered single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with single and multiple station smoke detectors.

108.5. Identification of handicapped parking spaces: All spaces reserved for the use of handicapped persons shall be identified by an above grade sign with a bottom edge no lower than four feet nor higher than seven feet above the parking surface. Such signs shall be installed in accordance with applicable provisions of the current edition of Volume I of the USBC.

108.6. Reserved.

108.7. Hospitals: Existing hospitals licensed by the Virginia Department of Health shall comply with this section.

108.7.1. Fire sprinkler system: An automatic sprinkler system meeting the requirements of National Fire Protection Association Standard 13-91, listed in USBC, Volume I (13 VAC 5-60-10 et seq.), Chapter 35, shall be provided in existing hospitals by January 1, 1998.

Exceptions:

1. The Commissioner of the Virginia Department of Health may, at his discretion, extend the time for compliance with this section for any hospital that can demonstrate its inability to comply, if such hospital submits, prior to January 1, 1998, a plan for compliance by a date certain which shall be no later than July 1, 1998.

2. Any hospital located in a city having a population of more than 16,100 but less than 18,000, or in a county having a population of more than 17,350, but less than 17,500, may submit a plan of compliance by a date certain which shall be no later than July 1, 2003.

3. Hospitals that are equipped throughout with a sprinkler system are exempt from this section.

108.7.1.1. Areas of protection: Sprinkler protection shall only be required in patient sleeping rooms, operating and emergency treatment rooms and spaces adjoining such rooms. The area of protection shall extend to an approved smoke barrier or a minimum one-half hour rated assembly. The one-half hour rated assembly shall have self-closing doors and shall be continuous from floor slab to floor or roof deck above.

108.7.1.2. Sprinkler: Patient sleeping rooms shall be provided with quick response sprinklers.

108.7.1.3. Water-control valves: All valves in water supply pipes to sprinkler systems, except underground valves in roadway boxes, shall be supervised open with an audible and visual alarm to signal at a constantly attended location.

**13 VAC 5-70-100. Addendum 1.: Amendments to the BOCA National Property Maintenance Code/1993 Edition.**

As provided in § 101.3 of Volume II - Building Maintenance Code of the 1993 Edition of the USBC (13 VAC 5-70-20), the amendments noted in this addendum shall be made to the BOCA National Property Maintenance Code/1993 Edition for use as part of the Building Maintenance Code.

CHAPTER 1.

ADMINISTRATION AND ENFORCEMENT.

(A) Chapter 1, Administration and Enforcement, is deleted in its entirety and replaced with Chapter 1. of the Building Maintenance Code (13 VAC 5-70-10).

CHAPTER 3.

ENVIRONMENTAL REQUIREMENTS.

(A) Delete § PM-303.1.

(B) Delete § PM-303.4.

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(C) Delete § PM-303.5.

(D) Delete § PM-303.8.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-97 of the Code of Virginia.

(E) Change § PM-304.1 to read:

PM-304.1. General: The exterior of all structures, occupied, vacant or otherwise, shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(F) Change § PM-304.12 to read:

PM-304.12. Insect screens: During the period from April 1 to December 1 every door, window and other outside opening required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

(G) Change § PM-305.4 to read as follows:

PM-305.4. Lead-based paint: Interior and exterior painted surfaces of dwellings, child and day care facilities, including fences and outbuildings, that contain in excess of 0.5% lead by weight shall be removed or covered in an approved manner.

(H) Delete § PM-306.2.

(I) Delete § PM-306.3.

## CHAPTER 4.

### LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS.

(A) Change § PM-403.1 to read:

PM-403.1. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

(B) Delete § PM-405.10.

## CHAPTER 6.

### MECHANICAL AND ELECTRICAL REQUIREMENTS.

(A) Change § PM-602.2 to read:

PM-602.2. Residential buildings: Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours. When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Chapter 8, the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in a full open position.

(B) Delete §§ PM-602.2.1 and PM-602.2.2.

(C) Change § PM-602.3 to read:

PM-602.3. Nonresidential structures: Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(D) Add new § PM-606.3 to read:

PM-606.3. Inspection: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Chapter 8.

## CHAPTER 7.

### FIRE SAFETY REQUIREMENTS.

(A) Add new § PM-705.5.4.

PM-705.5.4. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

## CHAPTER 8.

### REFERENCED STANDARDS.

(A) Delete standard reference number BOCA NBC 93, BOCA National Building Code and substitute the Virginia Uniform Statewide Building Code, Volume I/1993 Edition.

(B) Delete standard reference number BOCA NFPC 93, BOCA National Fire Prevention Code and substitute the Virginia Statewide Fire Prevention Code/1993 Edition.

VA.R. Doc. No. R96-242; Filed February 27, 1996, 10 a.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

**Title of Regulation:** 12 VAC 30-120-450 through 12 VAC 30-120-480. Part VII: Assisted Living Services for Individuals Receiving Auxiliary Grants Residing in Adult Care Residences.

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

**Public Hearing Date:** N/A -- Public comments may be submitted until May 17, 1996.

(See Calendar of Events section for additional information)

**Basis and Authority:** Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review.

In 1993, the General Assembly passed significant legislation on reforming the adult care residence industry. The 1993 and 1995 General Assembly amended § 63.1-25.1 of the Code of Virginia requiring that auxiliary grant recipients be evaluated by a case manager or other qualified assessor to determine their need for residential care. The Code of Virginia (§ 63.1-173.3) was amended to require that a uniform assessment instrument be completed upon admission and at subsequent intervals as determined by regulations of the Board of Social Services for each resident of an adult care residence.

The 1993 General Assembly also amended § 63.1-172 et seq. of the Code of Virginia, establishing two-tier licensing for adult care residences. The amendment defined requirements that the adult care residence must meet in order to be licensed as an assisted living facility that will provide a level of service for individuals who may have physical or mental impairments and who require at least a moderate level of assistance with activities of daily living. In order to maximize federal financial participation, the DMAS will use its authority under § 1915(c) of the Social Security Act to request a home- and community-based services waiver to provide coverage for persons who can be determined to be at risk of nursing home placement in the near future but for the provision of the type of care which can be provided in an assisted living facility.

The 1994 Budget Bill, Item 398, authorized DMAS to establish a program to provide payments for assisted living services to auxiliary grant recipients meeting established criteria. Item 396 F authorized DMAS to seek a waiver from the Health Care Financing Administration to make payments for intensive assisted living services provided to residents of adult care residences who are auxiliary grant recipients. Residents who meet the criteria will qualify for payment of

either regular or intensive assisted living services, but not both.

The development of this program and its necessary regulations were contingent upon the passage of three sets of regulations by the Department of Social Services (DSS): (i) auxiliary grants program - levels of care and rate setting; (ii) standards and regulations for licensed adult care residences; and (iii) assessments in adult care residences. Based upon provider concerns, the DSS regulations went through two public comment periods and several extensive revisions before the state Board of Social Services adopted the final regulations on November 16, 1995. These DSS regulations became effective February 1, 1996.

**Purpose:** The purpose of this proposal is to establish coverage criteria and payment for two types of assisted living services available to recipients of auxiliary grants residing in licensed adult care residences: regular assisted living services for those individuals who do not meet the criteria for waiver services but who require at least a moderate level of assistance with activities of daily living, and intensive assisted living services for those individuals who meet the level of care criteria for waiver services.

**Summary and Analysis:** These regulations establish and describe the coverage criteria for regular and intensive assisted living services and the procedures and guidelines for assessment, authorization, and the qualifications of assisted living facilities as providers of regular and intensive assisted living services.

During the 1993 and 1995 session, the General Assembly passed legislation governing the auxiliary grant program. This legislation required that all recipients of auxiliary grants must be evaluated using a uniform assessment instrument to determine their need for residential care as a condition of eligibility for an auxiliary grant. The law provides that no public agency shall incur a financial obligation if the individual is determined ineligible for an auxiliary grant.

During the 1993 session, the General Assembly also revised the law governing licensing of homes for adults. These residential facilities will be called adult care residences and will be licensed to provide either residential living or assisted living services.

In order to reimburse adult care residences for the additional cost imposed by the new licensing requirements, a new system of reimbursement was developed. This new reimbursement method will continue the Auxiliary Grant Program, a grant payment to eligible adult care residence recipients to pay for the cost of basic residential services (room, board, basic supportive services and supervision). In addition, if an auxiliary grant eligible resident requires assisted living services, the state will make a vendor payment to the adult care residence for assisted living services. The level of care required by the public pay resident will be determined by a case manager or other qualified assessors using the uniform assessment instrument. There will be two levels of payment for assisted living services: regular and intensive.

Regular assisted living services will be for individuals who require assistance with at least two activities of daily living or who are rated dependent in behavior. A survey of Virginia's

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adult care residence population conducted during the summer of 1993, showed that at that time approximately 20% of auxiliary grant recipients in adult care residences required regular assisted living services. These payments will be made from state funds.

Intensive assisted living services will be for individuals who require a greater level of service than regular assisted living services. The 1993 survey showed that at that time 15% of the auxiliary grant recipients in adult care residences met the criteria for intensive assisted living waiver services. These payments will be made under a Medicaid home- and community-based care waiver and will be paid from a combination of state and federal funds.

Section 1915(c) of the Social Security Act allows states to offer services not otherwise available under the State Plan for Medical Assistance through a home- and community-based waiver. The waiver is targeted at persons whom the state can determine would be at risk of institutional placement if services offered under the waiver were not available. Virginia has an approved waiver for elderly and disabled persons who receive services in their home in lieu of more costly nursing facility care. DMAS has developed criteria for admission to this waiver which define the level of dependence a person must meet in order to be considered at risk of nursing facility placement. DMAS is requesting from HCFA another waiver for auxiliary grant recipients residing in adult care residences. The waiver will allow DMAS to offer Medicaid reimbursement for intensive assisted living services using level of care criteria which is essentially the same as the criteria used in the waiver for elderly and disabled persons. This intensive assisted living services waiver has been requested to provide the adult care residence with a per diem reimbursement, in addition to the auxiliary grant payment, for coverage of the assistance with activities of daily living that these individuals require to avoid the risk of nursing facility placement.

Initial assessments and authorization for assisted living services will be provided by an assessor. An assessor may be a case manager employed by a public human service agency or other qualified assessor which has a contract with DMAS to complete the assessment for residents of adult care residences. These qualified assessors may be nursing facility pre-admission screening teams or independent physicians. DMAS already contracts with local social service and health departments and acute care hospitals to perform nursing home pre-admission screening services. These agencies can also perform screenings for applicants to an adult care residence. DMAS will also contract with area agencies on aging, centers for independent living and community service boards who will also participate in the assessment and authorization of assisted living services.

The case managers or other qualified assessors will be responsible for assessing the applicant or recipient's need for care using a uniform assessment instrument as required by regulations of the Department of Social Services. The case manager or qualified assessor will notify DMAS and the eligibility worker in the local department of social services of the results of the assessment. Auxiliary grant residents will also receive annual reassessments and may receive targeted case management services from the case managers employed by the public human service agencies.

Assessments may be completed by the case manager or qualified assessor whenever there is a change in the resident's condition that appears to warrant a change in the resident's approved level of care.

Adopting these regulations will permit the Commonwealth to maximize federal financial participation by providing the mechanism for reimbursement for assisted living services.

Issues: The agency anticipates no negative issues as a result of this action. Coverage of regular and intensive assisted living services for recipients of auxiliary grants will permit the Commonwealth to provide adequate care to frail Virginians who can no longer live independently. In addition, coverage of intensive assisted living services through Medicaid will reduce the cost of the service to the Commonwealth by obtaining 51% federal funding.

Impact: During state fiscal year 1996, all 7,000 auxiliary grant recipients currently residing in adult care residences will be assessed as well as all new applicants. Beginning in state fiscal year 1997, DMAS will reimburse, for any adult care residence that is licensed by DSS as an assisted living facility and that has contracted with DMAS as an assisted living provider, a per diem fee for each individual who meets the level of care criteria for regular or intensive assisted living services. The per diem reimbursement for regular assisted living services is \$3.00 per day (not to exceed \$90 per month) and the per diem reimbursement for intensive assisted living services is \$6.00 per day (not to exceed \$180 per month). It is estimated that DMAS will pay \$1,316,900 (GF) each year for regular assisted living services during FY 97 and FY 98, and \$3,459,765 (\$1,680,408 GF; \$1,779,357 NGF) during FY 97 and \$2,560,098 (\$1,728,428 GF; \$1,831,670 NGF) during FY 98 for intensive assisted living services. No localities are particularly affected by this regulation as it applies statewide.

### Summary:

*This regulation allows DMAS to establish coverage criteria for two types of assisted living to recipients of auxiliary grants residing in licensed adult care residences: (i) regular assisted living for those individuals who do not meet the criteria for waiver services but who require at least a moderate level of assistance with activities of daily living, and (ii) intensive assisted living for those individuals who meet the criteria for waiver services. This regulation was originally begun in 1994. It was delayed because the Department of Social Services (DSS) was required to promulgate regulations prior to the Department of Medical Assistance Services (DMAS) developing its program. These DMAS regulations have been revised to conform to the DSS regulations now in place.*

12 VAC 30-120-450 through 12 VAC 30-120-480. Part VII: Assisted Living Services for Individuals Receiving Auxiliary Grants Residing in Adult Care Residences.

PART VII.  
ASSISTED LIVING SERVICES FOR INDIVIDUALS  
RECEIVING AUXILIARY GRANTS RESIDING IN ADULT  
CARE RESIDENCES.

12 VAC 30-120-450. Definitions.

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

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Assessor" means a case manager employed by a public human service agency or other qualified assessor which has a contract with the Department of Medical Assistance Services to perform assessments and authorize service in an adult care residence.

"Assisted living facility" or "facility" means an adult care residence which has been licensed by the Department of Social Services to provide a level of service for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Within assisted living, there are two payment levels for recipients of an auxiliary grant: regular assisted living and intensive assisted living.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement the income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income and who resides in a licensed adult care residence.

"Case management agency" means a public human service agency having a contract with DMAS to provide case management services to any adult care residence recipient who meets the criteria set forth in Attachment 3.1, Supplement 2 of the State Plan for Medical Assistance (12 VAC 30-50-470) and which employs or contracts for case management.

"Case manager" means an employee of a public human service agency who is qualified and designated to authorize service in an adult care residence and to perform case management functions, such as the development and implementation of plans of care and completion of the annual reassessment.

"DMAS" or "department" means the Department of Medical Assistance Services.

"DSS" means the Department of Social Services.

"Instrumental activities of daily living (IADLS)" means meal preparation, housekeeping, laundry, and money management. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Individualized service plan" means the written description of actions to be taken by the assisted living facility to meet the assessed needs of the resident.

"Intensive assisted living services" means services provided under the Social Security Act, § 1915(c) waiver program, to persons who have dependencies in at least four ADLs, or who have a combination of dependencies in two or more ADLs and are rated as semi-dependent or dependent in a combination of behavior and orientation.

"Licensed health care professional" means a health care professional as defined by § 32.1-162.7 of the Code of Virginia.

"Moderate assistance" means dependency in two or more of the activities of daily living. Included in this level of service are recipients who are dependent in behavior pattern (i.e., the recipient exhibits acts detrimental to the life, comfort, safety or property of the recipient or others).

"Qualified assessor" means an entity contracting with DMAS to perform nursing facility preadmission screening or to complete the uniform assessment instrument for a community-based waiver program, including an independent physician contracting with DMAS to complete the uniform assessment instrument for applicants to adult care residences, or any hospital which has contracted with DMAS to perform nursing facility preadmission screenings. Qualified assessors may only perform the initial assessment or assessments for changes in level of care. Qualified assessors will not have a contract with DMAS to provide case management services for adult care residence recipients which includes the annual reassessment.

"Regular assisted living services" means services provided by licensed adult care residences to persons who have dependencies in two ADLs or behavior but who do not meet the criteria for intensive assisted living.

"Uniform assessment instrument (UAI)" means the department-designated assessment form.

12 VAC 30-120-460. General coverage and requirements for assisted living services.

A. Service populations. Two levels of assisted living, regular and intensive assisted living, shall be available to individuals eligible for an auxiliary grant who require assistance in activities of daily living and instrumental activities of daily living, which are above the room, board, and supervision provided by the adult care residence as reimbursed by an auxiliary grant program. The individual shall be classified into one of these two levels by the assessor responsible for completing the UAI and authorization of admissions to the adult care residence.

Coverage shall be provided under a state-funded program for individuals who have been determined to require regular assisted living services.

Coverage shall be provided under a waiver of § 1915(c) of the Social Security Act for individuals who have been determined to require intensive assisted living services.

B. Covered services. DMAS shall pay the facility a per diem fee for each recipient authorized to receive assisted



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living services, based on whether the recipient is authorized for regular or intensive assisted living. Payment of the per diem fee is limited to the days in which the recipient is physically present in the facility.

The facility shall employ or contract with staff who will provide hands-on assistance or supervision with ADLs and IADLs to recipients according to the individual service plan. This plan shall be developed by the facility in accordance with the current needs of the recipient and as specified in 22 VAC 40-71-170 of the Standards and Regulations for Licensed Adult Care Residences.

The facility shall retain a licensed health care professional as specified in 22 VAC 40-71-630 J of the Standards and Regulations for Licensed Adult Care Residences. The records maintained by the facility shall document that the care needs for auxiliary grant recipients authorized to receive intensive assisted living services have been reviewed during an onsite visit at least monthly by a licensed health care professional.

C. Eligibility requirements. Individuals authorized to receive optional state supplement (auxiliary grant) payments and who meet the criteria for regular or intensive assisted living shall be eligible.

The department's payment for either regular or intensive assisted living services shall not be reduced by any payment from the individual's income.

D. Assessment and authorization of regular or intensive assisted living services.

1. The assessor shall evaluate the individual's functional and medical needs and authorize services to meet those needs pursuant to this part.

2. The assessment shall be completed using the UAI, and authorization for care shall be made based on the following criteria:

a. Regular assisted living. The individual must be dependent in two ADLs or dependent in behavior. The rating of functional dependencies shall be as specified in 22 VAC 40-745-70 of the Assessment in Adult Care Residences regulations.

b. Intensive assisted living. The individual must be determined to be at risk of nursing facility placement in the absence of community-based waiver services such as those provided in an assisted living facility and the individual's functional capacity is described by one of the following. The rating of functional dependencies shall be as specified in 12 VAC 30-60-300 of the State Plan for Medical Assistance (§ 1.1 of Supplement 1 to Attachment 3.1 C.):

(1) Dependent in four or more ADLs;

(2) Dependent in two or more ADLs and has dependencies or semidependencies in a combination of behavior and orientation; or

(3) Semidependent in two or more ADLs and has dependencies in a combination of behavior and orientation.

3. Payment for regular and intensive assisted living services shall only be available for recipients residing in a licensed assisted living facility which has a valid DMAS provider agreement.

4. The assessor shall notify DSS eligibility personnel, upon completion of the UAI, that the recipient has been authorized for regular or intensive assisted living services and shall forward the UAI and authorization forms to DMAS, the facility chosen by the recipient and to the case manager, if case management services have been authorized.

5. The assessor shall give all recipients who have been denied assisted living services written notification that services have been denied and give the recipient the right to appeal the decision pursuant to DMAS Client Appeals Regulations (Part I of 12 VAC 30-110). The assessor shall submit to DMAS the UAI, authorization form, and a copy of the notification showing denial of services before reimbursement for the assessment shall be made.

6. The assisted living facility shall forward a copy of the Long-Term Care Preadmission Screening Authorization form, completed by the assessor, and the individualized service plan, completed by the facility, to DMAS for authorization to bill DMAS for regular assisted or intensive assisted living services.

7. A recipient may not receive regular or intensive assisted living services concurrently with any other Medicaid-funded in-home or residential support waiver services authorized under § 1915(c) of the Social Security Act.

8. All authorizations and individualized service plans for assisted living services shall be subject to the approval of DMAS prior to Medicaid payment.

E. Effective date for assisted living payments.

1. DMAS shall pay the facility for services rendered while the recipient is both (i) determined, in accordance with regulations promulgated by DSS, to be eligible for benefits under the auxiliary grants program, and (ii) authorized for a level of assisted living.

2. The assisted living authorization shall be considered effective as of the date the authorization form is signed and dated, except in the following situations:

a. In the case of an emergency placement as defined in regulations promulgated by DSS, the assisted living authorization shall be considered effective as of the date of the emergency placement, provided that the authorization form is signed and dated within seven working days after the date of the emergency placement.

b. In the case of recipients residing in a facility on February 1, 1996, and requiring an initial assessment, the assisted living authorization shall be considered effective, as follows: (i) August 1, 1996, provided that the authorization form is signed and dated on or before August 1, 1996; or (ii) as of whichever date on or after

August 1, 1996, can be documented as being the date the recipient required a level of assisted living provided that the authorization form is signed and dated on or before February 1, 1997.

3. In addition to the requirements of subdivisions 1 and 2 of this subsection, in order for assisted living payments to be made to a facility, the assisted living authorization shall be based on a UAI which complies with the requirements of § 63.1-173.3 of the Code of Virginia.

12 VAC 30-120-470. Conditions and requirements for participating assisted living facilities.

A. General requirements. Facilities approved for participation shall, at a minimum, perform the following activities:

1. Immediately notify DMAS, in writing, of any changes in the level of care authorized and the individualized service plan which the facility previously submitted to DMAS.

2. Ensure freedom of choice to recipients in seeking medical care from any institution, pharmacy, practitioner, or other facility qualified to perform the service or services required and participating in the Medicaid program at the time the service or services are performed.

3. Ensure the recipient's freedom to reject medical care and treatment.

4. Accept referrals for services only when staff is available to deliver the required services.

5. Provide services and supplies to recipients in the same quality and mode of delivery as provided to the general public.

6. Charge DMAS for the provision of services to recipients in amounts not to exceed the facility's usual and customary charges to the general public.

7. Accept DMAS payment from the first day of the recipient's eligibility.

8. Accept as payment in full the amount established by DMAS.

9. Use program-designated billing forms for submission of charges.

10. Record maintenance and retention requirements.

a. The facility agrees to maintain and keep adequate and verifiable information and records as is necessary to:

(1) Identify and disclose the extent of services the facility furnishes to recipients;

(2) Comply with the disclosure requirements of Subpart B of 42 CFR Part 455;

(3) Assure proper payment by the DMAS;

(4) Receive payments under the Medicaid program;

(5) Satisfy or secure overpayments, or both, made under the Medicaid program; and

(6) Survive any termination of the provider participation agreement.

b. The facility agrees to furnish the information required to be maintained to the DMAS, the Attorney General of Virginia or his authorized representatives, or the state Medicaid Fraud Control Unit on request and in the form requested. This right of access to information and records shall survive any termination of this agreement.

c. Records shall be retained for at least five years from the last date of service or as provided by applicable state laws, whichever period is longer. If an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every adjustment, retraction, exception and appeal is resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

d. In the event a facility discontinues operation, DMAS shall be notified in writing of the location and procedures for obtaining stored records for review. The location, agent, or trustee shall be within the Commonwealth of Virginia.

11. Disclose all financial, beneficial, ownership, equity, surety, or other interests it has in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to Medicaid recipients.

12. Hold confidential and use only for authorized DMAS purposes all medical and identifying information regarding recipients served.

13. Change of ownership. When ownership of the facility changes, DMAS shall be notified within 15 calendar days of such change.

B. Requests for participation. Requests for participation must be accompanied with verification of the facility's current licensure from DSS.

C. Facility participation standards. DMAS will contract only with adult care residences licensed to provide assisted living services.

D. Adherence to facility contract and special participation conditions. All adult care residences contracting with DMAS must be in compliance with the DSS licensure requirements for assisted living facilities (22 VAC 40-71-10 et seq.).

E. Choice of facilities. Recipients eligible for intensive assisted living services shall be informed at the time of the assessment of all available facilities in the community and shall have the option of selecting the facility.

F. Appeals of adverse actions.

1. A facility shall have the right to appeal adverse action taken against it by DMAS. Adverse action includes, but

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is not limited to, termination of the provider agreement by DMAS, and retraction of payments from the facility by DMAS for noncompliance with applicable law, regulation, policy or procedure.

2. A facility shall not have the right to appeal to DMAS the following:

- a. The criteria for regular assisted living services or for intensive assisted living services;
- b. The assignment or nonassignment of a recipient to a particular level of assisted living;
- c. The methodology for calculating the per diem fee paid for regular or intensive assisted living services.

3. Appeals procedure. The administrative appeals procedure shall consist of the following three phases:

- a. A reconsideration of the preliminary findings and a written response to the facility by the DMAS division which made the preliminary findings;
- b. An informal fact-finding conference held in accordance with the Administrative Process Act with a written decision issued by the Appeals Division; and
- c. A formal evidentiary hearing held in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) with a written decision issued by the DMAS Director.

4. Time frames to request appeals. The facility shall have 15 days from the date of service of the notification of adverse action to request a reconsideration, 30 days from the date of service of the written reconsideration to request an informal fact-finding conference, and 30 days from the date of service of the written informal fact-finding conference decision to request a formal evidentiary hearing. The date of service shall be deemed to be the earlier to occur of the date the notification, reconsideration or decision (i) was mailed to the facility, or (ii) was received by the facility. In the event the notification, reconsideration or decision being appealed was served on the facility by mail, three days shall be added to the applicable 15-day or 30-day period.

G. Responsibility for sharing information. It shall be the facility's responsibility to notify the case manager, DMAS, and DSS in writing within 30 days of the occurrence of any of the following circumstances:

1. There is a change in the recipient's functional or cognitive ability which would require a change in the authorized level of care. Temporary changes in a recipient's condition that can be reasonably expected to last less than 30 days do not require a new assessment, authorization, or notification;
2. A recipient dies;
3. A recipient is discharged from the facility; or
4. Other circumstances arise (including hospitalizations) which cause services to cease or be interrupted for more than 30 days.

H. Changes or termination of care. It shall be the assessor's responsibility to authorize changes to a recipient's level of care or to terminate payment for services.

1. The assessor shall communicate in writing to the facility and the recipient any change in level of care or any termination of services. The recipient shall be notified of the right to request a reconsideration by DMAS of any decision that changes the level of care authorized or terminates assisted living or intensive assisted living services.

2. If a reconsideration is requested by the recipient, DMAS will review the assessor's recommendation and respond to the individual in writing within 10 days of receipt of the request. If the assessor's decision is upheld, DMAS shall give the recipient the right to appeal the decision pursuant to DMAS' Client Appeals Regulations (Part I of 12 VAC 30-110).

3. The effective date of a termination or change in level of services shall be at least 10 days from the date of the notification letter.

I. Suspected abuse or neglect. Pursuant to § 63.1-55.3 of the Code of Virginia, if a participating facility, qualified assessor, or case management agency knows or suspects that a recipient is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse/neglect/exploitation shall report this to the local DSS' adult protective services.

J. Monitoring of adherence to facility participation standards. The Department of Social Services' Division of Licensing shall be responsible for monitoring each assisted living facility's adherence to licensure standards which provide the basis for DMAS provider participation standards. In addition, DMAS shall periodically conduct audits of the services billed to DMAS and interview recipients to ensure that services are being provided and billed in accordance with DMAS policies and procedures. A facility's noncompliance with DMAS policies and procedures shall result in a written request from DMAS for a corrective action plan which details the steps the facility must take and the length of time permitted to achieve full compliance with DMAS regulations, policies and procedures.

12 VAC 30-120-480. Reevaluation of service need and utilization review.

A. The case manager shall be responsible for review of each assisted living or intensive assisted living recipient's need for services annually, or more frequently as required, to ensure proper utilization of services. The outcome of this review shall be communicated to the DSS eligibility staff, DMAS, the recipient, and the facility where the resident resides.

B. The assisted living facility shall be required to maintain the following documentation for review by the case manager and DMAS staff for each assisted living or intensive assisted living resident:

1. All UAI's, authorization forms, and individualized service plans completed for the recipient maintained for

- a period not less than five years from the recipient's start of care in that facility.
- 2. All written communication related to the provision of care between the facility and the assessor, case manager, licensed health care professional, DMAS, DSS, the recipient, or other related parties.
- 3. A log which documents each day that the recipient is present in the facility.

**MEDICAID FUNDED LONG-TERM CARE PRE-ADMISSION SCREENING AUTHORIZATION**

Please provide the appropriate answer by either filling in the space or putting the correct number in the box provided.

Name: \_\_\_\_\_ Social Security \_\_\_\_\_

Is Currently Medicaid Eligible? \_\_\_\_\_ Medicaid Number \_\_\_\_\_

- If no Medicaid number now, is it anticipated that the individual will be financially Medicaid eligible within 180 days of nursing home? Yes = 2 No = 3
- Has individual formally applied for Medicaid? Yes = 1 No = 0
- Is currently auxiliary grant eligible \_\_\_\_\_ If no, has individual applied? Yes = 1 No = 0

Dept of Social Services \_\_\_\_\_  
 (Eligibility Responsibility) (Services Responsibility)

**MEDICAID AUTHORIZATION**

Nursing Home Pre-Admission Screening

- 1 = Nursing Facility
- 2 = FACE/TCPPH
- 3 = AIDS/HIV Waiver Services
- 4 = Personal Care
- 5 = Adult Day Health Care (ADHC)
- 6 = ADHC + Personal Care
- 7 = Respite Care

Adult Care Residence

- 11 = Residential Living
- 12 = Regular Assisted Living
- 13 = Intensive Assisted Living

(If 12 or 13 is Authorized, enter the following)

ACR Provider # \_\_\_\_\_

ACR Start of Care \_\_\_\_\_

Targeted Case Management for ACR

0 = No 1 = Yes \_\_\_\_\_

None

- 8 = Other Services Recommended
- 9 = Active Treatment for MI/MR Condition
- 0 = None

**ASSESSMENT COMPLETED**

1 = Full Assessment 2 = Short Assessment \_\_\_\_\_

**SERVICE AVAILABILITY**

- 1 = Client on waiting list for service authorized
- 2 = Desired service provider not available
- 3 = Service provider available, care to start immediately

**LENGTH OF STAY (If approved for Nursing Home)**

- 1 = Temporary (less than 3 months)
- 2 = Temporary (less than 6 months)
- 3 = Continuing (more than 6 months)
- 8 = Not Applicable

**LEVEL I SCREENING IDENTIFICATION**

- Name of Level I screener and provider number:

\_\_\_\_\_

\_\_\_\_\_

**LEVEL II ASSESSMENT DETERMINATION**

- 0 = Not referred for Level II assessment
- 1 = Referred, Active Treatment needed
- 2 = Referred, Active Treatment not needed
- 3 = Referred, Active Treatment needed but individual chooses nursing home

- Name of Level II Screener and ID number:

\_\_\_\_\_

- Did the individual expire after the Screening decision but before services were received? 1 = Yes 0 = No

**SCREENING CERTIFICATION**

This authorization is appropriate to adequately meet the individual's needs and assures that all other resources have been explored prior to Medicaid authorization for this recipient.

Level I Screener/Title	Date
Level I Screener/Title	Date
Level I Physician	Date

**VIRGINIA UNIFORM ASSESSMENT INSTRUMENT**

Dates: Screen: \_\_\_/\_\_\_/\_\_\_  
 Assessment: \_\_\_/\_\_\_/\_\_\_  
 Reassessment: \_\_\_/\_\_\_/\_\_\_

**IDENTIFICATION/BACKGROUND**

**Name & Vital Information**

Client Name: \_\_\_\_\_ (Last) (First) (Middle Initial) Client SSN: \_\_\_\_\_  
 Address: \_\_\_\_\_ (Street) (City) (State) (Zip Code)  
 Phone: ( ) \_\_\_\_\_ City/County Code: \_\_\_\_\_  
 Directions to House: \_\_\_\_\_ Pets? \_\_\_\_\_

**Demographics**

Birthdate: \_\_\_/\_\_\_/\_\_\_ Age: \_\_\_\_\_ Sex: \_\_\_ Male 0 \_\_\_ Female 1  
 (Month) (Day) (Year)  
 Marital Status: \_\_\_ Married 0 \_\_\_ Widowed 1 \_\_\_ Separated 2 \_\_\_ Divorced 3 \_\_\_ Single 4 \_\_\_ Unknown 9  
 Race: \_\_\_ White 0 \_\_\_ Black/African American 1 \_\_\_ American Indian 2 \_\_\_ Oriental/Asian 3 \_\_\_ Alaskan Native 4 \_\_\_ Unknown 9  
 Education: \_\_\_ Less than High School 0 \_\_\_ Some High School 1 \_\_\_ High School Graduate 2 \_\_\_ Some College 3 \_\_\_ College Graduate 4 \_\_\_ Unknown 9  
 Communication of Needs: \_\_\_ Verbally, English 0 \_\_\_ Verbally, Other Language 1 \_\_\_ Sign Language/Gestures/Device 2 \_\_\_ Does Not Communicate 3  
 Hearing Impaired? \_\_\_\_\_  
 Ethnic Origin: \_\_\_\_\_ Specify: \_\_\_\_\_

**Primary Caregiver/Emergency Contact/Primary Physician**

Name: \_\_\_\_\_ Relationship: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: (H) \_\_\_\_\_ (W) \_\_\_\_\_  
 Name: \_\_\_\_\_ Relationship: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone: (H) \_\_\_\_\_ (W) \_\_\_\_\_  
 Name of Primary Physician: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_

**Initial Contact**

Who called: \_\_\_\_\_ (Name) (Relation to Client) (Phone)  
 Presenting Problem/Diagnosis: \_\_\_\_\_

**GENERAL INFORMATION**

- Name of individual being screened.
- Social Security Number.
- Medicaid number if currently has a Medicaid card. This number should have twelve digits.
- If the individual is not currently eligible for Medicaid, is it anticipated that private funds would be depleted within 180 days after nursing home admission?
- Formal application for Medicaid is made when the individual or a family member has taken the required financial information to the local Eligibility Department and completed forms needed to apply for benefits. The authorization for long-term care can be made regardless of whether the person has been determined Medicaid-eligible, but placement may not be available until the provider is assured of the person's Medicaid status.
- Assessment for admission to an Adult Care Residence should be completed only for persons eligible for an auxiliary grant or if the individual has applied. The local Eligibility Department in the person's locality of residence prior to admission to the ACR is the Department which completes the auxiliary grant determination.
- The Department of Social Services with service and eligibility responsibility, may not always be the same agency. Please indicate, if known, the departments for each in the area provided.

**MEDICAID AUTHORIZATION:** Record only one number in the box in this section to indicate the Pre-Admission Screening authorization.

**Nursing Home Pre-Admission Screening**

- NURSING FACILITY** authorize only if individual meets the nursing facility (NF) criteria and community-based care is not an option.
- PACE/LTC/PH** authorize only if individual meets NF criteria (pre-NF criteria does not qualify) and requires a community-based service to prevent institutionalization.
- AIDS/HIV SERVICES** authorize only if individual meets the criteria for AIDS/HIV Waiver services and requires AIDS/HIV Waiver services to prevent institutionalization (i.e. case management, private duty nursing, personal/respite care, nutritional supplements).
- ELDERLY & DISABLED WAIVER SERVICES:** authorize (PERSONAL CARE, ADULT DAY HEALTH CARE, ADHC & PERSONAL, or RESPITE CARE) only if individual meets NF or pre-NF criteria and requires a community-based service to prevent institutionalization.

**Adult Care Residence**

- RESIDENTIAL LIVING** authorize only if individual has dependency in either 1 ADL, 1 IADL or medication administration.
  - REGULAR ASSISTED LIVING** authorize only if individual has dependency in either 2 ADL's or behavior.
  - INTENSIVE ASSISTED LIVING** authorize only if individual meets either nursing facility, pre-nursing facility or modified pre-nursing facility criteria and Intensive Assisted Living waiver services will meet the individual's needs.
- If 12 or 13 is authorized, enter, if known, the ACR's provider number which will admit the individual and the date on which the individual will be admitted to that ACR.  
 If 11, 12 or 13 is authorized, you must indicate whether targeted ACR case management (quarterly visits) is being authorized

Resident must require coordination of multiple services and the ACR or other support is not available to assist in coordination/access of these services. Enter a "0" if only the annual reassessment is required.

**None**

- OTHER SERVICES RECOMMENDED** includes informal social support systems or any service excluding Medicaid-funded long-term care (such as Companion services, Meals on Wheels, MR Waiver, Rehab services, etc.).
- ACTIVE TREATMENT OF M/UMR CONDITION** applies to those individuals who meet nursing facility level of care but require active treatment for a condition of mental illness or mental retardation and cannot appropriately receive such treatment in a nursing facility.
- NONE** is used when the screening team recommends no services or the individual refuses services.

**ASSESSMENT COMPLETED:** If 1-7, 12 or 13 is authorized, you must complete the full assessment. If 11 is authorized, only the short assessment is required.

**SERVICE AVAILABILITY:** If a Medicaid-funded long-term care service is authorized, indicate whether the service can be started immediately (#3) or whether there is a waiting list (#1) or no available provider (#2).

**LENGTH OF STAY:** If approval for nursing facility is made, please indicate how long it is felt that these services will be needed by the individual. The physician's signature certifies expected length of stay as well as level of care.

If approved for any other service enter 8.

**LEVEL I SCREENING IDENTIFICATION**

Enter the name of the Level I screening agency or facility (i.e. hospital, local DSS, local Health, Area Agency on Aging, Community Service Board, state MH/MR facility, CIL) and below it, in the 7 boxes provided, that entity's 7 digit screening provider ID#.

In order for Medicaid to make prompt payments to Pre-Admission Screening committees, all of the information in the section must be completed. Failure to complete any part of this section will delay reimbursement.

If the screening is a Nursing Home Pre-Admission Screening completed in the locality, there should be two Level I screeners, both the local DSS and local Health departments. Otherwise, there will be only one Level I screener identification entered.

**LEVEL II ASSESSMENT DETERMINATION**

If the authorization is for nursing facility placement, there must be an entry in this section showing whether a Level II assessment was completed, and if so, whether active treatment was needed. If the Level II assessment for a condition of mental illness or mental retardation was completed, enter the name of the Community Services Board involved and their ID number.

When a screening committee is aware that an individual has expired prior to receiving the services authorized by the screening committee, a "1" should be entered.

**SCREENING CERTIFICATION:** Nursing Home Pre-Admission Screenings must be dated and signed by the individual(s) completing the screening; either a registered nurse, social worker or discharge planner and the physician. Adult Care Residence screenings must be signed by a case manager/assessor of the Level I screening agency. The date the screening certification is signed is the earliest date for which Medicaid reimbursed services may be billed. This date for Nursing Home Pre-Admission Screening is the date signed by the physician.

Client SSN: \_\_\_\_\_

**Current/Normal Services**

Do you currently use any of the following types of services?

- No  Yes  Check All Services That Apply
- Adult Day Care
  - Adult Protective
  - Case Management
  - Chore/Companion/Housemaker
  - Congregate Meals/Senior Center
  - Financial Management/Counseling
  - Friendly Visitor/Telephone Reassurance
  - Habilitation/Supported Employment
  - Home Delivered Meals
  - Home Health/Rehabilitation
  - Home Repairs/Weatherization
  - Housing
  - Legal
  - Mental Health (Inpatient/Outpatient)
  - Mental Retardation
  - Personal Care
  - Respite
  - Substance Abuse
  - Transportation
  - Vocational Rehab/Job Counseling
  - Other: \_\_\_\_\_

Provider/Frequency: \_\_\_\_\_

**Financial Resources**

Where are you on this scale for annual (monthly) family income before taxes?

- \$20,000 or More (\$1,667 or More) 0
- \$15,000 - \$19,999 (\$1,250 - \$1,666) 1
- \$11,000 - \$14,999 (\$ 917 - \$1,249) 2
- \$ 9,500 - \$10,999 (\$ 792 - \$ 916) 3
- \$ 7,000 - \$ 9,499 (\$ 583 - \$ 791) 4
- \$ 5,500 - \$ 6,999 (\$ 458 - \$ 582) 5
- \$ 3,499 or Less (\$ 457 or Less) 6
- Unknown 9

Number in Family unit: \_\_\_\_\_

Optional: Total monthly family income: \_\_\_\_\_

Do you currently receive income from ... ?

- No  Yes  Optional: Amount
- Black Lung
  - Pension
  - Social Security
  - SSI/SSDI
  - VA Benefits
  - Wages/Salary
  - Other: \_\_\_\_\_

Does anyone cash your check, pay your bills or manage your business?

- No  Yes  Names
- Legal Guardian, \_\_\_\_\_
  - Power of Attorney, \_\_\_\_\_
  - Representative Payee, \_\_\_\_\_
  - Other, \_\_\_\_\_

Do you receive any benefits or entitlements?

- No  Yes
- Auxiliary Grant
  - Food Stamps
  - Fuel Assistance
  - General Relief
  - State and Local Hospitalization
  - Subsidized Housing
  - Tax Relief

What types of health insurance do you have?

- No  Yes
- Medicare, # \_\_\_\_\_
  - Medicaid, # \_\_\_\_\_
  - Pending:  No  Yes
  - QMB/SLAB:  No  Yes
  - All Other Public/Private: \_\_\_\_\_

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Client Name: \_\_\_\_\_

Client SSN: \_\_\_\_\_

**Physical Environment**

Where do you usually live? Does anyone live with you?

	Alone 1	Spouse 2	Other 3	Names of Persons in Household	
<input type="checkbox"/> House: Own 0					
<input type="checkbox"/> House: Rent 1					
<input type="checkbox"/> House: Other 2					
<input type="checkbox"/> Apartment 3					
<input type="checkbox"/> Rented Room 4					
	Name of Provider (Place)			Admission Date	Provider Number (If Applicable)
<input type="checkbox"/> Adult Care Residence 50					
<input type="checkbox"/> Adult Foster 60					
<input type="checkbox"/> Nursing Facility 70					
<input type="checkbox"/> Mental Health/Retardation Facility 80					
<input type="checkbox"/> Other 90					

Where you usually live, are there any problems?

No <input type="checkbox"/> Yes <input type="checkbox"/> Check All Problems That Apply	Describe Problems:
<input type="checkbox"/> Barriers to Access	
<input type="checkbox"/> Electrical Hazards	
<input type="checkbox"/> Fire Hazards/No Smoke Alarm	
<input type="checkbox"/> Insufficient Heat/Air Conditioning	
<input type="checkbox"/> Insufficient Hot Water/Water	
<input type="checkbox"/> Lack of/Poor Toilet Facilities (Inside/Outside)	
<input type="checkbox"/> Lack of/Defective Stove, Refrigerator, Freezer	
<input type="checkbox"/> Lack of/Defective Washer/Dryer	
<input type="checkbox"/> Lack of/Poor Bathing Facilities	
<input type="checkbox"/> Structural Problems	
<input type="checkbox"/> Telephone Not Accessible	
<input type="checkbox"/> Unsafe Neighborhood	
<input type="checkbox"/> Unsafe/Poor Lighting	
<input type="checkbox"/> Unsatisfactory Conditions	
<input type="checkbox"/> Other: _____	



Client SSN: \_\_\_\_\_

**Sensory Functions**

How is your vision, hearing, and speech?

	No Impairment 1	Impairment		Complete Loss 3	Date of Last Exam
		Record Date or Dates? Type of Impairment?	Compensation? No Compensation?		
Vision					
Hearing					
Speech					

**Physical Status**

Joint Motion: How is your ability to move your arms, fingers and legs?

- Within normal limits or instability corrected 0
- Limited motion 1
- Instability uncorrected or immobile 2

Have you ever broken or dislocated any bones... Ever had an amputation or lost any limbs... Lost voluntary movement of any part of your body?

Fractures/Dislocations	Missing Limbs	Paralysis/Paresis
<input type="checkbox"/> None 000	<input type="checkbox"/> None 000	<input type="checkbox"/> None 000
<input type="checkbox"/> Hip Fracture 1	<input type="checkbox"/> Finger(s)/Toes 1	<input type="checkbox"/> Partial 1
<input type="checkbox"/> Other Broken Bone(s) 2	<input type="checkbox"/> Arm(s) 2	<input type="checkbox"/> Total 2
<input type="checkbox"/> Dislocation(s) 3	<input type="checkbox"/> Leg(s) 3	Describe: _____
<input type="checkbox"/> Combination 4	<input type="checkbox"/> Combination 4	Previous Rehab Program?
Previous Rehab Program?	Previous Rehab Program?	<input type="checkbox"/> No/Not Completed 1
<input type="checkbox"/> No/Not Completed 1	<input type="checkbox"/> No/Not Completed 1	<input type="checkbox"/> Yes 2
<input type="checkbox"/> Yes 2	<input type="checkbox"/> Yes 2	Onset of Paralysis?
Date of Fracture/Dislocation?	Date of Amputation?	<input type="checkbox"/> 1 Year or Less 1
<input type="checkbox"/> 1 Year or Less 1	<input type="checkbox"/> 1 Year or Less 1	<input type="checkbox"/> More than 1 Year 2
<input type="checkbox"/> More than 1 Year 2	<input type="checkbox"/> More than 1 Year 2	

**Nutrition**

Height: \_\_\_\_\_ (inches)      Weight: \_\_\_\_\_ (lbs)      Recent Weight Gain/Loss:  No 0  Yes 1  
Describe: \_\_\_\_\_

Are you on any special diet(s) for medical reasons?	Do you have any problems that make it hard to eat?
<input type="checkbox"/> None 0	<input type="checkbox"/> No <input type="checkbox"/> Yes 1
<input type="checkbox"/> Low Fat/Cholesterol 1	<input type="checkbox"/> Food Allergies
<input type="checkbox"/> No/Low Salt 2	<input type="checkbox"/> Inadequate Food/Fluid Intake
<input type="checkbox"/> No/Low Sugar 3	<input type="checkbox"/> Nausea/Vomiting/Diarrhea
<input type="checkbox"/> Combination/Other 4	<input type="checkbox"/> Problems Eating Certain Foods
Do you take dietary supplements?	<input type="checkbox"/> Problems Following Special Diets
<input type="checkbox"/> None 0	<input type="checkbox"/> Problems Swallowing
<input type="checkbox"/> Occasionally 1	<input type="checkbox"/> Taste Problems
<input type="checkbox"/> Daily, Not Primary Source 2	<input type="checkbox"/> Tooth or Mouth Problems
<input type="checkbox"/> Daily, Primary Source 3	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Daily, Sole source 4	

CLIENT NAME: \_\_\_\_\_

Client SSN: \_\_\_\_\_

**Current Medical Services-**

Rehabilitation Therapies: Do you get any therapy prescribed by a doctor, such as...?

No	Yes 1	Frequency
<input type="checkbox"/>	<input type="checkbox"/>	Occupational _____
<input type="checkbox"/>	<input type="checkbox"/>	Physical _____
<input type="checkbox"/>	<input type="checkbox"/>	Reality/Remotivation _____
<input type="checkbox"/>	<input type="checkbox"/>	Respiratory _____
<input type="checkbox"/>	<input type="checkbox"/>	Speech _____
<input type="checkbox"/>	<input type="checkbox"/>	Other _____

Do you have any pressure ulcers?

None 0      Location/Size \_\_\_\_\_

Stage I 1 \_\_\_\_\_

Stage II 2 \_\_\_\_\_

Stage III 3 \_\_\_\_\_

Stage IV 4 \_\_\_\_\_

Special Medical Procedures: Do you receive any special nursing care, such as...?

No	Yes 1	Site, Type, Frequency
<input type="checkbox"/>	<input type="checkbox"/>	Bowel/Bladder Training _____
<input type="checkbox"/>	<input type="checkbox"/>	Dialysis _____
<input type="checkbox"/>	<input type="checkbox"/>	Dressing/Wound Care _____
<input type="checkbox"/>	<input type="checkbox"/>	Eyecare _____
<input type="checkbox"/>	<input type="checkbox"/>	Glucose/Blood Sugar _____
<input type="checkbox"/>	<input type="checkbox"/>	Injections/IV Therapy _____
<input type="checkbox"/>	<input type="checkbox"/>	Oxygen _____
<input type="checkbox"/>	<input type="checkbox"/>	Radiation/Chemotherapy _____
<input type="checkbox"/>	<input type="checkbox"/>	Restraints (Physical/Chemical) _____
<input type="checkbox"/>	<input type="checkbox"/>	ROM Exercise _____
<input type="checkbox"/>	<input type="checkbox"/>	Trach Care/Suctioning _____
<input type="checkbox"/>	<input type="checkbox"/>	Ventilator _____
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

**Medical/Nursing Needs**

Based on client's overall condition, assessor should evaluate medical and/or nursing needs.

Are there ongoing medical/nursing needs?  No 0  Yes 1

If yes, describe ongoing medical/nursing needs:

1. Evidence of medical instability.
2. Need for observation/assessment to prevent destabilization.
3. Complexity created by multiple medical conditions.
4. Why client's condition requires a physician, RN, or trained nurse's aide to oversee care on a daily basis.

Comments:

Optional: Physician's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Others: \_\_\_\_\_ Date: \_\_\_\_\_



CLIENT NAME: \_\_\_\_\_ Client SSN: \_\_\_\_\_

### PSYCHO-SOCIAL ASSESSMENT

#### Cognitive Function

**Orientation** (Note: Information in italics is optional and can be used to give a MMSE Score in the box to the right.)

**Person:** Please tell me your full name (so that I can make sure our record is correct).

**Place:** Where are we now (state, county, town, street/road number, street name/box number)?  
Give the client 1 point for each correct response.

**Time:** Would you tell me the date today (year, season, date, day, month)?

- \_\_\_ Oriented 0
  - \_\_\_ Disoriented - Some spheres, some of the time 1
  - \_\_\_ Disoriented - Some spheres, all the time 2
  - \_\_\_ Disoriented - All spheres, some of the time 3
  - \_\_\_ Disoriented - All spheres, all of the time 4
  - \_\_\_ Comatose 5
- Spheres affected: \_\_\_\_\_

Optional: MMSE Score

(1)
(2)
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Note: Score of 14 or below implies cognitive impairment.

#### Recall/Memory/Judgement

**Recall:** I am going to say three words, and I want you to repeat them after I am done (House, Bus, Dog). Ask the client to repeat them. Give the client 1 point for each correct response on the first trial. Repeat up to 6 trials until client can name all 3 words. Tell the client to hold them in his mind because you will ask him again in a minute or so what they are.

**Attention/Concentration:** Spell the word "WORLD". Then ask the client to spell it backwards. Give 1 point for each correctly placed letter (DLROW).

**Short-Term:** Ask the client to recall the 3 words he was to remember.

**Long-Term:** When were you born (What is your date of birth)?

**Judgement:** If you needed help at night, what would you do?

- No 0 Yes 1
- \_\_\_ Short-Term Memory Loss?
- \_\_\_ Long-Term Memory Loss?
- \_\_\_ Judgement Problem?

#### Behavior Pattern

Does the client ever wander without purpose (trespass, get lost, go into traffic, etc.) or become agitated and abusive?

- \_\_\_ Appropriate 0
- \_\_\_ Wandering/Passive - Less than weekly 1
- \_\_\_ Wandering/Passive - Weekly or more 2
- \_\_\_ Abusive/Aggressive/Disruptive - Less than weekly 3
- \_\_\_ Abusive/Aggressive/Disruptive - Weekly or more 4
- \_\_\_ Comatose 5

Type of inappropriate behavior: \_\_\_\_\_ Source of information: \_\_\_\_\_

#### Life Stressors

Are there any stressful events that currently affect your life, such as...?

- |                               |                                   |                       |
|-------------------------------|-----------------------------------|-----------------------|
| No 0 Yes 1                    | No 0 Yes 1                        | No 0 Yes 1            |
| ___ Change in work/employment | ___ Financial problems            | ___ Victim of a crime |
| ___ Death of someone close    | ___ Major illness - family/friend | ___ Failing health    |
| ___ Family conflict           | ___ Recent move/relocation        | ___ Other: _____      |

CLIENT NAME: \_\_\_\_\_ Client SSN: \_\_\_\_\_

#### Emotional Status

In the past month, how often did you	Rarely/ Never 0	Some of the Time 1	Often 2	Most of the Time 3	Unable to Assess 4
Feel anxious or worry constantly about things?					
Feel irritable, have crying spells or get upset over little things?					
Feel alone and that you didn't have anyone to talk to?					
Feel like you didn't want to be around other people?					
Feel afraid that something bad was going to happen to you and/or feel that others were trying to take things from you or trying to harm you?					
Feel sad or hopeless?					
Feel that life is not worth living... or think of taking your life?					
See or hear things that other people did not see or hear?					
Believe that you have special powers that others do not have?					
Have problems falling or staying asleep?					
Have problems with your appetite... that is, eat too much or too little?					

Comments: \_\_\_\_\_

#### Social Status

Are there some things that you do that you especially enjoy?

- No 0 Yes 1
- \_\_\_ Solitary Activities, \_\_\_\_\_ Describe
- \_\_\_ With Friends/Family, \_\_\_\_\_
- \_\_\_ With Groups/Clubs, \_\_\_\_\_
- \_\_\_ Religious Activities, \_\_\_\_\_

How often do you talk with your children, family or friends, either during a visit or over the phone?

Children	Other Family	Friends/Neighbors
___ No Children 0	___ No Other Family 0	___ No Friends/Neighbors 0
___ Daily 1	___ Daily 1	___ Daily 1
___ Weekly 2	___ Weekly 2	___ Weekly 2
___ Monthly 3	___ Monthly 3	___ Monthly 3
___ Less than Monthly 4	___ Less than Monthly 4	___ Less than Monthly 4
___ Never 5	___ Never 5	___ Never 5

Are you satisfied with how often you see or hear from your children, other family and/or friends?

- No 0 Yes 1

CLIENT NAME: \_\_\_\_\_ Client SSN: \_\_\_\_\_

**Hospitalization/Alcohol-Drug-Use**

Have you been hospitalized or received inpatient/outpatient treatment in the last 2 years for nerves, emotional/mental health, alcohol or substance abuse problems?

No 0  Yes 1

Name of Place	Admit Date	Length of Stay/Reason

Do (did) you ever drink alcoholic beverages? Do (did) you ever use non-prescription, mood altering substances?

Never 0  Never 0

At one time, but no longer 1  At one time, but no longer 1

Currently 2  Currently 2

How much: \_\_\_\_\_ How much: \_\_\_\_\_

How often: \_\_\_\_\_ How often: \_\_\_\_\_

*If the client has never used alcohol or other non-prescription, mood altering substances, skip to the tobacco question.*

<p>Have you, or someone close to you, ever been concerned about your use of alcohol/other mood altering substances?</p> <p><input type="checkbox"/> No 0 <input type="checkbox"/> Yes 1</p> <p>Describe concerns: _____</p> <p>_____</p> <p>_____</p>	<p>Do (did) you ever use alcohol/other mood-altering substances with...?</p> <p><input type="checkbox"/> No 0 <input type="checkbox"/> Yes 1</p> <p><input type="checkbox"/> Prescription drugs?</p> <p><input type="checkbox"/> OTC medicine?</p> <p><input type="checkbox"/> Other substances?</p> <p>Describe what and how often: _____</p> <p>_____</p>	<p>Do (did) you ever use alcohol/other mood-altering substances to help you...?</p> <p><input type="checkbox"/> No 0 <input type="checkbox"/> Yes 1</p> <p><input type="checkbox"/> Sleep?</p> <p><input type="checkbox"/> Relax?</p> <p><input type="checkbox"/> Get more energy?</p> <p><input type="checkbox"/> Relieve worries?</p> <p><input type="checkbox"/> Relieve physical pain?</p> <p>Describe what and how often: _____</p> <p>_____</p>
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Do (did) you ever smoke or use tobacco products?

Never 0  At one time, but no longer 1

Currently 2

How much: \_\_\_\_\_

How often: \_\_\_\_\_

Is there anything we have not talked about that you would like to discuss?

\_\_\_\_\_

\_\_\_\_\_

CLIENT NAME: \_\_\_\_\_ Client SSN: \_\_\_\_\_

**5 ASSESSMENT SUMMARY**

*Indicators of Adult Abuse and Neglect: While completing the assessment, if you suspect abuse, neglect or exploitation, you are required by Virginia law, Section 63.1 - 55.3 to report this to the local Department of Social Services, Adult Protective Services.*

**Caregiver Assessment**

Does the client have an informal caregiver?

No 0 (Skip to Section on Preferences)  Yes 1

Where does the caregiver live?

With client 0

Separate residence, close proximity 1

Separate residence, over 1 hour away 2

Is the caregiver's help...

Adequate to meet the client's needs? 0

Not adequate to meet the client's needs? 1

Has providing care to the client become a burden for the caregiver?

Not at all 0

Somewhat 1

Very much 2

Describe any problems with continued caregiving:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Preferences**

Client's preferences for receiving needed care: \_\_\_\_\_

Family/Representative's preferences for client's care: \_\_\_\_\_

Physician's comments (if applicable): \_\_\_\_\_

CLIENT NAME: \_\_\_\_\_ Client SSN: \_\_\_\_\_

**Client Case Summary**

[Empty box for Client Case Summary]

**Home Needs**

No	0	Yes	1	(Check All That Apply)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Assistive Devices/Medical Equipment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Medical Care/Health
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Nutrition
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Cognitive/Emotional
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Caregiver Support

**Assessment Completed By:**

Assessor's Name	Signature	Agency/Provider Name	Provider#	Section(s) Completed

Initials: Case assigned to: \_\_\_\_\_ Code #: \_\_\_\_\_

Virginia Social Services Form 609

## BOARD OF NURSING

**Title of Regulation:** 18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-210, 18 VAC 90-20-330, and 18 VAC 90-20-350).

**Statutory Authority:** §§ 54.1-2400 and 54.1-3000 et seq. of the Code of Virginia.

**Public Hearing Date:** March 26, 1996 - 1 p.m.

Public comments may be submitted until May 17, 1996.

(See Calendar of Events section for additional information)

**Basis:** Section 54.1-3005 of the Code of Virginia requires the Board of Nursing to certify nurse aides, to maintain a registry of certified nurse aides, and to promulgate regulations accordingly. Section 54.1-3026 of the Code of Virginia requires biennial renewal of certificates upon payment of any specified fee. Section 54.1-2400 of the Code of Virginia authorizes the board to establish qualifications for certification, to establish fees and schedules for renewal, and to take appropriate disciplinary action for violations of applicable law and regulations.

**Purpose:** An amendment to the Board of Nursing regulations is essential to replace an emergency regulation promulgated because of an imminent threat to the health and safety of vulnerable residents of long-term care facilities who are at great potential risk for abuse, neglect or misappropriation of property by nurse aides in those facilities. An emergency situation was created by drastic cuts in federal funding for the Nurse Aide Program in Virginia, which resulted in reductions in investigations of complaints and disciplinary actions.

The emergency regulation, which established a biennial renewal fee of \$20 for certified nurse aides, became effective August 1, 1995. It is essential for the board to have a permanent regulation in place to avoid a renewed threat to the health and safety of residents of long-term care facilities in Virginia.

Without replacing the emergency regulation with a permanent regulation and the continuation of a renewal fee for certified nurse aides, the board would once again be unable to fully investigate accusations of abuse and neglect and conduct hearings according to requirements of the Administrative Process Act. Residents of long-term care facilities would be in imminent danger from nurse aides who could continue to work or who could seek employment in another setting.

**Substance:** The Board of Nursing proposes to replace an emergency regulation, which became effective August 1, 1995, with an amendment to its regulations.

The proposed amendment to 18 VAC 90-20-350 B 2 would establish a fee of \$20 for the renewal of nurse aide certification each biennium.

**Issues:** The Virginia Board of Nursing began the current fiscal year on July 1, 1995, with a budget of \$1.1 million to operate the Nurse Aide Registry. In a letter dated October 26, 1994, the Department of Health Professions was advised that notice had been received from the Health Care Financing Administration (HCFA) of an overall reduction in funding. The total amount available for the Nurse Aide Registry for Fiscal

Year 1995 is \$696,638. By the end of the first quarter, expenditures totaling \$233,827 had been incurred by the Nurse Aide Registry, leaving \$462,811 for the remaining three quarters of Fiscal Year 1995.

The Department of Health Professions with the Virginia Board of Nursing has implemented significant changes to reduce expenditures and has cut its direct costs. Without a funding source provided by the \$20 per biennium renewal fee, Virginia will no longer be in compliance with federal and Virginia law and regulation.

**Advantages to the public:** The proposed fee is essential in order to provide necessary funding for the board to conduct investigations and proceed with disciplinary action in cases of abuse, neglect, or misappropriation of property by certified nurse aides in the Commonwealth. Without replacement of the emergency regulation, the board would be faced with an inability to investigate all complaints in a timely manner, to initiate formal hearings for the revocation of certification, or to investigate and act on allegations in nursing homes and other employment settings.

With promulgation of this proposed regulation, the board will be able to fulfill its statutory responsibility to protect the health, safety and welfare of the citizens of the Commonwealth, especially those who are most vulnerable and frail.

There are no disadvantages to the public.

**Advantages to the agency:** The board has taken the following actions to address the drastic reduction in federal funding and to avoid the establishment of a renewal fee for nurse aides:

1. Reduced expenditures for the Nurse Aide Registry by 30% in direct operating costs, resulting in delays in certification, renewals, and verifications and in a drastic reduction in required on-site reviews of educational programs and delays in new approvals.
2. Reduced investigations and administrative proceedings by 50%, resulting in potential for continued employment by abusive nurse aides as described above.
3. Requested a budget amendment by the Health Care Financing Administration (HCFA) to alleviate the impact of a drastic cut in funding for the Nurse Aide Registry. No response was received.
4. Met with a representative of the Secretary of Health and Human Resources to apprise her office of the crisis situation and to receive advice on alternatives.
5. Requested an analysis of the revenue which could be generated by a lesser fee. The analysis indicated that any lesser fee would not generate sufficient revenue to cover costs of critical investigations and disciplinary proceedings for nurse aides.

Since no other alternatives can be found, the advantage to the agency of the proposed regulation is that funds resulting from a renewal fee will enable the board to carry out its statutory responsibilities.

**Estimated Impact:**

Projected number of regulated nurse aides and their costs of compliance: There are currently 35,575 nurse aides entered

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on the Nurse Aide Registry. It is estimated by the board that approximately 34,000 will choose to remain active on the registry by payment of a renewal fee.

Cost of compliance: Proposed regulations will result in a minimal cost of a \$20 renewal fee for each biennium. Renewal fees are costs to the individual nurse aide but may be absorbed by the employer as professional development.

Costs to the agency for implementation: No additional staff will be required to implement these regulations.

There will be some cost to the agency for the promulgation of regulations, such as: mailing of notices to the public participation guidelines list, providing a public hearing on proposed regulations, and copying and mailing final regulations to nursing education programs. The costs will be minimal (less than \$1,000), since the board will attempt to combine mailing notices and information on regulations with other required mailings and will hold its hearing during a regularly scheduled board meeting.

Costs to local governments: There will be no impact on local government.

### Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

The proposed regulation revises the Regulations of the Board of Nursing to establish a \$20 fee for the renewal of nurse aide certification each biennium.

According to estimates provided by the Board of Nursing, the \$20 biennial fee for the renewal of nurse aide certification would apply to approximately 34,000 nurse aides entered in the Nurse Aide Registry. Thus, the total cost of compliance imposed on nurse aides by the proposed regulation would be approximately \$680,000 over the 1996-98 fiscal biennium.

Because this fee represents such a small proportion of the total cost of entry into this occupation (e.g., total cost of entry would include all educational expenses), it is unlikely to have a significant effect on the decision of individuals to enter or exit this occupation. As a result, the proposed regulation should have no economic consequences, and therefore no economic impact, beyond that of the increased cost of compliance.

The proposed regulation particularly affects nurse aides and potentially their employers.

No localities are particularly affected by this proposed regulation.

The proposed regulation is not anticipated to have a significant effect on employment.

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

The proposed regulation establishes a \$20 biennial fee for nurse aide certification renewal. This fee is anticipated to impose approximately \$680,000 in compliance costs on nurse aides over the 1996-98 fiscal biennium.

### Agency's Response to Department of Planning and Budget's Economic Impact Analysis:

The agency has reviewed the analysis prepared by the department and concurs in its conclusions as to its projected impact.

### Summary:

*The proposed amendment establishes a biennial renewal fee of \$20 for certified nurse aides. The promulgation of this amendment will make permanent the emergency regulation which became effective August 1, 1995. An emergency situation was created by drastic cuts in federal funding for the Nurse Aide Program in Virginia, which resulted in reductions in investigations of complaints and disciplinary actions, thereby necessitating the imposition of this fee.*

### **18 VAC 90-20-210. Licensure of applicants from other countries.**

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in 18 VAC 90-20-210 subsections B and C of this chapter section.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and
2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;
2. Provide evidence of secondary education to meet the statutory requirements;
3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure form directly to the board office; and
4. Submit the required application and fee for licensure by examination.

### **18 VAC 90-20-330. Nurse aide education programs.**

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit an application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with ~~48 VAC 90-20-330 subsection B~~ of this chapter section.

3. The Education Special Conference Committee (the "committee"), comprised of not less than three members of the board, shall, in accordance with § 9-6.14:11 of the Code of Virginia, receive and review the application and shall make a recommendation to the board for grant or denial of approval.

4. If the committee's recommendation is to deny approval, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 9-6.14:12 and subdivision 9 of § 54.1-2400 of the Code of Virginia.

B. Maintaining an approved nurse aide education program. To maintain approval, the nurse aide education program shall demonstrate evidence of compliance with the following essential elements:

1. Curriculum content and length as set forth in ~~48 VAC 90-20-330 subsections D and 48 VAC 90-20-330 G~~ of this chapter section.

2. Maintenance of qualified instructional personnel as set forth in ~~48 VAC 90-20-330 subsection C~~ of this chapter section.

3. Classroom facilities that meet requirements set forth in ~~48 VAC 90-20-330 subsection H~~ of this chapter section.

4. Maintenance of records as set forth in ~~48 VAC 90-20-330 subsection E~~ of this chapter section.

5. Skills training experience in a nursing facility which has not been subject to penalty or penalties as provided in 42 CFR § 483.151(b)(2) (Medicare and Medicaid Programs: Nurse Aide Training and Competency Evaluation Programs, effective April 1, 1992) in the past two years.

6. Agreement that board representatives may make unannounced visits to the program.

7. Impose no fee for any portion of the program on any nurse aide who, on the date on which the nurse aide begins the program, is either employed or has an offer of employment from a nursing facility.

8. Must report all substantive changes in subdivisions 1 through 7 of ~~48 VAC 90-20-330 subsection B~~ of this chapter section within 10 days of the change to the board.

C. Instructional personnel.

1. Program coordinator.

a. The program coordinator in a nursing facility based program may be the director of nursing services. The director of nursing may assume the administrative

responsibility and accountability for the nurse aide education program but shall not engage in the actual classroom and clinical teaching.

b. The primary instructor may be the program coordinator in any nurse aide education program.

2. Primary instructor.

a. Qualifications. The primary instructor, who does the actual teaching of the students:

(1) Shall hold a current Virginia license as a registered nurse; and

(2) Shall have two years of experience as a registered nurse and at least one year of experience within the previous five years in the provision of long-term care facility services. Such experience may include, but not be limited to, employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting. Experience should include varied responsibilities, such as direct resident care, supervision and education.

b. Responsibilities. The primary instructor shall:

(1) Participate in the planning of each learning experience;

(2) Ensure that course objectives are accomplished;

(3) Ensure that the provisions of ~~48 VAC 90-20-330 G subdivision 6~~ of this chapter subsection are maintained;

(4) Maintain records as required by ~~48 VAC 90-20-330 subsection E~~ of this chapter section; and

(5) Perform other activities necessary to comply with ~~48 VAC 90-20-330 subsection B~~ of this chapter section; and

(6) Ensure that students do not perform services for which they have not received instruction and been found proficient by the instructor.

3. Other instructional personnel.

a. Qualifications.

(1) A registered nurse shall:

(a) Hold a current Virginia license as a registered nurse; and

(b) Have had at least one year, within the preceding five years, of direct patient care experience as a registered nurse with the elderly or chronically ill, or both, of any age.

(2) A licensed practical nurse shall:

(a) Hold a current Virginia license as a practical nurse;

(b) Hold a high school diploma or equivalent;

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(c) Have been graduated from a state-approved practical nursing program; and

(d) Have had at least two years, within the preceding five years, of direct patient care experience with the elderly or chronically ill, or both, of any age.

b. Responsibilities. Other personnel shall provide instruction under the general supervision of the primary instructor.

4. Prior to being assigned to teach the nurse aide education program, all instructional personnel shall demonstrate competence to teach adults by one of the following:

a. Complete satisfactorily a "train-the-trainer" program approved by the board. Such a program shall be approved by the board for five years, at which time the sponsor must request reapproval of the program. The content of the program must include:

- (1) Basic principles of adult learning;
- (2) Teaching methods and tools for adult learners; and
- (3) Evaluation strategies and measurement tools for assessing the learning outcomes; or

b. Complete satisfactorily a credit or noncredit course or courses approved by the board. Such courses shall be evaluated for approval by the board upon request from the individual taking the course. The content of such credit or noncredit course shall be comparable to that described in 48-VAC-90-20-330-G subdivision 4 a of this chapter subsection; or

c. Provide evidence acceptable to the board of experience in teaching adult learners within the preceding five years.

5. The program may utilize resource personnel who have had at least one year of experience in their field to meet the planned program objectives for specific topics.

6. When students are giving direct care to clients in clinical areas, instructional personnel must be on site solely to supervise the students. The ratio of students to each instructor shall not exceed 10 students to one instructor.

### D. Curriculum.

1. The graduate of the nurse aide education program shall be prepared to:

- a. Communicate and interact competently on a one-to-one basis with the clients;
- b. Demonstrate sensitivity to clients' emotional, social, and mental health needs through skillful directed interactions;
- c. Assist clients in attaining and maintaining functional independence;
- d. Exhibit behavior in support and promotion of clients' rights; and

e. Demonstrate skills in observation and documentation needed to participate in the assessment of clients' health, physical condition and well-being.

2. Content. The curriculum shall include, but shall not be limited to, classroom and clinical instruction in the following:

a. Initial core curriculum. Prior to the direct contact of a student with a nursing facility client, a total of at least 16 hours of instruction in the following areas must be presented:

- (1) Communication and interpersonal skills,
- (2) Infection control,
- (3) Safety and emergency procedures, including the Heimlich Maneuver,
- (4) Promoting client independence, and
- (5) Respecting clients' rights.

b. Basic skills.

- (1) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor.
- (2) Measuring and recording routine vital signs.
- (3) Measuring and recording height and weight.
- (4) Caring for the clients' environment.
- (5) Measuring and recording fluid and food intake and output.
- (6) Performing basic emergency measures.
- (7) Caring for client when death is imminent.

c. Personal care skills.

- (1) Bathing and oral hygiene.
- (2) Grooming.
- (3) Dressing.
- (4) Toileting.
- (5) Assisting with eating and hydration including proper feeding techniques.
- (6) Caring for skin.
- (7) Transfer, positioning and turning.

d. Individual client's needs including mental health and social service needs.

- (1) Identifying the psychosocial characteristics of the populations who reside in nursing homes.
- (2) Modifying the aide's behavior in response to behavior of clients.
- (3) Identifying developmental tasks associated with the aging process.

- (4) Providing training in and the opportunity for self care according to clients' capabilities.
  - (5) Demonstrating principles of behavior management by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated.
  - (6) Demonstrating skills supporting age-appropriate behavior by allowing the client to make personal choices, providing and reinforcing other behavior consistent with clients' dignity.
  - (7) Utilizing client's family or concerned others as a source of emotional support.
  - (8) Responding appropriately to client's behavior.
- e. Care of the cognitively impaired client.
- (1) Using techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
  - (2) Communicating with cognitively impaired residents.
  - (3) Demonstrating and understanding the behavior of cognitively impaired residents.
  - (4) Responding appropriately to the behavior of cognitively impaired residents.
  - (5) Using methods to reduce the effects of cognitive impairment.
- f. Skills for basic restorative services.
- (1) Using assistive devices in transferring, ambulation, eating and dressing.
  - (2) Maintaining range of motion.
  - (3) Turning and positioning, both in bed and chair.
  - (4) Bowel and bladder training.
  - (5) Caring for and using prosthetic and orthotic devices.
  - (6) Teaching the client in self-care according to the client's abilities as directed by a supervisor.
- g. Clients' rights.
- (1) Providing privacy and maintaining confidentiality.
  - (2) Promoting the client's right to make personal choices to accommodate individual needs.
  - (3) Giving assistance in resolving grievances and disputes.
  - (4) Providing assistance necessary to participate in client and family groups and other activities.
  - (5) Maintaining care and security of the client's personal possessions.
  - (6) Promoting the resident's rights to be free from abuse, mistreatment and neglect and the need to report any instances of such treatment to appropriate staff.
- (7) Avoiding the need for restraints in accordance with current professional standards.
- h. Legal aspects of practice as a certified nurse aide.
3. Unit objectives.
- a. Objectives for each unit of instruction shall be stated in behavioral terms which are measurable.
  - b. Objectives shall be reviewed with the students at the beginning of each unit.
- E. Records.
1. Each nurse aide education program shall develop an individual record of major skills taught and the date of performance by the student. At the completion of the nurse aide education program, the nurse aide must receive a copy of this record.
  2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.
  3. A record that documents the disposition of complaints against the program shall be maintained.
- F. Student identification. The nurse aide students shall wear identification that is clearly recognizable to clients, visitors and staff.
- G. Length of program.
1. The program shall be at least 80 clock hours in length.
  2. The program shall provide for at least 16 hours of instruction prior to direct contact of a student with a nursing facility client.
  3. Skills training in clinical settings shall be at least 40 hours. Five of the clinical hours may be in a setting other than a nursing home.
  4. Employment orientation to facilities used in the education program must not be included in the 80 hours allotted for the program.
- H. Classroom facilities. The nurse aide education program shall provide facilities that meet federal and state requirements including:
1. Comfortable temperatures.
  2. Clean and safe conditions.
  3. Adequate lighting.
  4. Adequate space to accommodate all students.
  5. All equipment needed, including audio-visual equipment and that needed for simulating resident care.
- I. Program review.
1. Each nurse aide education program shall be reviewed on site by an agent of the board at least every two years following initial review.
  2. The committee, in accordance with § 9-6.14:11 of the Code of Virginia, shall receive and review the report of



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the site visit and shall make recommendations to the board to grant or deny continued approval.

a. A nurse aide education program shall continue to be approved provided the requirements set forth in 48 VAC 90-20-330 subsections B through H of this chapter section are maintained.

b. If the committee determines that a nurse aide education program is not maintaining the requirements of 48 VAC 90-20-330 subsections B through H of this chapter section, with the exception of 48 VAC 90-20-330 subdivision B 5 of this section, the committee shall recommend to the board that the program be placed on conditional approval and the program provider shall be given a reasonable period of time to correct the identified deficiencies.

(1) The committee shall receive and review reports of progress toward correcting identified deficiencies and, when a final report is received at the end of the specified time showing corrections of deficiencies, make a recommendation to the board for grant of continued approval.

(2) If the program provider fails to correct the identified deficiencies within the time specified by the committee or the board, the board or a panel thereof may withdraw approval following a hearing in accordance with § 9-6.14:12 and subdivision 9 of § 54.1-2400 of the Code of Virginia.

(3) The program provider may request a formal hearing before the board or a panel thereof pursuant to § 9-6.14:12 and subdivision 9 of § 54.1-2400 of the Code of Virginia if it objects to any action of the board relating to conditional approval.

3. The program coordinator shall prepare and submit a program evaluation report on a form provided by the board in the intervening year that an on site review is not conducted.

J. Curriculum changes. Changes in curriculum must be approved by the board prior to implementation and shall be submitted for approval at the time of a report of a site visit or the report submitted by the program coordinator in the intervening years.

K. Interruption of program.

1. When a program provider does not wish to admit students for a period not to exceed one year, the provider may request that the program be placed on inactive status and shall not be subject to compliance with 48 VAC 90-20-330 subsection B of the regulations this section for the specified time.

2. Unless the program provider notifies the board that it intends to admit students, the program will be considered closed at the end of the one-year period and be subject to the requirements of 48 VAC 90-20-330 subsection L of this chapter section.

L. Closing of a nurse education program. When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.

2. Submit to the board a list of all graduates with the date of graduation of each.

**18 VAC 90-20-350. Nurse aide registry.**

A. Initial certification by examination.

1. To be placed on the registry and certified, the nurse aide must:

a. Satisfactorily complete a nurse aide education program approved by the board; or

b. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, have completed at least one nursing course which includes clinical experience involving client care; or

c. Have completed a nursing education program preparing for registered nurse licensure or practical nurse licensure; and

d. Pass the competency evaluation required by the board; and

e. Submit the required application and fee to the board.

2. Initial certification by endorsement.

a. A graduate of a state approved nurse aide education program who has satisfactorily completed a competency evaluation program and is currently registered in another state may apply for certification in Virginia by endorsement.

b. An applicant for certification by endorsement shall submit the required application and fee and submit the required verification form to the credentialing agency in the state where registered, certified or licensed within the last two years.

3. Initial certification shall be for two years.

B. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, an application for renewal shall be mailed by the board to the last known address of each currently registered certified nurse aide.

2. The certified nurse aide shall return the completed application with the required fee of \$20 and verification of performance of nursing-related activities for compensation within the preceding two years.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat and pass the nurse aide competency evaluation prior to applying for recertification.

C. Reinstatement of lapsed certification. An individual whose certification has lapsed shall file the required application and renewal fee and:

1. Verification of performance of nursing-related activities for compensation prior to the expiration date of the certificate and within the preceding two years; or

2. When nursing activities have not been performed during the preceding two years, evidence of having repeated and passed the nurse aide competency evaluation.

D. Evidence of change of name. A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order authorizing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

E. Requirements for current mailing address.

1. All notices required by law and by this chapter to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

2. Each certificate holder shall maintain a record of his current mailing address with the board.

3. Any change of address by a certificate holder shall be submitted in writing to the board within 30 days of such change.

VA.R. Doc. No. R96-246; Filed February 28, 1996, 11:34 a.m.

**BOARD OF PHARMACY**

Title of Regulation: 18 VAC 110-20-10 et seq. Regulations of the Board of Pharmacy (amending 18 VAC 110-20-10, 18 VAC 110-20-20, 18 VAC 110-20-90, 18 VAC 110-20-110, 18 VAC 110-20-130, 18 VAC 110-20-210, 18 VAC 110-20-240, 18 VAC 110-20-260, 18 VAC 110-20-280, 18 VAC 110-20-290, 18 VAC 110-20-310, 18 VAC 110-20-320, 18 VAC 110-20-360, 18 VAC 110-20-370, 18 VAC 110-20-410, 18 VAC 110-20-420, 18 VAC 110-20-440, 18 VAC 110-20-480, 18 VAC 110-20-530, and 18 VAC 110-20-570; adding 18 VAC 110-20-285, 18 VAC 110-20-411 through 18 VAC 110-20-419; repealing 18 VAC 110-20-300).

Statutory Authority: §§ 54.1-2400, 54.1-3307 and 54.1-3312 of the Code of Virginia.

Public Hearing Date: March 26, 1996 - 9 a.m.  
Public comments may be submitted until May 17, 1996.  
(See Calendar of Events section for additional information)

Basis: Chapters 24, 33, and 34 of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 (§ 54.1-2400 et seq.) establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations. Chapter 33 (§ 54.1-3300 et seq.) establishes the Board of Pharmacy and authorizes the board to regulate the practice of pharmacy consistent with public health and safety. Chapter 34 (§ 54.1-3400 et seq.) establishes the Drug Control Act and authorizes the board to ensure the safety of the drugs prescribed and administered in the Commonwealth.

Purpose: The purpose of the proposed amendments is to address a number of problems, as identified in the Notice of Intended Regulatory Action, for which regulations are either now outdated, need clarification, or are insufficient to the current practice of pharmacy and for the protection of the public. Amendments are proposed to allow greater flexibility in the use of technology for the transmittal and delivery of prescription drugs, for assurance to the public of the safety and efficacy of drug stocks, and for compliance with state and federal law.

Substance:

18 VAC 110-20-10, Definitions. Several new definitions are proposed to establish in regulation current terminology used in the practice of pharmacy as established by the U.S.C., the Drug Enforcement Agency or other recognized bodies. Through establishment of a definition for a "Satellite pharmacy," the board is providing guidelines and clarification for a term which has been subject to a variety of interpretations. Through amendments to the definition of "Storage temperature," the board is proposing to conform its definitions to amended requirements of federal law.

18 VAC 110-20-20, Fees. Amendments to subsection B are proposed to delete fees for required examinations which will be paid directly to the service which administers the examinations.

18 VAC 110-20-90, Requirements for continuing education. An amendment is proposed to accept a Category I CME course for continuing education credit.

18 VAC 110-20-130, Pharmacies going out of business. Amendments conform board requirements for notification with those stated in the Code of Virginia.

18 VAC 110-20-210, Disposal of Schedule II through V drugs by pharmacies. Amendments conform regulations to the current practice and requirements of the Drug Enforcement Administration for drug disposal.

18 VAC 110-20-240, Manner of maintaining records, prescriptions, inventory records. Amendments clarify and provide more specification to requirements for the taking of an inventory.

18 VAC 110-20-280. Amendments allow the faxing of Schedules III through VI drugs, and ensure and clarify that a faxed prescription may not be used as the original written prescription, except as authorized by the Code of Virginia.

A new section, 18 VAC 110-20-285, is proposed to allow transmission of prescriptions by electronic means from prescriber to pharmacy and to set forth requirements to ensure the security and safety of such prescriptions.

18 VAC 110-20-360 B. Amendments include the transmission by facsimile or electronically in the requirements for issuing a copy of a prescription to be refilled.

18 VAC 110-20-360 F. Amendments provide that for prescriptions transferred between pharmacies using a common database, it is not required to maintain a hard copy unless required by federal law.

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## Proposed Regulations

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18 VAC 110-20-370 D. Amendments ensure that prescriptions transferred electronically meet requirements for prescriptions that cannot be refilled.

All of Part IX is new language proposed by the board to provide safeguards for the compounding of sterile products which will ensure the safety, security, and efficacy of those stocks of drugs. Requirements are established for the safe practices, the environment and equipment used, labeling, quality assurance, and record keeping.

Amendments to 18 VAC 110-20-440 are proposed to specify the responsibilities of the pharmacist-in-charge for the security, maintenance, and dispensing of drug stock in satellite pharmacies within the hospital. Subsection C is added to clarify that satellite pharmacies must comply with most of the same requirements for security and sanitation as pharmacies separately licensed by the board.

An amendment to 18 VAC 110-20-530 (9) is proposed in response to comment that the requirement for monthly review of drug therapy is unnecessary and too burdensome in homes for adults.

Amendments in 18 VAC 110-20-570 are proposed to clarify that a licensed practitioner other than a physician may prescribe drugs in these facilities and that a "person" other than an employee (such as a student) may receive medical services.

### Issues:

ISSUE 1: Need for additional definitions or amendment to existing definitions

A. New definitions proposed for terminology used in new regulations.

Definitions for "aseptic processing," "class 100 environment," "closed system transfer," "cytotoxic drug," "home infusion pharmacy," "open system transfer," and "sterile pharmaceutical product" are all necessary for clear understanding of proposed regulation for compounding of sterile products.

A new definition for "electronic transmission prescription" is necessary to clarify regulations allowing transfer by the use of modem.

A new definition for a "satellite pharmacy" is necessary to provide guidelines for establishment of such a satellite within a hospital and to further clarify board regulations.

B. Amended definition of "controlled room temperature"

As a result of an international conference, the United States Pharmacopoeia/National Formulary has changed its definition of certain storage temperatures, specifically "controlled room temperature." Since Virginia regulation was based on USP/NF standards, the board definition of "controlled room temperature" is no longer correct or valid. The board occasionally has had to enforce this standard during the summer when a pharmacy's air conditioning system malfunctioned, when an unair-conditioned warehouse exceeded the temperature at which drugs are stable, and after a fire at which drugs were exposed to extremely high conditions.

### Alternatives considered

New definitions are required for understanding and ease of compliance with new proposed regulations on the compounding of sterile products. There were no alternatives considered since the definitions were extracted by the Ad Hoc Advisory Committee and the board from official pharmaceutical compendia and other widely accepted professional reference sources.

A new definition for "electronic transmission prescription" was necessary to address the possibilities for interference between the practitioner and the pharmacist in such transmission, the new potential for diversion, and the possible loss of confidentiality for the patient. By the addition of the proposed definition, the board seeks to allow the use of new technology while assuring the essential requirements of security and privacy in the transmission of a prescription. The only alternative was the omission of a definition which provided no such assurance and raised the possibility of inconsistency or misinterpretation by licensees and the public.

A new definition for a "satellite pharmacy" was necessary because of a lack of clarity about compliance with law and regulations by hospitals in the establishment of "satellites" attached to the hospital pharmacy permit. Current regulations do not use the terminology and no definition exists. Yet, satellite pharmacies are commonly established by hospitals within the Commonwealth. The board sought to set forth a definition that would allow such arrangements within the mandatory requirements of the Code of Virginia.

Alternatives considered included: (i) requiring a separate pharmacist-in-charge for each satellite within a hospital to ensure compliance at the satellite with all laws and regulations; (ii) requiring minimum standards of space within and distance from the main hospital pharmacy; and (iii) stating the minimum requirements for satellites operating with a single pharmacist-in-charge and under a single pharmacy permit as established in the Code of Virginia. The board rejected alternatives (i) and (ii) as potentially burdensome to hospitals and their pharmacist-in-charge.

### Advantages and disadvantages

The advantages of new definitions for the public and for the licensees are: (i) the removal of ambiguity about requirements of statutes and regulations; (ii) the employment of new technologies permissible by proposed regulation; and (iii) the preservation of mandatory safeguards against diversion and protection of the drug supply.

There are no disadvantages for the public which remains protected in their use of pharmacy services. While the board receives no negative comment about new definitions during the promulgation of regulations, there may be some potential disadvantage to hospitals in the future which will be unable to expand satellite pharmacies into locations apart from the address on the pharmacy permit.

### ISSUE 2: Deletion of fees for examinations

Current regulations require the board to collect a combination examination and application fee from all applicants seeking licensure. The agency must process those checks and then

make payment to the private testing service with whom the board has contracted to develop, provide, and administer the state drug law exam and the national competency exam. Proposed regulations would take out of the combined fee that portion owed to the testing service (currently the National Assessment Institute) and retain only a \$50 application processing fee.

## Alternatives considered

Since the combination of the amount that will be paid directly to the testing service and the amount that will be paid as an application fee to the board is slightly less than the current required fee, the board considered adoption of a higher application fee. The board chose to propose the minimum fee necessary to meet the expenses of processing new applications for licensure.

## Advantages and disadvantages

The advantages of the proposed regulations for the agency and for the public are as follows: (i) applicants will pay less to become licensed; (ii) the agency will not incur the expense of processing examination fees and paying the private contractor; and (iii) while examination fees are subject to change by the testing service, the board has not fixed fees in regulation and has the opportunity to negotiate with other providers. There is no direct advantage to the consumer of pharmacy services, but there may be some indirect benefit.

There are no disadvantages to the public. Payment of two fees may be somewhat more cumbersome to applicants, but that inconvenience should be offset by less costly process for the board and its licensees.

## ISSUE 3: Continuing education requirement

Current criteria for approval of continuing education for pharmacists are too restrictive and limited. Regulations now stipulate that an approved CE program is one certified by the American Council on Pharmaceutical Education (ACPE) or one approved by the board upon submission of an application and a fee of \$100 for an individual program or an annual fee of \$300 to become a board-approved provider of CE courses.

Other providers offer courses which relate to the practice of pharmacy, but it is too expensive and duplicative for the provider to apply to the Board of Pharmacy for approval prior to the offering. For example, many hospitals provide approved continuing education programs for physicians which relate to drug therapy. These programs may be available to staff pharmacists at no cost, but it is not cost-effective for the hospital to go through the process of seeking Board of Pharmacy approval. There are also several physicians, who are also pharmacists, who are required to take approved continuing medical education (CME) courses each year and have asked the board to accept CME courses related to pharmacology or drug therapy as approved CE for pharmacy.

## Alternatives considered

The board considered the following alternatives: (i) retention of the current requirements for approved courses and providers; (ii) consideration of approval of providers from other health professions (such as dentistry); and (iii) approval

of continuing medical education (CME) with a specific and more restrictive listing of acceptable courses. The board chose to propose amending its regulations by relaxing its requirements to include all Category I CME courses which have as their subject pharmacology, pharmacy, or drug therapy.

## Advantages and disadvantages

The advantages to the licensees are: (i) greater access and availability of approved CE (CME is offered in many hospital settings throughout Virginia); (ii) more flexibility in fulfilling CE requirements; and (iii) ease of compliance for small number of dually licensed persons (medicine & pharmacy). The advantage to the public is the assurance by the board that the proposed regulation continues to address the issue of continuing competency by licensed pharmacist. There are no disadvantages to the public, to the agency, or to licensees.

## ISSUE 4: Required notice to board of pharmacy closing

Pursuant to 1992 legislation which required a pharmacy to post a notice to the public of an intended closing at least 30 days prior to actual closing, the Board of Pharmacy amended its regulations to also require a 30-day notice to the board of intended closing. In 1994, this law was amended to give the pharmacy an option. In lieu of the 30-day public notice, a pharmacy may now mail a written notice to all active patients at least 14 days in advance of actual closing. The law was amended because the 30-day requirement had been shown to be impractical and sometimes impossible to meet in a number of cases. For example, there have been a number of corporate buyouts, one chain buying another and closing some of the pharmacies. The purchaser may not renew a lease based on expectation of closing on a certain date, but delay by the FTC in approving a merger may not come in time to provide the 30-day notification.

In some instances, keeping the pharmacy open for the required 30 days after notification of the board has placed the pharmacist in danger and the drug stock more attractive to armed robbery, as in the case of a grocery store chain which went out of business. The grocery stores elected to close but keep only the pharmacy inside open to meet the 30-day requirement. Because of the isolation and lack of traffic, the pharmacy was particularly vulnerable to robbery during hours of operation.

## Alternatives considered

The only alternative possible is retention of the current regulation which is more restrictive than the requirements of the Code of Virginia. The board chose to reduce the notice requirement from 30 to 14 days in conformity with the Code of Virginia.

## Advantages and disadvantages

The advantages to the licensees and permit holders, who are often small businesses, are less regulatory burden, consistency between law and regulation, and ease of compliance. The notification requirement in the Code of Virginia is intended to benefit consumers, but there are no direct benefits or disadvantages of the amendment to regulations to the public.

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# Proposed Regulations

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## ISSUE 5: Inventory record

The Drug Control Act, § 54.1-3404 of the Code of Virginia, requires that a biennial inventory of all Schedule II through V drugs on hand be taken on the regular applicable inventory date. In order for the inventory to be of use in a drug audit, the auditor must know the date it was taken and whether it was taken at the opening or close of business on that date. If there are discrepancies in the audit, the board will need to know the name of the person who actually took the audit. There is also a requirement in § 54.1-3434 of the Drug Control Act and in 18 VAC 110-20-120 of the board regulations that at a change of pharmacist in charge (PIC), inventory shall be taken by both the outgoing and incoming PIC's. There is also a need for the auditor and board to know the date, open or close of business, and the name of the person taking the inventory on change of PIC inventories.

Although the statutes and regulations require that complete and accurate inventories be taken at either the opening or close of business on these required dates as mentioned above, there is no actual requirement that the inventory record be dated, signed, or a record be made on the inventory whether it was taken at open or close of business.

### Alternatives considered

Because of the statutory mandate for a complete and accurate inventory, the only alternative possible is retention of the current regulation which is ambiguous and in need of greater clarity. When discrepancies in the audit are noted, it is advantageous for the board and for licensees that the information on the audit be complete.

### Advantages and disadvantages

The advantages to the licensees and to the agency charged with inspection and enforcement are more specification about requirements of a "complete and accurate" inventory. The proposed regulation does not represent a new regulatory burden but does specify and clarify current statutes and regulations. There is some benefit to the public in its protection from drug diversion and other illegal activity. There are no disadvantages to the public, to the agency, or to the public.

## ISSUE 6: FAX transmission of Schedule II - V drugs

Effective May 19, 1994, the Drug Enforcement Administration (DEA) amended its regulations to allow for transmission by facsimile machines (FAX) of Schedule II through V controlled drugs from prescriber to pharmacy under certain circumstances. Regulations of the Board of Pharmacy permit FAX transmission only for Schedule VI prescriptions. Virginia's regulation is now outmoded, too restrictive, and does not allow for quick response by a pharmacy to a change in a patient's medication needs. In particular, pharmacies serving long-term care facilities or pharmacies providing home infusion pain therapy to patients have a great deal of difficulty complying with the current requirement to obtain a written original prescription from a prescriber for a Schedule II drug prior to dispensing and still deliver the drug to a patient in a timely manner.

In addition, regular retail patients would like to have their prescription faxed by the prescriber to the pharmacy of their

choice so it would be ready for pick up, but current regulations do not allow the practice for Schedule II through V drugs. With certain verification requirements and controls, fax transmission may be a better way to prevent diversion of controlled drugs than handing a patient a written prescription which may be copied, duplicated, or altered. Faxing a prescription may also prevent some errors because the physician would review and sign the written prescription which is to be faxed rather than allowing an agent of the physician to call in a prescription.

### Alternatives considered

The only alternative possible is retention of the current regulation which is more restrictive than the requirements of federal rules. The board chose to conform the requirement on FAX transmission to the federal rule for ease of compliance and for greater flexibility in the utilization of modern technology in the practice of pharmacy. At the same time, the board proposes regulations which will ensure that the faxed prescription offers the same privacy for the patient and protection against possible diversion.

### Advantages and disadvantages

The advantages to the prescribers and pharmacists are less regulatory burden, consistency between law and regulation, and accommodation of current technology in the practice of pharmacy which will save time and allow for better service to patients. The public also benefits because there is less room for dispensing errors with a faxed prescription than with an oral prescription.

There are no disadvantages of the proposed regulation.

## ISSUE 7: Use of modem in transmission of prescriptions

Board regulations have also not kept pace with technology and current practice in the area of transmission of prescriptions and prescription information by way of modem, both from prescriber's office to pharmacy and from pharmacy to pharmacy. Again, hospitals are already using this technology to transmit admission orders directly from the admitting physicians office to a patient's chart in a hospital. Likewise, it is possible to transmit pharmacy orders to the hospital pharmacy computer directly from the physician's office or hospital floor. However, the requirements for verification and checking of a prescription in current regulations, which is applicable to manual systems, may not provide assurance of safety in an on-line system of prescription transmission. A pharmacy or a physician utilizing transmission by modem may find it difficult to apply existing regulations to current practice and therefore unnecessarily burdensome.

### Alternatives considered

The alternatives considered were: (i) retention of the current regulation which is more restrictive or (ii) amendments to regulation which would allow the technology but protect the security and validity of the prescription and the prescriber. The board proposal does provide more flexibility in transmission of prescriptions and does not create any new regulatory requirements.

### Advantages and disadvantages

The advantages to the prescribers and pharmacists are similar to those in Issue 6 for faxed prescriptions - less regulatory burden and accommodation of current technology in the practice of pharmacy which will save time and allow for better service to patients. The public benefits because use of technological advances is more convenience and cost-effective.

Some pharmacies may find it necessary to modify their software to comply with the requirement that information transmitted by modem be released by the transmitting pharmacy. However, nothing in the amended regulation represents a new or more burdensome requirement that what is currently required in a manual system. The flexibility and economy inherent in the use of modem transmission should offset the cost of appropriate software.

There are no disadvantages to the public.

## ISSUE 8: Compounding of sterile pharmaceutical products

The board has no regulations which set standards for compounding of sterile pharmaceutical products. At one time products compounded for the purpose of intravenous (IV) infusion were only used in hospitals. These products were typically used within 24 hours of compounding. Now, with increased use of IV infusion in home health care patients, a product may not be used for seven days or more and there is a greater risk of harmful microbial growth or product deterioration. There have been documented cases in the United States of patient harm due to infusion products which were improperly prepared. With more pharmacies going into the home infusion business, there is a need for clear minimum standards to assure that products which are dispensed for IV infusion, are truly sterile and stable for the period of time until use.

### Alternatives considered

New regulations for the compounding of sterile products were developed by an ad hoc group consisting of persons who teach the subject in a school of pharmacy, representatives of pharmacies providing that service, and members of the board. Therefore, the regulatory solution to the potential danger in compounding sterile products was crafted to provide the least burdensome requirements consistent with assurance of public protection and the efficacy and quality of the product. The advisory group presented the board with recommended language based on model regulations from the National Association of Boards of Pharmacy and standards from the U. S. Pharmacopeia, an official compendia for home infusion pharmacies.

### Advantages and disadvantages

The board does not anticipate any disadvantages or additional regulatory burden for pharmacies as a result of amended regulations. Home infusion pharmacies currently compounding sterile products under accepted industry conditions should meet all regulatory requirements. Most of these pharmacies seek certification from the Joint Commission on the Accreditation of Health Care Organizations, whose standards are more stringent than those proposed by the board.

The public should benefit from greater protection from products which do not meet standards of sterility or efficacy. Since no increase in cost is anticipated, there are no disadvantages to the public or to licensees.

## ISSUE 9: Satellite pharmacies in hospitals

Hospitals have been allowed by the board to add additional areas of noncontiguous space to their original pharmacies under their existing pharmacy permits under the current definition of a prescription department. These areas have been unofficially dubbed "satellite pharmacies." However, these satellites are usually on different floors of a hospital; and in the case of large hospitals, such as teaching university hospitals and HMO complexes, they may not even be in the same building. Yet, as with any pharmacy permit, there is one pharmacist in charge who is held responsible by the board for the overall pharmacy operation. The pharmacist in charge, by statute, is required to be regularly engaged in the practice of pharmacy at the permitted location.

However, in some of the large hospitals, the pharmacist in charge may not even visit the satellite areas, much less practice in them. Because of the growing number of these "satellite pharmacies," the board has had difficulty assigning responsibility when drugs have been diverted or when practice standards have not been met. In one hospital, a person, licensed in another state, was inadvertently allowed to practice pharmacy for over a year without being licensed in Virginia. Evidence exists to indicate that the pharmacist in charge of this hospital had too much to oversee and was not able to assure that this person was a licensed pharmacist.

### Alternatives considered

Without a change in the statutory requirements for issuance of a pharmacy permit, there are no alternatives to regulations which state that the pharmacy and any noncontiguous areas within the pharmacy must be at one location as identified on the permit and under the control of a pharmacist-in-charge (PIC). The concept of a noncontiguous area of the pharmacy is permissible by law but was never intended to apply to a proliferation of pharmacies spread throughout a hospital system.

Alternatives considered by the board include: (i) an amendment to require a separate pharmacy permit for each area designated as a satellite to the permitted hospital pharmacy; (ii) an amendment to require the designation of a separate PIC for each satellite; or (iii) additional specification in regulation by defining a "satellite" pharmacy and by stating the responsibilities of the PIC. The board chose the least restrictive and costly regulatory solution, which was additional specification but no additional burden.

### Advantages and disadvantages

The advantage of the amended regulations is clarity about requirements which has the intent of precluding the expansion of satellites beyond a single location as listed on the permit application and as required by § 54.1-3434 of the Code of Virginia. As the definition of a "hospital" continues to evolve to include far-flung operations in a network of buildings, locations, and even different cities, the board determined that clarification of requirements would be advantageous. Amended regulations are essential to ensure that the pharmacist-in-charge and his

# Proposed Regulations

employee, the hospital, are clear about the definition of a satellite and the role of the PIC. Amendments are also necessary to address potential for diversion and prescription error as satellites grow in number and diversity.

In the development of amended regulations, the board consulted with hospital pharmacists to ensure that there would be no additional costs or burden associated with regulations. The board is not aware of any such disadvantages.

There are no direct advantages or disadvantages to the public, except as in their role of pharmaceutical services in a hospital setting.

## ISSUE 10: Editorial revisions

The board proposes several amendments to correct minor errors, typographical errors, or overlooked discrepancies in the its regulations. No alternatives were considered.

1. When the board changed terminology in portions of the regulations from "nursing homes" to "long-term care facilities," it neglected to make the change in 18 VAC 110-20-320 C.
2. 18 VAC 110-20-330 B 1 states that for schedule VI prescriptions, if no authorization for refill is given by the practitioner, it shall not be refilled. This is in conflict with §§ 54.1-3410 C and 54.1-3411 (4) of the Drug Control Act which allows for refilling a schedule VI prescription in certain emergency situations without prior authorization.
3. 18 VAC 110-20-220 (1) allows drugs to be returned to DEA for destruction. Since the adoption of these regulations, DEA has ceased accepting drugs for destruction.
4. 18 VAC 110-20-120 D should refer to § 54.1-111 (8) instead of 54.1-111 (1).
5. 18 VAC 110-20-220 2 g (1) requires that three copies of the drug destruction form be mailed to DEA, which only needs one copy mailed to them. Their regulations state that the pharmacist should make three copies in order that one be sent to DEA, one to the Board of Pharmacy, and one retained by the pharmacy. This needs clarification in the regulation.
6. Regulation 18 VAC 110-20-580 on "Drugs in infirmaries/first aid rooms contains terminology that is outdated or problematic to institutions subject to the regulations. Working with nurses and representatives of those institutions, the board intends to revise terms without changing the substance of the regulations.

## Estimated Fiscal Impact:

### I. Fiscal Impact Prepared by the Agency:

Number of entities affected by this regulation:

- 7,125 Licensed pharmacists
- 1,507 Permitted pharmacies

(The board does not issue pharmacy permits by category, so the specific number of home infusion or hospital pharmacies is unknown)

Projected cost to the agency:

There is no projected net cost to the agency. While revenues will decrease due to a reduction in the application-examination fee, the loss will be offset by no payments to the testing service for administration of the examination. There will be a modest reduction in the staff work load by eliminating the task of collecting and accounting for examination fees and payments to the vendor. However, the agency has already experienced down-sizing in its workforce, so it does not anticipate any additional staff reductions as a result of these regulations.

The agency will incur some costs for mailings to the Public Participation Guidelines Mailing List and the conduct of a public hearing in the promulgation of these regulations. However, every effort will be made to incorporate those into anticipated mailings and board meetings already scheduled.

Projected costs to the affected entities:

Citizen input in development of regulation: In the development of regulations, the board made every effort to include citizen input from those engaged in the practice of pharmacy in the communities, in hospitals or other settings, from associations affiliated with the practice, and from businesses providing technology for pharmacies and practitioners. Consequently, the board drafted regulations with a consideration for any fiscal impact on licensees, especially small businesses, and does not anticipate a negative impact on the entities affected by regulation or on the public.

Benefit to affected entities: The increased use of technology, such as transmission by FAX or modem should result in a financial benefit to licensees and to the public by an easier and more accurate means of transmission and by reduced manpower needs in the recording and storage of prescriptions.

The amendments to requirements for continuing education will result in a financial savings to those who are able to take advantage of continuing medical education courses offered at no costs through their employer. Pharmacists who hold dual licensure with medicine should also have a significant benefit. Some licensees will experience savings in a range of \$150 to \$750 per year.

Compliance with requirements for compounding sterile products should not result in any additional costs. Standards set for home infusion pharmacies through these regulations are consistent with or even less restrictive than current standards for the industry.

Compliance with requirements for satellite pharmacies should not result in any additional costs; regulations are drafted to provide clarity for statutory requirements for a permitted pharmacy and the responsibility of the pharmacist-in-charge.

Cost to affected entities: Compliance with a requirement that the pharmacist record a release of information in a modem transmission may require a small adjustment of existing software. It is estimated that pharmacies employing the technology may incur a very modest expense of less than \$100.

Localities affected:

There are no localities affected by these regulations in the Commonwealth.

## Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected number of persons and employment positions to be affected; and the projected costs to affected businesses or entities to implement or comply with the regulation. The analysis presented below represents DPB's best estimate of these economic impacts.

### Summary of the Proposed Regulation

The proposed amendments modify current regulations governing the practice of pharmacy so as to:

- 1) divide the current \$300 application and examination fee paid to the Board of Pharmacy for licensure of pharmacists into an application fee of \$50 that will still be paid to the board, and an examination fee of unspecified amount that will be paid directly to the examination service;
- 2) expand the list of approved continuing education courses for pharmacists to include Category I, American Medical Association (AMA) approved, continuing medical education (CME) courses that focus on pharmacy, pharmacology, or drug therapy;
- 3) reduce from 30 to 14 days the advance notification of intent to close required from pharmacies by the board;
- 4) expand the categories of drugs for which facsimile or modem transmission of prescriptions is permitted;
- 5) establish standards for compounding sterile pharmaceutical products; and
- 6) clarify the responsibilities of the pharmacist-in-charge in situations where there are satellite pharmacies.

### Estimated Economic Impact

#### Item 1

It is the opinion of DPB that the fee change contained in the proposed regulation is unlikely to have a substantial economic impact. In essence, the fee change simply removes the board as an intermediary in the transfer of payment from pharmacists taking the state certification exam to the non-government entity that administers the exam. Although the board anticipates a "modest reduction in staff workload" as a result of this change, it does not anticipate that that reduction will be sufficient to justify staff cutbacks beyond those which have already occurred as a result of the Workforce Transition Act.

#### Item 2

Expanding the list of approved continuing education courses to include relevant AMA approved CME courses will provide

pharmacists with greater flexibility in meeting their continuing education requirements. This greater flexibility will likely decrease compliance costs by allowing pharmacists to take advantage of in-house programs offered in several hospitals, and by having the pro-competitive effect of increasing the number of vendors from whom pharmacists can purchase continuing education courses.

#### Item 3

The reduction from 30 to 14 days in advance notification required by the board before closing a pharmacy will increase the flexibility that pharmacies have in meeting the requirements of the regulation. This greater flexibility will decrease the burden imposed by the regulation and, at least in some instances, reduce compliance costs.

Because the Code of Virginia (§ 54.1-3434.01) requires pharmacies that do not provide a 30 day public notice of their intention to close, to notify in writing all active customers at least 14 days before actual closing, relaxation of the requirement for notification of the board is unlikely to have an adverse affect on the public.

#### Item 4

Expanding the categories of drugs for which facsimile or modem transmission of prescriptions is permitted is likely to have two primary economic effects. First, it will allow pharmacies to take advantage of new technologies. This could generate increased efficiencies which may lead to a reduction in regulatory compliance costs for these entities. Second, it is likely to increase the convenience with which patients can fill their prescriptions, providing a positive benefit.

One potential anti-competitive consequence of electronically transmitting prescriptions is that, conceivably, the procedure could be used by prescribers to direct patients to favored pharmacies. Because the regulation specifically states that such transfers may not take place without the permission of the patient however, this negative consequence is deemed unlikely.

#### Item 5

Because the standards established in the proposed regulation for compounding sterile pharmaceutical products simply codify current accepted industry practice, it is not anticipated that these standards will pose an additional regulatory burden on pharmacists or pharmacies. Also, the proposed standards will serve to provide additional safeguards to the public regarding the integrity of sterile pharmaceutical products.

#### Item 6

It is the opinion of DPB that clarification of the responsibilities of the pharmacist-in-charge in situations where there are satellite pharmacies, although it removes uncertainty in the intent of the regulation, is unlikely to have an economic impact.

Projected Number of Businesses or Other Entities to Whom the Regulation will Apply

The proposed regulation will apply to the 7,125 pharmacists currently licensed to practice in Virginia, as well as all new



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applicants seeking licensure. The proposed regulation also applies to the 1,507 pharmacies currently holding permits to operate in Virginia, as well as all new pharmacies seeking permits.

## Localities and Types of Businesses Particularly Affected

No localities are particularly affected. The proposed regulation does particularly affect pharmacies.

## Projected Employment Effects

The regulation is not anticipated to have a measurable effect on employment.

## Agency's Response to Department of Planning and Budget's Economic Impact Analysis:

On February 13, 1996, the Board of Pharmacy reviewed the impact statement prepared by the Department of Planning and Budget. It concurred in the conclusions of the department, namely that the proposed amendments had no negative impact on regulated entities and may, in some cases, decrease compliance costs and improve efficiency. No localities are affected, and the proposed regulations have no measurable effect on employment.

## Summary:

*The Board of Pharmacy proposes to amend its regulations to permit greater flexibility in the use of technology for the transmittal and delivery of prescription drugs, for a relaxation in requirements for continuing education, and for conformity with state and federal law. For assurance to the public of the safety and efficacy of sterile products compounded and utilized in the Commonwealth, the board proposes requirements consistent with the recognized industry standards.*

## 18 VAC 110-20-10. Definitions.

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

"ACPE" means the American Council on Pharmaceutical Education.

"Aseptic processing" means the technique involving procedures designed to preclude contamination of drugs, packaging, equipment, or supplies by microorganisms during processing.

"Board" means the Virginia State Board of Pharmacy.

"CE" means continuing education as required for renewal of licensure by the Board of Pharmacy.

"CEU" means a continuing education unit awarded for credit as the equivalent of 10 contact hours.

"Class 100 environment" means an atmospheric environment which contains less than 100 particles, 0.5 microns in diameter, per cubic foot of air.

"Closed system transfer" means the movement of sterile products from one container to another in which the container-closure system and transfer devices remain intact throughout the entire transfer process, compromised only by

*the penetration of a sterile, pyrogen-free needle or cannula through a designated stopper or port to effect transfer, withdrawal, or delivery, to include the withdrawal of a sterile solution from an ampul in a class 100 environment.*

"Compliance packaging" means packaging for dispensed drugs which is comprised of a series of containers for solid oral dosage forms and which is designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

"Cytotoxic drug" means a drug which has the capability of killing living cells.

"Electronic transmission prescription" is any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted from a practitioner authorized to prescribe directly to a pharmacy without interception or intervention from a third party, or from one pharmacy to another pharmacy.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Facsimile (FAX) prescription" means a written prescription or order which is transmitted by an electronic device over telephone lines which sends the exact image to the receiver (pharmacy) in a hard copy form.

"Foreign college of pharmacy" means a school outside the United States and its territories offering a course of study in basic sciences, pharmacology, and pharmacy of at least four years in duration resulting in a degree that qualifies a person to practice pharmacy in that country.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hermetic container" means a container that is impervious to air or any other gas under the ordinary or customary conditions of handling, shipment, storage, and distribution.

"Home infusion pharmacy" means a pharmacy which compounds solutions for direct administration to a patient in a private residence, long-term care facility or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Inactive license" means a license which is registered with the Commonwealth but does not entitle the licensee to practice, the holder of which is not required to submit documentation of CE necessary to hold an active license.

"Light resistant container" means a container that protects the contents from the effects of light by virtue of the specific properties of the material of which it is composed, including any coating applied to it. Alternatively, a clear and colorless

or a translucent container may be made light-resistant by means of an opaque covering, in which case the label of the container bears a statement that the opaque covering is needed until the contents have been used. Where a monograph directs protection from light, storage in a light-resistant container is intended.

*"Long-term care facility"* means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

*"Nuclear pharmacy"* means a pharmacy providing radiopharmaceutical services.

*"Open-system transfer"* means the combining of products in a nonsealed reservoir before filling or when a solution passes through the atmosphere during a transfer operation.

*"Permitted physician"* means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

*"Personal supervision"* means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act(s) being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

*"Prescription department"* means any contiguous or noncontiguous areas used for the compounding, dispensing and storage of all Schedule II through VI drugs and devices and any Schedule I investigational drugs.

*"Radiopharmaceutical"* means any article that exhibits spontaneous decay or disintegration of any unstable atomic nucleus, usually accompanied by the emission of ionizing radiation and any nonradioactive reagent kit or nuclide generator which is intended to be used in the preparation of any such article.

*"Repackaged drug"* means any drug removed from the manufacturer's original package and placed in different packaging.

*"Safety closure container"* means a container which meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), i.e., in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

*"Satellite pharmacy"* means a pharmacy which is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

*"Special packaging"* means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

*"Special use permit"* means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

*"Sterile pharmaceutical product"* means a dosage form free from living microorganisms.

*"Storage temperature"* means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. *"Cold"* means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

2. *"Room temperature"* means the temperature prevailing in a working area.

3. *"Controlled room temperature"* is a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C; and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.

4. *"Warm"* means any temperature between 30° and 40°C (86° and 104°F).

5. *"Excessive heat"* means any temperature above 40°C (104°F).

6. *"Protection from freezing"* means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of the ~~dosage form~~ *characteristics*, the container label bears an appropriate instruction to protect the product from freezing.

7. *"Cool"* means any temperature between 8° and 15°C (46° and 59°F).

*"Terminally ill"* means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

*"Tight container"* means a container that protects the contents from contamination by extraneous liquids, solids, or vapors, from loss of the drug, and from efflorescence, deliquescence, or evaporation under the ordinary or customary conditions of handling, shipment, storage, and distribution, and is capable of tight reclosure. Where a tight container is specified, it may be replaced by a hermetic container for a single dose of a drug and physical tests to determine whether standards are met shall be as currently specified in United States Pharmacopoeia-National Formulary.

*"Unit dose container"* means a container that is a single-unit container, as defined in United States Pharmacopoeia-National Formulary, for articles intended for administration by

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other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a physician's order or medication administration record.

"U.S.P.-N.F." means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

## 18 VAC 110-20-20. Fees.

A. ~~Fees shall be as listed in this section, and Unless otherwise provided, such fees listed in this section shall not be refundable.~~

### B. Fee for initial pharmacist licensure.

1. ~~The application and initial examination fee for a pharmacist license shall be \$300 \$50. If an applicant withdraws the application prior to taking the examination, all but \$25 of the fee will be refunded. If the applicant wishes to take portions of the examination on separate dates, the fees shall be as follows:~~

~~a. The National Association of Boards of Pharmacy Examination (NABPLEX) shall be \$200.~~

~~b. The Federal Drug Law Examination (FDLE) shall be \$75.~~

~~c. The State Drug Law Examination (SDLE) shall be \$75.~~

~~2. The application and State Drug Law Examination fee for licensure by endorsement shall be \$150. The fee for retaking the examination shall be \$75.~~

~~3. The application and State Drug Law Examination fee for licensure by score transfer of NABPLEX or FDLE scores or both shall be \$150. The fee for taking NABPLEX, if needed, shall be \$200. The fee for taking FDLE, if needed, shall be \$75. The fee for retaking the SDLE shall be \$75.~~

~~2. The fees for taking all required examinations shall be paid directly to the examination service as specified by the board.~~

~~4. 3. The application fee for a person whose license has been revoked or suspended indefinitely shall be \$300.~~

### C. Renewal of pharmacist license.

1. The annual fee for renewal of a pharmacist license shall be \$50.

2. The annual fee for renewal of an inactive pharmacist license shall be \$35.

3. If a pharmacist fails to renew his license within the Commonwealth by the renewal date, he must pay the back renewal fee and a \$25 late fee within 60 days of expiration.

4. Failure to renew a pharmacist license within 60 days following expiration shall cause the license to lapse and shall require the submission of a reinstatement application, payment of all unpaid renewal fees, and a delinquent fee of \$50.

### D. Other licenses or permits.

1. The annual permit fee to conduct a resident or nonresident pharmacy shall be \$200.

2. The annual license fee for a permitted physician to dispense drugs shall be \$200.

3. An application for a change of the pharmacist-in-charge shall be accompanied by a fee of \$25.

4. An application for a change of location or a remodeling which requires an inspection shall be accompanied by a fee of \$100.

5. A nonrestricted manufacturing permit shall be \$200 annually.

6. A restricted manufacturing permit shall be \$150 annually.

7. A wholesale distributor license shall be \$200 annually.

8. A warehouse permit shall be \$200 annually.

9. A permit for a medical equipment supplier shall be \$150 annually.

10. A permit for a licensed humane society shall be \$10 annually.

11. If a licensee fails to renew a required license or permit prior to the expiration date, a \$25 late fee shall be assessed.

12. If a required license or permit is not renewed within 60 days after its expiration, the license or permit shall lapse, and continued practice or operation of business with a lapsed license or permit shall be illegal. Thereafter, reinstatement shall be at the discretion of the board upon submission of an application accompanied by all unpaid renewal fees and a delinquent fee of \$50.

### E. Controlled substances registration.

1. The annual fee for a controlled substances registration as required by § 54.1-3422 of the Code of Virginia shall be \$20.

2. If a registration is not renewed within 60 days of the expiration date, the back renewal fee and a \$10 late fee shall be paid prior to renewal.

3. If a controlled substance registration has been allowed to lapse for more than 60 days, all back renewal

fees and a \$25 delinquent fee must be paid before a current registration will be issued. Engaging in activities requiring a controlled substance registration without holding a current registration is illegal and may subject the registrant to disciplinary action by the board. Reinstatement of a lapsed registration is at the discretion of the board and may be granted by the executive director of the board upon completion of an application and payment of all fees.

#### F. Other fees.

1. A request for a duplicate wall certificate shall be accompanied by a fee of \$25.
2. A request for certification of grades to another board shall be accompanied by a fee of \$25.

#### G. Board approval of continuing education programs and providers.

1. The application fee for approval of an individual CE program is \$100.
2. The application fee for approval of provider status is \$300.
3. Renewal of approved provider status is \$300 paid biennially.

#### 18 VAC 110-20-90. Requirements for continuing education.

A. On and after December 31, 1993, a licensee shall be required to have completed a minimum of 1.5 CEU's or 15 contact hours of continuing pharmacy education in an approved program for each annual renewal of licensure. CEU's or hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing pharmacy education program is:

1. One that is approved by the American Council on Pharmaceutical Education and carries the provider logo and number of the ACPE; or
2. One that is approved as a Category I Continuing Medical Education (CME) course, the primary focus of which is pharmacy, pharmacology or drug therapy; or
- 2-3. One that is approved by the board.

C. A licensee is exempt from completing CE requirements and considered in compliance on the first renewal date following his initial licensure.

D. The board may grant an extension of up to one year for the completion of CE requirements upon a written request from the licensee prior to the renewal date. Any subsequent extension shall be granted only for good cause shown. Such an extension shall not relieve the licensee of the requirement for CEU's or hours.

E. The board may grant an exemption for all or part of the CE requirements due to circumstances beyond the control of the pharmacist, such as temporary disability, mandatory military service, or officially declared disasters.

F. Licensees are required to attest to compliance with CE requirements on their annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide original documents certifying that they have fulfilled their CE requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity, the CEU's or contact hours, and certification from an approved provider. Documentation shall be maintained for a period of two years following renewal in a file available to inspectors at the pharmacist's principal place of practice or, if there is no principal place of practice, at the pharmacist's address of record.

H. A pharmacist who holds an inactive license, who has allowed his license to lapse or who has had his license suspended or revoked must submit evidence of completion of CEU's or hours equal to the requirements for the number of years in which his license has not been active.

I. Pharmacists who are licensed by other states and who have obtained a minimum of 1.5 CEU's or 15 contact hours of approved CE programs of such other states need not obtain additional hours.

#### 18 VAC 110-20-110. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than one pharmacy.

B. The pharmacist-in-charge or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the pharmacist-in-charge or other pharmacist on duty by nonpharmacist personnel shall be deemed the practice of pharmacy.

C. When the pharmacist-in-charge ceases practice at a pharmacy or no longer wishes to be designated as pharmacist-in-charge, he shall take a complete and accurate inventory of all Schedule II through V controlled substances on hand and shall immediately return the pharmacy permit to the board.

D. An application for a permit designating the new pharmacist-in-charge shall be filed with the required fee within 14 days on a form provided by the board. Pursuant to ~~§§ 54.1-111-1 and 54.1-3434~~ of the Code of Virginia, it shall be unlawful for a pharmacy to operate without a new permit past the 14-day deadline.

#### 18 VAC 110-20-130. Pharmacies going out of business.

A. At least ~~30~~ 14 days prior to the closing date, the board shall be notified by the pharmacist-in-charge or owner. The disposition of all Schedule II through VI drugs shall be reported to the board. If the pharmacy drug stock is to be transferred to another licensee, the pharmacist-in-charge or owner shall inform the board of the name and address of the licensee to whom the drugs are being transferred and the date of transfer.

B. Exceptions to the ~~30-day~~ public notice as required in § 54.1-3434.01 of the Code of Virginia and the notice required in ~~18 VAC 110-20-140 subsection A~~ of this chapter section

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shall be sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances as approved by the board.

C. In the event of an exception to the ~~30-day~~ notice as required in § 54.1-3434.01 of the Code of Virginia and in ~~48 VAC 110-20-140 subsection A of this chapter section~~, the pharmacist-in-charge shall provide notice as far in advance of closing as allowed by the circumstances.

### 18 VAC 110-20-210. Disposal of Schedule II through V drugs by pharmacies.

If a pharmacist-in-charge wishes to dispose of unwanted Schedule II through V drugs, he shall use one of the following procedures:

~~1. Return the drugs to the Drug Enforcement Administration (DEA) by delivery to the nearest DEA office;~~

~~2. 1. Transfer the drugs to another person or entity authorized to possess Schedule II through V drugs; or~~

~~3. 2. Destroy the drugs according to the following procedures:~~

a. At least 14 days prior to the destruction date, the pharmacist-in-charge shall provide a written notice to the board office; the notice shall state the following:

(1) Date, time, manner, and place of destruction.

(2) The names of the pharmacists who will witness the destruction process.

b. If the destruction date is to be changed or the destruction does not occur, a new notice shall be provided to the board office as set forth above in this subsection.

c. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

d. The drugs shall be destroyed in accordance with all applicable local, state and federal laws and regulations by burning in an incinerator or by other methods approved in advance by the board.

e. The DEA drug destruction form shall be used to make a record of all drugs to be destroyed.

f. Each form shall show the following information:

(1) Legible signatures and license numbers of the pharmacist-in-charge and the witnessing pharmacist;

(2) The method of destruction; and

(3) The date of the destruction.

g. At the conclusion of the destruction of the drug stock:

~~(1) Three copies~~ A copy of the completed destruction form shall be sent to Drug Enforcement Administration, Washington Field Division, Room

2558, 400 - 6th Street S.W., Washington, D.C. 20024, Attn: Diversion Control Group.

(2) A copy of the completed destruction form shall be sent to the office of the board.

(3) A copy of the completed destruction form shall be retained with the pharmacy inventory records.

### 18 VAC 110-20-240. Manner of maintaining records, prescriptions, inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.

3. All records of Schedule II through V drugs shall be maintained at the same location as the stock of drugs to which the records pertain except that records maintained in an off-site database shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

4. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54.1-3404 of the Drug Control Act, the inventory shall be used as the opening inventory within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.

5. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening of business or after close of business. A 24-hour pharmacy with no opening or closing of business shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.

6. All records required by this section shall be filed chronologically.

B. Prescriptions.

1. A hard copy prescription shall be placed on file for every initial prescription dispensed and be maintained for two years from the date of last refill. All prescriptions shall be filed chronologically by date of initial dispensing.

2. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

3. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right

corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs.

**18 VAC 110-20-260. Pharmacy repackaging of drug; records required; labeling requirements.**

A. Pharmacies in which bulk reconstitution of injectables, bulk compounding or the repackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used, strength, if any, *date repackaged*, quantity prepared, initials of the pharmacist supervising the process, the assigned control number, or the manufacturer's or distributor's name and control number, and an expiration date.

B. The drug name, strength, if any, the assigned control number, or the manufacturer's or distributor's name and control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units as follows:

1. If U.S.P.-N.F. Class B or better packaging material is used for oral unit dose packages, an expiration date not to exceed six months or the expiration date shown on the original manufacturing bulk container, whichever is less, shall appear on the repackaged or reconstituted units.
2. If it can be documented that the repackaged unit has a stability greater than six months, an appropriate expiration date may be assigned.
3. If U.S.P.-N.F. Class C or less packaging material is used for oral, solid medication, an expiration date not to exceed 30 days shall appear on the repackaged or reconstituted units.

**18 VAC 110-20-280. Transmission of a prescription order by facsimile machine.**

A. Prescription orders for Schedule III through VI drugs may be transmitted to pharmacies by facsimile device (FAX) upon the following conditions:

1. The transmission shall occur only with permission of the patient.
2. A valid faxed prescription must contain all required information for a written prescription, including the prescriber's signature.
3. A faxed prescription shall be valid only if faxed from the prescriber's practice location and only if the following additional information is recorded on the prescription prior to faxing:
  - a. Documentation that the prescription has been faxed;
  - b. The date that the prescription was faxed;
  - c. The printed name, address, phone number, and fax number of the authorized prescriber and the pharmacy to which the prescription was faxed; and

d. The institution, if applicable, from which the prescription was faxed, including address, phone number and fax number.

~~4. If the faxed prescription is of such quality that the print will fade and not remain legible for the required retention period, the receiving pharmacist shall photocopy the faxed prescription on paper of permanent quality.~~

B. *Prescription orders for Schedule II drugs may only be faxed for information purposes and may not serve as the original written prescription authorizing dispensing, except for orders to be administered to nursing home and home infusion patients in accordance with § 54.1-3408 of the Code of Virginia.*

C. *If the faxed prescription is of such quality that the print will fade and not remain legible for the required retention period, the receiving pharmacist shall photocopy the faxed prescription on paper of permanent quality.*

**18 VAC 110-20-285. Electronic transmission of prescriptions from prescriber to pharmacy.**

A. *Unless otherwise prohibited by law, prescriptions may be transmitted by electronic means from the prescriber directly to the dispensing pharmacy.*

B. *In addition to all other information required to be included on a prescription, an electronically transmitted prescription shall include the telephone number of the prescriber, the full name of the prescriber's agent if other than the prescriber transmitting, date of transmission, and the identity of the receiving pharmacy.*

C. *A pharmacy receiving an electronic transmission prescription shall either receive the prescription in hard copy form or shall print out a hard copy of the prescription from the pharmacy's computer memory. Any hard copy of a prescription shall be maintained on paper of permanent quality and shall be placed on file in accordance with 18 VAC 110-20-240 B.*

D. *An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice.*

**18 VAC 110-20-290. Dispensing of Schedule II drugs.**

A. A prescription for a Schedule II drug shall be dispensed in good faith but in no case shall it be dispensed more than six months after the date on which the prescription was issued.

B. A prescription for a Schedule II drug shall not be refilled except as authorized under the conditions for partial dispensing as set forth in 18 VAC 110-20-310.

~~**18 VAC 110-20-300. Emergency prescriptions for Schedule II drugs.**~~

C. In case of an emergency situation, a pharmacist may dispense a drug listed in Schedule II upon receiving oral authorization of a prescribing practitioner, provided that:

1. The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period;

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2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54.1-3410 of the Drug Control Act, except for the signature of the prescribing practitioner;

3. If the pharmacist does not know the practitioner, he shall make a reasonable effort to determine that the oral authorization came from a practitioner using his phone number as listed in the telephone directory or other good-faith efforts to ensure his identity; and

4. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of § 54.1-3410 of the Drug Control Act, the prescription shall have written on its face "Authorization for Emergency Dispensing" and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacist shall notify the nearest office of the Drug Enforcement Administration and the board if the prescribing practitioner fails to deliver a written prescription to him. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing practitioner.

## 18 VAC 110-20-310. Partial dispensing of Schedule II prescriptions.

A. The partial filling of a prescription for a drug listed in Schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written or emergency oral prescription, and he makes a notation of the quantity supplied on the face of the written prescription. The remaining portion of the prescription may be dispensed within 72 hours of the first partial dispensing; however, if the remaining portion is not or cannot be dispensed within the 72-hour period, the pharmacist shall so notify the prescribing practitioner. No further quantity may be supplied beyond 72 hours without a new prescription.

B. Prescriptions for Schedule II drugs written for patients in long-term care facilities may be dispensed in partial quantities, to include individual dosage units. For each partial dispensing, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained and readily retrievable) the date of the partial dispensing, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of Schedule II drugs in all partial dispensing shall not exceed the total quantity prescribed. Schedule II prescriptions shall be valid for a period not to exceed 60 days from the issue date unless sooner terminated by the discontinuance of the drug.

C. Information pertaining to current Schedule II prescriptions for patients in a *nursing home long-term care*

*facility* may be maintained in a computerized system if this system has the capability to permit:

1. Output (display or printout) of the original prescription number, date of issue, identification of prescribing practitioner, identification of patient, identification of the ~~nursing home long-term care facility~~, identification of drug authorized (to include dosage form, strength, and quantity), listing of partial dispensing under each prescription and the information required in subsection B of this section.

2. Immediate (real time) updating of the prescription record each time a partial dispensing of the prescription is conducted.

D. A prescription for a Schedule II drug may be filled in partial quantities to include individual dosage units for a patient with a medical diagnosis documenting a terminal illness under the following conditions:

1. The practitioner shall classify the patient as terminally ill, and the pharmacist shall verify and record such notation on the prescription.

2. On each partial filling, the pharmacist shall record the date, quantity dispensed, remaining quantity authorized to be dispensed, and the identity of the dispensing pharmacist.

3. Prior to the subsequent partial filling, the pharmacist shall determine that it is necessary. The total quantity of Schedule II drugs dispensed in all partial fillings shall not exceed the total quantity prescribed.

4. Schedule II prescriptions for terminally ill patients may be partially filled for a period not to exceed 60 days from the issue date unless terminated sooner.

5. Information pertaining to partial filling may be maintained in a computerized system under the conditions set forth in ~~18 VAC 110-20-310 subsection C of this section.~~

## 18 VAC 110-20-320. Refilling of Schedule III through VI prescriptions.

A. A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

B. A prescription for a drug listed in Schedule IV shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled, *except as provided in § 54.1-3410 C or subdivision 4 of § 54.1-3411 of the Code of Virginia.*

A prescription for a Schedule VI drug or device shall not be dispensed or refilled more than two years after the date on which it was issued.

C. As an alternative to all manual record-keeping requirements provided for in subsections A and B of this section, an automated data processing system as provided in 18 VAC 110-20-250 may be used for the storage and retrieval of dispensing information for prescription for drugs dispensed.

D. Authorized refills of all prescription drugs may only be dispensed in reasonable conformity with the directions for use as indicated by the practitioner; if directions have not been provided, then any authorized refills may only be dispensed in reasonable conformity with the recommended dosage and with the exercise of sound professional judgment.

**18 VAC 110-20-360. Issuing a copy of a prescription that can be refilled.**

A. A copy of a prescription for a drug which pursuant to § 54.1-3411 of the Code of Virginia, can be refilled at the time the copy is issued shall be given upon request to another pharmacist.

B. The transfer of original prescription information for a drug listed in Schedules III through VI for the purpose of refill dispensing is permissible between pharmacies if the transfer is communicated directly between two pharmacists *either orally, by facsimile machine or by electronic transmission*, and the transferring pharmacist records the following information:

1. Records the word "VOID" on the face of the invalidated prescription;
2. Records on the reverse of the invalidated prescription the name, address, and the Drug Enforcement Administration (DEA), registry number of the pharmacy to which it was transferred, except for a prescription for a Schedule VI drug, and the name of the pharmacist receiving the prescription information; and
3. Records the date of the transfer and the name of the pharmacist transferring the information, *or in the case of an electronic transmission, the name of the pharmacist releasing the information.*

C. The pharmacist receiving the transferred prescription information shall reduce to writing the following:

1. Write the word "TRANSFER" on the face of the transferred prescription.

2. Provide all information required to be on a prescription and include:

- a. Date of issuance of original prescription;
- b. Original number of refills authorized on the original prescription;
- c. Date of original dispensing;
- d. Number of valid refills remaining and date of last refill;
- e. Pharmacy name, address, DEA registry number except for Schedule VI prescriptions, and original prescription number from which the prescription information was transferred; and
- f. Name of transferring pharmacist.

3. Both the original and transferred prescription shall be maintained for a period of two years from the date of last refill.

D. Nothing in this chapter shall prevent the giving of a prescription marked "For Information Only" to a patient.

E. Pharmacists may use computer systems in lieu of recording on the hard copy prescription provided that the system used clearly meets all requirements of ~~18 VAC 110-20-360 subsections B, and C of this section~~ while retaining all previous dispensing information.

F. *For prescriptions transferred between pharmacies using a common database, the pharmacy receiving the prescription shall not be required to maintain a hard copy pursuant to 18 VAC 110-20-240 B provided that the system used is capable of generating a hard copy of the transferred prescription upon request or except as required by federal law.*

**18 VAC 110-20-370. Issuing a copy of a prescription that cannot be refilled.**

A. A copy of a prescription for a drug which, pursuant to § 54.1-3411 of the Drug Control Act, cannot be refilled at the time the copy is ~~issued requested~~, shall be given on request of a patient but such copy shall be marked with the statement "FOR INFORMATION ONLY," the patient's name and address, the date of the original prescription, and the date the copy was given.

B. A copy marked in this manner is not a prescription, as defined in § 54.1-3400 of the Drug Control Act, and shall not be refilled.

C. The original prescription shall indicate that a copy has been issued, to whom it was issued, and the issuing date.

D. *Copies of prescriptions which cannot be refilled and which are transmitted electronically to another pharmacy shall meet all requirements of this section.*

**18 VAC 110-20-410. Permitted physician licensed by the board.**

Permitted physicians licensed by the board to dispense drugs shall be subject to ~~the following sections of this chapter: 18 VAC 110-20-180 and 18 VAC 110-20-240 through 18 VAC 110-20-410.~~



# Proposed Regulations

~~18 VAC 110-20-180. Security system.~~

~~All of Part V. DRUG INVENTORY AND RECORDS.~~

~~All of Part VI. PRESCRIPTION ORDER AND DISPENSING STANDARDS.~~

~~All of Part VII. LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.~~

~~All of Part VIII. STANDARDS FOR PRESCRIPTION TRANSACTIONS.~~

## PART IX. COMPOUNDING STERILE PHARMACEUTICAL PRODUCTS.

### 18 VAC 110-20-411. General requirements.

Products intended for parenteral administration or ophthalmic instillation shall be compounded using aseptic processing.

### 18 VAC 110-20-412. Policy and procedure manual.

A policy and procedure manual shall be prepared and maintained for the compounding, dispensing and delivery of sterile products and shall include at least the following elements:

1. Personnel qualifications including initial and follow-up training and method of periodic reevaluation of qualifications and performance;
2. Scope of compounding performed at the pharmacy and proper procedures for compounding to include maintaining suitable environmental conditions in the compounding area, wearing appropriate garb to reduce particulate matter and contamination of work area, performing aseptic procedures.
3. Procedures for maintaining and monitoring proper operating conditions for all equipment used in sterile compounding;
4. Guidelines for patient or caretaker education, if products are dispensed for home use to include instructions concerning proper storage, aseptic manipulation of the product, proper administration and use of devices if applicable, recognizing signs of instability or incompatibility, and procedures in case of an emergency with the product;
5. Guidelines for assignment of beyond-use dates for all compounded sterile products and justification for any date chosen which exceeds the standard set forth in this chapter;
6. Separate procedures for handling cytotoxic drugs, if applicable, to include protective apparel; disposal procedures consistent with applicable local, state, and federal requirements; procedures for handling spills; special packaging and labeling requirements, and delivery procedures to minimize risks of accidental spills;
7. If applicable, separate procedures for compounding sterile products using nonsterile components or open system transfer techniques and for end-product sterilization of these products.

### 18 VAC 110-20-413. Physical and equipment requirements for pharmacies preparing sterile products.

A. The sterile compounding area shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies used in aseptic processing.

B. The sterile compounding area where parenteral products are routinely prepared shall be isolated from other areas and other pharmacy functions.

C. Sterile compounding shall be performed within a laminar flow hood or other appropriate environmental control device capable of maintaining, during normal activity, at least Class 100 conditions in the work area where sterile compounding is performed. Compounding of cytotoxic preparations shall be performed in a vertical flow Class II biological safety cabinet.

D. A pharmacy preparing sterile products shall maintain supplies adequate for the aseptic preparation of sterile products including, but not limited to, the following:

1. Antimicrobial soap;
2. Hot and cold water supply easily accessible to the sterile compounding area for hand washing prior to aseptic compounding;
3. Appropriate apparel for personnel performing sterile compounding;
4. Suitable disposal containers for used needles, syringes, etc. and, if applicable, containers for cytotoxic waste and infectious wastes.

E. A pharmacy preparing sterile products shall have sufficient current reference materials related to sterile products consistent with the policy and procedure manual and with the types of products prepared.

F. The pharmacy preparing sterile products shall have equipment necessary for maintaining and monitoring required temperature storage conditions both in the pharmacy and during delivery to the patient, if applicable.

### 18 VAC 110-20-414. Labeling requirements.

A. In addition to other applicable labeling requirements for prescriptions as set forth in § 54.1-3410 of the Code of Virginia and 18 VAC 110-20-260 B and 18 VAC 110-20-330, the label of a compounded sterile product shall include all active ingredient names, strengths, amounts, and concentrations, when applicable, and for IV infusion shall include the name of all solutions.

B. The label of a compounded parenteral sterile product shall include an appropriate beyond-use date and time, if applicable, and the required storage conditions to assure product integrity for that time period. Unless otherwise specified and justification provided in the policy and procedure manual, the expiration date for unpreserved sterile products prepared aseptically in a closed system for a single patient shall bear a maximum beyond-use date, including administration, as follows:

1. Twenty-eight hours if stored at controlled room temperature;
2. Seven days if stored under refrigeration; and
3. Thirty days if stored under freezing conditions.

C. The label of other compounded sterile products shall bear an appropriate beyond-use date, not to exceed 30 days from the date of preparation.

D. If the product is for home or other outpatient use, the label shall bear the prescribed administration regimen including rate and route of administration and any device specific instructions.

E. The label shall bear any appropriate auxiliary labeling, including precautions for cytotoxic drugs.

**18 VAC 110-20-415. Quality assurance.**

A. The pharmacist-in-charge in a pharmacy compounding sterile products shall be responsible for maintaining and updating the policy and procedure manual as set forth in 18 VAC 110-20-411 in accordance with current acceptable standards, and for ensuring compliance with the policy and procedure manual.

B. All laminar flow hoods or other environmental control devices shall be certified according to accepted standards for operational efficiency by a qualified independent contractor at least every six months.

**18 VAC 110-20-416. Records for sterile compounding.**

In addition to other required records, the following additional records shall be maintained for sterile compounding:

1. Compounding records maintained on or with the original prescription, or in a log format which can be cross-referenced with the prescription, or in an automated data processing system which contains the same information required in a manual system and is capable of producing a hard copy printout of a two-year history of prescription compounding and dispensing upon request within 72 hours. In addition to prescription information, the record must include the following information:
  - a. Date of sterile compounding;
  - b. Lot numbers and expiration dates of the components used in compounding;
  - c. Beyond-use date assigned to the sterile product;
  - d. Signature, initials, or electronic identification of pharmacist compounding, or of both the nonpharmacist compounding and pharmacist checking the compounding of the sterile product; and
  - e. Internal lot number if sterile product is prepared in a batch.
2. Record documenting certification of clean room or laminar flow hoods.

3. If sterile products are provided to a patient's residence, a record documenting training of the patient or caregiver, or both, in the proper storage and use of the product and any devices used to administer the devices.

**18 VAC 110-20-417 through 18 VAC 110-20-419. Reserved.**

PART IX X.

UNIT DOSE DISPENSING SYSTEMS.

**18 VAC 110-20-420. Unit dose dispensing system.**

A. A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or long-term care facility. The following requirements shall apply regardless of whether licensed or unlicensed persons administer medications:

1. Any equipment outside the pharmacy used to house drugs to be administered in a unit dose system shall be fitted with a locking mechanism and be locked at all times when unattended.
2. A signed order by the prescribing practitioner shall accompany the requests for a Schedule II drug, except that a verbal order for a hospital patient for a Schedule II controlled substance may be transmitted to a licensed nurse or pharmacist employed by the hospital who will promptly reduce the order to writing in the patient's chart. Such an order shall be signed by the prescriber within 72 hours.
3. Properly trained personnel may transcribe the physician's drug orders to a patient profile card, fill the medication carts, and perform other such duties related to a unit dose distribution system provided these are done under the personal supervision of a pharmacist.
4. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.
5. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.
6. All unit dose drugs intended for internal use shall be maintained in the patient's individual drawer or tray unless special storage conditions are necessary.
7. A back-up dose of a drug of not more than one dose unit may be maintained in the patient's drawer, tray, or special storage area provided that the dose is maintained in the patient's drawer, tray, or special storage area with the other drugs for that patient.
8. A record shall be made and maintained within the pharmacy for a period of one year showing:
  - a. The date of filling of the drug cart;
  - b. The location of the drug cart;
  - c. The initials of person who filled the drug cart; and
  - d. The initials of the pharmacist checking and certifying the contents of the drug cart in accordance with the provisions in 18 VAC 110-20-270 B.

# Proposed Regulations

9. A patient profile record or medication card will be accepted as the dispensing record of the pharmacy for unit dose dispensing systems only, subject to the following conditions:

- a. The record of dispensing must be entered on the patient profile record or medication card at the time the drug drawer or tray is filled.
- b. In the case of Schedule II through V drugs, after the patient profile record or medication card has been completed, the card must be maintained for two years.
- c. In the case of the computer-based distribution system, a uniformly maintained "fill list" or other document containing substantially the same information may be accepted as the dispensing record for Schedule II through VI drugs. Records of disposition/administration for floor stock drugs as provided in 18 VAC 110-20-460 B will be accepted for drugs distributed as floor stock.

B. In providing unit dose systems to hospitals or long-term care facilities where only those persons licensed to administer are administering drugs, the pharmacy shall dispense not more than a seven-day supply of a drug in a solid, oral dosage form at any one given time.

C. In addition to the requirements listed in ~~18 VAC 110-20-420 subsection A of this section~~, the following requirements apply to those long-term care facilities in which unlicensed persons administer drugs:

1. The pharmacy providing medications to such facility shall dispense no more than a 72-hour supply of drugs in a solid, oral dosage form at any one given time.
2. The pharmacy shall provide to persons administering medications training specific to the particular unit dose system being used.
3. The pharmacy shall provide a medication administration record to the facility listing each drug to be administered with full dosage directions to include no abbreviations.
4. The drugs in a unit dose system shall be placed in slots within a drawer labeled or coded to indicate time of administration.

## PART X XI.

### PHARMACY SERVICES TO HOSPITALS.

#### 18 VAC 110-20-440. Responsibilities of the pharmacist-in-charge.

A. The pharmacist-in-charge in a pharmacy located within a hospital or the pharmacist-in-charge of any outside pharmacy providing pharmacy services to a hospital shall be responsible for *establishing procedures for and assuring maintenance of the proper storage and security, and dispensing of all drugs used throughout the hospital.*

B. The pharmacist-in-charge of a pharmacy serving a hospital shall be responsible for a monthly review of drug therapy for each patient within the hospital for a length of stay of one month or greater. A record of such review shall be signed and dated by the pharmacist and shall include but not

limited to any irregularities in drug therapy, drug interactions, drug administration, or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other person having authority to correct the potential problem.

C. *Prior to the opening of a satellite pharmacy within the hospital, the pharmacist-in-charge shall notify the board as required by 18 VAC 110-20-140 and shall ensure compliance with subsections B through G of 18 VAC 110-20-150, 18 VAC 110-20-160, subdivisions 5 and 6 of 18 VAC 110-20-170, 18 VAC 110-20-180 and 18 VAC 110-20-190. No drugs shall be stocked in a satellite pharmacy until an inspection has been completed and approval given for opening.*

#### 18 VAC 110-20-480. Pharmacy services.

A. In addition to service to inpatients, a hospital pharmacy may dispense drugs to the following:

1. Patients who receive treatments or consultations on the premises;
2. Outpatients or emergency patients upon discharge for their personal use away from the hospital; and
3. The hospital employees, medical staff members, or students for personal use or for the use of their dependents.

Nothing in this chapter shall prohibit a hospital pharmacy not operated under a separate outpatient pharmacy permit from providing such services or drugs, or both, as are not readily available in the community to patients who may not otherwise be served by the hospital pharmacy.

B. If a pharmacy located within a hospital dispenses drugs to patients other than those listed in ~~18 VAC 110-20-480 subsection A of this section~~, the pharmacy shall obtain a separate pharmacy permit and shall operate in a space separated from the hospital pharmacy.

## PART XI XII.

### PHARMACY SERVICES TO LONG-TERM CARE FACILITIES.

#### 18 VAC 110-20-530. Pharmacy's responsibilities to long-term care facilities.

The pharmacy serving a long-term care facility shall:

1. Receive a valid order prior to the dispensing of any drug.
2. Ensure that personnel administering the drugs are trained in using the dispensing system provided by the pharmacy.
3. Ensure that the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.
4. Ensure that each cabinet, cart or other area utilized for the storage of drugs is locked and accessible only to authorized personnel.

5. Ensure that the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is maintained at appropriate temperature.

6. Ensure that poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

7. Provide for the disposition of discontinued drugs under the following conditions:

a. Discontinued drugs may be returned to the pharmacy for resale if authorized by 18 VAC 110-20-400 or destroyed by appropriate means in compliance with any applicable local, state, and federal laws and regulations.

b. Drug destruction at the pharmacy shall be witnessed by the pharmacist-in-charge and by another pharmacy employee. Drug destruction at the facility shall be witnessed by the director of nursing or, if there is no director, then by the facility administrator and by a pharmacist providing pharmacy services to the facility or by another employee authorized to administer medication.

c. A complete and accurate record of the drugs returned or destroyed or both shall be made. The original of the record of destruction shall be signed and dated by the persons witnessing the destruction and maintained at the long-term care facility for a period of two years. A copy of the destruction record shall be maintained at the provider pharmacy for a period of two years.

d. All destruction of the drugs shall be done without 30 days of the time the drug was discontinued.

8. Ensure that appropriate drug reference materials are available in the facility units.

9. Ensure that a monthly review of a drug therapy by a pharmacist is conducted for each patient *in long-term care facilities except those licensed under Title 63.1 of the Code of Virginia*. Such review shall be used to determine any irregularities, which may include but not be limited to drug therapy, drug interactions, drug administration or transcription errors. The pharmacist shall sign and date the notation of the review. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

PART XIII XIII.

OTHER INSTITUTIONS AND FACILITIES.

18 VAC 110-20-570. Drugs in infirmaries/first aid rooms.

A. Controlled drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All controlled drugs shall be maintained and secured in a suitable locked storage area, the key to which will be in the

possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a physician *practitioner* in an emergency situation when the timely prior verbal or written order of a physician is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this chapter, emergency shall be defined as a circumstance requiring administration of controlled drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

D. A nurse may, in the absence of a practitioner, administer *and provide* nonprescription drugs and ~~provide same~~ in unit dose containers in quantities which in the professional judgment of the nurse ~~and the existing circumstances~~ will maintain the person at an optimal comfort level until the ~~employee's person's~~ personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.

PART XIII XIV.

EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

PART XIV XV.

MANUFACTURERS, WHOLESALE DISTRIBUTORS, WAREHOUSERS, AND MEDICAL EQUIPMENT SUPPLIERS.

**EDITOR'S NOTICE:** The forms used in administering the Regulations of the Board of Pharmacy (18 VAC 110-20-10 et seq.) are listed below. Any added, amended, or deleted forms are reflected on the listing. Newly created and amended forms are published following the listing.

- Application for Registration as an Externe/Interne (eff. 5/93)
- Application for Licensure as a Pharmacist by Examination (eff. 5/93) (Revised 1/96)
- Application for Re-examination (eff. 5/93)
- Application for Pharmacist License to be Reactivated
- Application for Approval of a Continuing Education Program
- Verification of Licensure/Registration (eff. 8/94)
- Application for License to Dispense Drugs (eff. 5/93)
- Application for a Pharmacy Permit
- Application for a Nonresident Pharmacy Registration
- Application for a Permit as a Medical Equipment Supplier
- Application for a Restricted Manufacturer's Permit
- Application for a Nonrestricted Manufacturer's Permit

# Proposed Regulations

Application for a Permit as a Warehouser (eff. 5/93)

Application for a License as a Wholesale Distributor

Application for a Nonresident Wholesale Distributor Registration (Revised 1996)

Application for a Controlled Substances Registration

Application for Reinstatement of Controlled Substance Registration

Renewal Notice and Application

Application for Controlled Substances Registration Certificate for Nonpractitioners (1996)

Application for Reinstatement of License

Application for Continuing Education Provider (Revised 1996)

Application for Approval of Continuing Education Program (1996)

Application for Permit as a Humane Society (Revised 1996)

Application for Registration as an Intern for Graduates of a Foreign College of Pharmacy

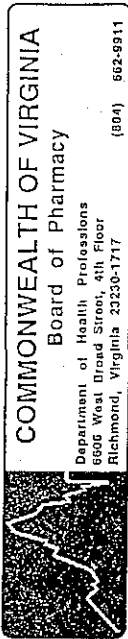
Instructions for Graduates of Foreign Schools of Pharmacy

Destruction of Controlled Substances

Registrants Inventory of Drugs Surrendered, DEA Form 41 (June 1986)

Closing of Pharmacy

Rev. 1/96



**Application For Licensure As A Pharmacist By Examination**

Entire Exam - \$300  
 NAPLEX - \$200  
 PDLE - \$ 75  
 SOLE - \$ 75

Check appropriate item(s):  
 I plan to sit for the entire examination in Virginia.  
 I plan to sit for the examination in another state and will make the necessary arrangements with the National Association of Boards of Pharmacy to transfer the following scores:        NAPLEX        PDLE to Virginia. I plan to sit for the following examinations:        NAPLEX        PDLE        SOLE in Virginia.

Paste a passport-type photograph not less than 2" x 2" in this space

(Print or type)

Name: Last \_\_\_\_\_ First \_\_\_\_\_ Middle/Maiden \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 Mo Day Yr \_\_\_\_\_  
 Graduation Date \_\_\_\_\_ School, City, State \_\_\_\_\_  
 Mo Day Yr \_\_\_\_\_

Permanent Address (if different from above) Street \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**STUDENT REGISTRATION**

I am registered by the Virginia Board of Pharmacy as an examinee/intern  
 Yes  No  If yes, registration number: 0203 \_\_\_\_\_

**FOR OFFICE USE ONLY**

Class	Application Number	Suffix	School	License number	Date issued
0202		T			
Score	PDLE		SOLE		COMBINED DIRM, LAW

\*Social Security Number is required to assure accurate identification during licensure procedure  
 This application must be completed in all enclosures and submitted with the fee and required documents on or before the specified deadline date.

**EDUCATIONAL BACKGROUND**

Name and location of colleges attended	Period of Attendance (From M/D/Y to M/D/Y)
1st Year _____	_____
2nd Year _____	_____
3rd Year _____	_____
4th Year _____	_____
5th Year _____	_____
6th Year _____	_____

**ADDITIONAL LICENSURE AS A PHARMACIST**

Are you currently or have you ever been licensed as a pharmacist in any other jurisdiction?  
 Yes  No

If Yes complete this section: State ( or other jurisdiction)    License Number    Expiration Date

_____	_____	_____
_____	_____	_____
_____	_____	_____

Has disciplinary action been taken or any sanctions imposed against your pharmacist's license by any other jurisdiction? Yes  No  If yes, explain: \_\_\_\_\_

\_\_\_\_\_

**PRIOR EXPERIENCE WITH NABPLEX AND FDLE EXAMINATIONS**

Have you ever taken and failed the NABPLEX examination? Yes  No  If yes, please complete:

Date(s) taken _____	Score(s) _____
_____	_____
_____	_____

Have you ever taken and failed the FDLE examination? Yes  No  If yes, please complete:

Date(s) taken _____	Score(s) _____
_____	_____
_____	_____

**MISCELLANEOUS INFORMATION**

Have you ever been convicted of a violation of any drug law or do you have charges pending for violation of any drug law? Yes  No   
 If yes, please attach an explanation, date and jurisdiction where charged/convicted, and copies of any court orders, warrants, or other official documents showing the nature and disposition of such charges/convictions.

Have you been physically or emotionally dependent upon the use of alcohol/drugs or treated by, consulted with, or been under the care of a professional for any substance abuse within the last two years? Yes  No   
 If yes, please provide a letter from the treating professional.

Do you have a physical disease, mental disorder, or any condition which could affect your performance of professional duties? Yes  No   
 If yes, provide a letter from your treating professional to include diagnosis, treatment, prognosis and fitness to practice.

**AFFIDAVITS AS TO EXPERIENCE**

In addition to the college clerkship experience listed below, I hereby certify that I have completed practical experience requirements for the following additional experience:

Total No. Months: \_\_\_\_\_ (Total No. Hours: \_\_\_\_\_)

Affidavits are: (check one)

attached

on file at board office

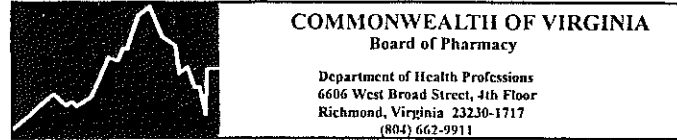
being sent under separate cover by another state board

**COLLEGE AFFIDAVIT**

This is to certify that \_\_\_\_\_ attended the \_\_\_\_\_ College of Pharmacy and on \_\_\_\_\_ was ( )/will be ( ) graduated with the first professional degree B.S.( )/Pharm D.( ) and gained the following practical experience in the pharmacy clerkship program.

Total No. Months: \_\_\_\_\_ (Total No. Hours: \_\_\_\_\_)

(S' E A L) \_\_\_\_\_ Signature of Dean or Registrar



**APPLICATION FOR CONTINUING EDUCATION PROVIDER**

The required fee of \$300 must accompany the application.  
Make check payable to "TREASURER OF VIRGINIA".

**AFFIDAVIT OF APPLICANT**  
(To be completed before a Notary Public)

State of \_\_\_\_\_ County/City of \_\_\_\_\_

I, \_\_\_\_\_, do solemnly swear and affirm that I have personally filled in this application, and that the information provided on this application is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Applicant ( legal name)

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

My commission expires \_\_\_\_\_

(S E A L) \_\_\_\_\_  
Signature of Notary Public

**Applicant - Please provide the information requested below. (Print or Type! Use full name, not initials.)**

Name of C.E. Provider	
Street Address	Area Code and Telephone Number
City	State Zip Code
Name of Person Making Application	Title
Signature of Applicant	Date

**IMPORTANT:** If other than an individual, hospital, or teaching institution, please print the names, titles and residence addresses of owners, partners and/or corporate officers in spaces provided on back of application.

**FOR OFFICE USE ONLY**

Date Processed	Application Number	Approved	
Class	License Number	Date Issued	Expiration Date

The following information must be attached:

1. General information about the entity making application, i.e. individual, hospital, private corporation, etc.
2. A list of individual programs which applicant has sponsored (at least three), approved by either the Board or ACPE, within the last two years, to include program title, date program given, number of hours/credits for which program was approved, and program identification number.
3. Accreditation or other credentials of applicant.
4. Information of methods of promotion and delivery of programs, assessment process, maintenance of records, policy on grievances and tuition, standards for selection of speakers, program goals and objectives, and a description of facilities.

**LIST OF OWNERS AND OFFICERS AND RESIDENCE ADDRESSES**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

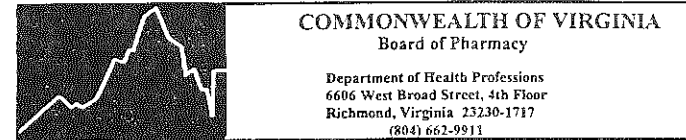
Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_



**APPLICATION FOR A NON-RESIDENT  
WHOLESALE DISTRIBUTOR REGISTRATION**

Check Appropriate Boxes:

- New \$200  Change of Tradename No Fee  
 Change of Location No Fee

The required fee of \$200.00 must accompany the application.  
 Make check payable to "TREASURER OF VIRGINIA".

APPLICANT - Please provide the information requested below. (Print or Type) Use full name, not initials.

Name of Firm \_\_\_\_\_

Street Address \_\_\_\_\_ Area Code & Telephone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Resident State Wholesale Distributor Registration Number \_\_\_\_\_

Name of Applicant \_\_\_\_\_ Signature of Applicant \_\_\_\_\_ Telephone Number \_\_\_\_\_

Drugs distributed in Virginia are maintained so that the records are readily retrievable from other distribution records? Yes \_\_\_ No \_\_\_  
 A legible, unexpired, unrestricted copy of the wholesale distributor registration issued by the state in which the firm is located is attached? Yes \_\_\_ No \_\_\_  
 If no, explain: \_\_\_\_\_

OWNERSHIP: Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Individual \_\_\_\_\_

Name of Corporation (If Different From The Above Firm) \_\_\_\_\_

Street Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**IMPORTANT:** The information requested on the back of this application must be completed.

**FOR OFFICE USE ONLY**

Class	Registration Number	Date Issued	Approved:
0219			Date:



**LIST NAMES, TITLES, ADDRESSES AND TELEPHONE NUMBERS OF OWNERS/OFFICERS**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Resident Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Resident Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Resident Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Resident Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Indicate all trade or business names used by this corporation or business.

\_\_\_\_\_ Business Name \_\_\_\_\_ Business Name

To the best of your knowledge have any of the applicants, owners, or persons listed on this application:

1. Been convicted of a felony or any law relating to drug distribution under any federal, state or local law? Yes \_\_\_ No \_\_\_
2. Had a license, permit, or registration for the distribution of drugs denied, restricted, suspended, or revoked by any federal, state or local government? Yes \_\_\_ No \_\_\_

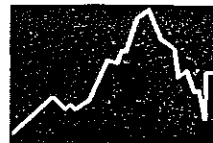
If yes to either, explain in detail on an attached statement. Also, please provide a certified copy of any document(s) showing court disposition or administrative licensing body disposition.

I do solemnly swear or affirm that the information provided and the statements made on this application are true and correct to the best of my knowledge:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date



**COMMONWEALTH OF VIRGINIA**

Board of Pharmacy

Department of Health Professions  
6606 West Broad Street, 4th Floor  
Richmond, Virginia 23230-1717  
(804) 662-9911

**APPLICATION FOR PERMIT AS A HUMANE SOCIETY**

Check Appropriate Boxes:

- New \$10.00  Change of Responsible Party No Fee  
 Change of Ownership/Tradename No Fee  Change of Location\* No Fee

The required fee(s) must accompany the application.  
Make check payable to "TREASURER OF VIRGINIA".

<b>Applicant - Please provide the information requested below. (Print or Type) Use full name, not initials.</b>				
Name of Society				
Street Address		Area Code and Telephone Number		
City	State	Zip Code		
Name of Person Responsible for Drugs		Area Code and Telephone Number		
Expected Opening Date		* Requested Inspection Date		
Name of Supervising Veterinarian				
Signature of Applicant		Date		
<b>IMPORTANT: Please print the names, titles and residence addresses of owners, partners and or corporate officers in spaces provided on back of application.</b>				
<b>FOR OFFICE USE ONLY ACKNOWLEDGEMENT OF INSPECTION REQUEST</b>				
Date Processed		Inspection Date Assigned	Application Number	
Class	License Number	Expiration Date	Inspection Date	Date Issued
* A 14-day notice is required for scheduling an opening or change of location inspection.				

**LIST OF OWNERS AND OFFICERS AND RESIDENCE ADDRESSES**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_


Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Resident Address: \_\_\_\_\_



**COMMONWEALTH OF VIRGINIA**  
**Board of Pharmacy**

6606 W. Broad Street, 4th Floor  
Richmond, Virginia 23230

(804) 662-9911 (Tel)  
(804) 662-9313 (Fax)

**Application for Controlled Substances Registration Certificate  
for Non-Practitioners**

Check Appropriate Boxes:

- New-\$20.00     Change of Ownership/Tradename-No Fee     Change of Responsible Party-No Fee     Change of Location-No fee

The required fee(s) must accompany the application.  
Make check payable to "TREASURER OF VIRGINIA".

<b>Applicant - Please provide the information requested below. (Print or Type) Use full name, not initials.</b>	
Type of Activity-Check One: <input type="checkbox"/> Manufacturer <input type="checkbox"/> Wholesale Distributor <input type="checkbox"/> Humane Society <input type="checkbox"/> Government Official** <input type="checkbox"/> Analytic Laboratory** <input type="checkbox"/> Teaching Institute** <input type="checkbox"/> Researcher**	
Name of Business, Institution, Government Agency, etc. _____	
Street Address _____	Area Code and Telephone Number _____
City _____	State _____ Zip Code _____
Name of Person Responsible for Drugs _____	Area Code and Telephone Number _____
Expected Opening or Beginning Use Date _____	* Requested Inspection Date _____

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_

- \* A 14-day notice is required for scheduling an opening or change of location inspection.
- \*\* Persons applying under this activity code must submit, with the application, a protocol which specifically names the controlled substances to be used and provides details as to the intended use of these controlled substances within the work. Additionally, persons applying under this activity code must provide documentation showing competence (curriculum vitae, educational credentials, professional licensure, training documentation) to use the controlled substances within the scope of this activity.

FOR OFFICE USE ONLY ACKNOWLEDGEMENT OF INSPECTION REQUEST			
Date Processed	Application Number 0220	Inspection Date Assigned	Date Inspected
Approved for Issue	Date Approved	Date Issued	License Number 0220

COMMONWEALTH OF VIRGINIA  
BOARD OF PHARMACY  
6606 West Broad Street, Suite 400  
Richmond, Virginia 23230-1717  
804/662-9911  
804/662-9313 (FAX)

APPLICATION FOR APPROVAL OF  
CONTINUING EDUCATION PROGRAM

The non-refundable fee of \$100 must accompany the application.  
(Make check payable to "Treasurer of Virginia")

Name of Program Provider \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Telephone Number ( ) \_\_\_\_\_  
Address of Program \_\_\_\_\_

Anticipated Date and Time of Program \_\_\_\_\_  
Length of Program (exclude meals, breaks, social activities, meeting  
or administrative time) \_\_\_\_\_  
Room Arrangement for this Program (classroom, auditorium, conference  
style, etc.) \_\_\_\_\_  
Credits Requested for this Program \_\_\_\_\_

Please answer the following questions and provide any other infor-  
mation or documentation which you feel might be helpful to the Board  
in the approval process.

1. Have you provided other CE programs in Virginia within the last two years?  Yes  No (If yes, attach documentation listing program description, faculty, number of attendees, date of program, profession of attendees, length of program, and any certification granted.)
2. Are you accredited by any other group or agency?  Yes  No (If yes, attach documentation)
3. Has this program been submitted to any other state board of pharmacy requiring mandatory continuing education or to the American Council on Pharmaceutical Education?  Yes  No If yes, where? \_\_\_\_\_ How many credits were granted? \_\_\_\_\_ (Attach documentation)

4. Has this program been approved for continuing education by any profession other than pharmacy?  Yes  No. If yes, by whom? \_\_\_\_\_ How many credits were granted? \_\_\_\_\_ (Attach documentation)
5. Describe program content, method of delivery, and supportive materials to be provided. (Attach additional sheet, if necessary) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. What are the educational objectives of this program based on the program content and its relationship to the practice of pharmacy? (Attach additional sheet, if necessary) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. What method will be used to promote the program? (Attach literature, if available) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. What are the anticipated costs to the participants? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Who will present the program, and what are their credentials? (Attach resumes of program speakers or faculty) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
10. Is this program part of any other event, such as a convention, dinner meeting, etc.?  Yes  No. If yes, please describe the setting and context for the program \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 11. What mechanism for assessment of program effectiveness and satisfactory completion will be used? Attach a sample pre- and post-test to be employed \_\_\_\_\_  
\_\_\_\_\_
- 12. What documentation of credits awarded will be provided to the participants? (Attach sample certificate) \_\_\_\_\_  
\_\_\_\_\_
- 13. Who is eligible to attend the program (i.e. all pharmacists, physicians, members of the sponsoring organization, etc.)?  
\_\_\_\_\_  
\_\_\_\_\_
- 14. How and where will you maintain all required records of the program, its participants, and hours or credits awarded for a period of three years following its completion? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I agree that an authorized agent of the Board will be allowed to conduct on site monitoring of this program without payment of registration fees.

I agree to provide the Board upon request with documentation of program content, hours, participants, and credits awarded anytime within three years of its completion.

Signature of Applicant \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

The Board will notify the applicant/sponsor of the program within sixty (60) days following the receipt of a completed application of approval or disapproval and the number of credits which may be awarded. There will be no refund of application fee for programs which have been reviewed for approval, regardless of whether approval is granted or denied or whether program is held.

\*\*\*\*\*  
 FOR BOARD OFFICE USE ONLY  
 APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_  
 DATE \_\_\_\_\_ CREDITS AWARDED \_\_\_\_\_  
 SIGNATURE OF EXECUTIVE DIRECTOR \_\_\_\_\_  
 CEAPP

VIRGINIA BOARD OF PHARMACY  
6606 West Broad Street, Suite 400  
Richmond, Virginia 23230-1717  
804/662-9911

CLOSING OF PHARMACY

Date: \_\_\_\_\_  
 Date Closed/Closing: \_\_\_\_\_ Permit Returned: \_\_\_\_\_  
 Closed by: Owner \_\_\_\_\_ Bankruptcy \_\_\_\_\_ Purchased/Moved \_\_\_\_\_  
 Pharmacy Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, State, Zip Code: \_\_\_\_\_  
 Pharmacist or Other Contact Person: \_\_\_\_\_ Telephone No.: \_\_\_\_\_  
 Contact Address: \_\_\_\_\_  
 DEA Registration Forms Returned: \_\_\_\_\_ Yes \_\_\_\_\_ No  
 Drug Disposal:  
 Schedule II \_\_\_\_\_  
 \_\_\_\_\_  
 Schedule III-V \_\_\_\_\_  
 \_\_\_\_\_  
 Other Drugs \_\_\_\_\_  
 \_\_\_\_\_  
 Prescriptions Maintained By: \_\_\_\_\_  
 Invoices Maintained By: \_\_\_\_\_  
 Drug Signs Removed? \_\_\_\_\_ Yes \_\_\_\_\_ No  
 Any Prescription Drugs on the Premises? \_\_\_\_\_ Yes \_\_\_\_\_ No  
 If yes, explain: \_\_\_\_\_  
 \_\_\_\_\_  
 Remarks: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Inspector

**DESTRUCTION OF CONTROLLED SUBSTANCES**

This notice is to inform the Virginia Board of Pharmacy that Schedule II - V drugs will be destroyed \_\_\_\_\_ (date) \_\_\_\_\_ (time)

Manner of Destruction \_\_\_\_\_

Name of Pharmacy \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name of Pharmacist(s) who will witness the destruction:

\_\_\_\_\_ License No. \_\_\_\_\_

\_\_\_\_\_ License No. \_\_\_\_\_

Signature of Pharmacist-in-Charge \_\_\_\_\_

PIC's License No. \_\_\_\_\_ Date \_\_\_\_\_

Virginia Register of Regulations  
1800

OMB Approval No. 1117-0007	DEPARTMENT OF JUSTICE / DRUG ENFORCEMENT ADMINISTRATION REGISTRANTS INVENTORY OF DRUGS SURRENDERED	PACKAGE No.
----------------------------	---	-------------

The following schedule is an inventory of controlled substances which is hereby surrendered to you for proper disposition.

FROM: (Include Name, Street, City, State and ZIP Code in space provided below).

Signature of applicant or authorized agent

---

Registrant's DEA Number

---

Registrant's Telephone Number

**NOTE: CERTIFIED MAIL (Return Receipt Requested) IS REQUIRED FOR SHIPMENTS OF DRUGS VIA U.S. POSTAL SERVICE! See instructions on reverse of form.**

1 NAME OF DRUG OR PREPARATION  <small>Registrants will fill in Columns 1, 2, 3, and 4 Only.</small>	2 Number of Containers	3 CONTENTS <small>(Number of grams, tablets, capsules or other units per container)</small>	4 Controlled Substance Control <small>(Each Unit)</small>	FOR DEA USE ONLY		
				DISPOSITION		QUANTITY
				5	6	7
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						

NAME OF DRUG OR PREPARATION	Number of Containers	CONTENTS (Strength, form, salt, other units, etc.) (Each container)	Cap. or Sub. (Each container)	FOR DEA USE ONLY		
				DISPOSITION	QUANTITY	QCS. MGS.
17	2	3	4	5	6	7
18						
19						
20						
21						
22						
23						
24						

The controlled substances surrendered in accordance with Title 21 of the Code of Federal Regulations, Section 1307.21, have been received in \_\_\_\_\_ packages purporting to contain the drugs listed on this inventory and have been: (1) Forwarded tape-sealed without opening; (2) Destroyed as indicated and the remainder forwarded tape-sealed after verifying contents; (3) Forwarded tape-sealed after verifying contents.

DATE \_\_\_\_\_ 19 \_\_\_\_\_ DESTROYED BY: \_\_\_\_\_  
 \*\* Strike out lines not applicable. WITNESSED BY: \_\_\_\_\_

**INSTRUCTIONS**

1. List the name of the drug in column 1, the number of containers in column 2, the size of each container in column 3, and in column 4 the controlled substance content of each unit described in column 5. 4 mg. morphine sulfate tabs, 3 mg. 100 tabs, 1.4 mg. (16 mg.) or morphine sulfate tabs, 1 mg., 83 tabs, 1/2 mg. (32 mg.), etc.
2. All packages included on a single line should be identical in name, content and controlled substance strength.
3. Prepare this form in quadruplicate. Mail two (2) copies of this form to the Special Agent in Charge, under separate cover. Enclose one additional copy in the shipment with the drugs. Retain one copy for your records. One copy will be returned to you as a receipt. No further receipt will be given unless specifically requested. Any further inquiries concerning these drugs should be addressed to the DEA District Office which serves your area.
4. There is no provision for payment for drugs surrendered. This is merely a service rendered to registrants enabling them to clear their stocks and records of unwanted items.
5. Drugs should be shipped tape-sealed via prepaid express or certified mail return receipt requested to Special Agent in Charge, Drug Enforcement Administration, of the DEA District Office which serves your area.

**PRIVACY ACT INFORMATION**

**AUTHORITY:** Section 307 of the Controlled Substances Act of 1970 (P.L. 91-513).  
**PURPOSE:** To document the surrender of controlled substances which have been forwarded by registrant to DEA for disposal.

**ROUTINE USES:** This form is required by Federal Regulations for the surrender of Unwanted Controlled Substances. Disclosures of information from this system are made to the following categories of users for the purposes stated:

- A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes.
- B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes.

**EFFECT:** Failure to document the surrender of unwanted Controlled Substances may result in prosecution for violation of the Controlled Substances Act.

**DOCUMENTS INCORPORATED BY REFERENCE**

The United States Pharmacopoeia - National Formulary,  
 United States Pharmacopoeia Convention.

VA.R. Doc. No. R96-247; Filed February 28, 1996, 11:35 a.m.

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# STATE LOTTERY DEPARTMENT

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## DIRECTOR'S ORDER NUMBER ONE (96)

VIRGINIA'S FIFTY-FIFTH INSTANT GAME LOTTERY; "\$25,000 SLOTS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's fifty-fifth instant game lottery, "\$25,000 Slots." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's 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  
Date: February 1, 1996

VA.R. Doc. No. R96-236; Filed February 26, 1996, 10:03 a.m.

## DIRECTOR'S ORDER NUMBER TWO (96)

"KICKER," VIRGINIA LOTTERY RETAILER SALES PROMOTIONAL PROGRAM RULES; REVISED.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the revised rules for the Virginia Lottery retailer sales promotional program, "Kicker," which will be conducted from Monday, March 11, 1996 through Sunday, April 28, 1996. 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, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order supersedes Director's Order Number Thirty-Two (95), issued December 14, 1995. 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  
Date: February 6, 1996

VA.R. Doc. No. R96-237; Filed February 26, 1996, 10:02 a.m.

## DIRECTOR'S ORDER NUMBER THREE (96)

VIRGINIA'S INSTANT GAME LOTTERY 404; "DECADE OF DOLLARS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0404), "Decade of Dollars." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's 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  
Date: February 8, 1996

VA.R. Doc. No. R96-238; Filed February 26, 1996, 10:03 a.m.

## DIRECTOR'S ORDER NUMBER FOUR (96)

VIRGINIA'S TWENTY-NINTH INSTANT GAME LOTTERY, "BEAT THE DEALER," END OF GAME.

In accordance with the authority granted by Sections 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that Virginia's Twenty-Ninth Instant Game, "Beat the Dealer," will officially end at midnight on Friday, March 1, 1996. The last day for lottery retailers to return for credit unsold tickets from "Beat the Dealer" will be Friday, March 22, 1996. The last day to redeem winning tickets for "Beat the Dealer" will be Wednesday, August 28, 1996, 180 days from the declared official end of the game. Claims for winning tickets from "Beat the Dealer" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of August 28, 1996, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's 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  
Date: February 19, 1996

VA.R. Doc. No. R96-239; Filed February 26, 1996, 10:03 a.m.

## DIRECTOR'S ORDER NUMBER FIVE (96)

VIRGINIA'S THIRTY-SECOND INSTANT GAME LOTTERY,  
"LUCKY DICE," END OF GAME.

In accordance with the authority granted by Sections 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that Virginia's Thirty-Second Instant Game, "Lucky Dice," will officially end at midnight on Friday, March 1, 1996. The last day for lottery retailers to return for credit unsold tickets from "Lucky Dice" will be Friday, March 22, 1996. The last day to redeem winning tickets for "Lucky Dice" will be Wednesday, August 28, 1996, 180 days from the declared official end of the game. Claims for winning tickets from "Lucky Dice" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of August 28, 1996, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's 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  
Date: February 19, 1996

VA.R. Doc. No. R96-240; Filed February 26, 1996, 10:02 a.m.

## DIRECTOR'S ORDER NUMBER SIX (96)

VIRGINIA'S FORTY-FIFTH INSTANT GAME LOTTERY,  
"FAST CASH," END OF GAME.

In accordance with the authority granted by Sections 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that Virginia's Forty-Fifth Instant Game, "Fast Cash," will officially end at midnight on Friday, March 1, 1996. The last day for lottery retailers to return for credit unsold tickets from "Fast Cash" will be Friday, March 22, 1996. The last day to redeem winning tickets for "Fast Cash" will be Wednesday, August 28, 1996, 180 days from the declared official end of the game. Claims for winning tickets from "Fast Cash" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of August 28, 1996, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's 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  
Date: February 19, 1996

VA.R. Doc. No. R96-241; Filed February 26, 1996, 10:03 a.m.



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# GOVERNOR

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## EXECUTIVE ORDER NUMBER SIXTY (96)

### **DECLARATION OF A STATE OF EMERGENCY THROUGHOUT THE COMMONWEALTH OF VIRGINIA ARISING FROM MASSIVE SNOW STORM WITH BLIZZARD CONDITIONS**

On January 6, 1996, I verbally declared a state of emergency due to a threatening winter storm with blizzard conditions throughout the Commonwealth of Virginia with expected snowfall in excess of 12-24 inches throughout virtually all of the Commonwealth. The snow storm had the potential for extremely hazardous conditions including freezing rain, sleet, and high wind gusts resulting in devastating effects on public health and safety. In addition, this major winter storm had the potential to cause severe economic losses to affected businesses, including the agricultural community and livestock operations.

The health and general welfare of the citizens of the affected jurisdictions required that state action be taken to help alleviate conditions caused by the heavy snowfall and blizzard conditions. Potential emergencies included inability to provide fire, law enforcement and rescue services to stranded persons; search and rescue; blockage of critical roadways; inadequate medical supplies, fuel, food and other essentials, including loss of power to residents and the business community. I found that these conditions and consequences constituted a disaster warranting a declaration of emergency pursuant to Section 44-146.16 of the *Code of Virginia*.

Therefore, by virtue of the authority vested in me by Section 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Services, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by Section 44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I do hereby confirm, ratify and memorialize in writing my verbal orders issued January 6, 1996, wherein I proclaimed that a state of emergency existed in the Commonwealth and directed that appropriate and practical assistance be rendered by agencies of both state and local governments to alleviate any conditions arising from this historic major winter storm. Pursuant to Section 44-75.1 of the *Code of Virginia*, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to assist in providing such aid as may be required by the Coordinator of Emergency Services, in consultation with the Secretary of Public Safety and the Adjutant General of Virginia.

In order to marshal all public resources and appropriate preparedness measures to meet this potential threat, and in accordance with my authority contained in Section 44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following protective measures:

1. The full implementation by agencies of the state and local governments of Volume II, Virginia Emergency

Operations Plan (COVEOP) for Peacetime Disasters, September 1988, as amended;

2. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures, as delineated in Section 44-146.28(b) of the Emergency Services and Disaster Laws. Section 44-146.24 also applies to the disaster activities of state agencies; and

3. The authorization of the Departments of State Police, Transportation, and Motor Vehicles to grant temporary overweight/registration/license exemptions to carriers transporting essential emergency relief supplies, including sand and abrasives, into and within the Commonwealth in order to support the disaster response and recovery, particularly as regards donation management.

The axles and gross weights shown below are the maximum allowed, unless otherwise posted:

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	60,000 Pounds
Tractor-semitrailer (4 Axles)	75,000 Pounds
Tractor-semitrailer (5 or more Axles)	90,000 Pounds
Tractor-twin trailers (5 or more Axles)	90,000 Pounds
Other combinations (5 or more Axles)	90,000 Pounds
Per inch of tire width in contact with road surface	850 Pounds

In addition to described overweight transportation privileges, carriers are also exempt from registration with DMV. This includes the vehicles enroute and returning to their home base. The above cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property and equipment, food and fuel supplies to or from any portion of the Commonwealth for the purpose of providing relief or assistance as a result of this disaster, pursuant to Section 52-8.4 of the *Code of Virginia*. This authorization shall remain in effect until February 10, 1996, or until emergency relief is no longer necessary, whichever is less.

The following conditions did and do apply to said deployment of the Virginia National Guard:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Services, and with the approval of the Secretary of Public Safety, shall make available on state active duty such units and members of the Virginia National Guard and such equipment as may be requested by the Department of Emergency Services to assist in alleviating the human

suffering and damage to property as a result of this major winter storm;

2. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by Section 44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of the state or local governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Department of State Police or local law enforcement authorities or receiving guidance from them in the performance of their duties;

3. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

(a) Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act subject to the requirements and limitations thereof; and, in addition,

(b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to Section 44-14 of the *Code of Virginia*, and subject to the concurrence of the Board of Military Affairs, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

4. The costs incurred by the Department of Military Affairs in performing these missions shall be paid out of the sum sufficient appropriation for Disaster Planning and Operations contained in Item 593 of Chapter 966 of the *1994 Acts of Assembly*.

This Executive Order shall be retroactively effective to January 6, 1996, upon its signing and shall remain in full force and effect until June 30, 1996, unless sooner amended or rescinded by further executive order. That portion providing for benefits for members of the National Guard in the event of injury or death shall continue to remain in effect after termination of this executive order as a whole.

Given under my hand and under the seal of the Commonwealth of Virginia this 7th day of February, 1996.

/s/ George Allen  
Governor

VA.R. Doc. No. R96-233; Filed February 16, 1996, 11:49 a.m.

**EXECUTIVE ORDER NUMBER SIXTY-ONE (96)**

**COLLECTION OF FEES ON GARNISHMENTS,  
SUPPORT ORDERS AND TAX LIENS**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 5 of Title 2.1 of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct that all executive branch state agencies and institutions implement procedures, as set out below, to collect fees on behalf of the Commonwealth consistent with the provisions of Sections 8.01-512.2, 58.1-1804, and 63.1-256 of the *Code of Virginia*.

The purpose of this Executive Order is to provide for the uniform collection of certain fees by the Commonwealth for costs associated with withholding monies from state employee salaries and wages to satisfy garnishments, tax liens and child support orders.

The *Code of Virginia* provides for the assessment of fees to be paid by an employee for the costs of collection of garnishments, tax liens and child support orders. These fees are properly due to the General Fund of the Commonwealth to offset the cost of collection. In order to provide uniform and equitable treatment for all state employees, it shall be the policy of the Commonwealth to assess fees in all such cases. This policy shall be implemented as follows:

1. The State Comptroller shall provide overall direction to effect the purposes of this Executive Order.
2. The first \$5,000 in revenue collected from the imposition of the subject fees shall be used to make an Employee Suggestion Program award as approved by the State Comptroller.
3. The State Comptroller shall use such additional revenue as may be necessary to make additional awards during the first year of collection, as provided in the Employee Suggestion Program.
4. All other revenues derived from the collection of the subject fees shall be paid into the General Fund of the Commonwealth.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 7th day of February, 1996.

/s/ George Allen  
Governor

VA.R. Doc. No. R96-234; Filed February 16, 1996, 11:49 a.m.

**GOVERNOR'S COMMENTS ON PROPOSED  
REGULATIONS**

**STATE WATER CONTROL BOARD**

Title of Regulation: 9 VAC 25-260-10 et seq. [VR 680-21-00.] Water Quality Standards.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. The regulation needs to be reviewed to comply with federal requirements. The regulation takes steps in the right direction by removing strictures which are unnecessary and have done nothing except to increase costs; however, our ability to make further changes which make sense for all Virginians continues to be limited by federal mandates. I reserve the right to take action under the Administrative Process Act during the final adoption period.

/s/ George Allen  
Governor

Date: February 21, 1996

VA.R. Doc. No. R96-235; Filed February 22, 1996, 3:01 p.m.

# SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**Contact:** Marion Greenfield, Office of Planning and Regulations, Department of Mental Health, Mental Retardation and Substance Abuse Services, Post Office Box 1797, Richmond, VA 23214, telephone (804) 786-6431, FAX (804) 371-0092.

12 VAC 35-11-10 et seq. Public Participation Guidelines for Developing and Promulgating Regulations.

12 VAC 35-102-10 et seq. Rules and Regulations for the Licensure of Facilities and Programs Serving Mentally Ill, Mentally Retarded, and Substance Abusing Persons.

12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents of Hospitals and Other Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs.

12 VAC 35-170-10 et seq. Regulations for the Certification of Case Management Services.

12 VAC 35-190-10 et seq. Regulations Establishing Procedures for Voluntarily Admitting Persons who are Mentally Retarded to State Mental Retardation Facilities.

12 VAC 35-200-10 et seq. Regulations for Respite and Emergency Care Admissions to Mental Retardation Facilities.

The Department of Mental Health, Mental Retardation and Substance Abuse Services invites comment from the public on the above regulations, as part of a review of its regulations being conducted under Executive Order Number Fifteen (94). The department welcomes comment on these regulations with regard to any matter governed by the Executive Order, including whether the regulation (i) is essential to protect the health and safety of the citizens or necessary for the performance of an important government function; (ii) is mandated or authorized by law; (iii) offers the least burdensome alternative and most reasonable solution; (iv) is clearly written and easily understandable; and (v) has a favorable or unfavorable impact upon the family.

Written or faxed comments may be submitted through 5 p.m. Monday, April 15, 1996. In corresponding with the department, please identify the regulation or regulations on which you are commenting by citing the "VAC" number that precedes the regulation name, along with the full title that follows. Copies of the regulations may be obtained from the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

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# GENERAL NOTICES/ERRATA

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## Symbol Key

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

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## DEPARTMENT OF LABOR AND INDUSTRY

### Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U. S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U. S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

#### Permit-Required Confined Spaces

(Docket No. ICR-96-1)

29 CFR Part 1910

**Agency:** Occupational Safety and Health Administration (OSHA)

**Action:** Notice of proposed information collection request; submitted for public comment and recommendations.

**Summary:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)(44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1910.146, Permit-Required Confined Spaces.

**Text:** Full text of the proposed rulemaking can be found in the Federal Register, Volume 61, No. 17, p. 2267 (January 25, 1996).

**Dates:** Written comments must be submitted on or before March 25, 1996. Written comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**Addresses:** Comments are to be submitted in quadruplicate to the Docket Office, Docket No. ICR-96-1, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, (202) 219-7894. Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 219-5046.

An additional copy should be submitted to the Policy Analyst, Division of Discrimination, Evaluation, Legal and Technical Assistance (DELTA), Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

**For Further Information Contact:** Anne C. Cyr, Office of Information and Consumer Affairs, OSHA, U. S. Department of Labor, Room N3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219-8148. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219-8076. For electronic copies, contact the Labor News Bulletin Board (202) 219-4784; or OSHA's WebPage on Internet at <http://www.osha.gov/>.

### Notice to the Public

The Virginia State Plan for the enforcement of Virginia Occupational Safety and Health (VOSH) laws commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U. S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the federal level. Therefore, the Virginia Department of Labor and Industry is reissuing the following Federal OSHA notice:

U. S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

## Process Safety Management of Highly Hazardous Chemicals

(Docket No. ICR-95-6)

29 CFR Part 1910

**Agency:** Occupational Safety and Health Administration (OSHA)

**Action:** Notice of proposed information collection request; submitted for public comment and recommendations.

**Summary:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burdens, is conducting a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)(44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1910.119, Process Safety Management of Highly Hazardous Chemicals.

**Text:** Full text of the proposed rulemaking can be found in the Federal Register, Volume 61, No. 14, p. 1604 (January 22, 1996).

**Dates:** Written comments must be submitted on or before March 22, 1996. Comments should:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**Addresses:** Comments on the proposal are to be submitted in quadruplicate to the Docket Office, Docket No. ICR-95-6, Room N-2625, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, (202) 219-7894.

Written comments limited to 10 pages or less may be transmitted by facsimile to (202) 219-5046.

An additional copy should be submitted to the Policy Analyst, Division of Discrimination, Evaluation, Legal and Technical Assistance (DELTA), Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219.

**For Further Information Contact:** Anne C. Cyr, Office of Information and Consumer Affairs, OSHA, U. S. Department of Labor, Room N3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 219-8148. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219-8076. For electronic copies, contact the Labor News Bulletin Board (202) 219-4784; or OSHA's WebPage on Internet at <http://www.osha.gov/>.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Mailing Address:** Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

### 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

## ERRATA

### DEPARTMENT OF HEALTH (STATE BOARD OF)

**Title of Regulation:** 12 VAC 5-210-10 et seq. Charges and Payment Requirements by Income Levels.

**Publication:** 12:11 VA.R. 1427-1438 February 19, 1996.

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## General Notices/Errata

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### Corrections to Final Regulation:

Page 1432, 12 VAC 5-210-10, under Home Health Services, Skilled Nursing, change Income Level F from "\$10.00" to "\$110.00"

Page 1433, 12 VAC 5-210-10, under Child Development Services Program, Detailed Consultation, change Income Level D from "\$27.00" to "\$37.00"

Page 1436, 12 VAC 5-210-20, under CPT code 99385, Age eighteen through twenty-one years, change Income Level C from "\$10.50" to "\$15.25"

Page 1438, 12 VAC 5-210-20, under Child Development Services Program, Expanded Consultation, change Income Level E from "\$8.00" to "\$48.00"

Page 1438, 12 VAC 5-210-20, under Child Development Services Program, Individual Psychotherapy, 45-60 minute session, change Income Level E from "\$58.25" to "\$59.25"

### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)**

Title of Regulation: 13 VAC 5-60-10 et seq. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1993.

Publication: 12:11 1439-1459 February 19, 1996.

### Corrections to Final Regulation:

Page 1450, 13 VAC 5-60-180, Section 117.3.4, column 1, Exception 2 c, line 3, change "approval" to "removal"

Page 1450, 13 VAC 5-60-180, Section 117.3.4.1, column 1, subdivision 1, line 2, change "replace" to "replaced"

# CALENDAR OF EVENTS

## Symbol 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

April 22, 1996 - 10 a.m. -- Open Meeting

April 23, 1996 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia.♿ (Interpreter  
for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board 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, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

### VIRGINIA AGRICULTURAL COUNCIL

March 25, 1996 - 9 a.m. -- Open Meeting

March 26, 1996 - 9 a.m. -- Open Meeting

Boar's Head Inn, Route 250 West, Charlottesville, Virginia.♿  
(Interpreter for the deaf provided upon request)

A meeting to hear and act upon project proposals for financial assistance through the Virginia Agricultural Council. The council will entertain public comments at the conclusion of all other business not to exceed 30 minutes. Any person who needs any accommodations in order to participate at 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., Room 703, Richmond, VA 23219, telephone (804) 786-6060.

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia Dark-Fired Tobacco Board

† March 28, 1996 - 10 a.m. -- Open Meeting

Sheldon's Restaurant, Highway 15 North, Routes 15 and 360  
(Business), Keysville, Virginia.♿

A meeting to consider funding proposals for research, promotion, and education projects pertaining to Virginia dark-fired tobacco, and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** D. Stanley Duffer, Secretary, Virginia Dark-Fired Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

### Virginia Horse Industry Board

† May 10, 1996 - 11 a.m. -- Open Meeting

Northern Virginia 4-H Educational Center, 600 4-H Center  
Drive, Library, Front Royal, Virginia.♿

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 accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎



# Calendar of Events

## Pesticide Control Board

**April 11, 1996 - 9 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia. ☒

Committee meetings and 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 beginning at 9 a.m. Any person who needs any accommodations 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 Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558.

## Virginia Winegrowers Advisory Board

† **April 3, 1996 - 10 a.m.** -- Open Meeting  
The Boar's Head Inn, Route 250 West, Charlottesville, Virginia. ☒

The annual meeting of the board to conduct regular board business including committee reports. The board will also hear budget requests from individuals seeking grants for the '96-'97 funding year. The board will entertain public comment after the grant proposals have been given and before the board votes on the proposals. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 786-0481.

## STATE AIR POLLUTION CONTROL BOARD

**April 2, 1996 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Cindy M. Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

\*\*\*\*\*

**April 8, 1996 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

**April 9, 1996 - 10 a.m.** -- Public Hearing  
Alexandria City Hall, 301 King Street, Room 2000, Alexandria, Virginia.

**May 3, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled: **9 VAC 5-150-10 et seq. Regulation for Transportation Conformity.** The regulation establishes criteria and procedures for the transportation planning organization to use when determining whether federally-funded transportation plans, programs, and projects are in conformance with air quality plans before they are adopted. In addition, highway or transit projects which are funded or approved by the Federal Highway Administration or the Federal Transit Administration must be found to conform before they are approved or funded by U.S. Department of Transportation or a Metropolitan Planning Organization. This will apply in the Northern Virginia, Richmond, and Hampton Roads nonattainment areas. "Conformity" means that the activity will not (i) cause or contribute to any new violation of any standard in any area, (ii) will not increase the frequency or severity of any existing violation of any standard in any area, or (iii) will not delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

A transportation activity must not adversely affect implementation of the state implementation plan or the timely attainment and maintenance of the National Ambient Air Quality Standards. This integration of transportation activities and air quality planning is intended to ensure that emissions growth projections are not exceeded, emissions reduction targets are met, and maintenance efforts are not undermined.

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

**Localities Affected:** The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Ozone Nonattainment Area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.
2. The Richmond Ozone Nonattainment Area: Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.
3. The Hampton Roads Ozone Nonattainment Area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.
4. Maintenance areas, i.e., the above areas when redesignated to attainment.

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

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

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

Tidewater Regional Office  
 Department of Environmental Quality  
 Old Greenbrier Village, Suite A  
 2010 Old Greenbrier Road  
 Chesapeake, Virginia  
 Ph: (804) 424-6707

Springfield Satellite Office  
 Department of Environmental Quality  
 Springfield Corporate Center, Suite 310  
 6225 Brandon Avenue  
 Springfield, Virginia  
 Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m., Friday, May 3, 1996 to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Mary E. Major, Policy Analyst Senior, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

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**April 8, 1996 - 10 a.m. -- Public Hearing**  
 Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

**April 9, 1996 - 10 a.m. -- Public Hearing**  
 Alexandria City Hall, 301 King Street, Room 2000, Alexandria, Virginia.

**May 3, 1996 --** Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled: **9 VAC 5-160-10 et seq. Regulation for General Conformity.** The regulation establishes criteria and procedures for federal agencies to use when determining whether their nontransportation actions conform with air quality plans before they are adopted. It will apply in the Northern Virginia, Richmond, and Hampton Roads nonattainment areas. "Conformity" means that the activity will not (i) cause or contribute to any new violation of any standard in any area, (ii) will not increase the frequency or severity of any existing violation of any standard in any area, or (iii) will not delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

A federal activity must not adversely affect implementation of the state implementation plan or the timely attainment and maintenance of the National Ambient Air Quality Standards. This integration of federal activities and air quality planning is intended to ensure that emissions growth projections are not exceeded, emissions reduction targets are met, and maintenance efforts are not undermined.

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

**Localities Affected:** The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Ozone Nonattainment Area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.
2. The Richmond Ozone Nonattainment Area: Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.
3. The Hampton Roads Ozone Nonattainment Area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.
4. Maintenance areas, i.e., the above areas when redesignated to attainment.

**Location of Proposal:** The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the

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## Calendar of Events

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Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (703) 899-4600

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

Tidewater Regional Office  
Department of Environmental Quality  
Old Greenbrier Village, Suite A  
2010 Old Greenbrier Road  
Chesapeake, Virginia  
Ph: (804) 424-6707

Springfield Satellite Office  
Department of Environmental Quality  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia  
Ph: (703) 644-0311

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

Public comments may be submitted until 4:30 p.m., Friday, May 3, 1996 to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, telephone (804) 762-4426.

### State Advisory Board on Air Pollution

**May 8, 1996 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Room D, Richmond, Virginia. ☎

The board will meet three times to discuss air quality topics and develop recommendations for the State Air Pollution Control Board on (i) what could and should be considered by the board in making regulatory changes; (ii) guidelines for small businesses in conducting environmental audits; and (iii) electronic information sharing between DEQ and the public. These recommendations will be presented to the board in the fall.

**Contact:** Kathy Frahm, Policy Analyst, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4376 or FAX (804) 698-4346.

### ALCOHOLIC BEVERAGE CONTROL BOARD

**March 18, 1996 - 9:30 a.m.** -- Open Meeting  
**April 1, 1996 - 9:30 a.m.** -- Open Meeting  
**April 15, 1996 - 9:30 a.m.** -- Open Meeting  
**April 29, 1996 - 9:30 a.m.** -- Open Meeting  
**May 13, 1996 - 9:30 a.m.** -- Open Meeting  
**May 29, 1996 - 9:30 a.m.** -- Open Meeting  
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports from and activities of staff members. Other matters have not yet been determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712 or FAX (804) 367-1802.

### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

**March 20, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

### Board for Land Surveyors

**March 19, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to develop a task analysis instrument for use in developing the Land Surveyor Virginia Specific State Examination.

**Contact:** George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

### VIRGINIA COMMISSION FOR THE ARTS

**March 27, 1996 - 3:30 p.m.** -- Open Meeting  
The Jackson Center, 501 North 2nd Street, Board Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly meeting of the board.

Contact: Lorraine W. Lacy, Executive Secretary, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, or (804) 225-3132/TDD ☎

## BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

March 21, 1996 - 10 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4, Richmond, Virginia. ☎

A meeting to conduct general board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## VIRGINIA AVIATION BOARD

April 1, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Aviation Board intends to amend regulations entitled: VR 165-01-02:1 [24 VAC 5-20-10 et seq.] Regulations Governing the Licensing and Operation of Airports and Aircraft and Obstructions to Airspace in the Commonwealth of Virginia. The purpose of the proposed action is to amend the Virginia Aviation Regulations to (i) comply with statutory changes; and (ii) enact provisions identified per the comprehensive review of regulations (Executive Order 15(94)).

Statutory Authority: §§ 5.1-2.2 and 5.1-2.15 of the Code of Virginia.

Contact: Michael A. Waters, Policy Analyst Senior, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150-2502, telephone (804) 236-3631, FAX (804) 236-3625, toll-free 1-800-292-1034 or (804) 236-3624/TDD ☎

† April 23, 1996 - 1 p.m. -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

† April 24, 1996 - 9 a.m. -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

## BOARD FOR BARBERS

† April 1, 1996 - 10 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 2 weeks prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† March 26, 1996 - 10 a.m. -- Open Meeting  
Campbell's Country Club and Feedlot Restaurant, Route 207, Woodford, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A tentative agenda will be available by March 8, 1996, from the Chesapeake Bay Local Assistance Department.

Contact: Shawn Smith, Senior Planner, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## VIRGINIA STATE CHILD FATALITY REVIEW TEAM

† April 26, 1996 - 10 a.m. -- Open Meeting  
State Corporation Commission, 1300 East Main Street, Conference Room, 3rd or 5th Floor, Richmond, Virginia. ☎

A meeting to discuss the status of funding, recent legislative actions, and to update the status of educational endeavors and receive preliminary data on one class of violent deaths of children that will be studied this year. The second part of the meeting will be closed for specific case discussion.

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# Calendar of Events

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Contact: Marcella F. Fierro, M.D., Chief Medical Examiner, 9 N. 14th St., Richmond, VA 23219, telephone (804) 786-1033, FAX (804) 371-8595, or toll-free 1-800-447-1706.

Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899 or (804) 786-2121/TDD ☎

## COMPENSATION BOARD

† March 28, 1996 - 1 p.m. -- Open Meeting  
† April 25, 1996 - 1 p.m. -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23206-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

## DEPARTMENT OF CONSERVATION AND RECREATION

### Caledon Natural Area Ad Hoc Committee

† March 21, 1996 - 10 a.m. -- Open Meeting  
Caledon Natural Area Visitor Center, 11617 Caledon Road, King George, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting to review the ideas generated by the three subcommittees. Please give immediate notice for interpreter services.

Contact: Theresa Duffey, Planning and Training Director, Department of Conservation and Recreation, Division of State Parks, Richmond, Virginia 23219, telephone (804) 786-9025, FAX (804) 786-9294 or (804) 786-2121/TDD ☎

### Goose Creek Scenic River Advisory Board

† March 22, 1996 - 1 p.m. -- Open Meeting  
George Washington University, Loudoun Campus, Presidential Drive, off Route 7 on Ashburn Flats, Loudoun, Virginia.

A meeting to discuss river issues.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

### Falls of the James Scenic River Advisory Board

April 4, 1996 - Noon -- Open Meeting  
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia. ☎

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation,

## BOARD FOR CONTRACTORS

### Recovery Fund Committee

March 18, 1996 - 9 a.m. -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson at least 2 weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

## DEPARTMENT OF CORRECTIONAL EDUCATION

March 22, 1996 - 10 a.m. -- Open Meeting  
James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to describe the subject matter and intent of proposed regulation 6 VAC 10-10-10, Public Participation Guidelines, and solicit the input of interested parties in the formation and development of the regulation.

Contact: Mark Monson, Budget Manager, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-3310, FAX (804) 225-3255, or (804) 371-8467/TDD ☎

## BOARD FOR COSMETOLOGY

† April 8, 1996 - 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 at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## BOARD OF DENTISTRY

**March 22, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Informal Conference Committee will hold conferences. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## Continuing Education Committee

**March 22, 1996 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss requests from licensees regarding exceptions to continuing education. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## BOARD OF EDUCATION

† **March 28, 1996 - 8 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 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 to the Superintendent for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER COUNTY

**April 24, 1996 - 6:30 p.m.** -- Open Meeting  
Gloucester County Administration Building, Conference Room, Gloucester, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss the annual exercise, appointments to the committee, amendments to the bylaws, and a

briefing on the recently updated County Emergency Operations Plan.

**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 - WINCHESTER

† **April 3, 1996 - 3 p.m.** -- Open Meeting  
Shawnee Fire Company, 2333 Roosevelt Boulevard, Winchester, Virginia.

A meeting to vote on proposed bylaws amendments.

**Contact:** L. A. Miller, Fire Chief, Winchester Fire and Rescue Department, 126 N. Cameron St., Winchester, VA 22601, telephone (540) 662-2298 or (540) 665-5645/TDD ☎

## DEPARTMENT OF ENVIRONMENTAL QUALITY

**March 29, 1996 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A meeting to obtain advice from interested parties to the Virginia Waste Management Board on desirable features to be incorporated into the Virginia Voluntary Remediation Program. This announcement is to provide public notice that the dates of meetings for the Voluntary Remediation Program has been changed from that which was previously advertised. The public should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location and time.

**Contact:** Dr. Wladimir Gulevich, Assistant Division Director, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4236, FAX (804) 698-4327, or (804) 698-4021/TDD ☎

## Work Group on Ammonia, Mercury, Lead and Copper with Respect to Water Quality Standards

† **May 2, 1996 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, 6th Floor Conference Room, Richmond, Virginia. ☎

The department has established a work group on four topics with respect to the water quality standards program: mercury, ammonia, lead, and copper. The work group will, upon completion, advise the Director of Environmental Quality. Other meetings of the work group have been tentatively scheduled for June 6, July 11, August 8, and September 12, 1996. Persons interested in the meetings should confirm meeting date, time and location with Alan J. Anthony.

**Contact:** Alan J. Anthony, Chairman, Work Group on Ammonia, Mercury, Lead and Copper, 629 E. Main St., P.O. Box 10009, Room 205, Richmond, VA 23240-0009,


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# Calendar of Events

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telephone (804) 698-4114, FAX (804) 698-4522, or toll-free 1-800-592-5482.


## Virginia Ground Water Protection Steering Committee

March 19, 1996 - 9 a.m. -- Open Meeting  
Richmond Area (Call agency for location) 


A regularly scheduled meeting. Meetings are open to the public. Anyone interested in ground water protection issues is encouraged to attend. A tour of the Division of Consolidated Laboratories is scheduled for the meeting. To obtain a meeting agenda and location, contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042.

## Technical Advisory Committee for Solid Waste Management Regulations

† April 26, 1996 - 10 a.m.-- Open Meeting  
† May 31, 1996 - 10 a.m. -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, First Floor Training Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss desirable amendments to the current Virginia Solid Waste Management Regulations (VR 672-20-10) [ 9 VAC 20-80-10 et seq. ]

Contact: Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4218, FAX (804) 698-4327 or (804) 698-4021/TDD 

## VIRGINIA FIRE SERVICES BOARD

† April 18, 1996 - 7:30 p.m. -- Public Hearing  
Onancock Volunteer Fire Department, Onancock, Virginia.

A public hearing to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

† April 19, 1996 - 9 a.m. -- Open Meeting  
Wallops Island Flight Facility Base, Eastern Shore, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire/EMS Education and Training Committee

† April 18, 1996 - 10 a.m. -- Open Meeting  
Wallops Island Flight Facility Base, Eastern Shore, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Fire Prevention and Control Committee

† April 18, 1996 - 9 a.m. -- Open Meeting  
Wallops Island Flight Facility Base, Eastern Shore, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## Legislative/Liaison Committee


† April 18, 1996 - 1 p.m. -- Open Meeting  
Wallops Island Flight Facility Base, Eastern Shore, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.


Contact: Bobby L. Stanley, Jr., Executive Director, Department of Fire Programs, 2807 N. Parham Rd., Suite 200, Richmond, VA 23294, telephone (804) 527-4236.

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

### Examination Committee

† March 19, 1996 - 9 a.m. -- Open Meeting  
† March 20, 1996 - 9 a.m. -- Open Meeting  
The Hotel Roanoke and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia. 

A meeting to discuss scheduling and locations of examinations for the remainder of 1996 and 1997.

Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD 

**DEPARTMENT OF GAME AND INLAND FISHERIES**

**March 18, 1996 - 7 p.m.** -- Open Meeting  
 Augusta County Government Center, 4801 Lee Highway,  
 Public Meeting Room, Verona, Virginia.

**March 20, 1996 - 7 p.m.** -- Open Meeting  
 Mountain Empire Community College, U.S. 23 South,  
 Dalton/Cantrell Auditorium, Big Stone Gap, Virginia.

Meetings will be held for the purpose of receiving public input as part of a comprehensive review of all Department of Game and Inland Fisheries regulations as listed in the Virginia Register, Vol. 12, Issue 3, p. 476. This regulatory review is in addition to, and does not replace, the regular full reviews of fish and wildlife regulations which DGIF conducts biennially. The regular biennial review of fish regulations scheduled for later in 1996, and the biennial review of wildlife regulations last conducted in 1995, and next scheduled for 1997, will occur as scheduled and in addition to the review process addressed in this notice.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

† **April 25, 1996 - 10 a.m.** -- Open Meeting  
 Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board will meet and review relevant 1996 General Assembly actions and agency needs. The board will also address amendments to regulations proposed at its January 18, 1996, board meeting pertaining to foxhound training preserves, the live-trapping of foxes for the purpose of stocking such preserves, and the amount of the fee to be charged for permitting a foxhound training preserve, and will determine whether the proposed regulations will be adopted as final regulations.

The board will solicit comments from the public during the public hearing portion of the meeting, at which time any interested citizen present shall be heard. The board will also hear the results of three public input meetings held March 11, 12, and 14, 1996, for the purpose of providing the public with an opportunity to review and comment on the proposed regulations pertaining to foxhound training preserves. The board reserves the right to expand or restrict the proposed regulation amendments, as necessary, for the proper management of fish and wildlife resources. These changes may be more liberal than, or more stringent than, the regulations currently in effect, or the regulation amendments proposed at the January 18, 1996, meeting.

In addition, general and administrative issues may be discussed by the board. The board may hold an executive session beginning at 9 a.m., and chairmen of various board committees may request committee meetings in conjunction with this meeting or thereafter.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

**GEORGE MASON UNIVERSITY**

**Student Affairs Committee**

**March 19, 1996 - 6:30 p.m.** -- Open Meeting  
 George Mason University, Mason Hall, Room D23, Fairfax, Virginia.

A regular meeting.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

**Board of Visitors**

**March 20, 1996 - 2:30 p.m.** -- Open Meeting  
 George Mason University, Mason Hall, Room D23, Fairfax, Virginia.

A regular meeting to hear reports of the standing committees, and to act on those recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it.

**Contact:** Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701.

**DEPARTMENT OF HEALTH (STATE BOARD OF)**

† **March 21, 1996 - 10 a.m.** -- Open Meeting  
 Radisson Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A work session of the board. An informal dinner will be held at 6:30 p.m. at the Radisson Patrick Henry Hotel.

**Contact:** Paul W. Matthias, Interim Staff to the Board of Health, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3564.

† **March 22, 1996 - 9 a.m.** -- Open Meeting  
 Radisson Patrick Henry Hotel, 617 South Jefferson Street, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A business meeting.

**Contact:** Paul W. Matthias, Interim Staff to the Board of Health, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3564.



# Calendar of Events

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† **May 20, 1996 - 7 p.m.** -- Public Hearing  
Loudoun County Government Center, Market Street,  
Leesburg, Virginia.  
For more information contact: Larry Yates (703) 777-0234

† **May 20, 1996 - 7 p.m.** -- Public Hearing  
Franklin County Board of Supervisors Meeting Room, Main  
Street, Rocky Mount, Virginia.  
For more information contact: Tim Baker (540) 638-2311

† **May 21, 1996 - 7 p.m.** -- Public Hearing  
Juvenile Court Building, 701 Princess Anne Street,  
Fredericksburg, Virginia.  
For more information contact: Gary Switzer (540) 899-4797

† **May 21, 1996 - 7 p.m.** -- Public Hearing  
Eastern Shore Community College, Melfa, Virginia.  
For more information contact: Artie Miles (804) 787-5886

† **May 22, 1996 - 7 p.m.** -- Public Hearing  
Newport News Health Department Auditorium, 416 J. Clyde  
Morris Boulevard, Newport, News, Virginia.  
For more information contact: Larry Nycum (804) 253-4813

† **May 22, 1996 - 7 p.m.** -- Public Hearing  
Lord Fairfax Community College Meeting Room, Woodstock,  
Virginia.  
For more information contact: Kelly Vanover (540) 722-3480

† **May 23, 1996 - 7 p.m.** -- Public Hearing  
Central Library Auditorium, Virginia Beach, Virginia.  
For more information contact: Frank "Skip" Scanlon (804)  
491-5940

† **May 23, 1996 - 7 p.m.** -- Public Hearing  
Augusta County Government Center, Route 11, Verona,  
Virginia.  
For more information contact: Allen Gutshall (540) 332-7830

† **May 28, 1996 - 7 p.m.** -- Public Hearing  
Board of Supervisors Room, Richmond, Virginia.  
For more information contact: Mike Campbell (804) 672-  
4530

† **May 29, 1996 - 7 p.m.** -- Public Hearing  
Farmville Area Bus Station, Farmville, Virginia.  
For more information contact: Wayne Lynhart (804) 392-  
3984

† **May 29, 1996 - 7 p.m.** -- Public Hearing  
Blacksburg Municipal Building, 300 South Main Street,  
Blacksburg, Virginia.  
For more information contact: Bruce Hicks (540) 676-5520

† **May 30, 1996 - 7 p.m.** -- Public Hearing  
Washington County Library, Oak Hill and Valley Street,  
Abingdon, Virginia.  
For more information contact: Bruce Hicks (540) 676-5520

† **May 31, 1996** -- Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of  
the Code of Virginia that the State Board of Health  
intends to amend regulations entitled: **12 VAC 5-610-10**

## et seq. Sewage Handling and Disposal Regulations.

The purpose of the proposed amendments is to (i) increase the separation distance to a water table below a drainfield from two to 20 inches to 18 or 24 inches; (ii) increase the separation distance to bedrock below a drainfield from 12 inches to 18 inches; (iii) encourage the use of new and innovative onsite wastewater technologies by granting provisional approval to promising new systems; (iv) increase ground water protection standards for large onsite systems (mass drainfields); (v) reduce the installation depth for conventional systems from 18 inches to six to 12 inches; (vi) add provisions that will make it easier for homeowners to know when to pump their septic tank; and (vii) make administrative changes designed to revise cumbersome portions of the regulations and make it easier for the public to comply with the regulations (i.e., reduced "red tape").

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

**Contact:** Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, P.O. Box 2448, Suite 117, Richmond, VA 23218, telephone (804) 786-1750 or FAX (804) 225-4003.

## Biosolids Use Information Committee

† **April 11, 1996 - 1 p.m.** -- Open Meeting  
UVA Richmond Center, 7740 Shrader Road, Suite E,  
Richmond, Virginia. ☎

A meeting to review and evaluate specific concerns relating to the land application and agricultural use of biosolids, including issues related to the final Biosolids Use Regulations recently adopted by the State Board of Health to regulate the land application, marketing, or distribution of biosolids.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

## Biosolids Use Regulations Advisory Committee

† **April 11, 1996 - 10 a.m.** -- Open Meeting  
UVA Richmond Center, 7740 Shrader Road, Suite E,  
Richmond, Virginia. ☎

A meeting to discuss issues concerning the implementation and proposed revisions of the Biosolids Use Regulations involving land application, distribution, or marketing of biosolids.

**Contact:** C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 371-2891.

**Shellfish and Crustacea Advisory Committee**

† April 2, 1996 - 9:30 a.m. -- Open Meeting  
Virginia Tech Seafood Experiment Station, Hampton, Virginia.

A meeting to review existing Virginia Board of Health regulations governing the picking and packing of crabmeat and the process for implementing shellfish closures around marinas.

Contact: Keith Skiles, Program Manager, Department of Health, 1500 E. Main St., Suite 109, Richmond, VA 23219, telephone (804) 786-7937 or FAX (804) 371-2891.

**Commissioner's Waterworks Advisory Committee**

March 21, 1996 - 10 a.m. -- Open Meeting  
Office of Water Programs, Danville Field Office, 1347 Piney Forest Road, Danville, Virginia.

A general business meeting of the committee. The committee meets on the third Thursday of odd months at various locations around the state. Future locations and dates 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**

March 26, 1996 - 9:30 a.m. -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting.

Contact: Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371, FAX (804) 371-0284 or (804) 786-6371/TDD ☎

**BOARD OF HISTORIC RESOURCES**

**State Review Board**

March 20, 1996 - 10 a.m. -- Open Meeting  
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting to consider the following properties for nomination to the Virginia Landmarks Register and to the National Register of Historic Places.

1. Cahas Mountain Rural Historic District, Franklin County
2. Cannon Branch Fort, Manassas
3. Chandler Court and Pollard Park Historic District, Williamsburg

4. Coffee Pot, City of Roanoke
5. Dewberry, Hanover County
6. Down Salem Historic District, Salem
7. Epworth United Methodist Church, Norfolk
8. The Farm (A. J. Davis House), Charlottesville
9. Fort Belvoir Historic District, Fairfax County
10. Kennedy Lunsford Farm, Rockbridge County
11. Mount Ida (relocation), Buckingham County
12. Rose Hill, Town of Front Royal, Warren County
13. Soldier's Rest, Clarke County
14. Upper Brandon Plantation, Prince George County
15. West Point Historic District, King William County

Contact: Margaret Peters, Preservation Program Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261, or (804) 786-1934/TDD ☎

**HOPEWELL INDUSTRIAL SAFETY COUNCIL**

April 2, 1996 - 9 a.m. -- Open Meeting  
May 7, 1996 - 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 Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

**BOARD OF HOUSING AND COMMUNITY DEVELOPMENT**

NOTE: CHANGE IN PUBLIC HEARING DATE  
April 22, 1996 - 10 a.m. -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.

May 3, 1996 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to repeal regulations entitled: 13 VAC 5-110-10 et seq. Virginia Enterprise Zone Program Regulations and adopt regulations entitled: 13 VAC 5-111-10 et seq. Virginia Enterprise Zone Program Regulations. The purpose of the proposed regulation is to implement and administer new incentives and provisions of the Virginia Enterprise Zone Program provided in 1995 legislation. Amendments will also implement greater flexibility for businesses in qualifying for the use of these incentives. Amendments reflect an increase in number of zones statewide and greater flexibility for localities to have multiple zones.

Statutory Authority: § 59.1-278 of the Code of Virginia.

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# Calendar of Events

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**Contact:** M. Shea Hollifield, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219, telephone (804) 371-7030.

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† **April 22, 1996 - 10 a.m.** -- Public Hearing  
Department of Housing and Community Development, The Jackson Center, 501 North Second Street, Richmond, Virginia.

† **May 20, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **13 VAC 5-70-10 et seq. Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code/1993.** The purpose of the proposed amendments is to establish standards for automatic sprinkler systems in patient rooms and other areas customarily used for patient care in hospitals, regardless of when such facilities were constructed.

Statutory Authority: § 36-99.9:1 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Associate Director, Department of Housing and Community Development, The Jackson Center, 501 N. Second St., Richmond, VA 23219-1321, telephone (804) 371-7170.

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**March 25, 1996 - 9 a.m.** -- Open Meeting

**March 26, 1996 - 9 a.m.** -- Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the Board of Commissioners. On March 25, 1996, the board will conduct a retreat to receive various reports from the staff of the Virginia Housing Development Authority and to discuss and consider such other matters as it may deem appropriate. On March 26, 1996, the Board of Commissions will (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's 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 of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

## COUNCIL ON INFORMATION MANAGEMENT

† **March 29, 1996 - 10 a.m.** -- Open Meeting  
Council on Information Management, 1100 Bank Street, Suite 901, Richmond, Virginia. ☎

A regular bimonthly meeting.

**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 ☎

## DEPARTMENT OF LABOR AND INDUSTRY

### Apprenticeship Council

**March 21, 1996 - 5 p.m.** -- Open Meeting  
Centreville Adult Education Center, 5775 Spindle Court, Centreville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the council.

**Contact:** Fred T. Yontz, Apprenticeship Program Manager, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-0295.

## LIBRARY BOARD

**March 18, 1996 - 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.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

### Automation and Networking Committee

**March 18, 1996 - 9:45 a.m.** -- Open Meeting  
The Library of Virginia, 11th Street at Capitol Square, Conference Room B, Richmond, Virginia. ☎

A meeting to discuss automation and networking matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

### Executive Committee

**March 18, 1996 - 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 matters related to The Library of Virginia and its board.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Legislative and Finance Committee

**March 18, 1996 - 9 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Office of the Deputy State Librarian, Richmond, Virginia. ☎

A meeting to discuss legislative and financial matters.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Records Management Committee

**March 18, 1996 - 9:45 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Records Management Conference Room, Richmond, Virginia. ☎

A meeting to discuss matters pertaining to records management.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## Research and Information Services Committee

**March 18, 1996 - 9 a.m. -- Open Meeting**  
The Library of Virginia, 11th Street at Capitol Square, Conference Room B, Richmond, Virginia. ☎

A meeting to discuss research and information services.

**Contact:** Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

## STATE COUNCIL ON LOCAL DEBT

**March 20, 1996 - 11 a.m. -- Open Meeting**  
**April 17, 1996 - 11 a.m. -- Open Meeting**  
**May 15, 1996 - 11 a.m. -- Open Meeting**  
James Monroe Building, 101 North 14th Street, 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 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.

## MARINE RESOURCES COMMISSION

**† March 26, 1996 - 9:30 am. -- Open Meeting**  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☎ (Interpreter for the deaf provided upon request)

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 plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** 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 ☎

## BOARD OF MEDICAL ASSISTANCE SERVICES

**March 19, 1996 - 9 a.m. -- Open Meeting**  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to discuss medical assistance service and to take action on issues pertinent to the board. The board may also vote on suggested changes to the by-laws. A copy of the proposed changes to the by-laws may be obtained by contacting the agency. The following articles will be amended: Articles I, II, III, V, VIII, and the Mission Statement.

**Contact:** Nancy Malczewski, Executive Secretary Senior, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**May 4, 1996 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50-100, Inpatient Hospital Services; 12 VAC 30-50-140, Physician's Services; and 12 VAC 30-70-50, Hospital Reimbursement System.** The purpose of this proposal is to make

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permanent policies to reduce the lengths of inpatient and obstetric stays when medically appropriate in compliance with amendments to the budget. By reducing the average Medicaid length of stay in inpatient hospitals to levels similar to that of patients of private insurance, DMAS estimated that the Commonwealth could generate significant cost savings in Medicaid expenditures. These changes enhance the economical performance of Virginia's Medicaid Program by preventing reimbursement for services that are not medically necessary. DMAS completed an analysis of inpatient hospital claims which showed that the length of stay for inpatient services among Medicaid patients in Virginia, by admission diagnosis and procedure performed, is higher than the lengths of stay among patients covered by private insurance. Based on this analysis, the Governor included in his 1995 amendments to the 1994-96 Appropriations Act two amendments reducing the Medicaid budget by decreasing the average length of stay for inpatient hospital services from six days to five days and by decreasing the length of stay for obstetric services to one day.

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

Public comments may be submitted until May 4, 1996, to Margot Fritts, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

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† **May 17, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **12 VAC 30-120-450 through 12 VAC 30-120-480. Part VII: Assisted Living Services for Individuals Receiving Auxiliary Grants Residing in Adult Care Residences.** The proposed regulation will allow the Department of Medical Assistance Services (DMAS) to establish coverage criteria for two types of assisted living to recipients of auxiliary grants residing in licensed adult care residences: (i) regular assisted living for those individuals who do not meet the criteria for waiver services but who require at least a moderate level of assistance with activities of daily living, and (ii) intensive assisted living for those individuals who meet the criteria for waiver services. This regulation was originally begun in 1994. It was delayed because the Department of Social Services (DSS) had to promulgate regulations prior to DMAS developing its program. These DMAS regulations have been revised to conform to the DSS regulations now in place.

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

Public comments may be submitted until May 17, 1996, to Cindi Bowling, LTC Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

### Virginia Medicaid Drug Utilization Review Board

**March 28, 1996 - 3 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A quarterly meeting of the board to conduct routine business.

**Contact:** Marianne R. Rollings, DUR Program Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8057 or FAX (804) 786-0414.

### Virginia Medicaid Prior Authorization and VHOP Advisory Committee

**March 28, 1996 - 4:30 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A quarterly meeting to begin immediately following adjournment of the preceding DUR board meeting to conduct routine business.

**Contact:** David B. Shepherd, Pharmacy Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773 or FAX (804) 786-0414.

## BOARD OF MEDICINE

### Informal Conference Committee

**March 22, 1996 - 9:30 a.m.** -- Open Meeting  
Marriott Hotel (formerly Kingsmill Hilton), 50 Kingsmill Road, Williamsburg, Virginia.

**March 26, 1996 - 9 a.m.** -- Open Meeting  
The Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

**April 3, 1996 - 10 a.m.** -- Open Meeting  
The Hotel Roanoke Conference Center of Roanoke, 106 Shenandoah Avenue, Roanoke, Virginia.

† **April 3, 1996 - 10 a.m.** -- Open Meeting  
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.

† April 18, 1996 - 9 a.m. -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Richmond, Virginia.

April 23, 1996 - 9:30 a.m. -- Open Meeting  
The Sheraton Inn, 2801 Plank Road, Fredericksburg,  
Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7332, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Advisory Committee on Acupuncturists

March 27, 1996 - 1 p.m. -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Board Room 1, Richmond, Virginia. ☎

The committee will meet to discuss regulatory review of VR 465-11-01, Regulations Governing the Practice of Licensed Acupuncturists, and such other issues which may be presented. The board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

### State Human Rights Committee

March 22, 1996 - 9 a.m. -- Open Meeting  
NOTE: CHANGE IN LOCATION  
Maryview Hospital, 3636 High Street, Portsmouth, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

**Contact:** Theresa P. Evans, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

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

April 17, 1996 - 9 a.m. -- Open Meeting  
James Madison Building, 109 Governor Street, 13th Floor,  
Board Room, Richmond, Virginia.

A regular meeting of the board. The agenda will be published one week in advance of the meeting.

**Contact:** Jane V. Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-7945 or FAX (804) 371-2308.

## PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ADVISORY COUNCIL

† April 18, 1996 - 9 a.m. -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Koger Center, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regularly scheduled bimonthly meeting with public comment at 11 a.m.

**Contact:** Jim Hobgood, Program Coordinator, Department for Rights of Virginians with Disabilities, Ninth Street Office Building, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2042 (Voice and TDD), FAX (804) 225-3221 or toll-free 1-800-552-3962.

## STATE MILK COMMISSION

### Ad Hoc Committee

† April 3, 1996 - 10 a.m. -- Open Meeting  
900 Natural Resources Drive, 2nd Floor Board Room,  
Charlottesville, Virginia. ☎

A meeting to review amending the regulations pursuant to Executive Order 15(94). Any person who requires accommodations in order to participate in the meeting should contact Edward C. Wilson at least five days prior to the meeting so suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 Voice or TDD ☎

## GOVERNOR'S MINED LAND RECLAMATION ADVISORY BOARD

† April 18, 1996 - 10 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 to review and discuss recent interstate mining compact commission issues associated with the coal industry.

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# Calendar of Events

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**Contact:** Danny Brown, Division Director, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Virginia Reclamation Fund Advisory Board

† **May 15, 1996 - 10 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 to review and discuss the current status and administration of the reclamation fund.

**Contact:** Danny R. Brown, Division Director, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8152, FAX (540) 523-8163 or toll-free 1-800-828-1120 (VA Relay Center).

## VIRGINIA MUSEUM OF FINE ARTS

### Collections Committee

† **March 19, 1996 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to consider gifts, purchases, and loans of art work. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Finance Committee

† **March 21, 1996 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct budget review and to consider benefits package for nonstate museum employees. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

## MOTOR VEHICLE DEALER BOARD

**March 19, 1996 - 10 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## Advertising Committee

**March 19, 1996 - 8 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## Dealer Licensing Committee

**March 18, 1996 - 10 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## Dealer Practices Committee

**March 18, 1996 - 3 p.m. -- Open Meeting**

Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## Franchise Law Committee

**March 18, 1996 - 7 p.m. -- Open Meeting**

Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## Transaction Recovery Fund Committee

**March 18, 1996 - 9 a.m. -- Open Meeting**

Department of Motor Vehicles Headquarters, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Motor Vehicle Dealer Board at (804) 367-1100 at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Motor Vehicle Dealer Board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## BOARD OF NURSING

**† March 26, 1996 - 1 p.m. -- Public Hearing**

Department of Health Professions, 6606 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia.

**† May 17, 1996 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to adopt regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The purpose of the proposed amendment is to replace an emergency regulation, which established a biennial renewal fee of \$20 for certified nurse aides.

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

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909.

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**† March 26, 1996 - 9 a.m. -- Open Meeting**

**† March 27, 1996 - 9 a.m. -- Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD

**† March 28, 1996 - 9 p.m. -- Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)



# Calendar of Events

A panel of the Board of Nursing will conduct formal hearings with licensees. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Special Conference Committee

† **March 25, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, 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:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## BOARD FOR OPTICIANS

**March 22, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board 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:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

## BOARD OF OPTOMETRY

**March 20, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. Public comments will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th

Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

**March 20, 1996 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct a formal hearing. Public comments will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

**March 20, 1996 - 1:15 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general board meeting. Public comments will be received at the beginning of the meeting.

**Contact:** Carol Stamey, Administrative Assistant, Board of Optometry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

## BOARD OF PHARMACY

† **March 26, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

A meeting to conduct informal conferences. Public comments will not be received.

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

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† **March 26, 1996 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

† **May 17, 1996** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20-10 et seq. Regulations of the Board of Pharmacy.** The purpose of the proposed amendments is to permit more flexibility in the use of technology for the transmittal and delivery of prescription drugs, to relax its requirements for continuing education, and to conform with state and federal law. The board also proposes requirements for the compounding of sterile products consistent with recognized industry standards.

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

**Contact:** Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911.

## DEPARTMENT OF STATE POLICE

**April 5, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of State Police intends to amend regulations entitled: **VR 545-01-07 [19 VAC 30-70-10 et seq.] Motor Vehicle Safety Inspection Rules and Regulations.** The purpose of the proposed amendments is to revise the Motor Vehicle Safety Inspection Rules and Regulations to be consistent with recent changes in state laws, federal regulations, and nationally accepted standards and automotive practices. Minor technical and administrative changes are included.

Statutory Authority: § 46.2-1165 of the Code of Virginia.

**Contact:** Captain W. S. Flaherty, Safety Officer, Department of State Police, Safety Division, P.O. Box 85607, Richmond, VA 23285-5607, telephone (804) 378-3479.

## POLYGRAPH EXAMINERS ADVISORY BOARD

**March 26, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board 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:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

## BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

**March 28, 1996 - 8:30 a.m.** -- Open Meeting  
**March 28, 1996 - 9:30 a.m.** -- Open Meeting  
**March 28, 1996 - 10:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

Informal conferences will be conducted pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

† **March 28, 1996 - 11:30 a.m.** -- Open Meeting

† **March 28, 1996 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 4th Floor Richmond, Virginia. ☎

A formal administrative hearing will be held pursuant to § 9-6.14:12 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

## Regulatory Committee

**March 28, 1996 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☎

A committee meeting to develop regulations for marriage and family therapists licensure. No public comment will be received.

**Contact:** Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**March 18, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Debra S. Vought, Agency Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8519, or (804) 367-9753/TDD ☎

## BOARD OF PSYCHOLOGY

† **April 16, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

# Calendar of Events

A regular board meeting. Public comments will be received beginning at 9:15 a.m.

**Contact:** M. La Donna Duhcan, Administrative Assistant, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

## REAL ESTATE BOARD

**March 28, 1996 - 9 a.m.** -- Open Meeting

**May 3, 1996 - 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 the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

## VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

**March 21, 1996 - 11 a.m.** -- Open Meeting

State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

A meeting to continue work on developing and monitoring a plan to strengthen Virginia's recycling infrastructure and markets; setting forth strategies primarily designed to improve the supply, quantity, and quality of recyclables; and providing strategies for increasing the demand for recycled products and expanding the capacity of collectors, processors, and manufacturers to handle and use specified recyclable materials. Proposed legislation on absenteeism and funding will be discussed. The meeting will be dependent on a quorum of 10. Subcommittee meetings will be held prior to or after the general council meeting; subcommittee mandates at 9 a.m. Call Paddy Katzen for details.

**Contact:** Paddy Katzen, Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488 or FAX (804) 698-4453.

## DEPARTMENT OF REHABILITATIVE SERVICES

**March 18, 1996 - 7 p.m.** -- Public Hearing

Department of Rehabilitative Services, Fair Oaks Office, 11150 Main Street, Fairfax, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 19, 1996 - 4 p.m.** -- Public Hearing

Department of Rehabilitative Services, Roanoke Office, 3433 Brambleton Avenue, S.W., Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 20, 1996 - 4 p.m.** -- Public Hearing

Woodrow Wilson Rehabilitation Center, Mary Switzer Building, Anderson Room, Fishersville, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 21, 1996 - 4 p.m.** -- Public Hearing

New Horizons Regional Education Center, 520 Butler Farm, Media Room, Hampton, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 25, 1996 - 3:30 p.m.** -- Public Hearing

Virginia Beach Public Library, 4100 Virginia Beach Boulevard, Meeting Room B, Virginia Beach, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 26, 1996 - 4 p.m.** -- Public Hearing

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 27, 1996 - 4 p.m.** -- Public Hearing

Department of Rehabilitative Services, Danville Office, 770 Piney Forest Road, Suite B, Danville, Virginia. ☎ (Interpreter for the deaf provided upon request)

**March 28, 1996 - 4 p.m.** -- Public Hearing

Department of Rehabilitative Services, Abingdon Office, 468 East Main Street, Abingdon, Virginia. ☎ (Interpreter for the deaf provided upon request)

A public hearing for people with disabilities, vocational rehabilitation professionals, and other interested individuals and groups to help develop the 1996-97 state plan for vocational rehabilitation and supported employment services. Written comments will be accepted through April 1, 1996, to Stephen Webster, or you may phone your comments to Gloria O'Neal at (804) 662-7611 or 1-800-552-5019.

**Contact:** Stephen Webster, Agency Management Analyst Senior, Department of Rehabilitative Services, P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7572, FAX (804) 662-7616, toll-free 1-800-552-5019, or (804) 464-9950/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

**† April 9, 1996 - 9:30 a.m.** -- Open Meeting


The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the authority's operations for the prior months; and to 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, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

## RICHMOND HOSPITAL AUTHORITY

### Board of Commissioners

**March 28, 1996 - 4 p.m. -- Open Meeting**  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia. 

A monthly meeting of the board to discuss nursing home operations and related matters.

**Contact:** Marilyn H. West, Chairman, Richmond Hospital Authority, 700 East Main Street, Suite 904, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.


## SEWAGE HANDLING AND DISPOSAL ADVISORY COMMITTEE

**March 21, 1996 - 10 a.m. -- Open Meeting**  
Main Street Station, 1500 East Main Street, Suite 115, Richmond, Virginia.


A regular meeting.

**Contact:** Karen Jackson, Assistant, Department of Health, P.O. Box 2448, Suite 115, Richmond, VA 23219, telephone (804) 786-1750.

## BOARD OF SOCIAL SERVICES

† **March 20, 1996 - 9 a.m. -- Open Meeting**  
† **March 21, 1996 - 9 a.m. -- Open Meeting (if necessary)**  
Ramada Hotel, 901 North Fairfax Street, Alexandria, Virginia. 

A work session and formal business meeting of the board.

**Contact:** Ray Goodwin, Deputy Commissioner, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 692-1949, toll-free 1-800-552-3431, or toll-free 1-800-552-7096/TDD 

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **March 21, 1996 - 9 a.m. -- Open Meeting**  
Colonial Farm Credit Office Building, 6526 Mechanicsville Turnpike, Conference Room, Mechanicsville, Virginia.

A regular bimonthly business meeting.

**Contact:** Linda J. Cox, Administrative Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2152.

## DEPARTMENT OF TAXATION

**March 22, 1996 - 10 a.m. -- Public Hearing**  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.


**March 31, 1996 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-439 [23 VAC 10-120-291 through 23 VAC 10-120-299]. Major Business Facility Job Tax Credit.** The regulation provides guidance for qualification, computation and recapture of the major business facility job tax credit.

Statutory Authority: § 58.1-439 of the Code of Virginia.


**Contact:** David M. Vistica, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167 or FAX (804) 367-6020.

## COMMONWEALTH TRANSPORTATION BOARD

**March 20, 1996 - 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 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.

**March 21, 1996 - 10 a.m. -- Open Meeting**  
Department of Transportation, 1401 East Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

# Calendar of Events

## TREASURY BOARD

March 20, 1996 - 9 a.m. -- Open Meeting  
April 17, 1996 - 9 a.m. -- Open Meeting  
May 15, 1996 - 9 a.m. -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: Gloria Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

## VIRGINIA RACING COMMISSION

March 20, 1996 - 9:30 a.m. -- Open Meeting  
Tyler Building, 1300 East Main Street, Richmond, Virginia. ♿

A meeting to include a report from Colonial Downs and a review of regulations relating to pari-mutuel wagering.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363, FAX (804) 371-6127 or (804) 371-6169/TDD ♿

## BOARD FOR THE VISUALLY HANDICAPPED

April 20, 1996 - 10 a.m. -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD ♿ or toll-free 1-800-622-2155.

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

March 19, 1996 - 1:30 p.m. -- Open Meeting  
Department for the Visually Handicapped, 111 Commonwealth Avenue, Bristol, Virginia. ♿ (Interpreter for the deaf provided upon request)

March 20, 1996 - 5 p.m. -- Open Meeting  
Lions Sight Foundation, 501 Elm Avenue, S.W., Roanoke, Virginia. ♿ (Interpreter for the deaf provided upon request)

March 22, 1996 - 2 p.m. -- Open Meeting  
Holiday Inn, Sunspree Resort, 39th and Atlantic, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

March 26, 1996 - 5 p.m. -- Open Meeting  
Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

March 28, 1996 - 6:30 p.m. -- Open Meeting  
Independent Living Center of Northern Virginia, 2111 Wilson Boulevard, Suite 400, Arlington, Virginia. ♿ (Interpreter for the deaf provided upon request)

March 29, 1996 - 2 p.m. -- Open Meeting  
Travel Lodge, 160 Front Royal Pike, Third Floor Banquet Meeting Room, Winchester, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to invite comments from the public regarding vocational rehabilitation services for persons with visual disabilities. All comments will be considered in developing the state plan for this program.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD or toll-free 1-800-622-2155.

## Advisory Committee on Services

† April 20, 1996 - 10 a.m. -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth. A portion of the meeting will be conducted jointly with the Board for the Visually Handicapped.

Contact: Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

## VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† March 27, 1996 - 1 p.m. -- Open Meeting  
Holiday Inn Airport, 201 East Nine Mile Road, Richmond, Virginia.

A council business session.

Contact: Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

† March 28, 1996 - 8:30 a.m. -- Open Meeting  
Holiday Inn Airport, 201 East Nine Mile Road, Richmond, Virginia.

Committee meetings will be conducted at 8:30 a.m., a business session at 9 a.m., and a joint meeting with the Board of Education at 1 p.m.

**Contact:** Jerry M. Hicks, Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218.

**VIRGINIA WASTE MANAGEMENT BOARD**

**March 20, 1996 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, First Floor, Richmond, Virginia (Interpreter for the deaf provided upon request)

As required by § 10.1-1429.1 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations to allow voluntary remediation of contaminated property. The purpose of this meeting is to obtain comments and advice from interested parties on desirable features to be incorporated into the Voluntary Remediation Regulations. Written comments can be submitted to the Department of Environmental Quality no later than April 20, 1996, to assure consideration. Interested parties should contact the Department of Environmental Quality prior to attendance to confirm the meeting's occurrence, location, and time.

**Contact:** Dr. Wladimir Gulevich, Office of Technical Assistance, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4236, FAX (804) 698-4327 or (804) 698-4021/TDD

**STATE WATER CONTROL BOARD**

**March 21, 1996 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting of the board

**Contact:** Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

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**March 25, 1996 - 7 p.m.** -- Public Hearing  
Rockingham County Board of Supervisors Room, 20 East Gay Street, Harrisonburg, Virginia.

**March 26, 1996 - 1 p.m.** -- Public Hearing  
Municipal Office Building, 150 East Monroe Street, Multi Purpose Room, Wytheville, Virginia.

**March 27, 1996 - 7 p.m.** -- Public Hearing  
James City County Board of Supervisors Room, 101 C Mounts Bay Road, Building C, Williamsburg, Virginia.

**March 28, 1996 - 1:30 p.m.** -- Public Hearing  
Prince William County Administration Center, One County Complex, 4850 Davis Ford Road, McCoart Building, Board Chambers, Prince William, Virginia.

**April 22, 1996** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed amendments is to amend the Water Quality Standards as part of the state's triennial review of the regulation and to meet federal requirements.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of each public hearing at the same location. Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mrs. Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA, 23240, or by telephone at (804) 698-4111 or TDD (804) 698-4261. Persons needing interpreter services for the deaf must notify Mrs. Daub no later than 4 p.m. on Thursday, March 7, 1996.

Other Pertinent Information: The department has conducted analyses on the proposed action related to basis, purpose, substance, issues and estimated impacts. These are available upon request from Ms. Eleanore Daub at the address below.

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

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

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**March 28, 1996 - 1:30 p.m.** -- Public Hearing  
Prince William County Administration Center, One County Complex, 4850 Davis Ford Road, McCoart Building, Board Chambers, Prince William, Virginia.

**April 22, 1996** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-415-10 et seq. Policy for the Potomac River Embayments.** The purpose of the proposed regulation is to establish effluent limits for sewage treatment plants discharging into the Potomac River in Virginia from the Chain Bridge in Arlington County to Route 301 Bridge in King George County.

Question and Answer Period: A question and answer period will be held one-half hour prior to the beginning of the public hearing at the same location. Department of Environmental Quality staff will be present to answer questions regarding the proposed action.

Accessibility to Persons with Disabilities: The meetings will be held at public facilities believed to be accessible to persons

## Calendar of Events

with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Tom Faha, Department of Environmental Quality, 1519 Davis Ford Road, Suite 14, Woodbridge, VA, 22192, or by telephone at (703) 490-8922 or TDD (804) 698-4261. Persons needing interpreter services for the deaf must notify Mr. Faha no later than 4 p.m. on Thursday, March 7, 1996.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

**Contact:** Tom Faha, Department of Environmental Quality, Northern Regional Office, 1519 Davis Ford Road, Suite 14, Woodbridge, VA 22192, telephone (703) 490-8922.

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**April 11, 1996 - 2 p.m. -- Public Hearing**  
Roanoke County Administration Center, 5204 Bernard Drive, Board of Supervisor's Room, Roanoke, Virginia.

**NOTE: CHANGE IN PUBLIC HEARING DATE AND TIME**

**April 12, 1996 - 2 p.m. -- Public Hearing**  
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

**April 15, 1996 - 2 p.m. -- Public Hearing**  
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

**May 6, 1996 -- Public comments may be submitted until this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-110-10 et seq. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposal is to readopt, with amendments, the general VPDES permit for discharges of treated wastewater from individual home treatment works and other small volume sources of domestic sewage.

**Question and Answer Period:** A question and answer period will be held one-half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to Persons with Disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Richard W. Ayers at the address below. Persons needing interpreter services for the deaf should notify Mr. Ayers no later than April 5, 1996.

**Request for Comments:** The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Also, comments regarding the benefits of the stated alternative or any other alternatives are welcome.

**Other Information:** The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Ayers at the address below.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

**Contact:** Richard Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4075.

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**April 4, 1996 - 10 a.m. - Open Meeting**  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

### BOARD OF YOUTH AND FAMILY SERVICES

**April 10, 1996 - 9 a.m. -- Open Meeting**  
Department of Youth and Family Services, 700 East Main Street, Richmond, Virginia.

Beginning at 9 a.m., committees will meet to review secure and nonsecure services; at 10 a.m. the full board will meet to act on certifications, policy matters, and other business that may come before the board.

**Contact:** Donald R. Carignan, Policy Analyst, Department of Youth and Family Services, 700 Centre, 700 E. Main St., P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

## INDEPENDENT

### STATE LOTTERY BOARD

**† March 27, 1996 - 9:30 a.m. -- Open Meeting**  
State Lottery Department, 900 East Main Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

**Contact:** Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main

St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

† **March 28, 1996 - 10 a.m.** -- Open Meeting  
General Assembly Building, Speaker's Conference Room,  
6th Floor, 910 Capitol Square, Richmond, Virginia. ☎

A regularly scheduled meeting to continue recodification of Title 15.1.

**Contact:** E. M. Miller, Director, or Jane Chaffin, Assistant Registrar, Division of Legislative Services, General Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### March 18

Alcoholic Beverage Control Board  
Contractors, Board for  
Game and Inland Fisheries, Department of  
Library Board  
- Automation and Networking Committee  
- Executive Committee  
- Legislative and Finance Committee  
- Records Management Committee  
- Research and Information Services Committee  
Motor Vehicle Dealer Board  
- Dealer Licensing Committee  
- Dealer Practices Committee  
- Franchise Law Committee  
- Transaction Recovery Fund Committee  
Professional and Occupational Regulation, Board for  
Rehabilitative Services, Department of

#### March 19

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Department of  
- Land Surveyor Board  
Environmental Quality, Department of  
- Virginia Ground Water Protection Steering  
Committee  
† Funeral Directors and Embalmers, Board of  
Medical Assistance Services, Board of  
Motor Vehicle Advisory Board  
- Advertising Committee  
† Museum of Fine Arts, Virginia  
- Collections Committee  
Visually Handicapped, Department for the

#### March 20

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
Environmental Quality, Department of  
† Funeral Directors and Embalmers, Board of

Game and Inland Fisheries, Department of  
George Mason University  
- Board of Visitors  
Historic Resources, Board of  
- State Review Board  
Local Debt, State Council on  
Optometry, Board of  
† Social Services, Board of  
Transportation Board, Commonwealth  
Treasury Board  
Virginia Racing Commission  
Visually Handicapped, Department for the

#### March 21

Asbestos Licensing and Lead Certification, Board for  
† Conservation and Recreation, Department of  
- Caledon Natural Area Ad Hoc Committee  
Health, Department of  
- Commissioner's Waterworks Advisory Committee  
† Health, State Board of  
Labor and Industry, Department of  
- Apprenticeship Council  
† Museum of Fine Arts, Virginia  
- Finance Committee  
Recycling Markets Development Council, Virginia  
Sewage Handling and Disposal Advisory Committee  
† Social Services, Board of  
† Soil and Water Conservation Board  
Transportation Board, Commonwealth  
Water Control Board, State

#### March 22

† Conservation and Recreation, Department of  
- Goose Creek Scenic River Advisory Board  
Correctional Education, Department of  
Dentistry, Board of  
† Health, State Board of  
Medicine, Board of  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
- State Human Rights Committee  
Opticians, Board for  
Visually Handicapped, Department for the

#### March 25

Agricultural Council, Virginia  
Housing Development Authority, Virginia  
† Nursing, Board of

#### March 26

Agricultural Council, Virginia  
† Chesapeake Bay Local Assistance Board  
Health Services Cost Review Council, Virginia  
Housing Development Authority, Virginia  
† Marine Resources Commission  
Medicine, Board of  
† Nursing, Board of  
† Pharmacy, Board of  
Polygraph Examiners Advisory Board  
Visually Handicapped, Department for the

#### March 27

Arts, Commission for the  
† Lottery Board



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## Calendar of Events

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Medicine, Board of  
- Advisory Committee on Acupuncturists  
† Nursing, Board of  
† Vocational Education, Virginia Council on

### March 28

† Agriculture and Consumer Services, Department of  
- Virginia Dark-Fire Tobacco Board  
† Compensation Board  
† Education, Board of  
Medical Assistance Services, Department of  
- Virginia Medicaid Drug Utilization Review Board  
- Virginia Medicaid Prior Authorization and VHOP  
Advisory Committee  
† Nursing, Board of  
Professional Counselors and Marriage and Family  
Therapists, Board of  
- Regulatory Committee  
Real Estate Board  
Richmond Hospital Authority  
- Board of Commissioners  
Visually Handicapped, Department for the  
† Vocational Education, Virginia Council on

### March 29

† Information Management, Council on  
Visually Handicapped, Department for the

### April 1

Alcoholic Beverage Control Board  
† Barbers, Board for

### April 2

Air Pollution Control Board, State  
† Health, Department of  
Hopewell Industrial Safety Council

### April 3

† Agriculture and Consumer Services, Department of  
- Winegrowers Advisory Board  
† Emergency Planning Committee, Local - Winchester  
† Medicine, Board of  
† Milk Commission, State

### April 4

Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Waterworks and Wastewater Works Operators, Board  
for

### April 8

† Cosmetology, Board for

### April 9

† Resources Authority, Virginia

### April 10

Youth and Family Services, Board of

### April 11

Agriculture and Consumer Services, Department of  
- Pesticide Control Board  
† Health, Department of  
- Biosolids Use Regulations Advisory Committee  
- Biosolids Use Information Committee

### April 15

Alcoholic Beverage Control Board

### April 16

† Psychology, Board of

### April 17

Local Debt, State Council on  
Mental Health, Mental Retardation and Substance Abuse  
Services Board, State  
Treasury Board

### April 18

† Fire Services Board, Virginia  
- Fire/EMS Education and Training Committee  
- Fire Prevention and Control Committee  
- Legislative/Liaison Committee  
† Medicine, Board of  
† Mental Illness Advisory Council, Protection and  
Advocacy for Individuals with  
† Mined Land Reclamation Advisory Board, Governor's

### April 19

† Fire Services Board, Virginia

### April 20

Visually Handicapped, Board for the  
† Visually Handicapped, Department for the  
- Advisory Committee on Services

### April 22

Accountancy, Board for

### April 23

Accountancy, Board for  
† Aviation Board, Virginia  
Medicine, Board of

### April 24

† Aviation Board, Virginia  
Emergency Planning Committee - Local, Gloucester

### April 25

† Compensation Board  
† Game and Inland Fisheries, Board of

### April 26

† Child Fatality Review Team, Virginia State  
† Environmental Quality, Department of  
- Technical Advisory Committee for Solid Waste  
Management Regulations

### April 29

Alcoholic Beverage Control Board

### May 2

† Environmental Quality, Department of  
- Work Group on Ammonia, Mercury, Lead and  
Copper with respect to Water Quality Standards

### May 3

Real Estate Board

### May 7

Hopewell Industrial Safety Council

**May 10**

† Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board

**May 13**

Alcoholic Beverage Control Board

**May 15**

Local Debt, State Council on  
† Mines, Minerals and Energy, Department of  
- Virginia Reclamation Fund Advisory Board  
Treasury Board

**May 29**

Alcoholic Beverage Control Board

**May 31**

† Environmental Quality, Department of  
- Technical Advisory Committee for Solid Waste  
Management Regulations

**April 18**

† Fire Services Board, Virginia

**April 22**

† Housing and Community Development, Board of

## PUBLIC HEARINGS

**March 18**

Rehabilitative Services, Department of

**March 19**

Rehabilitative Services, Department of

**March 20**

Rehabilitative Services, Department of

**March 21**

Rehabilitative Services, Department of

**March 22**

Taxation, Department of

**March 25**

Rehabilitative Services, Department of  
Water Control Board, State

**March 26**

Rehabilitative Services, Department of  
Water Control Board, State

**March 27**

Rehabilitative Services, Department of  
Water Control Board, State

**March 28**

Rehabilitative Services, Department of  
Water Control Board, State

**April 8**

Air Pollution Control Board, State

**April 9**

Air Pollution Control Board, State

**April 12**

† Water Control Board, State

**April 15**

† Water Control Board, State

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