

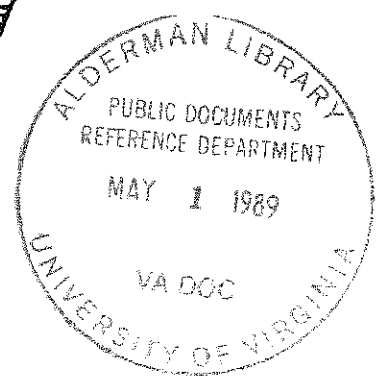
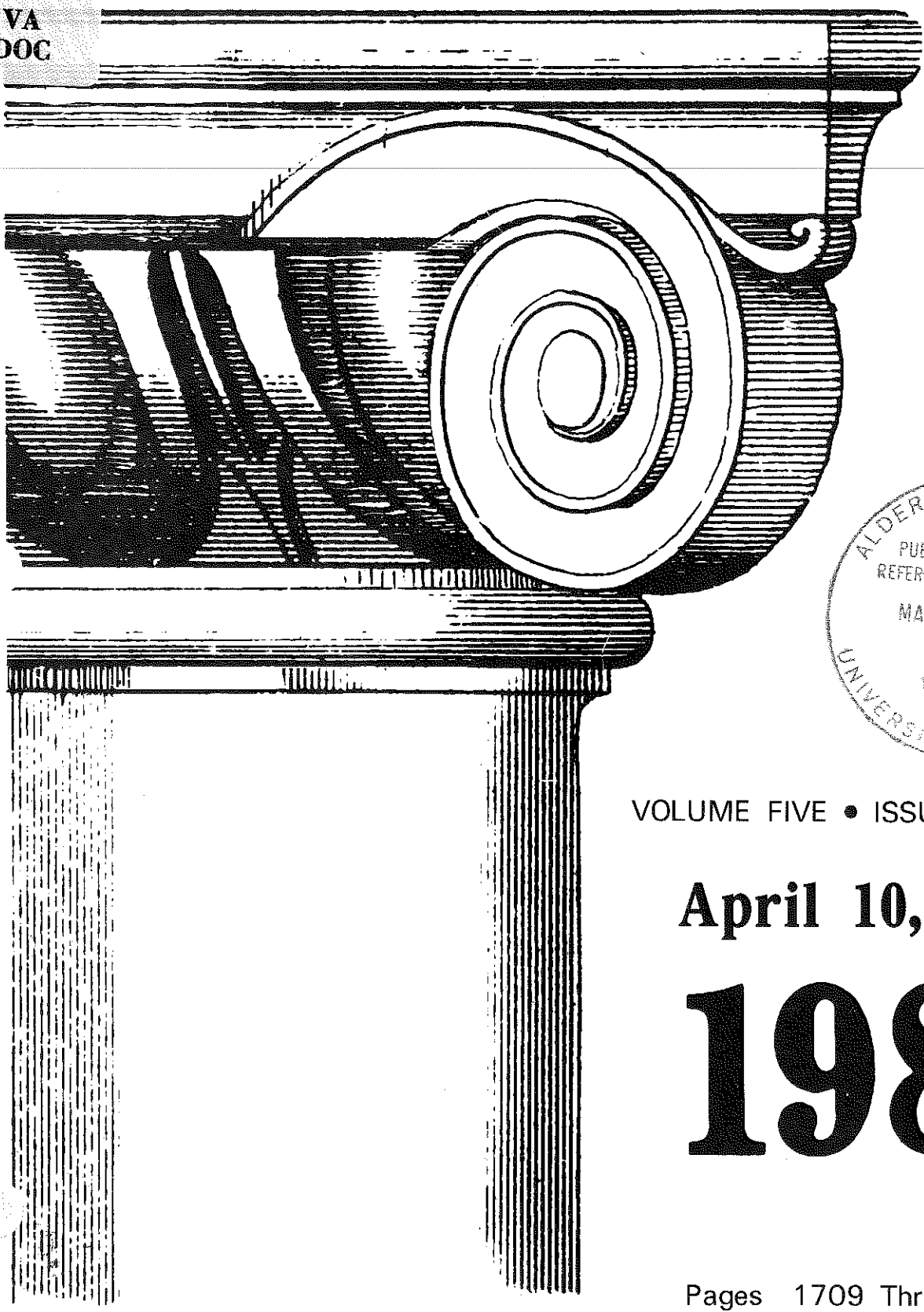
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THE VIRGINIA REGISTER

OF REGULATIONS

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April 10, 1989

1989

Pages 1709 Through 1888

INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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Symbol Key

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

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

REGISTRAR'S NOTICE: The following regulations are exempted from the Administrative Process Act under the provisions of § 9-6.14:4.1 B 4 of the Code of Virginia, which excludes agency action relating to grants of state or federal funds or property.

Title of Regulation: VR 394-01-103. Multifamily Rehabilitation Loan Program (Formerly: Multifamily Rehabilitation and Energy Conservation Loan Program).

Statutory Authority: Chapter 9 (§§ 36-137 et seq.) of Title 36 of the Code of Virginia.

Public Hearing Date: N/A

(Written comments may be submitted until April 21, 1989. See Calendar of Events section for additional information.)

Summary:

The Department of Housing and Community Development has adopted the proposed changes to the program guidelines for the purpose of more effectively responding to the critical housing problems facing the Commonwealth. The purpose of the Housing Partnership Fund is to increase the availability of decent and affordable housing for low- and moderate-income Virginia residents. The Multifamily Housing Loan Program provides low interest loans from the Virginia Housing Partnership Fund. This program is available to owners of rental housing. The purpose of the program is to increase the supply and quality of rental housing available to low- and moderate-income residents.

VR 394-01-103. Multifamily Rehabilitation Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Accessibility improvement" means an eligible interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary, everyday tasks in the home.

"Applicant" is a nonprofit, incorporated organization or governmental entity which has submitted to the state, an application for consideration to become a local administrator or project sponsor of the Multifamily Housing Rehabilitation and Energy Conservation Loan Program.

"Application" is the request, on behalf of a prospective local administrator or project sponsor for a loan fund reservation for administration of the Multifamily Housing Rehabilitation and Energy Conservation Loan Program in accordance with these guidelines.

"Appraised value" is the value of the multifamily property home as determined by an independent fee appraiser.

"Area median income" means the median income established by HUD from time to time for various areas of the Commonwealth, or the state median income, means the statewide median income, as established by the University of Virginia Center for Public Services.

"Borrower" is the person(s), family, nonprofit or for-profit organization ~~who~~ which has been approved by the state, for funding from the Multifamily Rehabilitation and Energy Conservation Loan Program.

"Commitment fee" is the amount charged to the borrower by the local administrator to cover loan administration services. This fee may not exceed \$100 per loan.

"DHCD" means the Department of Housing and Community Development.

"Fund" means the Housing Partnership Revolving Loan Fund.

"General improvements" means ~~improvements~~ additions, alterations, renovations, or repairs made for the purpose of making housing more habitable or more desirable to live in or to make the home more habitable. These improvements must be permanent ~~and may include additions, alterations, renovations, or repairs to the home.~~ Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for properties of the same general type as the property to be improved.

"Gross income" is the total income of all residents ~~of~~ age 18 or older, residing in the housing unit; ~~age 18 or older,~~ from all sources and before taxes or withholding.

Proposed Regulations

"HQS" means HUD Section 8 Housing Quality Standard.

"HUD" means the Department of Housing and Urban Development.

"Loan application" is to request to a local administrator or ~~VHDA~~, the state by the borrowers, to obtain funding for purposes as defined in the Multifamily Rehabilitation and Energy Conservation Loan Program Guidelines.

"Local administrator" is a nonprofit, incorporated organization or governmental entity, with which the Department of Housing and Community Development, in its sole discretion, enters into a contract for local administration of the Multifamily Rehabilitation Loan Program. Examples of eligible local administrators include but are not limited to : cities, counties, towns, redevelopment and housing authorities, community action agencies, area agencies on aging, independent nonprofit housing organizations and others.

"Locality" means a city or county.

"Multifamily" means property with two or more complete dwelling units.

"Program" is the Multifamily Housing Rehabilitation and Energy Conservation Loan Program.

"Project sponsor" is a nonprofit, for-profit or governmental entity seeking to obtain funds for the acquisition and/or rehabilitation of a specific multifamily structure or structures in accordance with the program guidelines.

"Servicing fee" is an addition to the loan interest rate of up to 1/2% by the local administrator for the purpose of defraying the cost of servicing the loan.

"State" means the Department of Housing and Community Development or other entity designated by the department to act on its behalf.

"Stripper Oil Funds" are United States, Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers.

"VHDA" means Virginia Housing Development Authority.

PART II ELIGIBILITY.

§ 2.1. Eligible local administrators.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia; or

B. Governmental entities , including local redevelopment and housing authorities .

§ 2.2. Eligible project sponsors.

A. ~~Year I - 1980-90.~~

1. Nonprofit organizations; incorporated under the laws of the Commonwealth of Virginia; or

2. Governmental entities ; including local redevelopment and housing authorities;

B. ~~Year II - 1990-91.~~

1. Those defined in § 2.2 A;

2. 3. Private, for-profit corporations; or

3. 4. Individual investors.

§ 2.3. Eligible activities.

Loan funds may be used to rehabilitate or to acquire and rehabilitate existing multifamily housing.

A. After acquisition, funds must first be used to bring the property up to HUD Section 8 Housing Quality Standard (HQS).

B. Energy improvements which exceed HUD Section 8 Housing Quality Standards are encouraged. Eligible energy improvements must be prior approved by the state. The following are examples of eligible energy improvements:

1. Installation or replacement of storm doors and windows;

2. Caulking/weatherstripping;

3. Roof, floor and wall repair as associated with insulation improvements;

4. Furnace repair.

The following improvements will be eligible for grant funds from Stripper Oil Well Funds.

Allowable improvements:

1. Storm windows

2. Frameless plastic glazing

3. Movable window insulation systems, (i.e., shade screens, louvers and awnings)

4. Storm doors

5. Replacement windows

6. Replacement doors

7. Caulking;

- a. Glazing
 - b. Gasket
 - c. Weatherstripping
 - d. Vapor barriers
8. Thermostats:
- a. Clock
 - b. Auto set back
 - c. Line voltage
 - d. Auto gas system
9. Heat exchangers
10. Hot water heat pumps
11. Repair or replacement of defective heating system:
- a. Oil
 - b. Gas
 - c. Wood
 - d. Solar
 - e. Heat pump
 - f. Installation of gas conversion burners
 - g. Boilers
 - h. Electric
 - i. Radiator and valves
 - j. Duct insulation
 - k. Air ducts and connectors
 - l. Chimneys/fire places
 - m. Tanks (fuel)
 - n. Water heat recovery device
12. Water heater repair or replacement:
- a. Insulate tank and pipes
 - b. Install heat traps in inlet/outlet pipe
 - c. Water pipe heater strips
 - d. Dampers
 - e. Water flow controls
13. Paint:
- a. White paint may be used as a heat reflector on awnings, louvers, doors and duct.
 - b. Exterior paint used to cover and/or seal bare siding, soffit, fascia, rake, trim, etc.
14. Insulation:
- a. Attic
 - b. Walls
 - c. Floors
 - d. Skirting
 - e. Vapor barriers
 - f. Material and construction of vestibules
15. Roofing to replace or repair defective leaking roofs
16. Siding repair to effectively close openings or damaged area
17. Trim, soffit, fascias, etc., to repair damaged, rotten open areas
18. Venting - gable ends or appropriate attic and crawl space venting
19. Material and labor used to repair and replace rotten, damaged and open floor and subfloor areas.
- C. Funds may also be used for other general improvements.
- D. Luxury improvements are prohibited.
- E. Upon completion of the rehabilitation, the property must ~~comply with~~ meet HUD Section 8 Housing Quality Standards as well as zoning and other local requirements for planned use.
- F. Reasonable fees and expenses incurred in the process of obtaining the loan may be financed in the loan, including credit report fee, appraisals, engineering and architectural fees, legal fees, recording costs, and commitment fees.
- § 2.4. Eligible properties.
- A. Existing structures with two or more units.
 - B. To qualify as a rehabilitation project, 75% of the exterior walls must be retained.

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C. Conversion of commercial or institutional properties to residential use is permitted as long as the property is in conformance with zoning and other local requirements for multifamily use upon completion of the project.

D. Properties must not meet HUD Section 8 Housing Quality Standards (HQS) prior to rehabilitation, unless otherwise approved by the state.

E. Local administrators will not be allowed to make loans on complexes larger than 10 units unless otherwise approved by the state.

PART III.

TARGET POPULATION OCCUPANCY AND RENT REQUIREMENTS .

§ 3.1. Target population Occupancy requirements .

The target population for occupancy of multifamily housing sponsored funded with Housing Partnership Funds will be Multifamily loans is low and moderate income persons and families. A minimum The percentage of the units which must be occupied by these persons for the entire term of the loan. varies according to the following two paragraphs. All occupancy requirements must be met for the full term of the loan. All income units must be adjusted for family size:

A. Local administrators are required to ensure that 80% of all units within each project are occupied by persons or families with incomes at or below 80% of median or:

B. The Project sponsor sponsors must select one of three occupancy options at the time of application and must comply with it for the term of the loan:

Option 1: A minimum of 20% of the units must be reserved for persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 2: A minimum of 40% of the units must be reserved for persons within incomes at 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service , whichever is higher.

Option 3: A minimum of 80% of the units must be reserved for persons within incomes at 80% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

§ 3.2. Rent requirements.

The owner must inform the state of any changes in

rents charged within the project. State approval is required if proposed rents (including utility costs) on low- and moderate-income units exceed 25% of 80% of the applicable income limit for the unit.

PART IV. DISTRIBUTION OF FUNDS.

§ 4.1. Distribution of funds.

Funds will be distributed annually through a competitive process. Separate application and funding cycles will be held for local administrators and for project sponsors.

A. Dollar limitation per locality Maximum funding for project sponsor and locality .

During the first year (1988-89) each locality will be limited to a maximum of \$500,000 in Multifamily Rehabilitation Loan Funds. During the second year (1989-90) There will be a limitation of \$1 million per project sponsor and \$2 million per locality for both project sponsor and local administrator for each funding cycle . This limitation may be waived if no other approvable applications have been submitted unallocated program funds remain after the competitive review and selection process has been completed .

B. Fund reservation for local administrators.

1. Forty percent of all loan funds during each funding cycle will be set aside for local administrators.

2. Loan funds will be made available initially on a competitive basis to eligible local administrators , in accordance with the selection criteria described in § 7.1 of these guidelines .

3. Upon selection, an allocation will be reserved for a six-month period to allow time for program start-up.

4. The allocation will be divided into two portions: the nonenergy related unrestricted rehabilitation portion will be provided from the state's General Fund Appropriation and may be used for any eligible improvements as defined in § 2.3 of this regulation . The energy eligible related rehabilitation portion will be provided from the state's Stripper Oil Well Fund. Local administrators will only be able to use the Stripper Oil Well moneys for eligible energy related improvements as defined in § 2.2 § 2.3 B .

5. Local administrators will have 18 12 months to fully commit their initial allocation. Projects Progress toward this goal will be reviewed quarterly , and the state may adjust or withdraw the local administrator's allocation based upon its performance .

6. Any funds remaining after the competitive awards may be available to applicants on a first come/first serve basis. Eligible applicants for first

Proposed Regulations

come/first serve funds include new applicants or previous applicants who have committed 80% of their initial allocation.

4 or more

17,500

These limits refer only to funds from the program.

C. Fund reservation for project sponsor.

1. Sixty percent of all loan funds during each funding cycle will be set aside for project sponsors.

2. Loan funds will be made available initially on a competitive basis to eligible project sponsors in accordance with the selection criteria established in § 7.1 of these guidelines .

3. Upon selection, a program loan reservations reservation will be made to a project sponsor for up to six months. This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the state, if appropriate, but under no circumstances to exceed six additional months.

4. A project sponsor's allocation will be divided into two portions: The nonenergy related rehabilitation unrestricted portion will be provided from the state's General Fund Appropriation and may be used for any eligible improvements, as defined in § 2.3 . The eligible energy related rehabilitation portion will be provided from the state's Stripper Oil Well Fund and may be used only for eligible energy related improvements, as defined in § 2.3 B .

D. Term of local administrator/project sponsor set asides.

Set asides for local administrators (40%) and project sponsors (60%) should be in effect for six months from the date on which the state announces the fund reservations. If unallocated funds remain at the end of six months, the state may make funds available on a first come, first serve basis to eligible applicants without regard to whether they are project sponsors or local administrators.

E. Per unit limitation.

The limitation on the loan amount per unit is based upon unit size. The following per unit limitations will apply:

Bedroom Size	Dollar Loan Limitation Maximum Loan Amount
Efficiency or 1	\$10,000
2	12,500
3	15,000

PART V.

LOAN TERMS AND CONDITIONS.

§ 5.1. Loan terms and conditions.

A. Interest rate.

Statewide program: The target average interest rate for loans originated and serviced by VHDA or local administrators and funded from the General Fund appropriation is 6.0%. Loans may be made at rates as low as 2.0% and as high as 8.0%, dependent upon the needs of the project.

Loans for Eligible energy improvements which are funded from the Stripper Oil Well Fund shall bear an interest rate of 0% will be provided as a grant .

B. Term.

The maximum term for loans will be 15 years . for loans funded from the General Appropriation Fund: Grants are subject to repayment if the borrower violates program requirements. Repayment must be made in full if such violation occurs within four years from the date the grant is closed. Beginning in the fifth year, this repayment obligation is reduced at the rate of 25% per year. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

The energy related portion of the loan, if funded from the Stripper Oil Well Fund, shall be deferred for the first four years and shall be forgiven at a rate of 25% per year beginning in the fifth year.

C. Deferrals of principal payments or of both principal and interest payments may be allowed for up to five years. An alternative deferral technique allowing a delayed amortization of the loan may also be permitted. The loan underwriter with state shall determine the feasibility of any payment deferral or amortization deferral for each project. The use of such options may require higher interest rates to be paid during the loan repayment period.

D. Instruments for loan security.

1. General requirements. The borrowers(s) must be the sole owner(s) of the property. A title opinion and title insurance will be required for all loans unless otherwise approved by the state. Hazard insurance is required in such terms and amounts as specified by the state.

2. Lien requirements. A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the

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~~energy related rehabilitation general fund~~ portion of the loan and the amount securing the ~~nonenergy related Stripper Oil Well Fund~~ portion of the loan grant . The ~~nonenergy related general fund~~ portion shall remain in effect until the loan is amortized for the term of the loan . Starting the fifth year, the ~~energy related Stripper Oil Well~~ portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met *In no event shall the Stripper Oil Well lien extend beyond July 1, 1998 .*

The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

D. E. Loan underwriting criteria.

~~Other Specific~~ underwriting criteria which ~~will apply are applicable~~ to these loans ~~will be have been~~ established by ~~VHDA the state~~ . These will include an evaluation of the ~~locational amenities, site, project design and amenities, the market for the project, the experience and credit rating of the financial capacity~~ sponsors and contractors, architectural and engineering studies, ~~site topography the value of the project~~ , financial risks and other considerations. Each project will be evaluated to assess the potential cash flow available to pay debt service and operating expenses.

The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% for other sponsors. The state may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis.

E. F. Loan servicing.

VHDA will close the loans, conduct *construction* inspections, disburse proceeds, service the loans and provide ongoing management oversight *for loans made to project sponsors* . Local administrators may service loans upon approval by the state of *their* servicing procedures. Such approved agents may charge a servicing fee of up to 1/2% *which is added to the loan interest rate* and a reasonable commitment fee of up to 1.0% of the loan amount .

F. Loan-to-value ratio.

The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% for other sponsors. The state may permit the ratio to exceed 100% under special circumstances to be considered on a case by case basis.

G. Sale or transfer restrictions.

Loans made under this program will be assumable as long as the property use, income requirements, occupancy levels, housing conditions and other *state program* requirements are maintained for the term of the loan. An annual review will be made to assure project compliance. Approval by the state will be required for loans to be assumed.

H. Prepayment of loan.

Prepayment of a loan *loans* under this program will be prohibited ~~unless approved by the state~~ .

I. Loan liability.

~~Organizations involved in the underwriting and approval of program loans~~ *Local administrators* will not be held liable to the state for repayment of any loan in the event of default by a ~~project borrower~~ .

PART VI. DISPLACEMENT.

§ 6.1. Displacement.

Projects which result in no or minimal displacement are encouraged. Where displacement is unavoidable, a sponsor's willingness and ability to assist current tenants in finding alternative housing both temporarily during rehabilitation and permanently will be considered in the selection of projects. A project which causes no displacement will be given the highest priority. Other projects will be required to include a description of the assistance (including counseling and *financial* reimbursement) to be given to displaced persons. Projects providing a greater level of assistance will be given higher priorities for loans.

PART VII. EVALUATION CRITERIA.

§ 7.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for such loans, a ~~competitive system~~ will be established to determine which projects will receive loans. ~~Criteria for evaluating and ranking projects are described below: Local administrators and project sponsors are selected to receive program funding through separate competitive funding cycles. Different criteria have been established fo each of these competitions.~~

A. Local need, demand and impact *Project sponsors* .

1. Local need, demand and impact. The need and demand for affordable multifamily housing for low and moderate income persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact

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on the community of the proposed project.

B. 2. Income level and households served. Projects which serve a higher proportion of lower income households than the minimum required in § 3.1 and serve large families shall be given a higher priority.

C. Program design.

For eligible organizations applying to become local administrators, the extent to which the program design effectively and appropriately addresses the identified local needs and the priorities. Also, the extent to which the program design is thorough and complete:

3. Project readiness and project feasibility. The project sponsor has obtained site control; secured other financial commitments; developed final plans and specifications; the project is financially feasible and construction will commence in a timely fashion will be a factor.

4. Innovation. The extent to which the project is innovative or represents a breakthrough technology.

D. 5. Leveraging. The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor in evaluating proposals.

E. Family housing.

Projects which provide a greater proportion of units with two or more bedrooms shall be given a higher priority.

F. 6. Displacement. As described in § 6.1 the extent to which a project causes displacement, and the displacement assistance provided by the sponsor shall be a factor in ranking proposals.

7. Project sponsor experience. The experience and expertise of the project sponsor or development team to carryout the project according to the terms and conditions of the program.

B. Local administrators.

1. Program design. The extent to which the program outlines the necessary elements and staffing capacity to carryout a Multifamily Rehabilitation Program.

2. Coordination. How well the program is coordinated with other community initiatives and housing priorities.

3. Leveraging. The extent to which other federal, local or private below market financing or other housing assistance is included in the program.

4. Administrative capability. The overall experience

and expertise of the staff to carryout the program design and overall administration of the program.

5. Community need. The overall need and demand for Multifamily Housing for low- and moderate-income persons in the proposed service area.

Title of Regulation: VR 394-01-104. Congregate Loan Program (Formerly: Congregate Housing).

Statutory Authority: Chapter 9 (§§ 36-141 et seq.) of Title 36 of the Code of Virginia.

Public Hearing Date: N/A

(Written comments may be submitted until April 21, 1989. See Calender of Events section for additional information.)

Summary:

The Department of Housing and Community Development has adopted the proposed changes to the program guidelines for the purpose of more effectively responding to the critical housing problems facing elderly and disabled residents. The purpose of the Housing Partnership Fund is to increase the availability of decent and affordable housing for low-and moderate-income Virginia residents. The Congregate Loan Program provides low interest loans from the Virginia Housing Partnership Fund. This program is available to owners of congregate housing. The purpose of the program is to increase the supply and quality of congregate housing available to low-and moderate-income residents.

VR 394-01-104. Congregate Loan Program.

PART I. PURPOSE OF THE PROGRAM.

§ 1.1. Purpose of the program:

Responding to critical housing problems facing the Commonwealth, as documented in the 1987 Annual Report of the Virginia Housing Study Commission, the Governor and the General Assembly established the Virginia Housing Partnership Revolving Loan Fund. The purpose of the fund is to create and increase the availability of quality housing for low and moderate Virginia residents. The primary purpose of the Congregate Housing and Energy Conservation Loan Rehabilitation Program will be to provide decent, affordable housing opportunities and to expand the number of congregate housing available for the elderly, the mentally disabled and the physically disabled throughout the Commonwealth of Virginia.

PART II. DEFINITIONS.

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§ 2-1. § 1.1. Definitions.

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

"*Accessibility improvement*" means an interior or exterior modification made to an eligible property to compensate for a disabled person's reduced mobility or ability to perform necessary tasks in the home.

"*Applicant*" is a nonprofit or for-profit corporation or governmental entity, which has submitted to the state, an application for funding from the Congregate ~~Housing Rehabilitation~~ *Loan Program* according to the program guidelines.

"*Application*" is the request, on behalf of the applicant, for funding from the Congregate ~~Housing Rehabilitation~~ *Loan Program*.

"*Appraised value*" is the value of the *congregate* facility as determined by an independent fee appraiser.

"*Area median income*" means the median income established by the HUD from time to time for various areas of the Commonwealth, or the state median income, means the statewide median income as established by the University of Virginia Center for Public Service.

"*Assessed value*" is the value of the home as determined by the real estate assessment office of the local government body for tax purposes. The applicable assessed value shall be that value which is in effect as of the *loan application date*.

"*Borrower*" is the for-profit or nonprofit corporation or governmental entity eligible to receive funding from the Congregate ~~Housing~~ *Loan Program*.

"*DHCD*" means the Department of Housing and Community Development.

"*Fund*" means the Housing Partnership Revolving Loan Fund.

"*General improvements*" means ~~improvements~~ *additions, alterations, renovations or repairs* made for the purpose of making housing more *habitable or more desirable* to live in ~~or to make the home more habitable~~. These improvements must be permanent and may include ~~additions, alterations, renovations, or repairs to the home~~. Improvements shall not include materials, fixtures, or landscapes of a type or quality which exceed that customarily used in the locality for the properties of the same general type as the property to be improved.

"*Gross income*" is the total annual income of all residents of a *age 18 or older residing in the housing unit*, from all sources and before taxes or withholding.

"*HQS*" means the HUD Section 8 Housing Quality Standard.

"*HUD*" means the Department of Housing and Urban Development.

"*Loan application*" means the request to the state on behalf of the borrower to obtain funds for the purpose as defined in the Congregate ~~Housing~~ *Loan Program* Guidelines.

"*Loan application date*" is the date on which a completed application is received by the state.

"*Locality*" means a city or county.

"*Program*" means the Congregate ~~Housing~~ *Loan Program*.

"*State*" means the Department of Housing and Community Development or such other entity as DHCD shall designate.

"*Stripper oil well*" are *United States, Department of Energy moneys awarded to the Commonwealth for specific purposes to resolve alleged pricing violations in effect between 1973 and 1981 by crude oil providers*.

"*VHDA*" means the Virginia Housing Development Authority.

PART III II. ELIGIBILITY.

§ 2-1. § 2.1. Eligible applicants.

A. Nonprofit organizations incorporated under the laws of the Commonwealth of Virginia;

B. ~~Public~~ *Governmental* entities including *local Redevelopment and Housing Authorities*, or;

C. For-profit corporations.

§ 2-2. § 2.2. Eligible properties.

Eligible properties shall:

1. Contain fewer than 30 units or 60 beds ;
2. Provide a central food preparation and eating area even if individual units have kitchen facilities.

§ 2-3. § 2.3. Eligible use of loan funds.

Loan funds may be used for the residential living portion of any project and for other facilities which are an integral part of the entire congregate housing facility. Examples of such facilities include clinics, cafeterias and recreational areas that are part of a total residential project. The type of construction activities which are

eligible include the following:

A. Purchase/Rehabilitation.

Loan funds may be used to rehabilitate or acquire and rehabilitate existing facilities *properties* to appropriately serve the needs of elderly or disabled persons.

B. Rehabilitation.

1. Funds shall be used to bring the property up to the applicable Uniform Statewide Building Code.

2. Energy improvements which exceed the Uniform Statewide Building Code are encouraged. Such improvements should comply ~~and be approved according to~~ with special *energy* guidelines established by the state *and may be eligible to be funded with grant funds from the Stripper Oil Well Fund*.

3. Remaining funds may be used for general improvements.

4. Luxury improvements are prohibited.

5. Upon completion of the rehabilitation the property must comply with zoning and other local requirements for planned use.

C. New construction.

Loan funds may also be used for the construction of new congregate housing. Stripper Oil Well funds will not be used for energy improvements for any project involving new construction.

PART IV III . TARGET POPULATION GROUP AND OCCUPANCY REQUIREMENTS .

§ 4.1. § 3.1. Target populations.

A. Client groups *Target group* .

The primary target groups to benefit from loans made under this program will be elderly, mentally disabled and physically disabled persons. During the first program year, the state will endeavor to fund at least one residential project to serve each of these three groups.

B. Income *Occupancy* requirements.

Loans made under this program will be used only to provide residential facilities for *low- and moderate-income* persons that cannot otherwise afford decent housing in the private market . A minimum percentage *Specified percentages* of the units must be occupied by these persons for the entire term of the loan *as described below* . The sponsor must select one of three options at the time of application and comply with it for the term of the loan:

Option 1: A minimum of 40% of the units *must* be reserved and occupied by persons with incomes at 40% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 2: A minimum of 50% of the units be reserved and occupied by persons with incomes at 50% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

Option 3: A minimum of 60% of the units are reserved and occupied by persons with income of 60% or less of the area median income as established by HUD or the state median income as established by the University of Virginia, Center for Public Service, whichever is higher.

PART V IV . PROJECT AUTHORIZATION DISTRIBUTION OF FUNDS .

§ 5.1. § 4.1. Maximum project authorization *Loan reservations* .

A. Maximum dollar amount *per project* .

The maximum program loan for developing an individual congregate housing facility is \$250,000.

B. Time period of loan *reservation* commitment.

Congregate Housing Program loan reservations will be made to project sponsors for an initial six-month period. This will allow time to complete project development activities including arranging for other financing and assistance from other local, state or federal housing programs. Extensions may be granted by the state, if applicable, but under no circumstances to extend six additional months.

PART VI V . LOAN TERMS AND CONDITIONS.

§ 6.1. § 5.1. Loan terms and conditions.

A. Interest rate.

The interest rate will be fixed at 2.0%, except that the eligible energy related portion of the loan, if funded from Stripper Well proceeds, shall have an interest rate of 0% *Funds, shall be in the form of a grant* .

B. Term.

The loan term will be 20 years ; except that the eligible energy related portion of the loan shall have a term of eight years. Principal payments are deferred and the loan

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shall be forgiven at the rate of 25% per year beginning in the fifth year. Grants are subject to repayment if the borrower violates program requirements. Repayment must be made in full if such violation occurs within four years from the date the grant is closed. Beginning the fifth year, this repayment obligation is reduced at the rate of 25% per year. Notwithstanding the above, as of July 1, 1998, any remaining grant repayment obligations shall be forgiven.

C. Instrument for securing loan.

1. General provisions requirements. The borrower(s) shall be the sole owner(s) of the property. A title opinion and, title insurance and hazard insurance will be required for all loans.

2. Lien requirements. A lien will be recorded on every property for which a program loan is made. The lien shall be divided into the amount securing the energy related rehabilitation general fund portion of the loan, and the amount securing the nonenergy related Stripper Oil Well portion of the loan grant. The nonenergy related general fund portion shall remain in effect until the loan is fully amortized. The energy related portion of the lien shall be deferred the first four years of the program as long as program requirements are met. Starting the fifth year, the energy related portion of the lien will be forgiven at a rate of 25% per year, provided program requirements continue to be met. In no event shall the Stripper Oil Well lien extend beyond July 1, 1998. The state will accept a subordinate position only to an existing mortgage or where the primary rehabilitation financing is being provided from another source.

D. Loan underwriting criteria.

Other Specific underwriting criteria which will apply are applicable to these loans will be established by VHDA the state. These will include an evaluation of the locational amenities site, project design and amenities, the market for the project, the experience and credit rating financial capability of the sponsors and contractors, architectural and engineering studies, site topography the value of the project, financial risks and other considerations. Each project will be evaluated to assess its potential cash flow to pay debt service and operating expenses.

Services which will be available to residents must be clearly defined and service providers must be identified. The state reserves the right to have outside review of service proposals from appropriate community service agencies.

E. Loan servicing.

VHDA will close the loans, conduct construction inspections, disburse loan proceeds, service the loans and provide ongoing management oversight.

F. Loan to value ratio.

Congregate housing for elderly and disabled persons may require additional facilities and amenities not ordinarily found in conventional housing. The cost or value of the installation of such facilities may not, therefore, be reflected in the market value of the housing. In order to encourage the development of properly designed and equipped congregate housing, a loan-to-value ratio of up to 100% will be allowed for projects developed by nonprofit sponsors and up to 90% for other sponsors. Exceptions may be considered by the state under extraordinary circumstances and on a case by case basis. The loan-to-value ratio shall be based on the appraised value of the structure after repairs and improvements. A loan-to-value ratio of up to 100% will be considered for loans to nonprofit housing sponsors and up to 90% to other sponsors. The state may permit a ratio to exceed 100% under special circumstances to be considered on a case-by-case basis.

G. Sale or transfer restrictions.

Loans made under this program shall be assumable as long as the property use, income and occupancy restrictions, housing conditions and other state requirements are maintained by the new owner.

H. Prepayment of loans.

Prepayment of loans under this program will be is prohibited unless approved by the state.

PART VII VI. EVALUATION CRITERIA.

§ 7-1. § 6.1. Evaluation criteria.

Due to the limited funds available and the expected high demand for these loans, a competitive system will be used in deciding which projects will receive loans. Criteria to rank the applications are described below:

A. Local need, demand and impact.

The need and demand for affordable housing facilities for low income elderly and disabled persons in each local area will be used as a basis for determining the award of housing loan funds. A local housing market analysis must be provided and will be used to determine demand for such facilities and to indicate the impact on the community for the proposed project.

B. Income level served.

Projects which serve a higher proportion of lower income households than the minimum required in § 4.1 shall be given higher priority.

C. Service design.

Consideration will be given to projects which provide additional services that will meet the special needs of residents. A proposed home for adults will have to meet governmental licensing requirements, while a facility for mentally disabled will need to be approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

D. Leveraging.

The extent to which other federal, local or private below market financing or other housing assistance is included in the project will be a significant factor for evaluating proposals.

E. Target group served.

The state shall endeavor to fund at least one residential facility for each of the three target populations during the first program year.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.4. Home and Community Based Services for Elderly and Disabled Individuals.

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

Public Hearing Date: N/A

(Written comments may be submitted until May 25, 1989. See Calendar of Events section for additional information)

Summary:

These regulations, which are not to become part of the State Plan for Medical Assistance, propose to regulate the coverage of three waived services: personal care, adult day health care, and respite care. The Department of Medical Assistance Services has applied to the Health Care Financing Administration for permission to expand the services it provides under the 2176 waived services requirements.

VR 460-04-8.4. Home and Community Based Services for Elderly and Disabled Individuals.

§ 1. Definitions.

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

"Activities of daily living" means assistance with personal care tasks (i.e., bathing, dressing, toileting, etc.).

"Adult day health care centers" means a participating provider which offers a community-based day program providing a variety of health, therapeutic, and social

services designed to meet the specialized needs of those elderly and physically disabled individuals at risk of placement in an intermediate or skilled care nursing home.

"Adult day health care services" means services designed to prevent institutionalization by providing participants with health, maintenance, and rehabilitation services in a congregate daytime setting.

"Current functional status" means the individual's degree of dependency in performing activities of daily living.

"DMAS" means the Department of Medical Assistance Services.

"DSS" means the Department of Social Services.

"Episodic respite care" means relief of the caregiver for a nonroutine, short-term period of time for a specified reason (i.e., respite care offered for seven days, 24 hours a day while the caregiver takes a vacation).

"Home and community-based care" means a variety of in-home services reimbursed by DMAS (personal care, adult day health care and respite care) designed to offer individuals an alternative to institutionalization. Individuals may be preauthorized to receive one or more of these services either solely or in combination, based on the documented need for the service(s) to avoid nursing home placement. An individual may only receive home and community-based long-term care services up to the amount for which the costs to Medicaid are equal to or less than nursing home care. The Nursing Home Preadmission Screening Team or Department of Medical Assistance Services must give prior authorization for any Medicaid-reimbursed home and community-based care.

"Nursing home preadmission screening" means the process to: (i) evaluate the medical, nursing, and social needs of individuals referred for preadmission screening, (ii) analyze what specific services the individuals need, (iii) evaluate whether a service or a combination of existing community services is available to meet the individuals' needs, and (iv) authorize Medicaid funded nursing home or community-based care for those individuals who meet nursing facility level of care and require that level of care.

"Nursing Home Preadmission Screening Committee/Team" means the entity contracted with the DMAS which is responsible for performing nursing home preadmission screening. For individuals in the community, this entity is a committee comprised of staff from the local health department and local DSS. For individuals in an acute care facility who require screening, the entity is a team of nursing and social work staff. A physician must be a member of both the local committee or acute care team.

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“Participating provider” means an institution, facility, agency, partnership, corporation, or association that meets the standards and requirements set forth by DMAS, and has a current, signed contract with DMAS.

“Personal care agency” means a participating provider which renders services designed to prevent or reduce inappropriate institutional care by providing eligible individuals with personal care aides who provide personal care services.

“Personal care services” means long-term maintenance or support services necessary to enable the individual to remain at or return home rather than enter an intermediate or skilled nursing care facility. Personal care services include assistance with personal hygiene, nutritional support, and the environmental maintenance necessary for recipients to remain in their homes.

“Plan of Care” means the written plan of services certified by the screening team physician as needed by the individual to ensure optimal health and safety for the delivery of home and community-based care.

“Professional staff” means the director, activities director, registered nurse, or therapist of an adult day health care center.

“Respite care” means services specifically designed to provide a temporary but periodic or routine relief to the primary caregiver of an individual who is incapacitated or dependent due to frailty or physical disability. Respite care services include assistance with personal hygiene, nutritional support and environmental maintenance authorized as either episodic, temporary relief or as a routine periodic relief of the caregiver.

“Respite care agencies” means a participating provider which renders services designed to prevent or reduce inappropriate institutional care by providing eligible individuals with respite care aides who provide respite care services.

“Routine respite care” means relief of the caregiver on a periodic basis over an extended period of time to allow the caregiver a routine break from continuous care (i.e., respite care offered one day a week for six hours).

“Staff” means professional and aide staff of an adult day health care center.

“State Plan for Medical Assistance” or “the Plan” means the document containing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

§ 2. General coverage and requirements for all home and community-based care services.

A. Coverage statement.

1. Coverage shall be provided under the administration of the Department of Medical Assistance Services for elderly and disabled individuals who would otherwise require the intermediate or skilled level of nursing care.

2. These services must be medically appropriate, cost effective and necessary to maintain these individuals in the community.

B. Patient qualification and eligibility requirements.

1. Virginia will apply the financial eligibility criteria contained in the State Plan for the categorically needy and the medically needy. Virginia has elected to cover the optional categorically needy group under 42 CFR 435.211, 435.231 and 435.217. The income level used for 435.211, 435.231 and 435.217 is 300% of the current Supplemental Security Income payment standard for one person.

a. Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. The medically needy individuals participating in the waiver will also be considered as if they were institutionalized for the purpose of applying the institutional deeming rules.

b. Virginia will treat the income of an eligible individual who receives home and community-based care services under 42 CFR 435.217 using the methodology in 42 CFR 435.735 to reduce the agency's payment for home and community-based services. The following amounts from the individual's total income (including amounts disregarded in determining eligibility) will be deducted:

(1) For the individual's maintenance needs, the current Supplemental Security Income (SSI) payment standard for one individual (the categorically needy income standard for one).*

* Although Virginia has elected to apply more restrictive eligibility requirements than SSI, Virginia does not apply a more restrictive income standard.

(2) For an individual with a spouse living in the home, an additional amount for the maintenance needs of the spouse based upon a reasonable assessment of need but not to exceed the current Supplemental Security Income payment for one individual (the categorically needy income standard for one).

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family based upon a reasonable assessment of need but not to exceed the medically needy income

standard for a family of the same size.

(4) Amounts for incurred expenses for Medicare and other health insurance premiums, deductibles, or coinsurance charges.

(5) Amounts for incurred expenses for necessary medical or remedial care not subject to payment by a third party recognized under state law but not covered under the state's Medicaid Plan within the same reasonable limits established under the State Plan for institutionalized individuals.

C. Assessment and authorization of home and community-based care services.

1. To ensure that Virginia's home and community-based care waiver programs serve only individuals who would otherwise be placed in a nursing home, home and community-based care services can be considered only for individuals who are seeking nursing home admission or for individuals who are at imminent risk of nursing home admission. Home and community-based care services must be the critical service that enables the individual to remain at home rather than being placed in a nursing home.

2. The individual's status as an individual in need of home and community-based care services is determined by the Nursing Home Preadmission Screening Team after completion of a thorough assessment of the individual's needs and available support. Screening and preauthorization of home and community-based care services by the Nursing Home Preadmission Screening Committee/Team or DMAS staff is mandatory before Medicaid will assume payment responsibility of home and community-based care services.

3. An essential part of the Nursing Home Preadmission Screening Team's assessment process is determining the level of care required by applying existing criteria for skilled and intermediate nursing home care according to established Nursing Home Preadmission Screening process.

4. The team explores alternative settings and services to provide the care needed by the individual. If nursing home placement or a combination of other services are determined to be appropriate, the screening team initiates referrals for service. If Medicaid-funded home and community-based care services are determined to be the critical service to delay or avoid nursing home placement, the screening team is responsible for developing an appropriate plan of care, computing cost effectiveness and initiating referrals for service.

5. To ensure that Virginia's home and community-based care services continue to be a cost-effective alternative to institutionalization, home

and community-based care services can be considered only for individuals for whom the cost of Medicaid-reimbursed home and community-based care would not exceed the Medicaid cost of institutional care.

6. Home and community-based care services shall not be offered to any individual who resides in an intermediate or skilled nursing facility, an intermediate facility for the mentally retarded, a hospital, or an adult home licensed by the DSS.

7. Medicaid will not pay for any home and community-based care services delivered prior to the authorization date approved by the Nursing Home Preadmission Screening Committee/Team.

8. Any authorization and Plan of Care for home and community-based care services will be subject to the approval of the DMAS prior to Medicaid reimbursement for waiver services.

§ 3. General conditions and requirements for all home and community-based care participating providers.

A. General requirements.

Providers approved for participation shall, at a minimum, perform the following activities:

1. Immediately notify DMAS, in writing, of any change in the information which the provider previously submitted to DMAS.

2. Assure freedom of choice to recipients in seeking medical care from any institution, pharmacy, practitioner, or other provider qualified to perform the service(s) required and participating in the Medicaid Program at the time the service was performed.

3. Assure the recipient's freedom to reject medical care and treatment.

4. Accept referrals for services only when staff is available to initiate services.

5. Provide services and supplies to recipients in full compliance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, religion, or national origin.

6. Provide services and supplies to recipients in the same quality and mode of delivery as provided to the general public.

7. Charge DMAS for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges to the general public.

8. Accept Medicaid payment from the first day of

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eligibility.

9. Accept as payment in full the amount established by the DMAS.

10. Use Program-designated billing forms for submission of charges.

11. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope and details of the health care provided.

a. Such 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. An exception would be if an audit is initiated within the required retention period, the records must be retained until the audit is completed and every exception resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

b. Policies regarding retention of records shall apply even if the agency discontinues operation. DMAS shall be notified in writing of storage, location, and procedures for obtaining records for review should the need arise. The location, agent, or trustee should be within the Commonwealth of Virginia.

12. Furnish to authorized state and federal personnel, in the form and manner requested, access to records and facilities.

13. Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests 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 recipients of Medicaid.

14. Hold confidential and use for authorized DMAS purposes only all medical assistance information regarding recipients.

15. Change of ownership. When ownership of the provider agency changes, DMAS must be notified within 15 calendar days.

B. Requests for participation.

Requests will be screened to determine whether the provider applicant meets the basic requirements for participation.

C. Provider participation standards.

For DMAS to approve contracts with home and community-based care providers the following must be met:

1. Staffing requirements,

2. Financial solvency,

3. Disclosure of ownership, and

4. Assurance of comparability of services.

D. Adherence to provider contract and special participation conditions.

In addition to the general conditions and requirements, all providers enrolled by the Department of Medical Assistance Services shall adhere to the conditions of participation outlined in their individual provider contracts.

E. Recipient choice of provider agencies.

If there is more than one approved provider agency in the community, the individual will have the option of selecting the provider agency of their choice.

F. Termination of provider participation.

DMAS may administratively terminate a provider from participation upon 60 days' written notification. DMAS may also cancel a contract immediately or may give notification in the event of a breach of the contract by the provider as specified in the DMAS contract. Such action precludes further payment by DMAS for services provided recipients subsequent to the date specified in the termination notice.

G. Reconsideration of adverse actions.

The following procedures will be available to all providers when DMAS takes adverse action which includes termination or suspension of the provider agreement.

1. The reconsideration process will consist of three phases:

a. A written response and reconsideration to the preliminary findings,

b. The informal conference, and

c. The formal evidentiary hearing.

2. The provider will have 30 days to submit information for written reconsideration, 15 days from the date of the notice to request the informal conference, and 15 days to request the formal evidentiary hearing.

3. An appeal of adverse actions shall be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and that the State Plan for Medical Assistance provided for in §

32.1-325 of the Code of Virginia. Court review of final agency determination shall be made in accordance with the Administrative Process Act.

H. Participating provider agency's responsibility for the recipient information form (DMAS-122).

It is the responsibility of the provider agency to notify DMAS and the DSS, in writing, when any of the following circumstances occur:

1. Home and community-based care services are implemented,
2. A recipient dies,
3. A recipient is discharged or terminated from services, or
4. Any other circumstances (including hospitalization) which cause home and community-based care services to cease or be interrupted for more than 30 days.

I. Changes or termination of care.

1. Decreases in amount of authorized care by the provider agency.

a. The provider agency may decrease the amount of authorized care only if the recipient and the participating provider both agree that a decrease in care is needed and that the amount of care in the revised plan of care is appropriate.

b. The participating provider is responsible for devising the new Plan of Care and calculating the new hours of service delivery.

c. The individual responsible for supervising the recipient's care shall discuss the decrease in care with the recipient or family, or both, document the conversation in the recipient's record, and notify the recipient or family of the change by letter.

d. If the recipient disagrees with the decrease proposed, the DMAS must be notified to conduct a special review of the recipient's service needs.

2. Increases in amount of authorized care. If a change in the recipient's condition (physical, mental, or social) necessitates an immediate emergency increase in care, the participating provider must contact the DMAS utilization review analyst assigned to the provider. A begin and an end date will be provided by DMAS for the temporary emergency increase.

3. Nonemergency termination of home and community-based care services by the participating provider. The participating provider must give the recipient or family, or both, five days' written

notification of the intent to terminate services. The letter must provide the reasons for and effective date of the termination. The effective date of services termination must be at least five days from the date of the termination notification letter.

4. Emergency termination of home and community-based care services by the participating provider. In an emergency situation when the health and safety of the recipient or provider agency personnel is endangered, the five-day notification period is not required.

5. DMAS termination of home and community-based care services. The effective date of termination will be at least 10 days from the date of the termination notification letter. DMAS has the responsibility and the authority to terminate home and community-based care services to the recipient for any of these reasons:

a. The home and community-based care service is not the critical alternative to prevent or delay institutional placement.

b. The recipient no longer meets the level-of-care criteria.

c. The recipient's environment does not provide for their health, safety, and welfare.

d. An appropriate and cost-effective plan of care cannot be developed.

J. Suspected abuse or neglect.

Pursuant to § 63.1-55.3 of the Code of Virginia, if a participating provider agency knows or suspects that a home and community-based care 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.

§ 4. Adult day health care services.

The following are specific requirements governing the provision of adult day health care:

A. General.

Adult day health care services may be offered to individuals in a congregate daytime setting as an alternative to more costly institutional care. Adult day health care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with personal care or respite care, or both. When the individual referred for adult day health care is already receiving another home and community-based care service, the DMAS utilization review staff must assess the need for the additional home and community-based care service and authorize the service if it is deemed necessary to avoid

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institutionalization.

B. Special provider participation conditions.

In order to be a participating provider, the adult day health care center must:

1. Be an adult day care center licensed by DSS. A copy of the current license shall be available to the DMAS for verification purposes prior to the applicant's enrollment as a Medicaid provider and shall be available for DMAS review prior to yearly contract renewal.

2. Adhere to the DSS adult day care center standards. The DMAS special participation conditions included here are standards imposed in addition to DSS standards which must be met in order to provide Medicaid adult day health care services.

3. Be open and provide services for a minimum of 10 hours a day Monday through Friday. The center must be able to provide a separate room or area equipped with one bed or cot for every six Medicaid adult day health care participants.

4. Employ sufficient interdisciplinary staff to adequately meet the health, maintenance, and safety needs of each participant. The following staff are required by DMAS:

a. The adult day health care center shall maintain a minimum staff-participant ratio of one staff member to every six participants (Medicaid and other participants).

b. There shall be at least two staff persons at the center at all times when there are Medicaid participants in attendance.

c. In the absence of the director, a professional staff member shall be designated to supervise the program.

d. Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff and meet the job description standards of the organization.

e. Any center that is collocated with another facility shall count only its own separate identifiable staff in the center's staff/participant ratio.

f. The adult day health care center shall employ the following:

(1) A director who shall be responsible for overall management of the center's programs. This individual is the provider contact person for DMAS staff and is responsible for contracting, and receipt and response to communication from DMAS. The

director is responsible for assuring the initial development of the Plan of Care for adult day health care participants. However, the center director has ultimate responsibility for directing the center program and supervision of its employees.

(2) An activities director who shall be responsible for directing recreational and social activities for the adult day health care participants.

(3) Program aides who shall be responsible for overall assistance with care and maintenance of the participant (assistance with activities of daily living, recreational activities and other health and therapeutic related activities).

g. The adult day health care center shall employ or subcontract with a registered nurse who shall be responsible for administering and monitoring the health needs of the adult day health care participants. The nurse shall be responsible for the planning, organization, and management of a treatment plan involving multiple services where specialized health care knowledge shall be applied. The nurse must be present a minimum of two hours each day at the adult day health care center to render direct services to Medicaid adult day health care participants. The DMAS may require the nurse's presence at the adult day health care center for more than two hours each day depending on the number of participants in attendance and according to the medical and nursing needs of the participants. Although the DMAS does not require that the nurse be a full-time staff position, there must be a nurse available, either in person or by telephone at a minimum, to the center's participants during all times the center is in operation.

h. The director shall assign a professional staff member to act as adult day health care coordinator for each participant and shall document in the participant's file the identity of the care coordinator. The adult day health care coordinator shall be responsible for management of the participant's plan of care and for its review with the program aides.

C. Minimum qualifications of adult day health care staff.

Documentation of all staffs' credentials shall be maintained in the provider agency's personnel file for review by DMAS staff.

1. Program aide. Each program aide hired by the provider agency shall be screened to ensure compliance with minimum qualifications as required by DMAS. The aide must, at a minimum, have the following qualifications:

- a. Be able to read and write.
 - b. Be physically able to do the work.
 - c. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.
 - d. Have satisfactorily completed an educational curriculum related to the needs of the elderly and disabled. ~~Acceptable curriculum are offered by educational institutions, nursing homes, and hospitals. Curriculum titles include: Nurses Aide, Geriatric Nursing Assistant, and Home Health Aide. Documentation of successful completion shall be maintained in the aide's personnel file and be available for review by the DMAS staff. Training consistent with DMAS training guidelines may also be given by the center's professional staff. The content of the training must be approved by DMAS prior to assignment of the aide to a Medicaid participant.~~
2. Registered nurse. The registered nurse must:
- a. Be registered and licensed to practice nursing in the Commonwealth of Virginia.
 - b. Have two years of related clinical experience (which may include work in an acute care hospital, rehabilitation hospital, or nursing home).
 - c. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.
3. Activities director. The activities director must:
- a. Have a minimum of a Bachelors degree from an accredited college or university with a major in recreational therapy, occupational therapy, or a related field such as art, music, or physical education.
 - b. Have one year of related clinical experience which may include work in an acute care hospital, rehabilitation hospital, nursing home, or have completed a course of study including any prescribed internship in occupational, physical, and recreational therapy or music, dance, art therapy, or physical education.
 - c. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.
4. Director. The director must meet the qualifications specified in the DSS standards for adult day care.
- D. Responsibilities of the adult day health care center are:
1. Aide responsibilities. The aide is responsible for assisting with activities of daily living, supervising the participant, and assisting with the management of the participant's Plan of Care.
 2. Nursing responsibilities. These services shall include:
 - a. Periodic evaluation of the nursing needs of each participant,
 - b. Provision of the indicated nursing care and treatment, and
 - c. Monitoring, recording, and administering of prescribed medications or supervising the individual in self-administered medication.
 3. Rehabilitation services coordination responsibilities. These services are designed to ensure the participant receives all rehabilitative services deemed necessary to improve or maintain independent functioning, to include the coordination and implementation of physical therapy, occupational therapy, and speech therapy.
 4. Transportation responsibilities. Every DMAS approved adult day health care center must provide transportation when needed in emergency situations (i.e., primary caregiver has an accident and cannot transport the participant home) for all Medicaid participants to and from their homes. Any adult day health care center which is able to provide participants with transportation routinely to and from the center can be reimbursed by DMAS based on a per trip (to and from the participant's residence) fee. This reimbursement for transportation must be preauthorized by either the Nursing Home Preadmission Screening Team or DMAS utilization review staff.
 5. Nutrition responsibilities. The adult day health care center shall provide one meal per day which supplies one-third of the daily nutritional requirements. Special diets and counseling shall be provided to Medicaid participants as necessary.
 6. Adult day health care coordination. The designated adult day health care coordinator is responsible for coordinating the delivery of the activities as prescribed in the participants' Plans of Care and keeping it updated, recording 30-day progress notes, and reviewing the participants' daily logs each week.
 7. Recreation and social activities responsibilities. The adult day health care center shall provide planned recreational and social activities suited to the participants' needs and designed to encourage

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physical exercise, prevent deterioration, and stimulate social interaction.

E. Documentation required.

The adult day health care center shall maintain all records of each Medicaid participant. These records shall be reviewed periodically by DMAS staff. At a minimum, these records shall contain:

1. Long-term care Information Assessment Instrument, the Nursing Home Preadmission Screening Authorization, and the Screening Team Plan of Care.

2. Interdisciplinary Plan of Care developed by adult day health care center professional staff.

3. Documentation of interdisciplinary staff meetings which are to be held at least every three months to reassess each participant and evaluate the adequacy of the adult day health care Plan of Care and make any necessary revisions.

4. At a minimum, 30-day goal oriented progress notes recorded by the individual designated as the adult day health care coordinator. If a participant's condition and treatment plan changes more often, progress notes must be written more frequently than every 30 days.

5. The adult day health care center will obtain a rehabilitative progress report and updated treatment plan from all professional disciplines involved in the participant's care every 30 days (physical therapy, speech therapy, occupational therapy, home health and others).

6. Daily log of service provided. The daily log shall contain the specific services delivered by adult day health care center staff. The log shall also contain the arrival and departure time of the participant and be signed weekly by the participant and an adult day health care center professional staff member. The daily log is to be completed on a daily basis, neither before nor after the date of service delivery. At least once a week, a staff member shall chart significant comments regarding care given to the participant. If the staff member writing comments is different from the staff signing the weekly log, that staff member must sign the weekly comments.

7. All correspondence to the participant and to DMAS.

8. All DMAS utilization review forms and plans of care.

§ 5. Personal care services.

The following specific requirements govern the provision of personal care services:

A. General.

Personal care services may be offered to individuals in their homes as an alternative to more costly institutional care. Personal care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with adult day health care or respite care, or both. When the individual referred for personal care is already receiving another home and community-based care service, the DMAS utilization review staff must assess the need for the additional home and community-based care service and authorize the service if it is deemed necessary to avoid institutionalization.

B. Special provider participation conditions.

The personal care provider shall:

1. Demonstrate a prior successful health care delivery.

2. Operate from a business office.

3. Employ (or subcontract with) and directly supervise a registered nurse (RN) who will provide ongoing supervision of all personal care aides.

a. The RN must be currently licensed to practice in the Commonwealth of Virginia and have at least two years of related clinical nursing experience (which may include work in an acute care hospital, public health clinic, home health agency, or nursing home).

b. The RN supervisor shall make an initial assessment visit prior to the start of care for all new recipients admitted to personal care.

c. The RN shall make supervisory visits as often as needed to ensure both quality and appropriateness of services. A minimum frequency of these visits is every 30 days.

d. During visits to the recipients home, the RN shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the recipient's current functioning status, medical, and social needs. The personal care aide's record shall be reviewed and the recipient's (or family's) satisfaction with the type and amount of service discussed. The RN summary shall note:

(1) Whether personal care services continue to be appropriate, (2) Whether the plan is adequate to meet the need or changes are indicated in the plan,

(3) Any special tasks performed by the aide and the aide's qualifications to perform these tasks,

(4) Recipient's satisfaction with the service,

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(5) Hospitalization or change in medical condition or functioning status,

(6) Other services received and their amount, and

(7) The presence or absence of the aide in the home during the RN's visit.

e. The registered nurse must be available to the personal care aide for conference pertaining to individuals being served by the aide and must be available to aides by telephone at all times that the aide is providing services to personal care recipients. Any change in the identity of the RN providing coverage shall be reported immediately to DMAS.

f. The RN supervisor shall evaluate the aides' performance and the recipient's individual needs to identify any gaps in the aides' abilities to function competently and shall provide training as indicated.

4. Employ and directly supervise personal care aides who will provide direct care to personal care recipients. Each aide hired by the provider agency must be evaluated by the provider agency to ensure compliance with minimum qualifications as required by DMAS. Each aide shall:

a. Be able to read and write.

b. Complete 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency must ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.

c. Be physically able to do the work.

d. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.

e. Not be a member of the recipient's family (e.g., family is defined as parents, spouses, children, siblings, grandparents, and grandchildren).

C. Provider inability to render services and substitution of aides.

1. When a personal care aide is absent and the agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients. The agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient to another agency. If no other provider agency is available, the provider agency must notify the recipient or family to contact the local health

department to request a Nursing Home Preadmission Screening if nursing home placement is desired.

2. During temporary, short-term lapses in coverage (not to exceed two weeks in duration), the following procedure applies:

a. The personal care agency having recipient responsibility shall provide the registered nurse supervision for the substitute aide.

b. The agency providing the substitute aide shall send to the personal care agency having recipient care responsibility a copy of the aide's signed daily records signed by the recipient.

c. The provider agency having recipient responsibility shall bill DMAS for services rendered by the substitute aide.

3. If a provider agency secures a substitute aide, the provider agency shall be responsible to ensure that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation in recipients' records.

The provider agency shall maintain all records of each personal care recipient. At a minimum these records shall contain:

1. Long-Term Care Assessment Instrument, the Preadmission Screening Authorization, the Screening Team Plan of Care, all provider agency plans of care, and all DMAS-122's.

2. All DMAS utilization review forms and plans of care.

3. Initial assessment by the RN supervisory nurse completed prior to or on the date services are initiated.

4. Nurses' notes recorded and dated during any contacts with the personal care aide and during supervisory visits to the recipient's home.

5. All correspondence to the recipient and to DMAS.

6. Reassessments made during the provision of services.

7. Contacts made with family, physicians, DMAS, and all professionals concerning the recipient.

8. All personal care aide records. The personal care aide record shall contain:

a. The specific services delivered to the recipient by

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the aide and the recipient's responses,

b. The aide's arrival and departure times,

c. The aide's weekly comments or observations about the recipient to include observations of the recipient's physical and emotional condition, daily activities, and responses to services rendered,

d. The aide's and recipient's weekly signatures to verify that personal care services during that week have been rendered, and

Signatures, times and dates must not be placed on the aide record prior to the last date of the week that the services are delivered.

§ 6. Respite care services.

These are specific requirements governing the provision of respite care services.

A. General.

Respite care services may be offered to individuals in their homes as an alternative to more costly institutional care. Respite care is distinguished from other services in the continuum of long-term care because it is specifically designed to focus on the need of the caregiver for temporary relief. Respite care may only be offered to individuals who have a primary caregiver living in the home who requires a temporary relief to avoid institutionalization of the individual. The authorization of respite care is limited to 30 24-hour days over a 12-month period. Reimbursement is made on an hourly basis for any amount authorized up to eight hours. Any amount over an eight-hour day will be reimbursed on a per diem basis. The option of respite care may be offered either as a secondary home and community-based care service to those individuals who receive either personal care or adult day health care or as the sole home and community-based care service received in lieu of nursing home placement.

B. Special provider participation conditions.

To be approved for respite care contracts with DMAS, the respite care provider must:

- 1. Demonstrate a prior successful health care delivery.*
- 2. Operate from a business office.*
- 3. Employ (or subcontract with) and directly supervise a registered nurse (RN) who will provide ongoing supervision of all respite care aides.*

a. The RN must be currently licensed to practice in the Commonwealth and have at least two years of related clinical nursing experience (which may include work in an acute care hospital, public

health clinic, home health agency, or nursing home).

b. Based on continuing evaluations of the aides' performance and the recipients' individual needs, the RN supervisor shall identify any gaps in the aides' abilities to function competently and shall provide training as indicated.

c. The RN supervisor shall make an initial assessment visit prior to the start of care for any recipient admitted to respite care.

d. The RN shall make supervisory visits as often as needed to ensure both quality and appropriateness of services.

(1) When respite care services are received on a routine basis, the minimum acceptable frequency of these visits is every 30 days.

(2) When respite care services are not received on a routine basis, but are episodic in nature (i.e., respite care offered for one full week during a six-month period), the RN is not required to conduct a supervisory visit every 30 days. Instead, the nurse supervisor shall conduct the initial visit with the respite care aide immediately preceding the start of care and make a concluding visit within two weeks after the respite care period has concluded.

(3) When respite care services are routine in nature and offered in conjunction with personal care, the 30-day supervisory visit conducted for personal care may serve as the RN visit for respite care. However, the RN supervisor shall document supervision of respite care separately (the same recipient record can be used with a separate section for respite care documentation).

e. During visits to the recipient's home, the RN shall observe, evaluate, and document the adequacy and appropriateness of respite care services with regard to the recipient's current functioning status, medical, and social needs. The respite care aide's record shall be reviewed and the recipient's (or family's) satisfaction with the type and amount of service discussed. The RN shall document in a summary note:

(1) Whether respite care services continue to be appropriate,

(2) Whether the plan of care is adequate to meet the recipient's needs or if changes need to be made in it,

(3) The recipient's satisfaction with the service,

(4) Any hospitalization or change in medical condition or functioning status,

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(5) Other services received and their amount, and

(6) The presence or absence of the aide in the home during the visit.

f. In all cases, the RN must be available to the respite care aide for conference pertaining to recipient's being served by the aide.

g. The RN providing supervision to respite care aides must be available to them by telephone at all times that services are being provided to respite care recipients. Any lapse in RN coverage shall be reported immediately to DMAS.

4. Employ and directly supervise respite care aides who provide direct care to respite care recipients. Each aide hired by the provider agency must be evaluated by the provider agency to ensure compliance with minimum qualifications as required by DMAS. Each aide must:

a. Be able to read and write.

b. Have completed 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency must ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.

c. Be evaluated in their job performance by the RN supervisor.

d. Have the physical ability to do the work.

e. Have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.

f. Not be a member of a recipient's family (e.g., family is defined as parents, spouses, siblings, grandparents, and grandchildren).

5. In certain circumstances it may be warranted to designate a licensed practical nurse (LPN) to deliver respite care services. These circumstances are:

a. The individual receiving care has a need for routine skilled care which cannot be provided by unlicensed personnel. These individuals would typically require a skilled level of care if in a nursing home (i.e., recipients on a ventilator, recipients requiring nasogastric, or gastrostomy feedings, etc.).

b. No other individual in the recipient's support system is able to supply the skilled component of the recipient's care during the caregiver's absence.

c. The recipient is unable to receive skilled nursing

visits from any other source which could provide the skilled care usually given by the caregiver.

The respite care agency may employ an LPN currently licensed to practice in the Commonwealth as long as the agency can document circumstances which require the provision of services by an LPN. DMAS will reimburse for licensed practical nursing respite care only those recipients requiring skilled level of care with no other support system other than the primary caregiver, who is the recipient of respite care.

C. Inability to provide services and substitution of aides.

When a respite care aide is absent and the respite care provider agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients.

1. If a provider agency cannot supply a respite care aide to render authorized services, the agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient's care to another agency.

2. If no other provider agency is available who can supply an aide, the provider agency must notify the recipient or family to contact the local health department to request a Nursing Home Preadmission Screening if nursing home placement is desired.

3. During temporary, short-term lapses in coverage (not to exceed two weeks in duration), a substitute aide may be secured from another respite care provider agency or other home care agency. The following procedures apply:

a. The respite care agency having recipient responsibility is responsible for providing the RN supervision for the substitute aide;

b. The agency providing the substitute aide shall send to the respite care agency having recipient care responsibility a copy of the aide's daily records signed by the recipient and the substitute aide. All documentation of services rendered by the substitute aide shall be in the recipient's record. The documentation of the substitute aide's qualifications shall also be obtained and recorded in the personnel files of the agency having recipient care responsibility.

c. The provider agency having recipient responsibility shall bill DMAS for services rendered by the substitute aide. (The two agencies involved shall negotiate the financial arrangements of paying the substitute aide.)

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4. Substitute aides obtained from other agencies may be used only in cases where no other arrangements can be made for recipient respite care services coverage and may be used only on a temporary basis. If a substitute aide is needed for more than two weeks, the case must be transferred to another respite care provider agency that has the aide capability to serve the recipient(s).

5. If a provider agency secures a substitute aide it is the responsibility of the provider agency having recipient care responsibility to ensure that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation for recipients records.

The provider agency shall maintain all records of each respite care recipient. These records shall be separated from those of other non-home and community-based care services, such as companion services or home health. These records shall be reviewed periodically by the DMAS staff. At a minimum these records shall contain:

1. Long-Term Care Assessment Instrument, the Nursing Home Preadmission Screening Authorization, all Respite Care Assessment and Plans of Care, and all DMAS-122's.

2. All DMAS utilization review forms and plans of care.

3. Initial assessment by the RN supervisory nurse completed prior to or on the date services are initiated.

4. Registered nurse's notes recorded and dated during significant contacts with the respite care aide and during supervisory visits to the recipient's home.

5. All correspondence to the recipient and to DMAS.

6. Reassessments made during the provision of services.

7. Significant contacts made with family, physicians, DMAS, and all professionals concerning the recipient.

8. Respite care aide record of services rendered and recipient's responses. The aide record shall contain:

a. The specific services delivered to the recipient by the respite care aide or LPN, and the recipient's response,

b. The arrival and departure time of the aide for respite care services only,

c. Comments or observations recorded weekly about

the recipient. Aide comments shall include but not be limited to observation of the recipient's physical and emotional condition, daily activities, and the recipient's response to services rendered,

d. The signature by the aide or LPN, and the recipient once each week to verify that respite care services have been rendered.

Signature, times, and dates must not be placed on the aide record prior to the last date of the week that the services are delivered

9. Copies of all aide records are subject to review by state and federal Medicaid representatives.

10. If a respite care recipient is also receiving any other service (meals on wheels, companion, home health services, etc.) the respite care record must indicate that these services are also being received by the recipient.

E. Authorization of combined services.

Respite care, when offered in conjunction with another home and community-based care service, would be considered a secondary home and community-based care service necessary for the recipients' continued maintenance in the community. Respite care is only available to caregivers as an adjunct to another primary home and community-based care service under the following conditions:

1. The individual has been authorized to receive a primary home and community-based care service by the Nursing Home Preadmission Screening Team and such care has been initiated.

2. The primary home and community-based care services offered to the individual is determined to be insufficient to prevent the breakdown of the caregiver due to the physical burden and emotional stress of providing continuous support and care to the dependent individual.

3. The amount of respite care needed, when added to the cost of other home and community-based care services, still maintains overall individual cost effectiveness on an annual basis.

F. Provider responsibility.

The provider of the primary home and community-based care service shall contact the DMAS utilization review staff when the need for respite care as a secondary home and community-based care service has been identified according to the criteria above. DMAS will conduct an assessment of the individual caregiver's need for respite care and, if appropriate, authorize respite care.

ADULT DAY HEALTH CARE RECORD

PARTICIPANT NAME: _____ MEDICAID # _____

DAY	DATE (Month/Day/Year)					
ACTIVITY:						
Toileting						
Ambulation/Transfer						
Eating/Feeding						
Supervision						
Meals/Snacks						
Nutritional Counseling						
Administer Medication						
Health Monitoring						
Skilled Services						
Social/Rec. Activities						
Rehabilitation Therapy						
Rehabilitation Support						
Transportation						
TIME IN						
TIME OUT						
NUMBER OF HOURS						

WEEKLY COMMENTS: DATE: _____

WEEKLY SIGNATURES:

RECIPIENT/FAMILY SIGNATURE _____ DATE _____

ADHC STAFF SIGNATURE _____ DATE _____

ADULT DAY HEALTH CARE INTERDISCIPLINARY PLAN OF CARE

PARTICIPANT _____ MEDICAID # _____ ADHC COORDINATOR _____

SERVICE PROVISION

- ADL's - FOR EACH CATEGORY SPECIFY TYPE OF ASSISTANCE AND FREQUENCY
 Toileting _____ Eating/Feeding _____
 Transfer _____ Supervision _____
 Ambulation _____
- NUTRITION
 Meals/Snacks (specify frequency, type, special diet, allergy, etc.) _____
 Nutritional Counseling _____
- NURSING

Medication	Frequency	Doctor/Date	Medication	Frequency	Doctor/Date
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

 Health Monitoring (weight, vital signs, fluids, etc.) _____
 Skilled Services _____
- SOCIALIZATION/RECREATION
 Counseling With Participant/Family (specify subject, participants, etc.) _____
 Recreational Restrictions _____
 Socialization Needs _____
- REHABILITATION
 Therapies (specify type, frequency, & provider) _____
 Prescribed Supportive Activities (assistance w/in-home programs for PT, OT, Speech) _____
- TRANSPORTATION
 Needs and Providers _____
 Emergency Transportation Plan _____
- CARE COORDINATION
 Participant's Primary Caregiver _____ Phone _____
 Participant's Primary Physician _____ Phone _____
 Other Service Providers _____

DATE _____ STAFF PRESENT _____

PLAN OF CARE UPDATES/INTERDISCIPLINARY STAFF MEETINGS (ALL STAFF INITIAL THEIR ENTRIES)

DATE _____ EVALUATION/COMMENTS _____

DATE _____ EVALUATION/COMMENTS _____

DATE _____ EVALUATION/COMMENTS _____

SCREENING TEAM PLAN OF CARE

A. INDIVIDUAL'S TOTAL CARE NEEDS

Name: _____

Total Service Needs	SERVICE NEEDS:			SERVICES PROVIDED BY:			Adult Day Health Care
	Total Time	Days/Week	Weekly = Total	Family/Other	Specify Caregiver	Personal Care	
1. ADL's	x						N/A
2. Housekeeping	x						N/A
3. Meal Preparation	x			()		()	
4. Shopping	x						N/A
5. Laundry	x						N/A
6. Transportation (specify frequency)							N/A
7. Supervision (if yes, enter 168 on line 9)							N/A
8. Skilled Medical Needs							N/A
9. TOTAL NEEDS (Type and Frequency)				TOTAL CARE	days hrs	days hrs	
				Family/Other	+	Personal +/Adult Day Care	Health Car

10. Primary Caregiver: _____ (Name) _____ (Phone#)

B. COST-EFFECTIVENESS STUDY AND STATEMENT OF UNDERSTANDING

1. Nursing Home Care:	2. Personal Care:	3. Adult Day Health Care:
a. Nursing Home - SNF _____	d. Hours per week _____	k. Units per week _____
b. Patient Pay _____	e. Multiplied x 4.33 _____	l. Multiplied x 4.33 _____
c. Cost to Medicaid _____	f. Hours per month _____	m. Units per month _____
	g. x P.C. rate _____	n. x ADHC rate _____
	h. Total Cost _____	o. Total Cost _____
	i. Patient Pay _____	p. Patient Pay _____
	j. Cost to Medicaid _____	q. Cost to Medicaid _____

Personal Care can only be offered if "j" or "q" or "j-q" is equal to or less than "c".

3. Patient Pay Information obtained from _____ (Eligibility Worker's Name) _____ (Phone Number)

4. I, _____ (Recipient), understand that in order for Community-Based Care to be offered instead of nursing home, the cost to Medicaid for Community-Based Care must be equal to or less than the cost to Medicaid for nursing home care. The Pre-Admission Screening team has determined that the above Plan of Care is cost effective and appropriate to meet my needs. I understand that Medicaid will not authorize Community-Based Care to continue if my total Plan of Care does not adequately meet my health and safety needs. Staff from the provider agency will develop a daily Plan of Care not to exceed _____ weekly hours Personal Care or _____ days per week ADHC as authorized above.

C. FREEDOM OF CHOICE
 In accordance with the policies and procedures of the Department of Medical Assistance Services I have been informed by _____ (Name of City/County or Hospital) Pre-Admission Screening

Committee/team of the Medicaid-funded, long-term care options available to me and I choose:
 Personal Care Service Adult Day Health Care Nursing Home

I have been given a choice of the available Community-Based Care provider agencies and my choice is _____

 (Name of Personal Care Provider Agency) _____

 (Recipient/Family Signature) (Date)

PERSONAL CARE PROVIDER AGENCY PLAN OF CARE

RECIPIENT NAME: _____ MEDICAID ID#: _____
 PROVIDER AGENCY: _____ AGENCY ID#: _____
 TOTAL WEEKLY HOURS _____ X 4.33 = TOTAL MONTHLY HOURS _____
 DATE SERVICE ACTUALLY STARTED: _____ EFFECTIVE DATE OF CHANGE: _____
 SIGNATURE OF RN SUPERVISOR: _____ DATE: _____

EACH TASK TO BE DONE. ENTER TIME ALLOWED FOR EACH CATEGORY AND ADD FOR TOTAL TIME

CATEGORIES/TASKS	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
1. ADL's							
Bathing							
Dressing							
Toileting							
Transfer							
Grooming							
Assist Eating							
Assist Ambulate							
Turn/Change Position							
TIME							
2. SPECIAL MAINTENANCE							
Vital Signs							
Supervise Meds							
Range of Motion							
Wound Care							
TIME							
3. SUPERVISION							
TIME							
4. HOUSEKEEPING							
Prepare Meals							
Clean Kitchen							
Make/Change Beds							
Clean Areas Used by Recipient							
Shop/List Supplies							
Laundry							
TIME							
TOTAL DAILY TIME							

ADDITIONAL INSTRUCTIONS FOR THE AIDE: _____

COMMENTS/REASONS FOR CHANGES IN PLAN OF CARE: _____

DMAS-97A

NURSING HOME PRE-ADMISSION SCREENING AUTHORIZATION

Please provide appropriate answer by either filling in the space or putting the correct number in the box provided.

Name: _____

Social Security Number: _____ 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 = 1 No = 0 Currently Medicaid eligible = 8

* Has individual formally applied for Medicaid? Yes = 1 No = 0

Dept. of Social Services (Eligibility Responsibility) (Services Responsibility)

NURSING HOME APPLICATION
 Has the individual made formal application to a nursing home?
 1 = Yes
 0 = No
 2 = Plans to apply
 3 = Is currently a nursing home resident

MEDICAID AUTHORIZATION
 1 = Nursing Home/Skilled
 2 = Nursing Home/Intermediate
 3 = Personal Care/Skilled
 4 = Personal Care/Intermediate
 5 = Adult Day Health Care (ADHC)
 6 = ADHC + Personal Care
 7 = Respite Care
 8 = Other Services Recommended
 9 = None

COMMUNITY-BASED CARE REFUSED
 This section refers only to those individuals who were offered personal care and refused.

1 = Patient/family not interested
 2 = Could not afford patient pay
 3 = Other:
 2 = Could not afford patient pay
 3 = Other:

9 = Not Applicable

COMMUNITY-BASED CARE NOT OFFERED
 This section is to be completed when Personal Care/ADHC is not offered.
 1 = Did not meet level of care criteria
 2 = Appropriate Plan of Care could not be developed
 3 = Plan of Care not cost effective
 4 = No provider agency available
 9 = Not Applicable

LENGTH OF STAY (IF approved for Nursing Home)
 1 = Temporary (expected to return home in less than 3 months)
 2 = Temporary (expected to return home in less than 6 months)
 3 = Continuing (more than 6 months)
 8 = Not Applicable

SCREENING IDENTIFICATION/PHYSICIAN'S CERTIFICATION

* Name of hospital and provider number:

* Name of health department and provider number:

* Social Service City/County Code: _____
 (put "0's" if Dept. of Social Services did not participate)

This authorization, and Community-Based Care Plan of Care (EMAS-97) if Community-Based Care is authorized, is appropriate to adequately meet the recipient's needs and assures that all other resources have been explored prior to Medicaid authorization for this recipient.

_____, R.N., Date _____
 _____, S.W., Date _____
 _____, M.D., Date _____

* Since the Pre-Admission Screening Decision has the individual expired? 1 = Yes 0 = No

COMMUNITY-BASED CARE AGENCY OR NURSING HOME
 Name of Nursing Home/Community-Based Care Provider Chosen _____

RESPITE CARE NEEDS ASSESSMENT AND PLAN OF CARE

A. NAME _____ MEDICAID NO. _____

B. PRIMARY CAREGIVER _____ RELATIONSHIP TO CLIENT _____

C. STRESSORS: Describe factors that create a need for Respite Care. _____

LACK OF ADDITIONAL SUPPORT _____

OTHER DEPENDENTS _____

24-HOUR SUPERVISION REQUIRED _____

ILLNESSES/LIMITATIONS _____

OTHER _____

D. AMOUNT AND TYPE OF RESPITE CARE NEEDED

REASON RESPITE CARE REQUESTED _____

_____, ROUTINE HOURS PER DAY _____ DAYS NEEDED _____
 _____, EPISODIC HOURS PER DAY _____ SPECIFY DATES NEEDED _____

E. MONTHLY COST-EFFECTIVENESS STUDY AND STATEMENT OF UNDERSTANDING

1. NURSING HOME CARE:	2. RESPITE CARE:
a. Nursing Home - SNF \$ _____	d. Amount of Service (hours/days) _____
Nursing Home - ICF \$ _____	e. X Rate (per diem/per hour) \$ _____
b. Patient Pay (Subtract) \$ _____	f. Total Cost \$ _____
c. Cost to Medicaid \$ _____	g. Patient Pay (subtract) \$ _____
	h. Cost to Medicaid of Respite \$ _____
	i. Cost to Medicaid of other CBC \$ _____
	j. Total CBC Medicaid Cost \$ _____

PATIENT PAY INFORMATION OBTAINED FROM _____ Eligibility Worker's Name _____ Phone Number _____

F. FREEDOM OF CHOICE

In accordance with the policies and procedures of the Department of Medical Assistance Services I have been informed by _____ Pre-Admission Screening team of the Medicaid-funded, long-term care options available to me and I choose:

Respite Care Service Nursing Home Placement

I have been given a choice of the available Respite Care Provider agencies and my choice is _____ I understand that only the amount of Respite Care authorized above can be offered. In order to receive Respite Care instead of nursing home care, I understand that the cost to Medicaid for Respite Care (and any additional Medicaid-funded Home and Community-Based Care services) must be equal to or less than the cost to Medicaid for nursing home care. The Pre-Admission Screening team has determined that the above Plan of Care is cost-effective, appropriate to meet my health and safety needs and necessary to avoid nursing home care.

AUTHORIZING AGENT SIGNATURE _____ DATE _____

RECIPIENT/FAMILY SIGNATURE _____ DATE _____

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AIDE RECORD

RECIPIENT NAME: _____

DAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
DATE (Month/Day/Year)							
ACTIVITY:							
Complete/Partial Bath							
Dress/Undress							
Assist with Toileting							
Transferring							
Personal Grooming							
Assist with Eat-Feed							
Ambulation							
Turn/Change Position							
Vital Signs							
Assist with Self-Admin. Medication							
Special Task Authorized							
Supervision							
Prepare Breakfast							
Prepare Lunch							
Prepare Dinner							
Clean Kitchen							
Wash Dishes							
Make/Change Bed Linen							
Clean Areas Used by Recipient							
Listing Supplies/ Shopping							
Recipient's Laundry							
TIME IN							
TIME OUT							
NUMBER OF HOURS							

WEEKLY COMMENTS: DATE: _____

WEEKLY SIGNATURES:

RECIPIENT/FAMILY SIGNATURE	DATE	AIDE SIGNATURE	DATE
_____	_____	_____	_____
SUBSTITUTE AIDE	DATE	RN SIGNATURE	DATE
_____	_____	_____	_____

DMAS-90

BOARD OF PHARMACY

Title of Regulation: VR 530-01-1. Virginia Board of Pharmacy Regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3007 of the Code of Virginia.

Public Hearing Date: N/A

(Written comments may be submitted until June 10, 1989. See Calendar of Events section for additional information.)

Summary:

The Board of Pharmacy proposes to increase fees for licensure and other services by amending § 1.3 of VR 530-01-1 of the Virginia Board of Pharmacy Regulations. These increased fees will generate approximately \$450,000 in additional revenue annually. Fee increases are necessary to replace income of \$250,000 from controlled substances registration fees which, in the past, have been available to support board operating costs, and to support continued and expanded services provided by the board.

VR 530-01-1. Virginia Board of Pharmacy Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Public participation guidelines.

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceeding," the subject of which is proposed or existing regulation.
3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board may, in its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all information stated in subsection A of this section. Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. After 30 days, the names of the persons who do not respond will be deleted from the list.

C. Notice of intent.

At least 30 days prior to the publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

D. Informational proceedings or public hearings for existing rules.

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations. Such proceeding may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have sole authority to dispose of the petition.

F. Notice of formulation and adoption.

At any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and review of regulations.

§ 1.2. Definitions.

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

"Board" means the Virginia State Board of 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.

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"Generic drug name" means the nonproprietary name listed in the United States Pharmacopoeia-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.

"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.

"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.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"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.

"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, 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.

"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.

"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 between 15° and 30°C (59° and 86°F).

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, the container label bears an appropriate instruction to protect the product from freezing.

"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 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 pharmacy coordinated method of drug dispensing and control in which drugs are distributed in properly labeled unit-dose containers or single-unit containers in ready to administer form as far as possible, in a supply for not more than seven days.

"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.

§ 1.3. Fees.

The fee which shall accompany an application or a renewal for a license, permit, registration or the charge for the delinquent payment of a renewal shall be as follows:

A. The application fee for pharmacist examination shall be \$300. If applicant withdraws the application after the deadline for filing, all but \$25 of the fee will be refunded.

B. The application fee for a ~~temporary or probationary or reciprocal license pharmacist license by endorsement~~ shall be \$300.

C. Renewal of pharmacist license shall be ~~\$20~~ \$50 .

1. The application fee for a person whose license has been revoked or suspended indefinitely shall be ~~\$50~~ \$300 .

2. If a pharmacist does not maintain a license within the Commonwealth, all back renewal fees and a ~~\$10~~ \$25 delinquent fee shall be paid before a renewal of the license will be issued.

D. Permit to conduct a pharmacy shall be ~~\$75~~ \$200 annually.

E. Physician drug dispensing license shall be ~~\$75~~ \$200 annually.

F. Manufacturing permits.

1. Nonrestricted manufacturing permit shall be ~~\$200~~ \$300 annually.

2. Restricted manufacturing permit shall be ~~\$200~~ \$300 annually.

3. Wholesaler or distributor shall be ~~\$200~~ \$300 annually.

G. Controlled substances registration shall be \$20 annually.

H. If a licensee fails to renew a required license, registration or permit prior to the expiration date for the license or registration, a ~~\$10~~ \$25 late fee shall be assessed.

I. Duplicate certificate of registration for a pharmacist or the certification of grades and registration for a pharmacist shall be ~~\$15~~ \$25 .

PART II. ENTRY AND LICENSURE REQUIREMENTS.

§ 2.1. Practical experience required.

A. Each applicant for licensure by examination shall have gained practical experience in prescription compounding and dispensing within a pharmacy for a period of not less than six months.

B. During the six months of practical experience required, the applicant shall accumulate a minimum of 1,000 hours. For purposes of this regulation, credit will not be given for more than 40 hours in any one week.

C. All practical experience credit required shall only be gained after completion of the first professional year in an approved school of pharmacy.

D. Practical experience gained in a college of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience needed toward fulfilling the six months of experience required.

E. An applicant shall not be admitted to the examination unless all of the practical experience has been gained.

§ 2.2. Procedure for gaining practical experience.

A. Each pharmacy student, except those enrolled in an approved college clerkship program, who desires to gain practical experience in a pharmacy within the Commonwealth shall register with the board on a form provided by the board prior to becoming so engaged. This requirement shall also apply to students gaining practical experience within the Commonwealth for licensure in another state. The student shall be called a "student externe."

B. Graduates in pharmacy of an approved school of pharmacy who wish to gain practical experience within the Commonwealth shall register with the board prior to being so engaged. Such graduates shall be called "pharmacy interne." Experience gained in another state

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must be certified by the board in the state in which the experience was gained.

C. The applicant shall be supervised by a pharmacist who holds an unrestricted license and assumes full responsibility for the training, supervision and conduct of the externe or the interne. The supervising pharmacist shall not supervise more than one interne or externe during the same time period for experience during or after the last professional year.

D. The practical experience of the student externe shall be gained nonconcurrent with the school year excepting that gained in any program of a pharmacy school which meets the requirements of § 54-524.21 of the Code of Virginia.

E. Any practical experience gained within any state by a student externe or a pharmacy interne who has not registered with the board in the state in which the experience is being gained will not be accepted by this board nor certified to another state by the board.

F. All practical experience of the student externe shall be evidenced by an affidavit which shall be filed with the application for examination for licensure.

G. An applicant for examination shall file the certificate of experience no less than 30 days prior to the date of the examination, and such certificates required in G and H of this section shall be on a form prescribed by the board.

H. The registration of a student externe shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

§ 2.3. Curriculum and approved colleges of pharmacy.

A. Length of curriculum.

The following educational requirements for licensure for the specified periods shall be recognized by the board for the purpose of licensure.

1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.

2. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

3. On and after June 1, 1964, the applicant for licensure shall have been graduated from a five-year course of study with a Bachelor of Science degree in pharmacy awarded.

B. First professional degree required.

In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a college of pharmacy which meets the requirements of § 54-524.21 of the Code of Virginia.

§ 2.4. Content of the examination and grades required.

A. The examination for licensure as a pharmacist shall consist of an integrated examination of pharmacy practice, pharmacology, pharmacy mathematics, and such other subjects as are necessary to assure that the candidate possesses the necessary knowledge and skills to practice pharmacy. Additional examination of the candidates' knowledge of federal and state laws related to pharmacy practice shall be provided by the board.

B. Passing requirements.

The passing grade on the integrated pharmacy examination shall be not less than 75. The passing grade on the law examination shall be not less than 75.

C. Limitation on admittance to examination.

When an applicant for licensure by examination fails to meet the passing requirements of paragraph B of this section on three occasions, he shall not be readmitted to the examinations until he has completed an additional six months of practical experience as a pharmacy interne as set forth in § 2.2.

PART III. PHARMACIES.

§ 3.1. 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, an application for a new pharmacy permit shall be filed within 10 days.

§ 3.2. Special or limited-use pharmacy permits.

For good cause shown, the board may issue a special or limited-use pharmacy permit, when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited or unusual nature as compared to a regular pharmacy service. The permit to be issued shall

be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. A policy and procedure manual detailing the type and method of operation, hours of operation, and method of documentation of continuing pharmacist control must accompany the application.
2. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

§ 3.3. Pharmacies going out of business.

Ten days prior to the closing date, the board shall be notified by the pharmacist-in-charge or other responsible person of the closing of the pharmacy. At that time, 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 other responsible person shall inform the board of the name and address of the licensee to whom the drugs are being transferred.

§ 3.4. New pharmacies.

A. Inspection and notice required for new pharmacies.

1. The proposed location of a pharmacy practice area shall be inspected by an agent of the board prior to the issuance of a permit.
2. Pharmacy permit applications which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.
3. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

B. At the time of the inspection, the dispensing area shall comply with §§ 3.5, 3.6, 3.7, 3.8, and 3.10 of these regulations.

C. Drugs shall not be stocked within the proposed pharmacy until adequate safeguards against diversion have been provided and approved by the board or its authorized agent.

§ 3.5. Physical standards for all pharmacies.

A. Space requirements.

The area which is to be used for the storage, compounding, and preparation of prescriptions for Schedule II through VI drugs shall not be less than 240

square feet. The patient waiting area or the area used for devices, cosmetics, and proprietary medicines shall not be considered a part of the minimum 240 square feet. The total area shall be consistent with the size and scope of the services provided.

B. Access to dispensing area.

Access to stock rooms, rest rooms, and other areas other than an office that is exclusively used by the pharmacist shall not be through the dispensing area or drug storage area. This subsection shall not apply to dispensing areas which are established prior to the effective date of this regulation.

C. The pharmacy shall be constructed of permanent and secure materials. Trailers or other moveable facilities or temporary construction shall not be permitted.

D. The entire area of the location of the pharmacy practice, including all areas where drugs are stored shall be well lighted and well ventilated; the proper storage temperature shall be maintained to meet U.S.P.-N.F. specifications for drug storage.

E. The counter work space shall be used only for the compounding and dispensing of drugs and necessary record keeping.

F. A sink with hot and cold running water shall be within the immediate compounding and dispensing area.

G. Adequate refrigeration facilities for the storage of drugs requiring cold storage temperature shall be maintained within the compounding and dispensing area.

§ 3.6. Sanitary conditions.

A. The entire area of any place bearing the name of a pharmacy shall be maintained in a clean and sanitary manner and in good repair and order.

B. The dispensing area and work counter space and equipment in the dispensing area shall be maintained in a clean and orderly manner.

C. Adequate trash disposal facilities and receptacles shall be available.

§ 3.7. Required minimum equipment.

The pharmacist-in-charge shall be responsible for maintaining the following equipment:

A. A current copy of the United States Pharmacopeia Dispensing Information Reference Book.

B. A set of Prescription Balances, sensitive to 15 milligrams, and weights.

C. A refrigerator with a monitoring thermometer.

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D. A copy of the current Virginia Drug Control Act and board regulations.

E. A current copy of the Virginia Voluntary Formulary.

F. A laminar flow hood for pharmacies engaging in the compounding of sterile product(s).

§ 3.8. Safeguards against diversion of drugs.

A device for the detection of breaking shall be installed in each dispensing and drug storage area of each pharmacy. The installation and the device shall be based on accepted burglar alarm industry standards, and shall be subject to the following conditions:

A. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

B. The device shall be maintained in operating order.

C. The device shall fully protect the immediate drug compounding, dispensing and storage areas and shall be capable of detecting breaking by any means whatsoever in the area when the pharmacy or other business in which the pharmacy is located is closed.

D. The alarm system must have an auxiliary source of power.

E. This regulation shall not apply to pharmacies which have been granted a permit prior to the effective date of this regulation provided a previously approved security alarm system is in place and provided further that a breaking and loss of drugs does not occur.

§ 3.9. Special security requirements.

A. If the compounding and dispensing area is to be closed while the remainder of the pharmacy or business in which the dispensing area is located is open for the conduct of business, an alarm system shall be installed in the dispensing area and be subject to the following requirements:

1. The alarm system is activated and operated separately from any other alarm system in the pharmacy or the business in which the dispensing area is located.

2. The alarm system will detect breaking in the dispensing area when it is closed.

3. The alarm system is controlled only by the pharmacist.

B. An emergency key or access code to the system shall be maintained as set forth in § 3.10 of these regulations.

C. If the dispensing and drug storage area is enclosed

from floor to ceiling, the separately activated alarm system referred to in this regulation shall not be required.

§ 3.10. Dispensing area enclosures.

A. The drug dispensing and drug storage areas of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the controlled drug stock from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be of sufficient height as to prevent anyone from reaching over to gain access to the drugs.

3. Entrances to the enclosed area must have a door which extends from the floor and which is at least as high as the adjacent counters or adjoining partitions.

4. Doors to the area must have locking devices which will prevent entry in the absence of the pharmacist.

B. The door keys to the dispensing areas shall be subject to the following requirements:

1. Only pharmacists practicing at the pharmacy and authorized by the pharmacist-in-charge shall be in possession of any keys to the locking device on the door to such enclosure.

2. The pharmacist may place a key in an envelope or other container which contains a seal and a signature placed by the pharmacist on the envelope or container in a safe or vault within

3. The key may be used to allow emergency entrance to the dispensing area by other pharmacists.

C. Restricted access to the dispensing area.

The prescription drug compounding and dispensing area is restricted to pharmacists, externes, and internes who are practicing at the pharmacy. Clerical assistants and other persons designated by the pharmacist may be allowed access by the pharmacist but only during the hours the pharmacist is on duty.

§ 3.11. Drugs outside of dispensing area.

Any Schedule II through VI drug not stored within the prescription compounding and dispensing area and kept for stock replenishing shall be secured and access to it shall be restricted to the pharmacist and persons authorized by the pharmacist.

§ 3.12. Prescriptions awaiting delivery.

Prescriptions prepared for delivery to the patient may

be placed in a secure place outside of the compounding and dispensing area and access to the prescriptions restricted by the pharmacist to designated clerical assistants. The prepared prescriptions may be transferred to the patient whether or not a pharmacist is on duty.

§ 3.13. Dispersion of Schedule II drugs.

Schedule II drugs may be dispersed with other schedules of drugs or shall be maintained within a locked cabinet, drawer, or safe.

§ 3.14. Safeguards for controlled paraphernalia.

Controlled paraphernalia shall not be placed on open display or in an area completely removed from the drug compounding and dispensing area whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

§ 3.15. Expired drugs; security.

Any drug which has exceeded the expiration date shall be separated from the stock used for dispensing and may be maintained in a designated area with the unexpired stock prior to the disposal of the expired drug.

§ 3.16. Destruction of Schedule II through V drugs in pharmacies.

If a pharmacist-in-charge wishes to destroy unwanted Schedule II through V drugs kept for dispensing, in lieu of returning the drugs to the Drug Enforcement Administration (DEA), he shall use the following procedures for the drug destruction:

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, and manner or 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 must be provided to the board office as set forth above in this subsection.

C. The DEA Drug Destruction Form No. 41 must be used to make a record of all drugs to be destroyed.

D. The drugs must be destroyed by burning in an incinerator; an alternate method of flushing may be used if incineration is not possible and if permitted by the municipality.

E. The actual destruction shall be witnessed by the pharmacist-in-charge and another pharmacist not employed by the pharmacy.

F. Each form shall show the following information:

1. Legible signatures of the pharmacist-in-charge and the witnessing pharmacist;
2. The license numbers of the pharmacists destroying the drugs; and
3. The date of the destruction.

G. At the conclusion of the destruction of the drug stock:

1. Two copies 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.

PART IV. NUCLEAR PHARMACIES.

§ 4.1. General requirements for pharmacies providing radiopharmaceutical services.

A. A permit to operate a pharmacy providing radiopharmaceutical services shall be issued only to a qualified nuclear pharmacist. In emergency situations, in the pharmacist's absence, he may designate one or more other qualified pharmacists to have access to the licensed area. These individuals may obtain single doses of radiopharmaceuticals for the immediate emergency and shall document such withdrawals in the control system.

B. Pharmacies providing ordinary pharmacy services in addition to radiopharmaceutical services shall comply with all regulations applicable to pharmacies in general. Pharmacies providing only radiopharmaceutical services shall comply with all regulations related to physical standards, sanitary conditions and security.

C. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradioactive drugs and shall be secured from unauthorized personnel. All pharmacies handling radiopharmaceuticals shall provide a radioactive storage and product decay area, occupying at least 25 square feet of space, separate from and exclusive of the hot laboratory, compounding, dispensing, quality assurance and office area.

D. A prescription order for a radiopharmaceutical shall be dispensed in a unit-dose package. A pharmacy may furnish the radiopharmaceuticals for office use only to practitioners for an individual patient except for the occasional transfer to a pharmacist.

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E. In addition to any labeling requirements of the board for nonradioactive drugs, the immediate outside container of a radioactive drug to be dispensed shall also be labeled with: (i) the standard radiation symbol; (ii) the words "Caution--Radioactive Material"; (iii) the name of the radionuclide; (iv) the chemical form; (v) the amount of radioactive material contained, in millicuries or microcuries; (vi) if a liquid, the volume in milliliters; (vii) the requested calibration time for the amount of radioactivity contained; and (viii) the practitioner's name and the assigned lot number.

F. The immediate inner container shall be labeled with: (i) the standard radiation symbol; (ii) the words "Caution--Radioactive Material"; and (iii) the prescription number.

G. The amount of radioactivity shall be determined by radiometric methods for each individual dose immediately prior to dispensing.

H. Nuclear pharmacies may redistribute approved radioactive drugs if the pharmacy does not process the radioactive drugs in any manner nor violate the product packaging.

§ 4.2. Qualification as a nuclear pharmacist.

In order to practice as a nuclear pharmacist, a pharmacist shall possess the following qualifications:

1. Meet Nuclear Regulatory Commission standards of training for medically used or radioactive by-product material.
2. Have received a minimum of 90 contact hours of didactic instruction in nuclear pharmacy.
3. Attain a minimum of 160 hours of clinical nuclear pharmacy training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing nuclear pharmacy services, or in a structured clinical nuclear pharmacy training program in an approved college of pharmacy.
4. Submit an affidavit of experience and training to the board.

PART V. DRUG INVENTORY AND RECORDS.

§ 5.1. 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. Location of records. 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.

4. Inventory after drug theft. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54-524.56(d) 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.

B. Prescriptions.

1. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

2. 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.

§ 5.2. Automated data processing records of prescriptions.

A. An automated data processing system may be used for the storage and retrieval of original and refill dispensing information for prescriptions instead of manual record keeping requirements, subject to the following conditions:

1. Any computerized system shall provide retrieval (via CRT display or printout) of original prescription information for those prescriptions which are currently authorized for dispensing.
2. Any computerized system shall also provide retrieval via CRT display or printout of the dispensing history for prescriptions dispensed during the past two years.
3. Documentation of the fact that the refill information entered into the computer each time a pharmacist refills an original prescription for a drug is correct shall be provided by the individual pharmacist who makes use of such system. If the system provides a printout of each day's prescription

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dispensing data, the printout shall be verified, dated and signed by the individual pharmacist who dispensed the prescription. The individual pharmacist shall verify that the data indicated is correct and then sign the document in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith).

a. In place of such printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day, in the manner previously described, attesting to the fact that the dispensing information entered into the computer that day has been reviewed by him and is correct as shown.

b. Printout of dispensing data requirements.

Any computerized system shall have the capability of producing a printout of any dispensing data which the user pharmacy is responsible for maintaining under the Drug Control Act.

§ 5.3. Pharmacy repackaging of drug; records required.

A. Records required.

Pharmacies in which bulk reconstitution of injectables, bulk compounding or the prepackaging 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, quantity prepared, initials of the pharmacist supervising the process, manufacturer's or distributor's name, control number or the assigned number, and an expiration date.

B. Expiration date.

The drug name, strength, if any, the manufacturer's or distributor's name and control number or assigned control number, and an appropriate expiration date shall appear on any subsequently repackaged or reconstituted units:

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.

PART VI. PRESCRIPTION ORDER AND DISPENSING STANDARDS.

§ 6.1. Distribution of a prescription device.

Any person, except those persons who are registered under the provisions of § 54-524.31 of the Drug Control Act, who sells or distributes a Schedule VI device which under the applicable federal or state law may be sold, dispensed, or distributed only by or on the order of prescription of a practitioner, shall maintain every such prescription or order on file for two years.

§ 6.2. Emergency prescriptions for Schedule II drugs.

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;

2. The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in § 54-524.67 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 § 54-524.67 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.

§ 6.3. Partial dispensing of Schedule II prescriptions.

A. The partial filling of a prescription for a drug listed

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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 nursing homes 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 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, 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.

§ 6.4. Dispensing of prescriptions; acts restricted to pharmacists.

A. The following acts shall be performed by a pharmacist, or by a student externe or pharmacy interne, provided a method for monitoring such acts of the externe or interne is provided:

1. The accepting of an oral prescription from a practitioner and the reducing of such oral prescription to writing.

2. The personal supervision of the compounding of extemporaneous preparations.

3. The providing of drug information, including notice

of changes or substitution of medication, to practitioners and to the patients.

4. The interpretation of the information contained in medication profile records.

B. Persons assisting pharmacist.

The following shall apply to persons present in the compounding and dispensing area:

1. Only one person who is not a pharmacist may be present in the immediate compounding and dispensing area at any given time with each pharmacist for the purpose of assisting the pharmacist in preparing and packaging of prescriptions.

2. In addition to the person authorized in paragraph 1 in this section, personnel authorized by the pharmacist may be present in the immediate compounding and dispensing area for the purpose of performing clerical functions.

C. Certification of completed prescription.

After the prescription has been prepared and prior to the delivery of the order, the pharmacist shall inspect the prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction.

§ 6.5. Refilling of prescriptions.

A. Schedule II drugs.

A prescription for a Schedule II drug shall not be refilled.

B. Schedule III through V drugs.

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. Partial dispensing of prescriptions. 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;

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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.

C. Schedule VI drugs.

1. 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.

2. A prescription for a Schedule VI drug or device shall not be refilled if the prescription is more than two years old. In instances where the drug or device is to be continued, authorization shall be obtained from the prescriber and a new prescription shall be filed.

D. As an alternative to all manual record-keeping requirements provided for in subsections A, B and C of this section, an automated data processing system as provided in § 5.2 may be used for the storage and retrieval of dispensing information for prescription for drugs dispensed.

PART VII. LABELING AND PACKAGING STANDARDS FOR PRESCRIPTIONS.

§ 7.1. Labeling of prescription as to content and quantity.

A. Unless otherwise directed by the prescribing practitioner, any drug dispensed pursuant to a prescription shall bear on the label of the container, in addition to other requirements, the following information:

1. The drug name and strength, when applicable;

a. If a trade name drug is dispensed, the trade name of the drug or the generic name of the drug.

b. If a generic drug is dispensed in place of a trade name drug, in addition to the requirements of § 32.1-87.A of the Code of Virginia, one of the following methods shall be used:

(1) The generic name or,

(2) A name for the product dispensed which appears on the generic manufacturer's label.

(3) The generic name followed by the words "generic for" followed by the trade name of the drug for which the generic drug is substituted.

2. The number of dosage units, or if liquid, the number of milliliters dispensed.

§ 7.2. Packaging standards for dispensed prescriptions.

A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such packaging standard for that drug, it shall be dispensed in a well-closed container.

§ 7.3. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from such requirements promulgated pursuant to the Poison Prevention Packaging Act of 1970.

B. Each pharmacy may have a sign posted near the compounding and dispensing area advising the patients that nonspecial packaging may be requested.

PART VIII. STANDARDS FOR PRESCRIPTION TRANSACTIONS.

§ 8.1. Issuing a copy of a prescription that can be refilled.

A. A copy of a prescription for a drug which pursuant to § 54-524.68 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, 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.

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;

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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 regulation shall prevent the giving of a prescription marked "For Information Only" to a patient.

§ 8.2. Issuing a copy of a prescription that cannot be refilled.

A. A copy of a prescription for a drug which, pursuant to § 54-524.68 of the Drug Control Act, cannot be refilled at the time the copy is issued, 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 § 54-524.2 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.

§ 8.3. Confidentiality of patient information.

A pharmacist shall not exhibit, dispense, or reveal any prescription or discuss the therapeutic effects thereof, or the nature or extent of, or the degree of illness suffered by or treatment rendered to, any patient served by the pharmacist with any person other than the patient or his authorized representative, the prescriber, or other licensed practitioner caring for this patient, or a person duly authorized by law to receive such information.

§ 8.4. Kickbacks, fee-splitting, interference with supplier.

A. A pharmacist shall not solicit or foster prescription practice by secret agreement with a prescriber of drugs or any other person providing for rebates, "kickbacks", fee-splitting, or special charges in exchange for prescription orders.

B. A pharmacist shall not interfere with the patient's

right to choose his supplier of medication or cooperate with any person or persons in denying a patient the opportunity to select his supplier of prescribed medications.

§ 8.5. Returning of drugs and devices.

Drugs or devices shall not be accepted for return or exchange by any pharmacist or pharmacy for resale after such drugs and devices have been taken from the premises where sold, distributed, or dispensed unless such drug or devices are in the manufacturer's original sealed containers or in unit-dose container which meets the U.S.P.-N.F. Class A or Class B container requirement.

§ 8.6. Physician licensed by the board.

Physicians licensed by the board to dispense drugs shall be subject to the following sections of these regulations:

§ 3.8. Safeguards against diversion of drugs.

§ 5.1. Manner of maintaining records, prescriptions, inventory records.

§ 6.4. Filling of prescriptions.

§ 6.5. Refilling of prescriptions.

§ 7.1. Labeling of prescriptions.

§ 7.2. Packaging standards for dispensed prescriptions.

§ 7.3. Special packaging.

§ 8.5. Returning of drugs and devices.

PART IX.

UNIT DOSE DISPENSING SYSTEMS.

§ 9.1. Unit dose dispensing system.

A unit dose drug dispensing system may be utilized for the dispensing of drugs to patients in a hospital or nursing home. The following requirements shall apply:

A. If a unit dose system is utilized by a pharmacy, no more than a seven-day supply of drugs shall be dispensed at any one given time.

B. 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.

C. Properly trained personnel may transcribe the physician's drug orders to a patient profile card, fill the

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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.

D. All dosages and drugs shall be labeled with the drug name, strength, lot number and expiration date when indicated.

E. The patient's individual drug drawer or tray shall be labeled with the patient's name and location.

F. ~~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.~~

G. A back-up dose of a drug of not more than one dosage 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.

H. A record shall be made and maintained within the pharmacy for a period of one year showing:

1. The date of filling of the drug cart;
2. The location of the drug cart;
3. The initials of person who filled the drug cart; and
4. The initials of the pharmacist checking the drug cart.

I. 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:

1. 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.
2. 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.
3. In the case of the computer-based distribution system, a uniformly maintained "fill list" or other document may be accepted as the dispensing record for Schedule II through VI drugs. Records of disposition/administration for floor stock drugs as provided in § 10.5.B will be accepted for drugs distributed as floor stock. A separate record for Schedule VI is not required if disposition records of Schedule II through V are maintained.

PART X. HOSPITAL PHARMACIES.

§ 10.1. Hospital pharmacies: chart order not a prescription.

A chart order is an order for a medication to be dispensed for an inpatient in a hospital. It is not a prescription order as defined in the Drug Control Act.

§ 10.2. Standards for hospital pharmacies.

A. Hospitals not having a full-time pharmacist, but in which drugs are prepackaged or relabeled or drugs transferred from one container to another, shall obtain a pharmacy permit with a part-time pharmacist designed to perform such functions or to provide personal supervision of such functions.

B. If there is no formally organized pharmacy department, the pharmacy service shall be obtained from another hospital having such a service or from a community pharmacy. Properly labeled and prepackaged drugs may then be distributed from the storage area under the supervision and direction of the pharmacist-in-charge of the service provider.

§ 10.3. Labeling of drugs; preparation and storage of drugs.

A. Labeling.

All medications issued as floor stock shall be labeled with the name of the drug, strength, assigned lot number and expiration date when applicable. In the case of a drug order sent to a nursing unit in a multiple dose container for subsequent administration to a particular patient, the drug shall be labeled with the name and the strength of the drug and the name and the location of the patient.

B. Equipment.

There shall be adequate equipment, properly maintained, and supplies provided to ensure proper professional and administrative services as may be required for patient safety through proper storage, compounding, dispensing, distribution and administration of drugs. When sterile products are prepared in the pharmacy, the product shall be prepared by qualified personnel in the environment of a laminar flow hood.

C. Storage.

All drugs within the pharmacy and throughout the hospital shall be under the supervision of the pharmacist-in-charge. The drugs shall be stored under proper conditions of temperature, light, sanitation and security.

§ 10.4. After-hours access to the pharmacy.

When authorized by the pharmacist-in-charge, a supervisory nurse may have access to the pharmacy in the absence of the pharmacist in order to obtain emergency medication, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist and provided further that a separate record shall be made and left

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within the pharmacy on a form prescribed by the pharmacist-in-charge and such records are maintained within the pharmacy for a period of one year showing:

1. The date of withdrawal;
2. The patient's name;
3. The name of the drug, strength, dosage form and dose prescribed;
4. Number of doses removed; and
5. The signature of the authorized nurse.

§ 10.5. Floor stock drugs.

A. Proof of delivery.

A delivery receipt shall be obtained for Schedule II through V drugs supplied as floor stock. Receipts shall be maintained in the pharmacy for a period of two years.

B. Distribution records.

A record of disposition/administration shall be used to document administration of Schedule II through V drugs when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The pharmacist-in-charge or his designee shall:

1. Match returned records with delivery receipts to verify that all records are returned;
2. Periodically audit returned administration records for completeness as to patient's names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;
3. Verify that all additions to inventory are recorded, that all additions to and deductions from inventory are correctly calculated, that sums carried from one record to the next are correctly recorded, and periodically verify that doses documented on administration records are reflected in the medical record;
4. Initial or sign the returned record and retain for two years from the date of return; and
5. Establish a system of documentation of administration of drugs in all areas where drugs are stored or administered.

C. Repackaging.

Drugs repackaged for floor stock shall comply with § 5.3.

§ 10.6. Securing the pharmacy.

The pharmacy shall be locked in the absence of a pharmacist prior to, and after, routine hours of operation and shall be secured from access to other personnel except as provided in § 10.4 of these regulations.

§ 10.7. Emergency room.

All drugs in the emergency department shall be under the control and supervision of the pharmacist-in-charge and shall be subject to the following additional requirements:

A. All drugs kept in the emergency room shall be in a secure place from which unauthorized personnel and the general public are excluded.

B. Oral orders for medications shall be reduced to writing and shall be signed by the practitioner.

C. In the emergency room, a medical practitioner may dispense drugs for the immediate need of his patient if permitted to do so by the hospital; the drug container and the labeling shall comply with the requirements of these regulations and the Drug Control Act.

D. A record shall be maintained of all drugs administered in the emergency room.

E. A separate record shall be maintained on all drugs, including drug samples, dispensed in the emergency room. The records shall be maintained for a period of two years showing:

1. Date dispensed;
2. Patient's name;
3. Physician's name;
4. Name of drug dispensed, strength, dosage form, quantity dispensed, and dose.

§ 10.8. Outpatient pharmacy permit.

A. An outpatient pharmacy of a hospital shall be operated under a separate pharmacy permit issued to a specific pharmacy-in-charge of each such operation; if the pharmacy dispensed drugs to walk-in customers who are not patients of the hospital, the outpatient pharmacies shall be governed by laws and regulations as they apply to pharmacies in general and shall be operated in a space separated from the hospital pharmacy.

B. An outpatient pharmacy of a hospital may be operated under the permit of the hospital pharmacy, if the drugs are dispensed only:

1. To patients who receive treatments or consultations on the premises;

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2. To inpatients, outpatients, or emergency patients upon discharge for their personal use away from the hospital; and

3. To the hospital employees, medical staff members, or students for personal use or for the use of their dependents.

4. Nothing in this regulation 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.

§ 10.9. Mechanical devices for dispensing drugs.

A hospital may utilize mechanical devices for the dispensing of drugs pursuant to § 54-524.54 of the Drug Control Act, provided the utilization of such mechanical devices is under the personal supervision of the pharmacist. Such supervision shall include:

A. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.

B. The placing of previously packaged and labeled drug units into the mechanical dispensing device.

C. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.

D. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical device.

§ 10.10. Certified emergency medical technician program.

The pharmacy may prepare a drug kit for a Certified Emergency Medical Technician Program provided:

1. The pharmacist-in-charge of the hospital shall be responsible for all controlled drugs contained in this drug kit.

2. The drug kit is sealed in such a manner that it will preclude any possibility of loss of drugs.

3. Drugs may be administered by a technician upon an oral order of an authorized medical practitioner. The oral order shall be reduced to writing by the technician and shall be signed by the physician.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. A record signed by the physician for the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be

maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations.

§ 10.11. Identification for interne or resident prescription form in hospitals.

The prescription form for the prescribing of drugs for use by medical interns or residents who prescribe only in a hospital shall bear the prescriber's signature, the legibly printed name, address, and telephone number of the prescriber and an identification number assigned by the hospital. The identification number shall be the Drug Enforcement Administration number assigned to the hospital pharmacy plus a suffix assigned by the institution. The assigned number shall be valid only within the course of duties within the hospital.

PART XI.

PHARMACY SERVICES TO NURSING HOMES.

§ 11.1. Drugs in nursing homes.

Drugs, as defined in the Drug Control Act, shall not be floor stocked by a nursing home, except those in the stat drug box or emergency drug box provided for within these regulations.

§ 11.2. Pharmacist's responsibilities to nursing homes.

The pharmacist serving a nursing home shall ascertain:

A. That a valid order exists prior to the dispensing of any drug.

B. 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.

C. That each cabinet utilized for the storage of the drugs for individual patients is locked and accessible only to authorized personnel.

D. That the storage area for patients drugs is well lighted, of sufficient size to permit storage without crowding, and is of the appropriate temperature.

E. That poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

F. That discontinued drugs are destroyed under the following conditions:

1. The drugs are destroyed on the premises of the facility.

2. The drugs are destroyed in the presence of the

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pharmacist supplying pharmacy service to the facility and the director of nurses of the facility.

3. A complete and accurate record of the drugs destroyed shall be maintained and signed by the pharmacist and director of nurses.

4. All destruction of the drugs is done without 30 days of the time the drug was discontinued.

5. The records of destruction shall be made a part of the records on all Schedule II through V drugs administered in the nursing home.

6. This procedure does not apply to discontinued drugs in unit-dose containers which meet U.S.P.-N.F. Class A or Class B container requirements or the manufacturer's sealed containers. Such drugs may be returned to the issuing pharmacist for reuse.

G. That drug reference materials are available on the nursing units.

H. That a monthly review of a drug therapy by a pharmacist is conducted for each patient. Such review shall be used to determine any irregularities. The pharmacist shall sign and date the notation of the review. An irregularity shall include such therapy which is not right and proper, and may include drug interactions or drug administration or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

§ 11.3. Emergency drug kit.

The pharmacist may prepare an emergency kit for a facility served by the pharmacy provided:

A. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

B. The contents of the kit shall be determined by the Pharmacy and Therapeutics Committee of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

C. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

D. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

E. Any drug used from the kit shall be covered by a prescription, signed by the physician, when legally required, within 72 hours.

§ 11.4. Stat-drug box.

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy and shall be subject to the following conditions:

A. The box is sealed in such a manner that will preclude the loss of drugs.

B. When the stat-drug box has been opened, it is returned to the pharmacy.

C. Any drug used from the box shall be covered by a drug order signed by the practitioner, when legally required, within 72 hours.

D. There shall not be more than one box per 200 patients in a facility.

E. There shall be a listing of the contents of the box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

F. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

G. Contents of the stat-drug box.

The contents of the box shall be limited to the following classes of drugs, the drug strengths to be selected by the drug committee of the facility in consultation with the providing pharmacist:

1. Antibiotics (injectable) - Not more than five doses of each of four different antibiotics.

2. Antibiotics (oral) - Not more than five doses each of five different antibiotics including two strengths of each antibiotic.

3. Antiemetics - Not more than five doses each of three different antiemetics.

4. Antihistamines - Not more than five doses each of two different antihistamines.

5. Antihypertensives - Not more than five doses each of two different antihypertensives.

6. Antipyretics - Not more than five doses each of two antipyretics.

7. Antipsychotic - Not more than five doses each of five antipsychotics.

8. Diuretics - Not more than five doses each of two diuretics.

9. Antidiarrheals - Not more than five doses of two

oral antidiarrheal products.

10. Anticonvulsants - Not more than five doses of two oral anticonvulsants.

11. Analgesics - Not more than five doses of one oral narcotic drug in Schedule III or IV and five doses of one nonnarcotic drug in Schedule III or IV.

PART XII. OTHER INSTITUTIONS AND FACILITIES.

§ 12.1. Drugs in industrial 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 will be maintained and secured in a suitable locked facility, 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 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 regulation, 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 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 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.

§ 12.2. Licensed humane societies and animal shelters; use of pentobarbital.

A humane society or animal shelter, after having obtained the proper permits pursuant to state and federal laws, may purchase, possess and administer Sodium

Pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets and animals provided that:

1. The facility shall be under the general supervision of a veterinarian.

2. The person(s) responsible for administering the drug shall have been trained by a veterinarian in the manner of administration.

3. The drug shall be stored in a secure place and only the person responsible for administering the drug may have access to the drug.

4. The drug shall be obtained and administered in the injectable form only.

5. All invoices and order forms shall be maintained for a period of two years.

6. Complete and accurate records shall be maintained on the administration of the drug; the record shall show the date of administration, the species of the animal, the weight of animal, the amount of drug administered and signature of the person administering the drug.

§ 12.3. Drugs in correctional institutions.

All prescription drugs at any correctional unit shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. The prescription orders shall be initiated by the physician or his agent.

2. The number of doses on each prescription order shall be specified.

3. All prepared drugs shall be maintained in a suitable locked facility with only the person responsible for administering the drugs having access.

4. All drugs shall be taken in the presence of the person administering the drug.

5. Drug administration record. Complete and accurate records shall be maintained on all drugs received, administered and discontinued. This record shall consist of a two-part drug administration record. The administration record shall show the:

a. Prescription number;

b. Drug name and strength;

c. Number of dosage units received;

d. Physician's name; and

e. Date, time and signature of person administering

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the individual dose of drug.

6. Disposal of unused drugs. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy along with Part 2 of the drug administration record within seven days. The drug shall be returned by the same means as it was originally sent.

a. The provider pharmacy shall compare the number of drug dosage units dispensed against Part 2 of the drug administration record, the number of dosage units administered and the number of dosage units returned to the issuing pharmacy.

b. The drug administration records shall be filed in chronological order by the provider pharmacy and maintained for a period of one year or, at the option of the facility, the records may be returned by the provider pharmacy to the facility.

c. The returned drugs shall be destroyed at least every 30 days. This destruction shall be carried out by the provider pharmacy and a responsible witness. The Board of Pharmacy shall be notified two weeks prior to the destruction in order that the board may witness any such destruction. An agent of the board shall, from time to time, witness a destruction of such drugs and, prior to the destruction, randomly reconcile the contents of selected containers against the drug administration record.

d. Drugs in the manufacturer's original sealed container may be returned to the stocks of the provider pharmacy.

7. Emergency and stat-drug box.

An emergency box and a stat-drug box may be prepared for the facility served by the pharmacy pursuant to §§ 11.3 and 11.4 of the regulations provided:

a. The facility employs one or more full-time physicians, registered nurse, licensed practical nurse or correctional health assistant;

b. No drugs are to be administered from the emergency box or "stat"-drug box unless authorized by the physician either in writing or orally. If orally, the order must be signed by the physician within 72 hours.

c. Only the physician, nurse, licensed practical nurse or correctional health assistant may administer a drug from the emergency box or "stat"-drug box.

d. The emergency drug box or "stat"-drug box must be sealed in such a manner that it will preclude

any possibility of loss of drugs. Any drug box which has been opened must be returned to the pharmacy within 72 hours.

PART XIII. EXEMPTED STIMULANT OR DEPRESSANT DRUGS AND CHEMICAL PREPARATIONS.

§ 13.1. Excluded substances.

The list of excluded substances, which may be lawfully sold over the counter without a prescription under the Federal Food, Drug and Cosmetic Control Act (21.U.S.C. 301), as set forth in the Code of Federal Regulations, Title 21, Part 1308.22, is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 13.2. Exempted chemical preparations.

The list of exempt chemical preparations set forth in the Code of Federal Regulations, Title 21, Part 1308.24 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c) of the Drug Control Act.

§ 13.3. Excepted compounds.

The list of excepted compounds set forth in the Code of Federal Regulations, Title 21, Part 1308.32 is adopted pursuant to the authority set forth in §§ 54-524.84:1(d), 54-524.84:8(e), and 54-524.84:10(c); the excepted compounds are drugs which are subject to the provisions of § 54-524.84:13 of the Drug Control Act.

PART XIV. MANUFACTURERS, WHOLESALERS, AND DISTRIBUTORS

§ 14.1. Manufacturers, wholesalers and distributors.

A permit shall not be issued to any manufacturer or distributor to operate from a private dwelling, unless a separate entrance is provided, and the place of business is open for inspection at all times during normal business hours. In any case, all other state and local laws and ordinances shall be complied with before any permit is issued.

§ 14.2. Manufacturers and wholesalers safeguards against diversion of drugs.

The following requirements shall comply to manufacturers or wholesaler of drugs:

1. The holder of the permit shall restrict all areas in which Schedule II-V drugs are manufactured, stored, or kept for sale, to a limited number of designated and necessary persons.

2. The holder of the permit shall take reasonable

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measures to prevent any person from pilfering drugs from the restricted area.

3. The holder of the permit shall not deliver any drug to a licensed business at which there is no one in attendance at the time of the delivery nor to any person who may not legally process such drugs.

4. The holder of a permit to manufacture or wholesale only Schedule VI drugs shall comply with the security requirements set forth in § 3.8.

5. This regulation shall not apply to the holder of a permit to manufacture or wholesale medical gases.

§ 14.3. Manufacturing of cosmetics.

A. The building in which cosmetics are manufactured, processed, packaged and labeled, or held shall be maintained in a clean and orderly manner and shall be of suitable size, construction and location in relation to surroundings to facilitate maintenance and operation for their intended purpose. The building shall:

1. Provide adequate space for the orderly placement of equipment and materials used.
2. Provide adequate lighting and ventilation.
3. Provide adequate washing, cleaning, and toilet facilities.

PART XV. GOOD MANUFACTURING PRACTICES.

§ 15.1. Good manufacturing practices.

A. The Good Manufacturing Practices regulations set forth in the Code of Federal Regulations, Title 21, Part 211 and effective April 1, 1986, are adopted by reference.

B. Each manufacturer of drugs shall comply with the requirements set forth in the federal regulations referred to in subsection A of this section.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-13-02. Underground Storage Tanks; Technical Standards and Corrective Action Requirements.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.34:9 of the Code of Virginia.

Public Hearing Date: May 31, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

Federal Underground Storage Tank (UST) Technical Regulations became effective on December 22, 1988. These proposed regulations will enable the State Water Control Board to administer the program in Virginia.

The proposed Underground Storage Tank (UST) Regulation will prevent and control releases of petroleum and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund") listed substances to state waters from regulated underground storage tanks. Owners and operators of new USTs would immediately be required to meet the new UST requirements. Owners and operators of existing USTs would be given 10 years to upgrade to new tank standards. Owners and operators of USTs would be required to notify; properly install, upgrade, repair, and close out the tanks; prove financial responsibility for the tanks; and properly report and clean up releases.

The State Water Control Board would administer the program. The Department of Housing and Community Development would insure compliance with UST requirements for installations and upgrades by the issuance of permits by the local building officials.

VR 680-13-02. Underground Storage Tanks; Technical Standards and Corrective Action Requirements.

PART I. DEFINITIONS, APPLICABILITY AND INTERIM PROHIBITION.

§ 1.1. Definitions.

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

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

"Belowground release" means any release to the subsurface of the land and to ground water. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the

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ground surface or otherwise covered with earthen materials.

"Board" means the Virginia State Water Control Board.

"Building official" means the executive official of the local government building department in charge of the enforcement and administration of the Virginia Uniform Statewide Building Code (USBC).

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Department of Waste Management" means the Virginia Department of Waste Management which has jurisdiction over the proper handling and disposal of solid and hazardous wastes in the Commonwealth of Virginia.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:

1. The owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and if,

- 2.a. Either a continuous on-site physical construction or installation program has begun; or,

- b. The owner or operator has entered into contractual obligations—which cannot be cancelled or modified without substantial loss—for physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property. "Farm" includes fish hatcheries, rangeland and nurseries with growing operations.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under subtitle C of RCRA) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4-light, No. 4-heavy, No. 5-light, No. 5-heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988 (See also "Existing Tank System").

"Noncommercial purposes" with respect to motor fuel means not for resale.

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under Part VII.

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of

the regulated substance to the environment.

"Owner" means:

1. In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and

2. In the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of nonferrous materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"RCRA" means the federal Resource Conservation and Recovery Act of 1976 as amended.

"Regulated substance" means an element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment. The term "regulated substance" includes:

1. Any substance defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, but not any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976; or

2. Petroleum, including crude oil or any fraction thereof, that is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel

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oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

“Release” means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into ground water, surface water or subsurface soils.

“Release detection” means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

“Repair” means to restore a tank or UST system component that has caused a release of product from the UST system.

“Residential tank” is a tank located on property used primarily for dwelling purposes.

“SARA” means the Superfund Amendments and Reauthorization Act of 1986.

“Septic tank” is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

“Stormwater or wastewater collection system” means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.

“Surface impoundment” is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

“Tank” is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

“Underground area” means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

“Underground release” means any belowground release.

“Underground storage tank” or “UST” means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an

accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. This term does not include any:

1. Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. Tank used for storing heating oil for consumption on the premises where stored, except for tanks having a capacity of more than 5,000 gallons and used for storing heating oil;
3. Septic tank;
4. Pipeline facility (including gathering lines) regulated under:
 - a. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or
 - b. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or
 - c. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subdivisions 4a or 4b of this definition;
5. Surface impoundment, pit, pond, or lagoon;
6. Storm-water or wastewater collection system;
7. Flow-through process tank;
8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
9. Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term “underground storage tank” or “UST” does not include any pipes connected to any tank which is described in subdivisions 1 through 9 of this definition.

“Upgrade” means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

“UST system” or “tank system” means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

“Wastewater treatment tank” means a tank that is designed to receive and treat an influent wastewater

through physical, chemical, or biological methods.

§ 1.2. Applicability.

A. The requirements of this regulation apply to all owners and operators of an UST system as defined in § 1.1 except as otherwise provided in subsections B, C, and D of this section. Any UST system listed in subsection C of this section must meet the requirements of § 1.3.

B. The following UST systems are excluded from the requirements of this regulation:

1. Any UST system holding hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances.

2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under § 402 or § 307(b) of the Clean Water Act.

3. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

4. Any UST system whose capacity is 110 gallons or less.

5. Any UST system that contains a de minimis concentration of regulated substances.

6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

C. Deferrals.

Parts II, III, IV, V, and VII of this regulation do not apply to any of the following types of UST systems:

1. Wastewater treatment tank systems;

2. Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 USC 2011 and following);

3. Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50, Appendix A;

4. Airport hydrant fuel distribution systems; and

5. UST systems with field-constructed tanks.

D. Deferrals.

Part IV does not apply to any UST system that stores fuel solely for use by emergency power generators.

§ 1.3. Interim prohibition for deferred UST systems.

No person may install an UST system listed in subsection C of § 1.2 for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction):

1. Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

2. Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and

3. Is constructed or lined with material that is compatible with the stored substance.

§ 1.4. Permitting and inspection requirements for all UST systems.

In all instances of installation, upgrade, repair and closure where an UST system is constructed, enlarged, altered, repaired or closed all UST systems must be permitted and inspected in accordance with subdivisions E 1 and E 2 of § 2.1, §§ 2.2, 3.4, 7.1 and subsection A of § 7.2.

PART II.

UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION.

§ 2.1. Performance standards for new UST systems.

In order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements.

A. Tanks.

Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

1. The tank is constructed of fiberglass-reinforced plastic; or

NOTE: The following industry codes may be used to comply with subdivision A 1 of this section: Underwriters Laboratories Standard 1316, "Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products"; Underwriters Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products"; or American Society of Testing and Materials Standard D4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground

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Petroleum Storage Tanks."

2. The tank is constructed of steel and cathodically protected in the following manner:

- a. The tank is coated with a suitable dielectric material;
- b. Field-installed cathodic protection systems are designed by a corrosion expert;
- c. Impressed current systems are designed to allow determination of current operating status as required in subdivision 3 of § 3.2; and
- d. Cathodic protection systems are operated and maintained in accordance with § 3.2; or

NOTE: The following codes and standards may be used to comply with subdivision A 2 of this section:

(1) Steel Tank Institute "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks";

(2) Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks";

(3) Underwriters Laboratories of Canada CAN4-S603-M85, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," and CAN4-G03.1-M85, "Standard for Galvanic Corrosion Protection Systems for Underground Tanks for Flammable and Combustible Liquids," and CAN4-S631-M84, "Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems"; or

(4) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and Underwriters Laboratories Standard 58 "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

3. The tank is constructed of a steel-fiberglass-reinforced-plastic composite; or

NOTE: The following industry codes may be used to comply with subdivision A 3 of this section: Underwriters Laboratories Standard 1746, "Corrosion Protection Systems for Underground Storage Tanks," or the Association for Composite Tanks ACT-100, "Specification for the Fabrication of FRP Clad Underground Storage Tanks."

4. The tank construction and corrosion protection are determined by the board to be designed to prevent the release or threatened release of any stored

regulated substance in a manner that is no less protective of human health and the environment than subdivisions A 1 through 3 of this section.

B. Piping.

The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

1. The piping is constructed of fiberglass-reinforced plastic; or

NOTE: The following codes and standards may be used to comply with subdivision B 1 of this section:

(a) Underwriters Laboratories Subject 971, "UL Listed Non-Metal Pipe";

(b) Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible and LP Gas";

(c) Underwriters Laboratories of Canada Guide ULC-107, "Glass Fiber Reinforced Plastic Pipe and Fittings for Flammable Liquids"; and

(d) Underwriters Laboratories of Canada Standard CAN 4-S633-M81, "Flexible Underground Hose Connectors."

2. The piping is constructed of steel and cathodically protected in the following manner:

a. The piping is coated with a suitable dielectric material;

b. Field-installed cathodic protection systems are designed by a corrosion expert;

c. Impressed current systems are designed to allow determination of current operating status as required in subsection C of § 3.2; and

d. Cathodic protection systems are operated and maintained in accordance with § 3.2; or

NOTE: The following codes and standards may be used to comply with subdivision B 2 of this section:

(1) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";

(2) American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems";

(3) American Petroleum Institute Publication 1632,

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; and

(4) National Association of Corrosion Engineers Standard RP-01-69, "Control of External Corrosion on Submerged Metallic Piping Systems."

3. The piping construction and corrosion protection are determined by the board to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subdivisions B 1 through 2 of this section.

C. Spill and overfill prevention equipment.

1. Except as provided in subdivision C 2 of this section, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

a. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

b. Overfill prevention equipment that will:

(1) Automatically shut off flow into the tank when the tank is no more than 95% full; or

(2) Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm.

2. Owners and operators are not required to use the spill and overfill prevention equipment specified in subdivision C 1 of this section if:

a. Alternative equipment is used that is determined by the board to be no less protective of human health and the environment than the equipment specified in subdivision C 1 a or b of this section; or

b. The UST system is filled by transfers of no more than 25 gallons at one time.

D. Installation.

All tanks and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

NOTE: A precision tank system test is required by industry codes prior to bringing the system into use.

NOTE: Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of subsection D of this section:

1. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage System"; or

2. Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

3. American National Standards Institute Standard B31.3, "Petroleum Refinery Piping," and American National Standards Institute Standard B31.4 "Liquid Petroleum Transportation Piping System."

E. Certification of installation.

1. All owners and operators must ensure that one or more of options a through d of the following methods of certification, testing, or inspection is performed, and a Certificate of Use has been issued in accordance with the provisions of the Virginia Uniform Statewide Building Code to demonstrate compliance with subsection D of this section. A certification of compliance on the UST Notification form must be submitted to the board in accordance with § 2.3.

a. The installer has been certified by the tank and piping manufacturers; or

b. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation; or

c. All work listed in the manufacturer's installation checklists has been completed; or

d. The owner and operator have complied with another method for ensuring compliance with subsection D of this section that is determined by the board to be no less protective of human health and the environment;

2. Owners and operators must obtain a permit, the required inspections and a Certificate of Use issued in accordance with the provisions of the Virginia Uniform Statewide Building Code. No UST system shall be installed or placed into use without the owner and operator having obtained the required permit, inspections and Certificate of Use under the provisions of the Virginia Uniform Statewide Building Code.

In the case of state facilities the Department of General Services shall function as the building official.

In the case of federal facilities the building official

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must be contacted. Owners and operators must obtain a permit, the required inspections and a Certificate of Use must be issued in accordance with the provisions of the Virginia Uniform Statewide Building Code. No UST system shall be installed or placed into use without the owner and operator having obtained the required permit, inspections and Certificate of Use under the provisions of the Virginia Uniform Statewide Building Code.

§ 2.2. Upgrading of existing UST systems.

A permit from the building official must be obtained prior to upgrading any UST system. No upgraded system shall be placed into use unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code.

Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

In the case of state facilities the Department of General Services shall function as the building official.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

A. Alternatives allowed.

Not later than December 22, 1998, all existing UST systems must comply with one of the following requirements:

1. New UST system performance standards under § 2.1;
2. The upgrading requirements in subsections B through D of this section; or
3. Closure requirements under Part VII of this regulation, including applicable requirements for corrective action under Part VI.

B. Tank upgrading requirements.

Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

1. Interior lining. A tank may be upgraded by internal lining if:
 - a. The lining is installed in accordance with the requirements of § 3.4, and
 - b. Within 10 years after lining, and every five years

thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.

2. Cathodic protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of subdivisions A 2 b, c and d of § 2.1 and the integrity of the tank is ensured using one of the following methods:

a. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system; or

b. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with subsections D through H of § 4.4; or

c. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of subsection C of § 4.4. The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or

d. The tank is assessed for corrosion holes by a method that is determined by the board to prevent releases in a manner that is no less protective of human health and the environment than subdivisions B 2 a through c of this section.

3. Internal lining combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if:

a. The lining is installed in accordance with the requirements of § 3.4; and

b. The cathodic protection system meets the requirements of subdivisions A 2 b, c and d of § 2.1.

NOTE: The following codes and standards may be used to comply with this section:

(1) American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(2) National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection";

(3) National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems"; and

(4) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems."

C. Piping upgrading requirements.

Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of subdivisions B 2 b, c and d of § 2.1.

NOTE: The codes and standards listed in the note following subdivision B 2 of § 2.1 may be used to comply with this requirement.

D. Spill and overflow prevention equipment.

To prevent spilling and overflowing associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overflow prevention equipment requirements specified in subsection C of § 2.1.

§ 2.3. Notification requirements.

A. Any owner who brings an underground storage tank system into use after May 8, 1986, must within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix I of this regulation, a notice of existence of such tank system to the board. Any change in: ownership; tank status (e.g., temporarily/permanently closed out); tank/piping systems (e.g., upgrades such as addition of corrosion protection, internal lining, release detection); substance stored (e.g., change from petroleum to hazardous substance) requires the UST owner to submit an amended notification form within 30 days after such change/upgrade occurs or is brought into use. Owners may provide notice for several tanks using one notification form, but owners with tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

B. Under Virginia UST notification requirements effective July 1, 1987, owners of property who have actual knowledge of underground storage tanks on such property that were taken out of service before January 1, 1974, yet still in the ground, must notify the board on the notification form.

NOTE: Under the Federal UST Notification Program, owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the board in accordance with the Hazardous and

Solid Waste Amendments of 1984, P.L. 98-616 on a form published by EPA on November 8, 1985, (50 FR 46602) unless notice was given pursuant to § 103(c) of CERCLA. Owners and operators who have not complied with the notification requirements may use portions I through VI of the notification form contained in Appendix I of this regulation.

C. Notices required to be submitted under subsection A of this section must provide all of the information in Sections I through VI of the prescribed form (Appendix I) for each tank for which notice must be given. Notices for tanks installed after December 22, 1988, must also provide all of the information in Section VII of the prescribed form (Appendix I) for each tank for which notice must be given.

D. All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:

1. Installation of tanks and piping under subsection E of § 2.1;
2. Cathodic protection of steel tanks and piping under subsections A and B of § 2.1;
3. Financial responsibility under 40 CFR Part 280 Subpart H (for petroleum USTS only) and under financial responsibility regulations promulgated by the board.
4. Release detection under §§ 4.2 and 4.3.

E. All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping complies with the requirements in subsection D of § 2.1.

F. Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under subsection A of this section. The statement provided in Appendix II of this regulation may be used to comply with this requirement.

PART III. GENERAL OPERATING REQUIREMENTS.

§ 3.1. Spill and overflow control.

A. Owners and operators must ensure that releases due to spilling or overflowing do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overflowing and spilling.

NOTE: The transfer procedures described in National Fire Protection Association Publication 385 may be used

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to comply with subsection A of this section. Further guidance on spill and overfill prevention appears in American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code."

B. The owner and operator must report, investigate, and clean up any spills and overfills in accordance with § 5.4.

§ 3.2. Operation and maintenance of corrosion protection.

All owners and operators of steel UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances:

1. All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

2. All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

a. Frequency. All cathodic protection systems must be tested within six months of installation and at least every three years thereafter; and

b. Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association.

NOTE: National Association of Corrosion Engineers Standard RP-02-85, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," may be used to comply with subdivision 2 b of this section.

3. UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly. These systems only provide the necessary corrosion protection when in continuous operation. Such equipment shall be installed so that it cannot be readily shut off by the owner and operator.

4. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with § 3.5) to demonstrate compliance with the performance standards in this section. These records must provide the following:

a. The results of the last three inspections required

in subdivision 3 of this section; and

b. The results of testing from the last two inspections required in subdivision 2 of this section.

§ 3.3. Compatibility.

Owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.

NOTE: Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:

1. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations"; and

2. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations."

§ 3.4. Repairs allowed.

A permit from the building official must be obtained prior to repairing any UST system. No repaired system shall be placed into use unless and until the system is inspected in accordance with the provisions of the Virginia Uniform Statewide Building Code.

Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

In the case of state facilities the Department of General Services shall function as the building official.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

Owners and operators of UST systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs must meet the following requirements:

1. Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

NOTE: The following codes and standards may be used to comply with subdivision 1 of this section: National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code"; American

Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines"; American Petroleum Institute Publication 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks"; and National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection."

2. Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

3. Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications.

4. Repaired tanks and piping must be tightness tested in accordance with subsection C of § 4.4 and subdivision 2 of § 4.5 within 30 days following the date of the completion of the repair except as provided in subdivisions 4 a through c of this section:

a. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory; or

b. The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in subsections D through H of § 4.4; or

c. Another test method is used that is determined by the board to be no less protective of human health and the environment than those listed above.

5. Within six months following the repair of any cathodically protected UST system, the cathodic protection system must be tested in accordance with subsections 2 and 3 of § 3.2 to ensure that it is operating properly.

6. UST system owners and operators must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this section.

§ 3.5. Reporting and recordkeeping.

Owners and operators of UST systems must cooperate fully with inspections, monitoring and testing conducted by the board, as well as requests for document submission, testing, and monitoring by the owner or operator pursuant to § 9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended.

A. Reporting.

Owners and operators must submit the following information to the board:

1. Notification for all UST systems (§ 2.3), which includes certification of installation for new UST systems (§ 2.1 E),

2. Reports of all releases including suspected releases (§ 5.1), spills and overfills (§ 5.4), and confirmed releases (§ 6.2);

3. Corrective actions planned or taken including initial abatement measures (§ 6.3), site characterization (§ 6.4), free product removal (§ 6.5), and corrective action plan (§ 6.6); and

4. An amended notification form must be submitted within 30 days after permanent closure or change-in-service (§ 7.2).

B. Recordkeeping.

Owners and operators must maintain the following information:

1. Documentation of operation of corrosion protection equipment (§ 3.2);

2. Documentation of UST system repairs (§ 3.4);

3. Recent compliance with release detection requirements (§ 4.6); and

4. Results of the site investigation conducted at permanent closure (§ 7.5).

C. Availability and maintenance of records.

Owners and operators must keep the records required either:

1. At the UST site and immediately available for inspection by the board; or

2. At a readily available alternative site and be provided for inspection to the board upon request.

In the case of permanent closure records required under § 7.5, owners and operators are also provided with the additional alternative of mailing closure records to the board if they cannot be kept at the site or an alternative site as indicated above.

PART IV. RELEASE DETECTION.

§ 4.1. General requirements for all UST systems.

A. Owners and operators of new and existing UST

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systems must provide a method, or combination of methods, of release detection that:

1. Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;
2. Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and
3. Meets the performance requirements in § 4.4 or § 4.5, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that method in subsections B, C and D of § 4.4 or subdivisions 1 and 2 of § 4.5 with a probability of detection of 0.95 and a probability of false alarm of 0.05.

B. When a release detection method operated in accordance with the performance standards in §§ 4.4 and 4.5 indicates a release may have occurred, owners and operators must notify the board in accordance with Part V.

C. Owners and operators of all UST systems must comply with the release detection requirements of this part by December 22 of the year listed in the following table:

SCHEDULE FOR PHASE-IN OF RELEASE DETECTION

Year system was installed	Year when release detection is required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-1969		P/RD			
1970-1974		P	RD		
1975-1979		P		RD	
1980-1988		P			RD

New tanks (after December 22, 1988) immediately upon installation.

P = Must begin release detection for all pressurized piping in accordance with subdivision B 1 of § 4.2 and subdivision 2 d of § 4.3.

RD = Must begin release detection for tanks and suction

piping in accordance with subsection A and subdivision B 2 of § 4.2, and § 4.3.

D. Any existing UST system that cannot apply a method of release detection that complies with the requirements of this part must complete the closure procedures in Part VII by the date on which release detection is required for that UST system under subsection C of this section.

§ 4.2. Requirements for petroleum UST systems.

Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows:

A. Tanks.

Tanks must be monitored at least every 30 days for releases using one of the methods listed in subsections D through H of § 4.4 except that:

1. UST systems that meet the performance standards in § 2.1 or § 2.2, and the monthly inventory control requirements in subsection A or B of § 4.4, may use tank tightness testing (conducted in accordance with subsection C of § 4.4) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under subsection B of § 2.2, whichever is later;
2. UST systems that do not meet the performance standards in § 2.1 or § 2.2 may use monthly inventory controls (conducted in accordance with subsection A or B of § 4.4) and annual tank tightness testing (conducted in accordance with subsection C of § 4.4) until December 22, 1998, when the tank must be upgraded under § 2.2 or permanently closed under § 7.2; and
3. Tanks with capacity of 550 gallons or less may use weekly tank gauging (conducted in accordance with subsection B of § 4.4).

B. Piping.

Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one of the following requirements:

1. Pressurized piping. Underground piping that conveys regulated substances under pressure must:
 - a. Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of § 4.5; and
 - b. Have an annual line tightness test conducted in accordance with subdivision 2 of § 4.5 or have monthly monitoring conducted in accordance with subdivision 3 of § 4.5.

2. *Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three years and in accordance with subdivision 2 of § 4.5, or use a monthly monitoring method conducted in accordance with subdivision 3 of § 4.5. No release detection is required for suction piping that is designed and constructed to meet the following standards:*

- a. The below-grade piping operates at less than atmospheric pressure;*
- b. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;*
- c. Only one check valve is included in each suction line;*
- d. The check valve is located directly below and as close as practical to the suction pump; and*
- e. A method is provided that allows compliance with subdivisions B 2 b through d of this section to be readily determined.*

§ 4.3. Requirements for hazardous substance UST systems.

Owners and operators of hazardous substance UST systems must provide release detection that meets the following requirements:

- 1. Release detection at existing UST systems must meet the requirements for petroleum UST systems in § 4.2. By December 22, 1998, all existing hazardous substance UST systems must meet the release detection requirements for new systems in subdivision 2 of this section.*
- 2. Release detection at new hazardous substance UST systems must meet the following requirements:*
 - a. Secondary containment systems must be designed, constructed and installed to:*
 - (1) Contain regulated substances released from the tank system until they are detected and removed;*
 - (2) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and*
 - (3) Be checked for evidence of a release at least every 30 days.*

NOTE: The provisions of 40 CFR 265.193, Containment and Detection of Releases, may be used to comply with these requirements.

- b. Double-walled tanks must be designed,*

constructed, and installed to:

(1) Contain a release from any portion of the inner tank within the outer wall; and

(2) Detect the failure of the inner wall.

c. External liners (including vaults) must be designed, constructed, and installed to:

(1) Contain 100% of the capacity of the largest tank within its boundary;

(2) Prevent the interference of precipitation or ground-water intrusion with the ability to contain or detect a release of regulated substances; and

(3) Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

d. Underground piping must be equipped with secondary containment that satisfies the requirements of subdivision 2 a of this section (e.g., trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with subdivision 1 of § 4.5.

e. Other methods of release detection may be used if owners and operators:

(1) Demonstrate to the board that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in subsections B through H of § 4.4 can detect a release of petroleum;

(2) Provide information to the board on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and,

(3) Obtain approval from the board to use the alternate release detection method before the installation and operation of the new UST system.

§ 4.4. Methods of release detection for tanks.

Each method of release detection for tanks used to meet the requirements of § 4.2 must be conducted in accordance with the following and be designed to detect releases at the earliest possible time for the specific method chosen:

A. Inventory control.

Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a

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release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;

2. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

3. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

4. Deliveries are made through a drop tube that extends to within one foot of the tank bottom;

5. Product dispensing is metered and recorded according to regulations of the Bureau of Weights and Measures of the Virginia Department of Agriculture and Consumer Services for meter calibration within their jurisdiction; for all other product dispensing meter calibration, an accuracy of six cubic inches for every five gallons of product withdrawn is required; and

6. The measurement of any water level in the bottom of the tank is made to the nearest one-eighth of an inch at least once a month.

NOTE: Practices described in the American Petroleum Institute Publication 1621, "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," may be used, where applicable, as guidance in meeting the requirements of this subsection.

B. Manual tank gauging.

Manual tank gauging must meet the following requirements:

1. Tank liquid level measurements are taken at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the tank;

2. Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;

3. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth of an inch;

4. A leak is suspected and subject to the requirements of Part V if the variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal tank capacity	Weekly standard (one test)	Monthly standard (average of four tests)
550 gallons or less	10 gallons	5 gallons
551-1,000 gallons	13 gallons	7 gallons
1,001-2,000 gallons	26 gallons	13 gallons

5. Only tanks of 550 gallons or less nominal capacity may use this as the sole method of release detection. Tanks of 551 to 2,000 gallons may use the method in place of manual inventory control in subsection A of § 4.4. Tanks of greater than 2,000 gallons nominal capacity may not use this method to meet the requirements of this part.

C. Tank tightness testing.

Tank tightness testing (or another test of equivalent performance) must be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

D. Automatic tank gauging.

Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and

2. Inventory control (or another test of equivalent performance) is conducted in accordance with the requirements of subsection A of § 4.4.

E. Vapor monitoring.

Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

1. The materials used as backfill are sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

2. The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

3. The measurement of vapors by the monitoring device is not rendered inoperative by the ground water, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days;

4. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

5. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system;

6. In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subdivisions E 1 through 4 of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

7. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

F. Ground-water monitoring.

Testing or monitoring for liquids on the ground water must meet the following requirements:

1. The regulated substance stored is not readily miscible in water and has a specific gravity of less than one;

2. Ground water is never more than 20 feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

3. The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground-water conditions;

4. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

5. Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;

6. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth of an inch of free product on top of the ground water in the monitoring wells;

7. Within and immediately below the UST system excavation zone, the site is assessed to ensure compliance with the requirements in subdivisions F 1 through 5 of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

8. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

G. Interstitial monitoring.

Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

1. For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;

NOTE: The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

2. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST system and the secondary barrier;

a. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (at least 10^{-6} cm/sec for the regulated substance stored) to direct a release to the monitoring point and permit its detection;

b. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;

c. For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

d. The ground water, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;

e. The site is assessed to ensure that the secondary barrier is always above the ground water and not in a 25 year flood plain, unless the barrier and

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monitoring designs are for use under such conditions; and,

f. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

3. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.

H. Other methods.

Any other type of release detection method, or combination of methods, can be used if:

1. It can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or

2. The board may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections C through H of this section. In comparing methods, the board shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and operator must comply with any conditions imposed by the board on its use to ensure the protection of human health and the environment.

§ 4.5. Methods of release detection for piping.

Each method of release detection for piping used to meet the requirements of § 4.2 must be conducted in accordance with the following:

1. Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements.

2. Line tightness testing. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

3. Applicable tank methods. Any of the methods in subsections E through H of § 4.4 may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

§ 4.6. Release detection record keeping.

All UST system owners and operators must maintain records in accordance with § 3.5 demonstrating compliance with all applicable requirements of this part. These records must include the following:

1. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five years or as long as the method of release detection is used, whichever is greater, from the date of installation;

2. The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the board, except that the results of tank tightness testing conducted in accordance with subsection C of § 4.4 must be retained until the next test is conducted; and

3. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site must be maintained for at least one year after the servicing work is completed or for such longer period as may be required by the board. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five years from the date of installation.

PART V.

RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION.

§ 5.1. Reporting of suspected releases.

Owners and operators of UST systems must report to the board within 24 hours and follow the procedures in § 5.3 for any of the following conditions:

1. The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water).

2. Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced;

3. Monitoring results from a release detection method required under §§ 4.2 and 4.3 that indicate a release may have occurred unless:

a. The monitoring device is found to be defective, and is immediately repaired, recalibrated or

replaced, and additional monitoring does not confirm the initial result; or

b. In the case of inventory control, a second month of data or in the case of manual tank gauging, a second week or month as prescribed in the chart under subdivision B 4 of § 4.4 does not confirm the initial result.

§ 5.2. Investigation due to off-site impacts.

When required by the board, owners and operators of UST systems must follow the procedures in § 5.3 to determine if the UST system is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and state waters) that has been observed by the board or brought to its attention by another party.

§ 5.3. Release investigation and confirmation steps.

Unless corrective action is initiated in accordance with Part VI, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under § 5.1 within seven days, or another reasonable time period specified by the board upon written request made and approved within seven days after reporting of the suspected release.

The following steps are required for release investigation and confirmation:

1. *System test.* Owners and operators must conduct tests (according to the requirements for tightness testing in subsection C of § 4.4 and subdivision 2 of § 4.5) that determine whether a leak exists in that portion of the tank that routinely contains product, or the attached delivery piping, or both.

a. Owners and operators must repair, replace or upgrade the UST system, and begin corrective action in accordance with Part VI if the test results for the system, tank, or delivery piping indicate that a leak exists.

b. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

c. Owners and operators must conduct a site check as described in subdivision 2 of this section if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.

2. *Site check.* Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting

sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release. Samples shall be tested according to established EPA analytical methods or methods approved by the board.

a. If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators must begin corrective action in accordance with Part VI;

b. If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

§ 5.4. Reporting and cleanup of spills and overfills.

A. Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report to the board within 24 hours and begin corrective action in accordance with Part VI in the following cases:

1. Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and

2. Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302).

B. Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours owners and operators must immediately notify the board.

NOTE: Pursuant to §§ 302.6 and 355.40 of CERCLA, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under §§ 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

PART VI. RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES.

§ 6.1. General.

Owners and operators of petroleum or hazardous

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substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this part except for USTs excluded under subsection B of § 1.2 and UST systems subject to RCRA Subtitle C corrective action requirements under § 3004(u) of the Resource Conservation and Recovery Act, as amended.

§ 6.2. Initial response.

Upon confirmation of a release in accordance with § 5.3 or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release:

1. Report the release to the board (e.g., by telephone or electronic mail);
2. Take immediate action to prevent any further release of the regulated substance into the environment; and
3. Identify and mitigate fire, explosion, and vapor hazards.

§ 6.3. Initial abatement measures and site check.

A. Unless directed to do otherwise by the board, owners and operators must perform the following abatement measures:

1. Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
2. Visually inspect any aboveground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and ground water;
3. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
4. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;
5. Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by subdivision 2 of § 5.3 or the closure site assessment of subsection A of § 7.3. In

selecting sample types, sample locations, and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill, depth to ground water and other factors as appropriate for identifying the presence and source of the release. Samples shall be tested according to established EPA analytical methods or methods approved the board; and

6. Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with § 6.5.

B. Within 20 days after release confirmation, or within another reasonable period of time determined by the board upon written request made and approved within 20 days after release confirmation, owners and operators must submit a report to the board summarizing the initial abatement steps taken under subsection A of this section and any resulting information or data.

§ 6.4. Site characterization.

A. Owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in §§ 6.1 and 6.2. This information must include, but is not necessarily limited to, the following:

1. Data on the material released and the estimated quantity of release;
2. Data from available sources or site investigations concerning the following:
 - a. Site assessment to include: data on the physical/chemical properties of the contaminant; nature and quantity and extent of the release; evidence that free product is found to need recovery; geologic/hydrologic site characterization; current and projected land/water uses; water quality; subsurface soil conditions; evidence that contaminated soils are in contact with the ground water; locations of subsurface conduits (e.g., sewers, utility lines, etc.); and climatological conditions. Samples collected for this site characterization shall be tested according to established EPA analytical methods or methods approved by the board;
 - b. Risk assessment to include: evidence that wells of the area have been affected; use and approximate locations of wells potentially affected by the release; identification of potential and impacted receptors; migration routes; surrounding populations; potential for additional environmental damage;
 - c. Remediation assessment to include: potential for remediation and expected remediation levels; applicability of different remediation technologies to

the site.

3. Results of the site check required under subdivision A 5 of § 6.3; and

4. Results of the free product investigations required under subdivision A 6 of § 6.3, to be used by owners and operators to determine whether free product must be recovered under § 6.5.

B. Within 45 days of release confirmation or another reasonable period of time determined by the board upon written request made and approved within 45 days after release confirmation, owners and operators must submit the information collected in compliance with subsection A of this section to the board in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the board.

§ 6.5. Free product removal.

At sites where investigations under subdivision A 6 of § 6.3 indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the board while continuing, as necessary, any actions initiated under §§ 6.2 through 6.4, or preparing for actions required under §§ 6.6 through 6.7. In meeting the requirements of this section, owners and operators must:

1. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations;

2. Use abatement of free product migration as a minimum objective for the design of the free product removal system;

3. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

4. Unless directed to do otherwise by the board, prepare and submit to the board, within 45 days after confirming a release, a free product removal report that provides at least the following information:

a. The name of the person(s) responsible for implementing the free product removal measures;

b. The estimated quantity, type, and thickness of free product observed or measured in wells, bore holes, and excavations;

c. The type of free product recovery system used;

d. Whether any discharge will take place on-site or

off-site during the recovery operation and where this discharge will be located;

e. The type of treatment applied to, and the effluent quality expected from, any discharge;

f. The steps that have been or are being taken to obtain necessary permits for any discharge; and

g. The disposition of the recovered free product.

§ 6.6. Corrective action plan.

A. At any point after reviewing the information submitted in compliance with §§ 6.2 through 6.4, the board may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and ground water. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the board. Alternatively, owners and operators may, after fulfilling the requirements of §§ 6.2 through 6.4, choose to submit a corrective action plan for responding to contaminated soil and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the board, and must modify their plan as necessary to meet this standard.

B. In conjunction with the information provided under subdivision A 2 of § 6.4 (site assessment, risk assessment, and remediation assessment), the corrective action plan must include the following information:

1. Detailed conceptual design including narrative description of technologies and how they will be applied at the site;

2. Projected remediation end points/degree of remediation;

3. Schedule of project implementation;

4. Schedule to achieve projected end points;

5. Operational and post-operational monitoring schedules (to include data submittals);

6. Proposed disposition of any wastes and discharges (if applicable);

7. Actions taken to obtain any necessary federal, state and local permits to implement the plan; and

8. Proposed actions to notify persons directly affected by the release or the planned corrective action.

C. The board will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the

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environment. In making this determination, the board will consider the following factors as appropriate:

1. The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
2. The hydrogeologic characteristics of the facility and the surrounding area;
3. The proximity, quality, and current and future uses of nearby surface water and ground water;
4. The potential effects of residual contamination on nearby surface water and ground water;
5. A risk (exposure) assessment; and
6. Any information assembled in compliance with this part.

D. Upon approval of the corrective action plan or as directed by the board, owners and operators must implement the plan, including modifications to the plan made by the board. They must monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the board.

E. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and ground water before the corrective action plan is approved provided that they:

1. Notify the board of their intention to begin cleanup and obtain written approval to proceed with an agreed upon activity;
2. Comply with any conditions imposed by the board, including halting cleanup or mitigating adverse consequences from cleanup activities; and
3. Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the board for approval.

§ 6.7. Corrective Action Plan (CAP) permit.

A. Owners and operators shall file a complete application for and obtain a Corrective Action Plan (CAP) permit from the board for any corrective action plan required by § 6.6 of this regulation.

B. If the corrective action plan involves a point source discharge of pollutants to surface waters, the CAP permit application shall be processed in accordance with the procedures and the requirements set forth in the board's Permit Regulation (VR 680-14-01) and the provisions of that regulation shall apply *mutatis mutandis*. The CAP permit shall include, but not be limited to, a schedule and format for the corrective action plan, the corrective action

plan, and all of the pertinent conditions set forth in VR 680-14-01.

C. If the corrective action plan involves only the management of pollutants that are not point source discharges to surface waters, the owner and operator shall be exempt from the requirement to obtain a Virginia Pollution Abatement (VPA) permit under VR 680-14-01 conditioned upon:

1. The owner and operator shall obtain the CAP Permit which shall contain the conditions, and be processed in accordance with the procedures and requirements, set forth in subsection B of § 2.1; §§ 2.2 and 2.3; subsections E, F, G, H, I and K of § 2.5; subsections A and C of § 2.7; § 4.2; §§ 5.1 through 5.4; §§ 6.2, 6.3 and 8.1 of VR 680-14-01;
2. The CAP Permit shall include, where appropriate, a schedule and format for the corrective action plan and the corrective action plan; and
3. The application shall be publicly noticed in accordance with § 6.8 of this regulation and subsections A and B of § 3.1 of VR 680-14-01.

D. If the corrective action plan involves the introduction of pollutants into publicly owned treatment works, owners and operators shall also comply with the board's and any publicly owned treatment work's pretreatment program requirements.

§ 6.8. Public participation.

A. For each confirmed release that requires a corrective action plan, the board will require the owner and operator to provide notice to the public by means designed to reach those members of the public directly affected by the release or the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by field staff.

B. The board must ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.

C. Before approving a corrective action plan, the board may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reason.

D. The board will require the owner and operator to give public notice that complies with subsection A of this section if implementation of an approved corrective action plan does not achieve the established cleanup levels in the plan and termination of that plan is under consideration by the board.

E. These public participation requirements do not supersede any public participation requirements of other regulations.

F. In the event the owner and operator have failed to give the required notice to the public, the board will provide such notice to the extent required by applicable federal law.

PART VII. OUT-OF-SERVICE UST SYSTEMS AND CLOSURE.

§ 7.1. Temporary closure.

A. When an UST system is temporarily closed, owners and operators must obtain a building permit from the building official and must continue operation and maintenance of corrosion protection in accordance with § 3.2, and any release detection in accordance with Part IV. Parts V and VI must be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3% by weight of the total capacity of the UST system, remain in the system.

B. When an UST system is temporarily closed for three months or more, owners and operators must also comply with the following requirements:

1. Leave vent lines open and functioning; and
2. Cap and secure all other lines, pumps, manways, and ancillary equipment.

C. When an UST system is temporarily closed for more than 12 months, owners and operators must permanently close the UST system if it does not meet either performance standards in § 2.1 for new UST systems or the upgrading requirements in § 2.2, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this 12-month period in accordance with §§ 7.2 through 7.5, unless the building official provides an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment in accordance with § 7.3 before such an extension can be applied for.

§ 7.2. Permanent closure and changes-in-service.

A. Owners and operators must obtain a building permit and the required inspections from the building official prior to permanent tank closure or a change-in-service in accordance with the Virginia Uniform Statewide Building Code. If such closure is in response to immediate corrective actions that necessitate timely tank removal, then the building official must be notified and the official's directions followed until a permit is issued.

In the case of state facilities the Department of General Services shall function as the building official.

In the case of federal facilities the building official must be contacted. Owners and operators must obtain a permit and the required inspections in accordance with the provisions of the Virginia Uniform Statewide Building Code.

1. Owners and operators must within 30 days after either permanent closure or a change-in-service submit an amended UST notification form (Appendix I) to the board.

2. The required assessment of the excavation zone under § 7.3 must be performed after notifying the building official but before completion of the permanent closure or a change-in-service.

B. To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. When the owner or operator suspects that the residual sludges are hazardous in nature the Department of Waste Management regulations shall be followed to facilitate the proper treatment, storage, manifesting, transport, and disposal. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert solid material.

C. Continued use of an UST system to store a nonregulated substance is considered a change-in-service. Before a change-in-service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in accordance with § 7.3.

NOTE: The following cleaning and closure procedures may be used to comply with this section:

1. American Petroleum Institute Recommended Practice 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks";

2. American Petroleum Institute Publication 2015, "Cleaning Petroleum Storage Tanks";

3. American Petroleum Institute Recommended Practice 1631, "Interior Lining of Underground Storage Tanks," may be used as guidance for compliance with this section; and

4. The National Institute for Occupational Safety and Health "Criteria for a Recommended Standard - Working in Confined Space" may be used as guidance for conducting safe closure procedures at some hazardous substance tanks.

§ 7.3. Assessing the site at closure or change-in-service.

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the

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presence of a release where contamination is most likely to be present at the UST site. In selecting sample type(s) (soil or water) and sample location(s), and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release. Samples shall be tested according to established EPA analytical methods or methods approved by the board. Where the suspected release is a petroleum product, the samples shall be analyzed for total petroleum hydrocarbons (TPH). The requirements of this section are satisfied if one of the external release detection methods allowed in subsections E and F of § 4.4 is operating in accordance with the requirements in § 4.4 at the time of closure, and indicates no release has occurred.

B. In all cases where a sample or samples are analyzed, the owner and operator shall submit, along with the amended UST notification form as required in subdivision A 1 of § 7.2, a copy of the laboratory results (including a statement as to the test method used), a description of the area sampled, and a site map depicting tanks, piping, and sample location(s).

C. If contaminated soils, contaminated ground water, or free product as a liquid or vapor is discovered under subsection A of this section, or by any other manner, owners and operators must begin corrective action in accordance with Part VI.

§ 7.4. Applicability to previously closed UST systems.

When directed by the board, the owner and operator of an UST system permanently closed before December 22, 1988, must assess the excavation zone and close the UST system in accordance with this part if releases from the UST may, in the judgment of the board, pose a current or potential threat to human health and the environment.

§ 7.5. Closure records.

Owners and operators must maintain records in accordance with § 3.5 that are capable of demonstrating compliance with closure requirements under this part. The results of the excavation zone assessment required in § 7.3 must be maintained for at least three years after completion of permanent closure or change-in-service in one of the following ways:

1. By the owners and operators who took the UST system out of service;
2. By the current owners and operators of the UST system site; or
3. By mailing these records to the board if they cannot be maintained at the closed facility.

PART VIII. DELEGATION.

§ 8.1. Delegation of authority.

The executive director, or in his absence a designee acting for him, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

APPENDIX I.

Virginia Underground Storage Tank Notification Form(s).

Notification for Underground Storage Tanks		FORM APPROVED OMB NO. 2050-0049 APPROVAL EXPIRES 6-30-88
VIRGINIA WATER CONTROL BOARD - UST PROGRAM 2111 NORTH HAMILTON STREET RICHMOND, VIRGINIA 23230	I.D. Number Date Received	STATE USE ONLY
GENERAL INFORMATION		
<p>Notification is required by Federal law for all underground tanks that have been used to store regulated substances since January 1, 1974, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.</p> <p>The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or, in the absence of such records, your knowledge, belief, or recollection.</p> <p>Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means—</p> <p>(a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and</p> <p>(b) in the case of an underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.</p> <p>What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. gasoline, used oil, or diesel fuel, and 2. industrial solvents, pesticides, herbicides or fumigants.</p> <p>What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:</p> <p>1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;</p> <p>2. tanks used for storing heating oil for consumptive use on the premises where stored;</p> <p>3. septic tanks;</p> <p>4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an intrastate pipeline facility regulated under State laws;</p> <p>5. surface impoundments, pits, ponds, or lagoons;</p> <p>6. storm water or waste water collection systems;</p> <p>7. flow-through process tanks;</p> <p>8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;</p> <p>9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.</p> <p>What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).</p> <p>Where To Notify? Completed notification forms should be sent to the address given at the top of this page.</p> <p>When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation after January 1, 1974, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use.</p> <p>Penalties: Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.</p>		
INSTRUCTIONS		
Please type or print in ink all items except "signature" in Section V. This form must be completed for each location containing underground storage tanks. If more than 5 tanks are owned at this location, photocopy the reverse side, and staple continuation sheets to this form.		Indicate number of continuation sheets attached <input style="width: 40px; height: 20px;" type="text"/>
I. OWNERSHIP OF TANK(S)	II. LOCATION OF TANK(S)	
Owner Name (Corporation, Individual, Public Agency, or Other Entity) _____ Street Address _____ County _____ City _____ State _____ ZIP Code _____ Area Code _____ Phone Number _____ Type of Owner (Mark all that apply <input checked="" type="checkbox"/>) <input type="checkbox"/> Current <input type="checkbox"/> State or Local Gov't <input type="checkbox"/> Private or Corporate <input type="checkbox"/> Former <input type="checkbox"/> Federal Gov't (GSA facility I.D. no.) <input type="checkbox"/> Ownership uncertain	(If same as Section I, mark box here <input type="checkbox"/>) Facility Name or Company Site Identifier, as applicable _____ Street Address or State Road, as applicable _____ County _____ City (nearest) _____ State _____ ZIP Code _____ Indicate number of tanks at this location <input style="width: 40px; height: 20px;" type="text"/>	
III. CONTACT PERSON AT TANK LOCATION		
Name (If same as Section I, mark box here <input type="checkbox"/>) _____ Job Title _____ Area Code _____ Phone Number _____		
IV. TYPE OF NOTIFICATION		
<input type="checkbox"/> Mark box here only if this is an amended or subsequent notification for this location.		
V. CERTIFICATION (Read and sign after completing Section VI.)		
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.		
Name and official title of owner or owner's authorized representative _____	Signature _____	Date Signed _____
CONTINUE ON REVERSE SIDE		

Proposed Regulations

Owner Name (from Section I) _____ Location (from Section II) _____ Page No. _____ of _____ Pages

VII. CERTIFICATION OF COMPLIANCE (COMPLETE FOR ALL NEW TANKS AT THIS LOCATION)

10. Installation (mark all that apply):

- The installer has been certified by the tank and piping manufacturers.
- The installer has been certified or licensed by the implementing agency.
- The installation has been inspected and certified by a registered professional engineer.
- The installation has been inspected and approved by the implementing agency.
- All work listed on the manufacturer's installation checklists has been completed.
- Another method was used as allowed by the implementing agency. Please specify:

11. Release Detection (mark all that apply):

- Manual tank gauging.
- Tank tightness testing with inventory controls.
- Automatic tank gauging.
- Vapor monitoring.
- Ground-water monitoring.
- Interstitial monitoring within a secondary barrier.
- Interstitial monitoring within secondary containment.
- Automatic line leak detectors.
- Line tightness testing.
- Another method allowed by the implementing agency. Please specify:

12. Corrosion Protection (if applicable)

- As specified for coated steel tanks with cathodic protection.
- As specified for coated steel piping with cathodic protection.
- Another method allowed by the implementing agency. Please specify:

13. I have financial responsibility in accordance with Subpart I. Please specify:

Method: _____

Insurer: _____

Policy Number: _____

14. OATH: I certify that the information concerning installation provided in Item 10 is true to the best of my belief and knowledge.

Installer: _____

Name	Date

Position	

Company	

APPENDIX II.

Statement for Shipping Tickets and Invoices.

A Federal law (the Resource Conservation and Recovery Act (RCRA), as amended (Pub.L. 98-616)) requires owners of certain underground storage tanks to notify designated state or local agencies by May 8, 1986, of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Consult EPA's regulations, issued on November 8, 1985 (40 CFR Part 280), to determine if you are affected by this law.

NOTICE: Due to its length, the Permit Regulation, filed by the State Water Control Board, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, explaining the adopted amendments is being published. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the State Water Control Board.

Title of Regulation: VR 680-14-01. Permit Regulation. (Formerly published as: Virginia Pollutant Discharge Elimination System and Virginia Pollution Abatement Permit Program).

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Public Hearing Date: May 30, 1989 - 2 p.m. (See Calendar of Events section for additional information)

Summary:

Part VII of the Permit Regulation is designed to protect publicly owned treatment works (POTW) and the environment from nondomestic waste discharged to a POTW that could cause interference with treatment processes, pass through the treatment facilities improperly treated, or result in sludge contamination. Further, the regulations require that all POTWs control nondomestic dischargers to the treatment works and that those POTWs which meet certain criteria develop and implement an approved pretreatment program to control nondomestic dischargers to the treatment works.

On October 17, 1988, the U.S. Environmental Protection Agency amended its General Pretreatment Regulations. The purpose of these proposed amendments is to bring the state pretreatment program regulations into conformance with federal regulations.

The proposed amendments concern equivalent concentrations or mass limitations, industrial user compliance reports, reporting requirements applicable

to noncategorical industrial dischargers, reporting by POTWs on pretreatment program implementation, and POTW authority to assess or seek civil or criminal penalties.

Title of Regulations: Water Quality Standards. VR 680-21-01.11. Chlorine Standard and Policy. VR 680-21-07.2. Outstanding State Resource Waters.

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

Public Hearing Date: May 23, 1989 - 2 p.m. (See Calendar of Events section for additional information)

Background:

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

Summary:

The purpose of this proposal is to consider promulgating as permanent regulations two amendments to the Water Quality Standards, VR 680-21-01.11 - Chlorine in Surface Waters and VR 680-21-07.2 - Outstanding State Resource Waters. These proposed regulations were previously adopted as emergency regulations which became effective on September 29, 1988. The regulations establish a statewide chlorine standard and policy and designate certain state waters as outstanding state resource waters. Further, the regulations prohibit or restrict the use of chlorine or other halogen compounds for disinfection by dischargers of more than 20,000 gallons per day to natural trout waters, or waters containing endangered or threatened species.

VR 680-21-01.11. Chlorine in Surface Waters.

§ 1. Standard.

A. The average daily concentration of total residual chlorine (TRC) in freshwater shall not exceed 11 parts per billion (ug/l) and the average daily concentration of chlorine produced oxidant (CPO) in saline waters (annual mean salinity of 5 parts per thousand or greater) shall not exceed 7.5 parts per billion (ug/l).

B. The one-hour average concentration of total residual chlorine (TRC) in freshwater shall not exceed 19 parts per

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billion (ug/l) and the one-hour average concentration of chlorine produced oxidant (CPO) in saline waters shall not exceed 13 parts per billion (ug/l).

§ 2. Policy.

The board, pursuant to § 62.1-44.05(3) of the Code of Virginia, hereby sets forth its policy for implementation of the chlorine standard in surface waters of the Commonwealth. These concentrations shall apply to all surface waters of the Commonwealth except where the permittee can demonstrate to the board that exceptions may be allowed without resulting in damage to aquatic life.

1. Mixing zones may be established on a case-by-case basis according to VR 680-01-01.2 C. Since VR 680-21-01.2 C does not allow acutely toxic concentrations within the mixing zone, chlorine residuals within the mixing zone shall not exceed the one-hour average of 19 ug/l TRC in freshwater or 13 ug/l CPO in saline waters.

2. Effluent limitations on chlorine shall be imposed to assure compliance with subdivisions A 1 and A 2 at the boundary of the mixing zone and subdivision A 2 within the mixing zone. These effluent limitations shall be calculated presuming complete mixing.

3. The permittee may present to the board site specific analytical data showing that a modified effluent limit will result in compliance with subdivisions A 1 and A 2 of the standard.

4. Exceptions to these concentrations may be allowed only upon a case-by-case demonstration by the permittee to the board for the following situations:

a. The nature of the receiving waters or the nature and composition of the chlorine discharged are such that this TRC or CPO concentration is not necessary to protect aquatic life.

b. Receiving streams such as drainage ditches whose nature is such that they cannot reasonably be expected to support the propagation and growth of aquatic life and do not provide reasonable beneficial uses with respect to aquatic life. Compliance shall nonetheless be required where these waters discharge into other state waters capable of sustaining reasonable beneficial uses. In such situations, the board may place effluent limits at the confluence of these two waters.

5. Notwithstanding the foregoing, chlorine or other halogen compounds¹ shall not be used for disinfection purposes or other treatment purposes including biocide applications for any treatment facility with a permitted flow of 20,000 gallons per day or more discharging to waters containing endangered or threatened species as identified in VR 680-21-07.2 or

to waters classified as natural trout waters. For dischargers of less than 20,000 gallons per day, dechlorination to a nondetectable chlorine residual of chlorinated discharges shall be required for discharges to such waters.

Variance to this requirement shall not be made unless it has been affirmatively demonstrated that a change is justifiable to provide necessary economic or social development, that the degree of waste treatment necessary to preserve the existing quality can not be economically or socially justified, and that the present and anticipated uses of such water will be preserved and protected.

.....
¹ Bromine, bromine chloride, hypochloride and chlorine dioxide.

VR 680-21.07.2. Outstanding State Resource Waters.

The following section recognizes waters which the General Assembly, board or other state agencies have determined to be of special ecological or recreational significance to the Commonwealth. The designation of a Scenic River and the significance of this designation are the subject of the Scenic Rivers Act (§ 10.1-400 et seq. of the Code of Virginia). The listing of Outstanding State Resource Waters that follows constitutes those waters which the board has designated as high quality state resource waters subject to the protections found in the anti-degradation policy in VR 680-21-01.3.

§ 1. Scenic Rivers.

The purpose of the Scenic Rivers Act is to provide for identification, preservation, and protection of certain rivers which possess natural beauty of high quality to assure their use and enjoyment for their scenic, recreational, geologic, fish and wildlife, historic, cultural or other values. According to the Act "in all planning for the use and development of water and related land resources including the construction of impoundments, diversions, roadways, crossings, channelization, locks, canals, or other uses which change the character of a stream or waterway or destroy its scenic values, full consideration and evaluation of the river as a scenic resource shall be given before alternative plans for use and development are approved."

The following have been included by the General Assembly in the Scenic Rivers System:

POTOMAC RIVER BASIN

Potomac River Subbasin

SR-1 Goose Creek from its confluence with the Potomac River upstream to the Fauquier-Loudoun County line (about 28 miles).

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SR-2 *Catoctin Creek in Loudoun County from its confluence with the Potomac River upstream to the Town of Waterford.*

Shenandoah River Subbasin

SR-3 *The Shenandoah River in Clarke County from the Warren-Clarke County line to Lockes Landing.*

JAMES RIVER BASIN

SR-4 *The Saint Marys River in Augusta County within the George Washington National Forest.*

SR-5 *Rivanna River from its confluence with the James River upstream to the Fluvanna-Albemarle County line.*

SR-6 *Appomattox River from the Route 36 bridge crossing in the City of Petersburg upstream to the abutment dam located about 1.3 miles below Lake Chesdin (about 5 miles).*

SR-9 *The James River from Orleans Street extended in the City of Richmond westward to the 1970 corporate limits of the City.*

SR-10 *The Upper James River from a point two miles below Eagle Rock to the Route 630 bridge in Springwood, 14+/- miles.*

RAPPAHANNOCK RIVER BASIN

SR-11 *The Rappahannock River from its headwaters near Chester Gap to the confluence of Deep Run at the Fauquier/Stafford County line, 64+/- miles.*

ROANOKE RIVER BASIN

SR-7 *Roanoke (Staunton) River from Brookneal upstream to Long Island.*

CHOWAN AND DISMAL SWAMP BASIN

Chowan River Subbasin

SR-8 *The Nottoway River in Sussex County from the Route 40 bridge at Stony Creek to the Southampton County line.*

§ 2. Trout Streams.

Trout streams that are Class I and II according to the Commission of Game and Inland Fisheries Classification System are indicated by Trout Stream subclassifications i and ii in this booklet.

§ 3. Waters containing endangered or threatened species.

The following waters provide essential or critical habitat for endangered or threatened species which have been

identified by the United States Fish and Wildlife Service under the Endangered Species Act of 1973, as amended. If the U.S. Fish and Wildlife Service identifies new waters containing endangered or threatened species, the board shall consider the need to protect these beneficial uses in reviewing discharge permits and other actions until such time as the waters are officially added to the list in this section.

TENNESSEE AND BIG SANDY RIVER BASINS

Clinch River Subbasin

Powell River from river mile 136 (south of Jonesville) downstream to the Tennessee/Virginia line (river mile 115.8 - total 20.2 miles).

Endangered Species:

Appalachian monkeyface pearly mussel	Quadrula sparsa
Birdwing pearly mussel	Conradilla caelata
Cumberland monkeyface pearly mussel	Quadrula intermedia
Dromedary pearly mussel	Dromus dromas
Fine-rayed pigtoe pearly mussel	Fusconaia cuneolus
Shiny pigtoe pearly mussel	Fusconaia edgariana

Threatened Species:

Slender chub	Hybopsis cahnii
Yellowfin madtom	Noturus flavipinnis

Clinch River from river mile 323 (Richlands) downstream to the Tennessee/Virginia State line (river mile 202.1).

Endangered Species:

Appalachian monkeyface pearly mussel	Quadrula sparsa
Birdwing pearly mussel	Conradilla caelata
Fine-rayed pigtoe pearly mussel	Fusconaia cuneolus
Green blossom pearly mussel	Dysnomia torulosa gubernaculum
Pink mucket pearly mussel	Lampsilis orbiculata
Shiny pigtoe pearly mussel	Fusconaia edgariana

Clinch River from the Scott/Russell County line (at Bangor - river mile 244.2) downstream to the Tennessee boundary (river mile 202.1).

Threatened Species:

Slender chub	Hybopsis cahnii
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Copper Creek from 2 miles above its confluence with the Clinch River (at river mile 211.6).

Endangered Species:

Fine-rayed pigtoe *Fusconaia cuneolus*
pearly mussel

Shiny pigtoe pearly *Fusconaia edgariana*
mussel

Copper Creek from Dickensonville (river mile 56) in Russell County downstream to its confluence with the Clinch River.

Threatened Species:

Yellowfin madtom *Noturus flavipinnis*

Holston River Subbasin

North Fork Holston River from river mile 93.3 (near Broadford) downstream to the Smyth/Washington County line (river mile 82.1)

Endangered Species:

Shiny pigtoe pearly *Fusconaia edgariana*
mussel

North Fork Holston River from the Smyth/Washington County line (river mile 82.1) to the Tennessee/Virginia boundary (river mile 5).

Threatened Species:

Spotfin chub *Hybopsis monacha*

Middle Fork Holston River from river mile 43 (in Marion) downstream to river mile 18.4.

Endangered Species:

Tan riffle shell mussel *Dysnomia walkeri*

Middle Fork Holston River from river mile 6.5 to river mile 3.2 near Osceola.

Threatened Species:

Spotfin chub *Hybopsis monacha*

* * * * *

Title of Regulations: VR 680-21-08. River Basin Section Tables - Water Quality Standards.
VR 680-21-08.19. New River Basin.

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

Public Hearing Date: May 24, 1989 - 7 p.m.
(See Calendar of Events section for additional information)

Background:

Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

Summary:

The proposed amendments would reclassify Stony Creek, § 1, New River Basin from Class VI, natural trout water to Class V, put-and-take trout water. These amendments are being proposed in response to recommendations from the Department of Game and Inland Fisheries.

VR 680-21-08. River Basin Section Tables - Water Quality Standards.

VR 680-21-08.19. New River Basin.

SEC.	SECTION DESCRIPTION	CLASS	SP. STDS.
1d	Put-and-Take Trout Waters in Section 1d	V	
	Stony Creek from its confluence with the New River to its headwaters. [Stony Creek from its confluence with the New River 1.9 miles upstream (in the vicinity of Route 641).] [Stony Creek from 1.9 miles above its confluence with the New River 12.7 miles upstream.]	***	
	Natural Trout Waters in Section 1d	VI	
	Stony Creek from its confluence with the New River to its headwaters. [Stony Creek from its confluence with the New River 1.9 miles upstream (in the vicinity of Route 641).] [Stony Creek from 1.9 miles above confluence with the New River 12.7 miles upstream.]	vi**	

NOTE: The asterisks in the class column refer to the Department of Game and Inland Fisheries classification system for trout waters.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT FOR THE AGING

Title of Regulation: VR 110-01-02. Grants to Area Agencies on Aging.

Statutory Authority: § 2.1-373(a)7 of the Code of Virginia.

Effective Date: May 10, 1989

Summary:

The regulation sets for the requirements for the:

1. Designation of Planning and Service Areas and Area Agencies on Aging;
2. Development and implementation of Area Plans for Aging Services;
3. Administration of grants/contracts from the Virginia Department for the Aging; and
4. Operation of the Office of the State Long-Term Care Ombudsman and the operation of substate long-term care ombudsman programs.

Proposed regulations formerly appearing as VR 110-01-02 ("Regulation Governing Area Agencies on Aging"), VR 110-01-03 ("Regulation Governing Area Plans for Aging Services"), VR 110-01-04 ("Regulation Governing Financial Management Policies Applicable to Area Agencies on Aging"), and VR 110-01-05 ("Regulation Governing the Long-Term Care Ombudsman Program") are consolidated into a single regulation entitled "Regulation Governing Grants to Area Agencies on Aging" (VR 110-01-02) and are renumbered accordingly. Additionally, certain editorial and technical changes are incorporated into the final regulations. There are no substantive changes from the proposed regulations.

VR 110-01-02. Grants to Area Agencies on Aging.

PART I.

[DEFINITIONS. INTRODUCTION.]

[§ 1.1. Purpose.

This regulation prescribes requirements which Area Agencies on Aging shall meet to receive federal and state funds to develop comprehensive and coordinated systems for the delivery of supportive and nutrition services under Title III of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.). These requirements include:

1. Designation and responsibilities of an Area Agency on Aging;
2. Development and implementation of an Area Plan for Aging Services;
3. Administration of grants and contracts from the Virginia Department for the Aging; and
4. Operation of substate long-term care ombudsman programs.]

[§ 1.1. § 1.2.] Definitions.

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

["Access services" means services associated with access to other services, such as consolidated access services and transportation services.]

["Area" means the planning and service area served by an Area Agency on Aging.]

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.) and incorporated by reference in this regulation, which has submitted an approved Area Plan and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan as approved for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Commissioner" means the Commissioner of the Virginia Department for the Aging.

["Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider which adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures which govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of

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age.]

["Complaint counseling" means information, guidance, and support to enable the complainant or the recipient of services to attempt to resolve the complaint or concern himself, if he so chooses or is able, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.]

"Contract" means the document of agreement wherein the Virginia Department for the Aging designates the contractor as the duly funded Area Agency on Aging, consistent with the federally approved State Plan for Aging Services, in consideration for which the area agency assures its specific performance of functions and services pursuant to the approved area plan.

["Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.]

["Government-sponsored Area Agencies or Area Agencies sponsored by governmental entities" means area agencies created as units of general purpose local governments, area agencies created through the joint exercise of powers, and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District III Governmental Cooperative, New River Valley Agency on Aging, Alexandria Office on Aging, Arlington Agency on Aging, Fairfax County Agency on Aging, Loudoun County Area Agency on Aging, Prince William Area Agency on Aging, Rappahannock-Rapidan Community Services Center - Aging Services, Jefferson Area Board for Aging, Lake Country Area Agency on Aging, and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as free-standing joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.]

["Grant" means an award of financial assistance in the form of money, or property instead of money, by the Virginia Department for the Aging to an Area Agency on Aging. The term includes such financial assistance when provided by contract.]

["Grantee" or "contractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Virginia Department for the Aging for the use of the funds provided.]

["Greatest economic need" means the need resulting from an income level at or below the poverty level established by the federal Office of Management and Budget.]

["Greatest social need" means the need caused by

noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.]

["In-home services" means (i) homemaker/personal care services, (ii) home care/companion services, (iii) home health services, (iv) checking services, (v) residential repair and renovation services, and (vi) in-home respite care for families and adult day care as a respite service for families.]

["Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, but not limited to, nursing homes licensed by the Department of Health, homes for adults licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.]

["Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.]

["Office of the State Long-Term Care Ombudsman" means the program administered and managed by the Virginia Department for the Aging, which serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.]

"Older person" or "elderly" [or "older individual"] means any individual who is 60 years of age or older.

"Planning and service area" (PSA) means a geographic area of the Commonwealth which is designated for purposes of planning, development, delivery, and overall administration of services under an area plan. Unless otherwise exempted, such planning and service areas shall be coterminous with the planning districts established by the Virginia Department of Planning and Budget, pursuant to §§ 2.1-391 and 15.1-1402(a) of the Code of Virginia.

["Private nonprofit Area Agency on Aging" means those Area Agencies created independently of a local governing body or bodies. They include Mountain Empire Older Citizens, Appalachian Agency for Senior Citizens, League of Older Americans, Valley Program for Aging Services, Shenandoah Area Agency on Aging, Central Virginia Commission on Aging, Southern Area Agency on Aging, Piedmont Senior Resources, Capital Area Agency on Aging, Rappahannock Area Agency on Aging, Northern Neck-Middle Peninsula Agency on Aging, Southeastern

Virginia Areawide Model Program, Peninsula Area Agency on Aging, and Eastern Shore Community Development Group.]

["Subgrant" means an award of financial assistance in the form of money, or property instead of money, made under a grant by an Area Agency on Aging to an eligible subgrantee. The term includes such financial assistance when provided by contract.]

["Subgrantee" or "subcontractor" means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to an Area Agency on Aging for the use of the funds provided.]

["Substate Long-Term Care Ombudsman Program" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.]

["Unit of general purpose local government" means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.]

[§ 1.3. Applicability of other regulations.

Several other regulations apply to all activities conducted with Title III funds. These include, but are not limited to:

1. 45 CFR Part 1321: Grants to State and Community Programs on Aging;
2. 45 CFR Part 74: Administration of Grants; and
3. 45 CFR Part 84: Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Participation.]

PART II.

[PLANNING AND SERVICE AREAS: AREA AGENCIES ON AGING.]

§ 2.1. [Designation of] Planning and service areas.

[A.] The following are [~~presently~~ currently] accepted as Virginia's Planning and Service Areas for purposes of execution of the provisions of [45 U.S.C. § 3025 42 U.S.C. § 3001 et seq.] (the "Older Americans Act") and the federal regulations promulgated thereunder (45 C.F.R. § 1321). The respective Area Agencies on Aging, under contract with the Virginia Department for the Aging as of the date of these regulations, are named herein for identification but may be subject to change, pursuant to [Part III § 2.2] of these regulations.

Planning and Service Area 1

Mountain Empire Older Citizens, Inc.
Wise, Virginia

Serves Lee, Scott, and Wise Counties; the City of Norton.

Planning and Service Area 2

Appalachian Agency for Senior Citizens, Inc.
Richlands, Virginia

Serves Buchanan, Dickenson, Russell, and Tazewell Counties.

Planning and Service Area 3

District III Governmental Cooperative
Marion, Virginia

Serves Bland, Carroll, Grayson, Smyth, Washington, and Wythe Counties; the Cities of Bristol and Galax.

Planning and Service Area 4

New River Valley [Agency] on Aging
Pulaski, Virginia

Serves Floyd, Giles, Montgomery, and Pulaski Counties; the City of Radford.

Planning and Service Area 5

League of Older Americans, Inc.
Roanoke, Virginia

Serves Alleghany, Botetourt, Craig, and Roanoke Counties; the Cities of Clifton Forge, Covington, Roanoke, and Salem.

Planning and Service Area 6

Valley Program for Aging Services, Inc.
Waynesboro, Virginia

Serves Augusta, Bath, Highland, Rockbridge, and Rockingham Counties; the Cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.

Planning and Service Area 7

Shenandoah Area Agency on Aging, Inc.
Front Royal, Virginia

Serves Clarke, Frederick, Page, Shenandoah, and Warren Counties; the City of Winchester.

Planning and Service Area 8A

City of Alexandria
(Alexandria Area Agency on Aging)

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Alexandria, Virginia

Serves the City of Alexandria.

Planning and Service Area 8B

Arlington County
(Arlington Agency on Aging)
Arlington, Virginia

Serves Arlington County.

Planning and Service Area 8C

Fairfax County
(Fairfax County Area Agency on Aging)
Fairfax, Virginia

Serves Fairfax County; the Cities of Fairfax and Falls Church.

Planning and Service Area 8D

[Loudoun County]
(Loudoun County Area Agency on Aging)
Leesburg, Virginia

Serves Loudoun County.

Planning and Service Area 8E

Prince William County
(Prince William Area Agency on Aging)
Manassas, Virginia

Serves Prince William County; the Cities of Manassas and Manassas Park.

Planning and Service Area 9

Rappahannock-Rapidan Community Services Center –
Aging Services
Culpeper, Virginia

Serves Culpeper, Fauquier, Madison, Orange, and Rappahannock Counties.

Planning and Service Area 10

Jefferson Area Board for Aging
Charlottesville, Virginia

Serves Albemarle, Fluvanna, Greene, Louisa, and Nelson Counties; the City of Charlottesville.

Planning and Service Area 11

Central Virginia Commission on Aging, Inc.
Lynchburg, Virginia

Serves Amherst, Appomattox, Bedford, and Campbell

Counties; the Cities of Bedford and Lynchburg.

Planning and Service Area 12

[Piedmont Seniors of Virginia, Inc. Southern Area
Agency on Aging, Inc.]
Martinsville, Virginia

Serves Franklin, Henry, Patrick, and Pittsylvania Counties; the Cities of Danville and Martinsville.

Planning and Service Area 13

Lake Country [Commission on Aging Area Agency
on Aging]
South Hill, Virginia

Serves Brunswick, Halifax, and Mecklenburg Counties; the City of South Boston.

Planning and Service Area 14

Piedmont Senior Resources, Inc.
Burkeville, Virginia

Serves Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway, and Prince Edward Counties.

Planning and Service Area 15

Capital Area Agency on Aging, Inc.
Richmond, Virginia

Serves Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan Counties; the City of Richmond.

Planning and Service Area 16

Rappahannock Area Agency on Aging, Inc.
Fredericksburg, Virginia

Serves Caroline, King George, Spotsylvania, and Stafford Counties; the City of Fredericksburg.

Planning and Service Area 17/18

Northern Neck-Middle Peninsula [Area] Agency on
Aging, Inc.
Urbanna, Virginia

Serves Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland Counties.

Planning and Service Area 19

Crater District Area Agency on Aging
Petersburg, Virginia

Serves Dinwiddie, Greensville, Prince George, Surry, and Sussex Counties; the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg.

Planning and Service Area 20

Southeastern Virginia Areawide Model Program, Inc.
Norfolk, Virginia

Serves Isle of Wight and Southampton Counties; the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

Planning and Service Area 21

Peninsula Agency on Aging, Inc.
Newport News, Virginia

Serves James City and York Counties; the Cities of Hampton, Newport News, Poquoson, and Williamsburg.

Planning and Service Area 22

Eastern Shore Community Development Group, Inc.
Onancock, Virginia

Serves Accomack and Northampton Counties.

[§ 2.2. Boundaries of planning and service areas:]

[A. B.] Pursuant to §§ 305(a)(1)(E) and 305(b)(1) of the Older Americans Act, the Department for the Aging, in its discretion, has established that the boundaries for planning and service areas (PSAs) will be coterminous with the boundaries of the planning districts established by the Department of Planning and Budget, except that

1. Within the boundaries of planning district 8 the Department for the Aging has established five planning and service areas with the concurrence of the local governing bodies, and

2. The Department for the Aging has combined planning districts 17 and 18 into one planning and service area with the concurrence of the local governing bodies.

[B. C.] These boundaries [~~will~~ shall] be maintained until such time as there is good cause, shown by clear and convincing evidence, to create a new planning and service area.

[PART III. APPLICATION PROCEDURES TO OBTAIN DESIGNATION AS A NEW PLANNING AND SERVICE AREA OR AS A NEW AREA AGENCY ON AGING.]

[§ 2.2. Application procedures to obtain designation as a new planning and service area or as a new Area Agency

on Aging.]

[§ 2.1. A.] Applications of units of general purpose local government to serve as designated Area Agencies on Aging within established planning and service areas or to create a new planning and service area [~~will~~ shall] be made only by formal resolution of city councils or county boards of supervisors and must be submitted in writing to the Commissioner of the Department for the Aging. Such new entities, if approved, [~~will~~ shall] become effective with the beginning of the terms of their approved Area Plan for Aging Services and the contract incorporating such plan, upon execution of the contract. Any application for new Area Agency on Aging status or new planning and service area status [~~will~~ shall] be submitted prior to July 1 of the year preceding the year in which the new status would become effective.

[§ 2.2. B.] The application for new Area Agency on Aging status or for new planning and service area status [~~will~~ shall] contain the proposed Area Plan for Aging Services and [~~will~~ shall] show the following:

1. All the city councils and county boards of supervisors in the planning and service area which would be affected have consented to the proposed change.

2. The proposed change will not result in creation of an Area Agency on Aging or new planning and service area which would receive less than 1.0% of the formula fund allocation for Virginia, according to the allocation method used by the Department for the Aging for the year in which the application is submitted.

3. Provision of services in a proposed new planning and service area or by a proposed new Area on Aging [~~will~~ shall] be shown, by clear and convincing evidence, to assure more efficient and effective preparation and implementation of the Area Plan for Aging Services for the older Virginians within the planning and service area.

[§ 2.3. C.] Upon receipt of an application which meets the foregoing requirements, the Commissioner of the Department for the Aging [~~will~~ shall] provide a public hearing in the planning and service area. At least a 30 day notice [~~will~~ shall] be provided through publication in a newspaper or newspapers of general circulation in the cities and counties to be affected by the proposed new entity and its submitted Area Plan for Aging Services. Notification [~~will~~ shall] be mailed to the local governments and all other interested Area Agencies on Aging. The public hearing [~~will~~ shall] be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the hearing. At the public hearing, interested persons may speak for themselves or be represented by counsel, and written presentations may

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be submitted. Following the public hearing and for at least 30 days thereafter, the commissioner will receive any additional written information which citizens or organizations wish to submit.

[§ 3-4. D.] In addition to the public hearing and reception of comments by the Virginia Department for the Aging and the commissioner, as provided above, the commissioner [~~will shall~~] consult with the Department of Planning and Budget, pursuant to § 2.1-391 C of the Code of Virginia, whenever a new planning and service area is proposed, and the approval of that department [~~will shall~~] be persuasive.

[§ 3-5. E.] Within 120 days of the public hearing, the commissioner [~~will shall~~] issue written findings of fact, the consideration of the Department of Planning and Budget, and a particularized conclusion and decision. In the case of a new planning and service area, its effective date [~~will shall~~] be determined and stated. The designation of Area Agencies on Aging becomes effective upon approval of their Area Plans for Aging Services and execution of the contract.

[§ 3-6. F.] Any applicant for designation as a new entity whose application is denied may request an administrative hearing, pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia, within 15 days of receipt of the written denial. If, after hearing, the applicant's request is still denied, the applicant may appeal the decision in writing within 30 days after receipt of the decision to the Commissioner of the U.S. Administration on Aging, pursuant to 45 C.F.R. § 1321.31.

[PART IV. TERMINATION OF THE DESIGNATION OF AN AREA AGENCY ON AGING.]

[§ 2.3. Termination of the designation of an Area Agency on Aging.]

[§ 4-1. A.] The contractual designation of an incumbent Area Agency on Aging will be renewed annually contingent upon approval of and performance on the Area Plan for Aging Services.

[§ 4-2. B.] The contractual designation of an Area Agency on Aging will be withdrawn by the Commissioner of the Virginia Department for the Aging for any of the following:

1. Upon a written request by the Area Agency on Aging that the commissioner terminate its contractual designation.
2. Upon a request by formal resolution of [~~the majority of all~~] the city councils and county boards of supervisors within the planning and service area of the Area Agency on Aging that the commissioner designate and contract with another Area Agency on

Aging, whose area plan is approved.

3. Upon a finding by the Virginia Department for the Aging, after reasonable notice and opportunity for a hearing, pursuant to 45 C.F.R. § 1321.35, that:

a. An area plan or plan amendment is not approved.

b. An area agency does not meet the requirements of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act, as amended; the Code of Virginia; or the policies and regulations of the Department for the Aging.

c. There is substantial failure in the provisions or administration of an approved area plan to comply with one or more of the provisions of the Older Americans Act, as amended; the federal regulations to implement the Older Americans Act as amended; the Code of Virginia; regulations of the Department for the Aging; licensing requirements of the Commonwealth of Virginia; and local ordinances.

d. The activities of the Area Agency on Aging are inconsistent with the statutory mission in the Older Americans Act and its [~~provisions or are in conflict with the Act's requirement that the area agency function only as an Area Agency on Aging implementing regulations~~].

4. Upon reasonable application of the terms and conditions stated in the contract. Contractual obligations, failure of fulfillment of which [~~will shall~~] lead to termination of the contract, include, but are not limited to, the following:

a. Failure to correct deficiencies disclosed in an audit report from an audit conducted as required by the Virginia Department for the Aging, pursuant to [~~Part XI of the Regulations Governing Financial Management Policies~~ § 4.10 of these regulations];

b. Failure to report promptly to the Virginia Department for the Aging and to the appropriate law-enforcement officials any theft, embezzlement, or unlawful use of funds received from the Department for the Aging;

c. Failure to submit reports [~~required which meet the requirements (including due dates) established~~] by the Virginia Department for the Aging [~~or deliberate falsification of information in such reports.~~];

[~~d. Deliberate falsification of information in such reports.~~]

5. Upon a decision pursuant to [~~Part III § 2.2~~] of these regulations creating a new Area Agency on

Aging or new planning and service area, to the extent that such a decision makes performance on the existing contract impossible.

[§ 4.3. C.] Upon notice by the Virginia Department for the Aging of its intent to terminate, the Area Agency on Aging, within 15 days from receipt of the notice, may request and [will shall] be provided an informal fact-finding conference pursuant to the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. If, from such a conference, a finding is made that one of the conditions set forth in [§ 4.2 3 § 2.3 B 4] of these regulations obtains or that a term or condition in the contract so permits, the contractual designation [will shall] be withdrawn. In the alternative, if no request for such hearing has been made by 15 days from receipt of the notice, the contractual designation [will shall] terminate 30 days after [the date receipt] of the notice.

[§ 4.4. Suspension of the designation of an Area Agency on Aging.]

[D.] If the Commissioner of the Department for the Aging has reason to believe that one or more of the reasons for termination constitutes an emergency endangering the health, safety, or welfare of citizens or seriously threatens the financial or programmatic continuation of services required by the Area Plan for Aging Services, the commissioner may order the immediate suspension of the designation of the Area Agency on Aging, in advance of a hearing, and [will shall] state in writing the reasons therefor.

[§ 4.5. Provision for continuity of functions and services.]

[E.] When the contractual designation of an Area Agency on Aging is withdrawn, the commissioner, to assure continued conduct of functions and provision of services to the extent feasible, [will shall] contractually designate a new Area Agency on Aging in a timely manner, or, for a period of up to 180 days from the withdrawal, the Virginia Department for the Aging itself may perform the responsibilities of the Area Agency on Aging or may assign the responsibilities of the area agency to another agency in the planning and service area. With the consent of the Commissioner of the U.S. Administration on Aging, the Commissioner of the Virginia Department for the Aging may extend the 180-day period.

[PART V. DESIGNATION OF A NEW AREA AGENCY ON AGING.]

[§ 5.1. Application for designation.]

[§ 2.4. Designation of a new Area Agency on Aging.]

[A.] When there is no designated Area Agency on Aging for a planning and service area, or when there has been a decision to create a new planning and service area, the commissioner [will shall] solicit applications for

a new Area Agency on Aging as soon as possible. Such applications [will shall] be solicited by advertisement in the newspapers of general circulation serving the planning and service area and by notification mailed to the local governing bodies of cities and counties within the planning and service area. At least 30 days from the date of advertisement [will shall] be provided for applicants to submit their applications to the commissioner. The application [will shall] include the applicant's proposed Area Plan for Aging Services. The commissioner [will shall] give the right of first refusal to a unit of general purpose local government, if such unit can meet the requirements of the Older Americans Act, as amended, and if the boundaries of such a unit and the boundaries of the planning and service area are reasonably contiguous. Applicants may be:

1. A city or county within the affected planning and service area;
2. All the cities and counties within the affected planning and service area, applying as a joint exercise of powers, pursuant to § 15.1-21 of the Code of Virginia;
3. A public agency or a private nonprofit corporation of Virginia, or any separate organizational unit within such agency which can and [will shall] engage only in the planning or provision of a broad range of supportive services [for older persons] within the planning and service area.

[§ 5.2. Public hearing.]

[B.] Within 30 days after the deadline set by the commissioner for submission of applications for designation as an Area Agency on Aging, the commissioner [will shall] advertise a public hearing to receive comments on such designation. At least 30 days notice of the hearing [will shall] be provided through advertisement in newspapers of general circulation serving the affected planning and service area and by notification mailed to the local governing bodies and all applicants. The hearing [will shall] be held at a time and location as convenient as possible to the citizens of the cities and counties affected by the proposed change. The commissioner or a hearing officer designated by the commissioner will preside at the public hearing. At the public hearing, interested parties may speak for themselves or be represented by counsel, and written presentations may be submitted. Upon conclusion of the hearing, the commissioner will continue to receive any additional written information which citizens or organizations may wish to provide.

[§ 5.3. Designation of a new Area Agency on Aging.]

[C.] Within 45 days after the public hearing, unless the applicants have agreed otherwise, the commissioner [will shall] issue a written decision. The commissioner may designate a new Area Agency on Aging, subject to final approval of its Area Plan for Aging Services and execution

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of the contract. Such designation [~~will~~ shall] become effective upon execution of the contract or such other data as agreed upon therein. Or, if the commissioner finds that the applicant or applicants applying do not offer functions, services, and an Area Plan for Aging Services which will be in the best interests of the Commonwealth or of the persons to be served, the commissioner may reject all applications and recommence the designation process. Reasons for denial [~~will~~ shall] be set forth with reasonable particularity.

VR 110-01-03: Area Plans for Aging Services.

[PART I: DEFINITIONS.

§ 1-1: Definitions.

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

"Area" means the planning and service area served by an Area Agency on Aging.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation.

"Frail" means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, which restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"Greatest economic need" means the need resulting from an income level at or below the poverty levels established by the federal Office of Management and Budget.

"Greatest social need" means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation, including that caused by racial or ethnic status, which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.

"In-home services" means (i) homemaker/personal care services; (ii) home care/companion services; (iii) home health services; (iv) checking services; (v) residential repair and renovation services; and (vi) in-home respite care for families and adult day care as a respite service for families.

"Older person" or "elderly" or "older individual" means

any individual who is 60 years of age or older.]

[PART II: PART III.] AREA PLANS FOR AGING SERVICES.

[§ 2-1: § 3.1.] Preparation and submission of the area plan.

[A.] Any existing Area Agency on Aging or any applicant for area agency designation will prepare an Area Plan for Aging Services and submit it to the Virginia Department for the Aging for approval. [Approval will be contingent upon assurances that the services set forth in § 2-3 of these regulations will be provided.] The area plan will clearly detail the means of providing [the supportive and nutrition] services and substantiation for the means selected. An approved area plan will be in effect for two, three, or four years, as determined by the Department for the Aging. Such plan, if approved, will become the scope of services in the contract executed between the Virginia Department for the Aging and the Area Agency on Aging as contractor.

[§ 2-2: Amendments to the area plan.]

[B.] The Area Agency on Aging [~~will~~ shall] submit to the Virginia Department for the Aging for approval all requests for, and reasonable documentation of and substantiation for, necessary changes, additions, or deletions in its area plan. The area agency [~~will~~ shall] submit a written amendment to the area plan if it intends to change the scope of a service or if it intends to change the arrangements by which a service is delivered (e.g., direct service or contracted service, the number or location of congregate meal sites). Any amendment must be approved by the Virginia Department for the Aging and, when signed by both the Department for the Aging and the Area Agency on Aging as contractor, will be incorporated into the contract as part of the scope of services.

[§ 2-3: Services to be provided under the area plan.]

[A. C.] The area plan [~~will~~ shall] provide [, through a comprehensive and coordinated system,] for supportive and nutrition services [as set forth below; and, where appropriate, for the establishment, maintenance, and construction of multipurpose senior centers within the planning and service area covered by the plan. Subject to the requirements in § 3.3, such services may include:]

1. Checking services: Calling or visiting older persons at their residence to check on them to make sure they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

2. Congregate meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current

recommended dietary allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a climate/atmosphere for socialization and opportunities to alleviate isolation and loneliness.

3. Consolidated access services. Identifying and locating older persons in need of services and assessing and periodically reassessing their need for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

4. Dental services. Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

5. Emergency services. Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 and older who have an emergency need for help. Area agencies must have approved policies established by their governing board for administration of this service.

6. Employment services. Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

7. Finance, tax, and consumer counseling. Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

8. Geriatric day care services. Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

9. Health education. Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

10. Health screening. Provision of screening to determine current health status, including counseling, follow-up, and referral, as needed.

11. Home care/companion services. Provision of light housekeeping, companionship and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

12. Home delivered meals. Procurement, preparation, conveyance, and provision of nutritionally balanced

meals that meet one-third of the current recommended dietary allowance for older persons. The meals must be delivered and received at the homes of the individuals.

13. Home health services. Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

14. Homemaker/personal care services. Provision of nonmedically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

15. Identification/discount program. Provision to older persons of a card which can be used as identification to cash checks and to obtain discounts for goods and services from participating merchants.

16. Legal assistance. Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a nonlawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

[17. Local long-term care ombudsman program. Serves as a single point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care, their families and friends, and recommends changes in the long-term care system which will benefit these individuals as a group.]

[18. 17.] Long-term care coordinating activity. Provides for the participation of area agency staff on the local long-term care coordinating committee(s) and in the planning and implementation of a coordinated service delivery system.

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[~~19~~ 18.] Public information. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

[~~20~~ 19.] Residential repair and renovation. Provision of home repairs or home maintenance to persons 60 years of age and older (includes weatherization provided with Older American Act funds).

[~~21~~ 20.] Services to persons in institutions. Provision of consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for facility residents.

[~~22~~ 21.] Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

[22. Substate long-term care ombudsman program. Serves as a point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and others to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the Long-Term Care Ombudsman Program identifies problems and concerns of older persons receiving long-term care and their families and friends and recommends changes in the long-term care system which will benefit these individuals as a group.]

23. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

24. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising volunteers; and developing opportunities for older persons to do volunteer work in the community.

[~~B~~ D.] An Area Agency on Aging may provide a service, other than those listed above, under the following conditions:

1. The service is consistent with the goals and objectives of the Older Americans Act.

2. The area agency makes a written request to, and receives written approval from, the Virginia Department for the Aging.

3. Such written request includes at least the following:

a. A description of the service to be provided;

b. A budget for the service for the duration of the current Area Plan for Aging Services, including sources and amounts of all funding for the service; and

c. A summary of the process which the area agency used to obtain public comment on the service to be provided.

4. If the area agency plans to provide the service directly, the area agency must comply with [~~the regulations concerning direct services, Part VI of these regulations § 3.5 of these regulations~~].

[~~§ 2.4. Complaints concerning substantial failure of an Area Agency on Aging or its Area Plan for Aging Services to comply with provisions of the Older Americans Act.~~]

[~~A~~ E.] If a citizen, organization, or local government should believe an Area Agency on Aging or its Area Plan for Aging Services substantially fails to comply with the provisions of the Older Americans Act, the complaint [~~will~~ shall] be addressed in writing to the Commissioner of the Virginia Department for the Aging, detailing the reasons and bases for the complaint.

[~~B~~ F.] In the alternative, a complaint can be initiated at the local level with the [~~local~~] substate ombudsman program, under circumstances described in [~~§ 2.2 E or D of the Regulations Governing Operation of the Ombudsman Program §§ 5.2 D 2 and 5.2 D 3 of these regulations~~] for reporting complaints to the Virginia Department for the Aging.

[~~C~~ G.] If [, after an investigation is conducted,] the commissioner has cause to believe that there are substantial grounds for termination of the designation of the area agency which is the subject of the complaint, pursuant to [~~§ 4.2 E of the Regulations Governing Planning and Service Areas and Area Agencies on Aging § 2.3 B 3 c of these regulations~~], the commissioner [~~will~~ shall] provide notice to the area agency of intent to withdraw its area agency designation within 30 days, stating the bases, and [~~will~~ shall] provide an opportunity for a hearing if requested within 15 days of receipt of the notice by the area agency involved. Failure to request a

hearing [~~will~~ shall] result in withdrawal of the area agency designation at the end of the 30th day after receipt of the notice by the area agency.

[~~D. H.~~] The hearing, if timely requested, [~~will~~ shall] be provided consistent with the provisions of the Virginia Administrative Process Act, § 9-6.14:11 of the Code of Virginia. Within 30 days of the close of the hearing, unless the case is disposed of by consent during the hearing process, the commissioner [~~will~~ shall] render a written decision. If the commissioner finds that the Area Plan for Aging Services of the Area Agency on Aging or the administration of the area plan by the area agency does not comply with the requirements and provisions of the Older Americans Act, the commissioner [~~will~~ shall] withdraw the designation, pursuant to 45 C.F.R. § 1321.35 [of the Act]. If there are significant, correctable problems in the Area Plan for Aging Services or the administration thereof, the commissioner may allow the area agency to continue as such, contingent upon appropriate changes and attainment of compliance within a stated time period.

[~~E. I.~~] When the cause for termination endangers the health, safety and welfare of the population to be served or jeopardizes the financial or programmatic provision of functions and services, suspension of the area agency [~~will~~ shall] be immediate, and termination [~~will~~ shall] become final within 30 days, unless good cause is shown by clear and convincing evidence.

[PART III POPULATION TO BE SERVED.]

[§ 3.1. General requirements.]

[§ 3.2. Population to be served.]

[A.] All Virginians age 60 years or older are eligible to receive services provided under an Area Plan for Aging Services. An Area Agency on Aging [~~will~~ shall] give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals. Older Americans Act funds and state funds [~~will~~ shall] be targeted to services which can assist older persons to function independently for as long as possible.

[§ 3.2. Additional eligibility criteria for receipt of congregate nutrition services.]

[A. B.] Any Virginian 60 years of age or older and his or her spouse, regardless of age, are eligible to receive congregate nutrition services.

[B. 1.] The following individuals are also eligible to receive congregate nutrition services:

[1. a.] A handicapped or disabled individual who is under the age of 60 years and who resides in a housing facility occupied primarily by older individuals at which congregate nutrition services

are provided.

[2. b.] An individual, regardless of age, who provides volunteer services during the meal hours.

[3. An individual with a disability c. A disabled individual under age 60] who resides at home with and accompanies an older individual who is otherwise eligible.

[§ 3.3. Additional eligibility criteria for receipt of home-delivered nutrition services.]

[A. C.] Any Virginian 60 years of age or older, who is homebound by reason of illness or incapacitating disability or otherwise isolated, is unable to prepare his own meal, and has no one to prepare food for him is eligible to receive home-delivered nutrition services.

[1. The following individuals are also eligible to receive home-delivered nutrition services:]

[B. a.] The spouse of the older person, regardless of age or condition, may receive a home-delivered meal if receipt of the meal is in the best interest of the homebound older person. Each Area Agency on Aging [~~will~~ shall] establish criteria for determining when receipt of the meal is in the best interest of the older person.

[b. A nonelderly disabled individual who resides at home with an older individual who is otherwise eligible.]

[PART IV PRIORITY SERVICES.]

[§ 4.1. Priority services and the proportionate expenditures required to be made thereon, pursuant to Title III-B of the Older Americans Act (for federal fiscal year 1989).]

[§ 3.3. Priority services.]

A. An Area Agency on Aging [~~will~~ shall] spend at least 15% of its Title III-B allotment for services associated with access to other services [; Services associated with access to other services are consolidated access services and transportation services , as defined in § 1.2 of these regulations].

B. An Area Agency on Aging [~~will~~ shall] spend at least 5.0% of its Title III-B allotment for in-home services, as defined in [Part I of these regulations § 1.2 of these regulations].

C. An Area Agency on Aging [~~will~~ shall] spend at least 1.0% of its Title III-B allotment for legal assistance for the elderly [; especially those in the greatest economic or social need].

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D. An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, ~~will shall~~ spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

E. To the extent that the priority services and the ~~proportion of expenditure~~ proportional expenditure level to be allotted to them are prescribed by law and regulation of the federal government, this section ~~(§ 4.1)~~ of the Regulations Governing Area Plans for Aging Services (§ 3.3) is exempt from the procedural requirements of the Virginia Administrative Process Act, pursuant to § 9-6.14:4.1 of the Code of Virginia.

[§ 4.2. Waivers.]

[A. F.] The Virginia Department for the Aging may waive the requirement described in ~~[§§ 4.1 A through 4.1 C]~~ §§ 3.3 A through 3.3 C of these regulations for any category of services described in that section if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in such area.

[B. G.] Before an Area Agency on Aging requests a waiver pursuant to [§ 4.2 A § 3.3 F] of these regulations, the Area Agency on Aging ~~will shall~~ conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver ~~will shall~~ notify all interested persons of the public hearing.
2. The area agency ~~will shall~~ provide interested persons with an opportunity to be heard.
3. The Area Agency on Aging requesting the waiver ~~will shall~~ receive, for a period of 30 days, any written comments submitted by interested persons.

[C. H.] The Area Agency on Aging ~~will shall~~ furnish a complete record of the public comments with the request for the waiver to the Virginia Department for the Aging.

[PART IV. IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.]

[§ 5.1. Scope.]

[§ 3.4. In-home services for frail older individuals.]

[A.] The services to be provided under this ~~[Part IV]~~ this section are those mandated by Title III-D of the Older Americans Act, as amended, and are expressly in addition to the in-home services and the expenditures for such category of services required pursuant to [§ 4.1 B § 3.3 B] of these regulations.

[§ 5.2. Eligibility criteria.]

[B.] In order to determine the eligibility of a frail older person to receive in-home services under Title III-D of the Older Americans Act, as amended, an Area Agency on Aging ~~will shall~~ take into account the following criteria:

1. The person ~~will be is~~ at least 60 years of age;
2. The person ~~will have has~~ an income at or below the poverty level established by the U.S. Office of Management and Budget;
3. The person ~~will be is~~ restricted in his ability to perform at least two activities of daily living; and
4. The person ~~will lack lacks~~ community support mechanisms to assist in the provision of Title III-D services.

[§ 5.3. Limitation on expenditures for services under Title III-D.]

[C.] Title III-D funds ~~will shall~~ be used in addition to, and not to supplant, any funds which are, or would otherwise be, expended under any other federal, state, or local program. As a new provision within the Older Americans Act, Title III-D has earmarked these funds to be applied exclusively for in-home services for eligible individuals as defined in [§ 5.2 § 3.4 B] of these regulations. ~~[Distribution of funds appropriated by the U.S. Congress for purposes of Title III-D will be made in accordance with a formula promulgated as an emergency regulation to meet the explicitly targeted persons and services of this new provision. The emergency formula will remain in effect no more than 12 months from its effective date or upon revision of the general formula in a manner which reflects proportionately the added purpose and intent of Title III-D, whichever comes first. This section will be an interim regulation, subject to clerical correction by the new formula, when duly adopted, and by promulgation of any new federal regulations governing the provisions of Title III-D.]~~

[§ 5.4. Coordination.]

[A. D.] An Area Agency on Aging expending funds under Title III-D ~~will shall~~ consult and coordinate the provision of Title III-D services with other agencies and organizations which administer or provide health, social, rehabilitative, and mental health services to older persons in the planning and service area [; as defined in § 5.2 of these regulations. This requirement will remain in force until such time as new federal regulations, the state application for Title III funds, or the Area Plans for Aging Services are written which incorporate explicit requirements or plans for implementation of the Title III-D program].

[B. E.] At a minimum, the area agency ~~will shall~~

consult with the following agencies and organizations providing services to older persons:

1. Local long-term care coordinating committees established pursuant to § 2.1-373.7 of the Code of Virginia;
2. Local community services boards and community mental health centers;
3. Local health departments; and
4. Local departments of social services.

[PART VI. DIRECT SERVICES.]

[§ 6.1. Prohibition.]

[§ 3.5. Direct services.]

[A.] An Area Agency on Aging [will shall] not provide directly any supportive services or nutrition services, except where, in the judgment of the Virginia Department for the Aging, pursuant to a request for waiver as set forth in [§ 6.2 § 3.5 B] of these regulations, provision of such services by the area agency is necessary to assure an adequate supply of such services, or where such services are directly related to the area agency's administrative functions, or where such services of comparable quality can be provided more economically by the area agency.

[§ 6.2. Waivers.]

[A. B.] An Area Agency on Aging [will shall] request explicitly in writing a waiver to provide supportive services or nutrition services. The request for a waiver must include, at a minimum, the area agency's rationale for providing the service directly, including sufficient documentation that provision of such service by the area agency is necessary to assure an adequate supply of such service, or that such service is directly related to the area agency's administrative functions, or that such service of comparable quality can be provided more economically by the area agency.

[B. C.] Unless and until a waiver has been granted in writing by the Virginia Department for the Aging, an Area Agency on Aging [will shall] not provide or begin to provide any supportive or nutrition service using Older Americans Act or state funds.

[VR 110-01-04. Financial Management Policies Applicable to Area Agencies on Aging.]

[PART I. INTRODUCTION.]

§ 1.1. Scope and organization.

The general organization of the regulations is as follows:

Part 1: Introduction - provides the description, scope, and organization of the regulation.

Part 2: Principles and Standards for Financial Management and Accounting - sets forth the standards and principles for the organization of an Area Agency on Aging's accounting system.

Part 3: Program Management - describes those program policy statements pertaining to fiscal management.

Part 4: Personnel Policies - sets forth those fiscal-related policies pertaining to personnel management.

Part 5: Property Control - covers the definition, inventory, and disposition of equipment, furnishings, and property.

Part 6: Procurement Practices and Contracting - describes the process for the competitive award of subcontracts/subgrants, as well as the essential policies under such a process.

Part 7: General Program Income - sets forth the Virginia Department for the Aging's fiscal policies on the definition, treatment, and use of program income.

Part 8: Bank Balances and Check-Handling Procedures - describes the process for requesting, safeguarding, and handling funds provided by the Virginia Department for the Aging.

Part 9: Monitoring of Area Agencies on Aging and Subgrantees - presents the role of the Virginia Department for the Aging and the responsibility of Area Agencies on Aging in the fiscal assessment of Area Agencies on Aging and their subgrantees.

Part 10: Carry-Over Balance Policies - describes the Virginia Department for the Aging's requirements for reauthorization of carry-over balances and the timing of spending of prior year's funds.

Part 11: Audits - presents the Virginia Department for the Aging's policy on audits of government-sponsored and nonprofit Area Agencies on Aging.

Part 12: Close-Out Procedures - describes the right of the Virginia Department for the Aging to terminate and close out grants/contracts and the handling of all assets and records.

Part 13: Record Retention Requirements - describes the disposition of records.

§ 1.2. Definition of terms.

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"Government-sponsored Area Agencies or Area Agencies sponsored by governmental entities" means area agencies created as units of general purpose local governments; area agencies created through the joint exercise of powers; and area agencies created as units of community services boards. Included under this category of Area Agencies on Aging are: District III Governmental Cooperative; New River Valley Agency on Aging; Alexandria Office on Aging; Arlington Agency on Aging; Rappahannock-Rapidan Community Services Center - Aging Services; Jefferson Area Board for Aging; Fairfax County Area Agency on Aging; Loudoun County Area Agency on Aging; Prince William Area Agency on Aging; Lake County Commission on Aging; and Crater District Area Agency on Aging. In instances where governmental-sponsored agencies need to be differentiated by their status as freestanding joint-exercise-of-powers agencies or units of a governmental entity, it has been so denoted.

"Private nonprofit Area Agency on Aging" means those area agencies created independently of a local governing body or bodies. They include Mountain Empire Older Citizens; Appalachian Agency for Senior Citizens; League of Older Americans; Valley Program for Aging Services; Shenandoah Area Agency on Aging; Central Virginia Commission on Aging; Piedmont Seniors of Virginia; Piedmont Senior Resources; Capital Area Agency on Aging; Rappahannock Area Agency on Aging; Northern Neck-Middle Peninsula Area Agency on Aging; Southeastern Virginia Area-wide Model Program; Peninsula Area Agency on Aging; and Eastern Shore Community Development Group.]

[PART II PRINCIPLES AND STANDARDS FOR FINANCIAL MANAGEMENT AND ACCOUNTING.]

[PART IV. ADMINISTRATION OF GRANTS AND CONTRACTS.

Article I.

Principles and Standards for Financial Management and Accounting.]

[§ 2-1: § 4.1.] Basis of accounting.

A. Each area agency [~~grantee/contractor~~] and all entities with which such area agency itself contracts [~~will shall~~] report program outlays and program income on the modified accrual basis. Accordingly, expenditures are recorded when a liability is incurred (i.e., when goods and services have been received or the amount can be readily estimated), but revenue is not recorded until actually realized or recognized and collectible by the grantee/contractor or entity under subcontract in a current reporting period.

B. If the [~~grantee/contractor~~ Area Agency] or entity under subcontract presently maintains its accounting system on the cash basis, it must develop the necessary accrual information through analysis of pertinent

documentation on hand.

C. Area Agencies on Aging [~~will shall~~] observe the cash basis of accounting for U.S. Department of Agriculture (USDA) funding and the commodities-received basis for USDA commodities. An unbilled receivable [~~will shall~~] not be reflected for USDA receivables.

[§ 2-2: § 4.2.] Authority to [~~expand expend~~] federal and state funds.

A. By virtue of the Virginia Department for the Aging's approval of an Area Plan for Aging Services, issuance of a notice of approval, and execution of the contract, an Area Agency on Aging is granted authority to incur costs under its approved area plan for eligible activities, for the period covered by the area plan. This authorization to incur costs under its approved area plan is extended only for allowable and allocable costs which are also reasonable and net of all applicable credits.

B. An Area Agency on Aging receiving a contractual award pursuant to an approved area plan understands and agrees that the period of the contractual award is for one year. Prior to the renewal of the contractual award of any additional financial support for any subsequent period, the Virginia Department for the Aging may conduct an on-site evaluation of the Area Agency on Aging to determine if the objectives of the area plan are being met and whether continued financial support is indicated.

C. An Area Agency on Aging is to refer to the federal cost principles applicable to its type of organization to ascertain when prior approval is required from the Virginia Department for the Aging. In addition, prior approval may be required by the contractual award of funded support from the Virginia Department for the Aging or required by specific program legislation or regulation, including but not limited to the following:

1. Changes in the scope or objectives of the activities assured by the area plan, as approved and incorporated into the contractual award;
2. Undertaking any activities which are disapproved or restricted as a condition of the contractual award;
3. Any pending change of institutional affiliation of the [~~grantee/contractor~~ Area Agency on Aging] , any reassignment to a legal successor of interest, or any nominal or legal change in agency name. The Virginia Department for the Aging [~~will may~~] in its discretion determine whether to approve such contractual modification and continue funding the existing project(s) under the new entity. Factors to be considered [~~will~~] include assurances to continue the project(s) as approved and the acceptance of the new entity by the carrier of any surety bonds required for the project(s);
4. Transferring to a third party, by contract or any

other means, the actual performance of substantive responsibility for the management of the grant/contract. Generally, such changes may require the designation of a new Area Agency on Aging and the execution of a new contract;

5. Carrying over funds from one budget period to another;

6. Extending the budget/project period with or without additional funds;

7. Expending funds for the purchase of land or buildings;

8. Conveying, transferring, assigning, mortgaging, leasing, or otherwise encumbering property acquired under a grant/contract with the Virginia Department for the Aging;

9. Acquiring automatic data processing equipment (see [§ 5-2 § 4.4] of these regulations);

10. Incurring costs or liabilities prior to the effective date of any grant/contract award;

11. Paying fees to a consultant whenever the consulting agreement (i) constitutes a transfer of substantive management or administrative work to a third party, [or] (ii) results in a contract for management services that requires Virginia Department for the Aging or the federal grantor agency's prior approval, [or ~~(iii)~~ is as] required by program regulations or other award terms;

12. Additional funding when clearly demonstrated to be essential;

13. Reallocating costs between closely related projects supported by two or more grant sources. Approval may be granted to charge costs to the Title III grant for which the costs are originally approved, or to another Department for the Aging project, when all of the following conditions are met:

- a. The projects are programmatically related;
- b. There is no change in the scope of the individual grants involved;
- c. The reallocation of costs [~~will~~ is] not [be] detrimental to the conduct of work approved under each individual award; and
- d. The reallocation [~~will~~ is] not [be] used to circumvent the terms and conditions of either individual award;

14. Indemnifying third parties;

15. Transferring funds between construction and

nonconstruction;

16. Traveling outside of the continental United States;

17. Contributing to a reserve fund for a self-insurance program;

18. Insuring any U.S. government-owned equipment; and

19. Meeting the costs of nonemergency patient care where other forms of medical cost reimbursement, such as but not limited to Medicaid, are available.

[§ 2-3 § 4.3.] Chart of accounts.

Provided that an Area Agency on Aging is able to comply with the nine standards for financial management systems in U.S. Office of Management and Budget (OMB) Circulars A-102 and A-110, as applicable, and the financial management standards contained in Title 45 CFR Subpart 74.61, an Area Agency on Aging [~~will~~ shall] adopt its own account structure based on its own external and internal reporting requirements.

[§ 2-4 § 4.4.] Elements of an acceptable financial management system.

A. An Area Agency on Aging [~~will~~ shall] maintain records and make reports in such form and containing such information as may be required by the Virginia Department for the Aging. As Area Agency on Aging [~~will~~ shall] maintain such accounts and documents as will serve to permit expeditious determination of the status of funds and the levels of services provided under the approved area plan, including the disposition of all moneys received from the Virginia Department for the Aging, and the nature and amount of all charges claimed against such funds.

B. An Area Agency on Aging [~~will~~ shall] keep records that identify adequately the source and application of funds for grant/contract-supported activities and for activities under subcontract. At a minimum, these records shall contain information pertaining to [the] grant/contract, subcontracts, authorizations, obligations, unobligated balances, assets, outlays, income, and, if the recipient is a governmental entity, liabilities.

C. Special grant/contract conditions more restrictive than those prescribed in Title 45 CFR Part 74 may be imposed by the Virginia Department for the Aging on an Area Agency on Aging, as needed, when the Virginia Department for the Aging has determined that the Area Agency on Aging:

1. Is financially unstable;
2. Has a history of poor performance; or
3. Has a management system which does not meet the

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standards of 45 CFR Part 74.

D. For the purpose of determining the adequacy of an area agency's financial management system, the Virginia Department for the Aging shall consider the following records maintained on a current basis to be minimum:

1. General journal;
2. General ledger;
3. Separate or combined cash receipts and disbursements journal or voucher register;
4. Payroll register (if the agency has more than 10 employees);
5. Fixed assets register for all owned and leased property and equipment;
6. In-kind journal/worksheets;
7. Project cost control subsidiary ledger/worksheets; and
8. Bank statements reconciled within [~~15 working~~ 30 calendar] days of receipt.

E. Grantees/contractors of the Virginia Department for the Aging may substitute the equivalent kind of records for those specified above, provided the substitute records meet the function for which those records have been required.

F. An Area Agency on Aging shall have procedures for determining the reasonableness, allowability, and allocability of all contract costs.

[§ ~~2-5~~ § 4.5.] Use of Title III-C funds until USDA reimbursement.

Title III-C of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.), and incorporated by reference in this regulation, funds [~~will~~ shall] be given priority for reimbursement of the cost of nutrition services. Nutrition funding from USDA should be used to reimburse Title III-C at the time of receipt. Providers of nutrition services to older persons [~~will~~ shall] treat the USDA reimbursement as income upon receipt.

[§ ~~2-6~~ § 4.6.] Reimbursement from other sources.

All reimbursement under Titles XIX and XX of the Social Security Act for services funded jointly by the Older Americans Act [~~will~~ shall] be considered "other federal funds" for budgeting and reporting purposes.

[§ ~~2-7~~ § 4.7.] Liquidation of obligations.

A. Grantees/contractors of the Virginia Department for the Aging and subcontractors of the Area Agencies on

Aging [~~will~~ shall] liquidate all obligations incurred under the Older Americans Act within 90 days of the end of the grant period. The Virginia Department for the Aging [~~will~~ shall] consider written requests for waivers of this rule in the case of any multiyear subcontracts involving construction or renovation.

B. All Virginia general fund moneys [~~will~~ shall] be spent by June 30 of the year covered by the award. No unliquidated obligations [~~will~~ shall] exist beyond June 30.

[§ ~~2-8~~ § 4.8.] Area Agency on Aging fiscal manual.

An Area Agency on Aging [~~will~~ shall] prepare a complete, accurate, and current set of written fiscal policies to be maintained in the form of an officially adopted manual. This manual [~~will~~ shall] cover the area agency's own fiscal policies and those applicable to its subcontractors. At a minimum, the manual [~~will~~ shall] provide for a description of each of the following accounting applications and the internal controls in place to safeguard the agency's assets [~~for~~ :] billings, receivables, cash receipts, purchasing, accounts payable, cash disbursements, payroll, inventory control, property and equipment, and general ledger. Each of the agency's fiscal activities for revenue/receipts, disbursements and financial reporting [~~will~~ shall] also be described.

[PART III: PROGRAM MANAGEMENT.]

[Article 2. Transfer of Funds.]

[§ ~~3-1~~ § 4.9.] Authority to transfer funds [~~among~~ between] the titles of the Older Americans Act.

A. With the prior written approval of the Virginia Department for the Aging, an Area Agency on Aging may transfer funds between the titles of the Older Americans Act, as amended. Area agencies may request transfers of up to 15% of Title III-C(1) funds to Title III-C(2) projects.

B. With the prior written approval of the department, area agencies may transfer up to 10% of Title III-C funds to Title III-B projects.

[PART IV: PERSONNEL POLICIES.]

[Article 3. Personnel Policies.]

[§ ~~4-1~~ § 4.10.] Employment of key Area Agency on Aging personnel.

The [~~Board of Directors governing board~~] of the Area Agency on Aging [~~will~~ shall] have the authority to hire and otherwise supervise the activities of the Director of the Area Agency on Aging. All recruitment efforts [~~will~~ shall] be guided by a description of duties and a list of

recruitment criteria [~~provided developed~~] in advance by the Area Agency on Aging.

[~~§ 4.2~~ § 4.11.] Taking security deposits and making payments on behalf of clients.

Unless an Area Agency on Aging has an approved program for such purposes and any such security deposits and payments are explicitly covered under the agency's fidelity bond coverage, all officers, employees, volunteers and agents [~~will shall~~] be prohibited from taking security deposits for clients or from making payments on behalf of participants of programs funded under the Older Americans Act. Where such programs are provided for and explicitly covered under the agency's fidelity bond coverage, adequate safeguards shall be formally in place and the operation of the program periodically [~~checked~~ monitored by the Area Agency on Aging].

[~~§ 4.2~~ § 4.12.] Support for labor distribution.

A. Charges to awards for salaries and wages [~~will shall~~] be based on documented payrolls approved by a responsible supervisory official of the Area Agency on Aging. The distribution of time worked must be supported by personnel activity reports.

B. Labor distribution reports should be prepared and controlled according to the following minimum standards:

1. Employees, including employees under subcontract, are responsible for preparing their own timecards/timesheets.

2. Employees [~~will shall~~] be provided clear instructions as to the work to be performed and the grant/contract category or program to be charged.

3. Periodic internal reviews of the timekeeping system [~~will shall~~] be performed to assure compliance with system controls.

4. Overtime hours [~~will shall~~] be approved in advance and justification provided.

5. A list of supervisors authorized to approve timecards/timesheets [~~will shall~~] be maintained along with signature cards kept on file by the timekeeping office.

C. In situations where the use of labor distribution reports may be impractical or essentially the same results could be obtained through sampling techniques, an Area Agency on Aging may request in writing from the Virginia Department for the Aging approval of a substitute system which involves staff-maintained labor distribution reports for a prototypical period.

[~~§ 4.4~~ § 4.13.] Up-to-date job descriptions for all Title III funded positions.

For [~~all each~~] paid and volunteer [~~positions position~~] funded by Title III of the Older Americans act, an Area Agency on Aging shall maintain [:]

[1.] A current and complete job description [: ~~This job description~~ which] shall cover the scope of each position-holder's duties and responsibilities [and which shall be updated as often as required,] and

[2. A current description of the] minimum entry-level standards of performance [for each job]. [~~These job descriptions shall be updated as often as required.~~]

[PART V. PROPERTY CONTROL.

[Article 4.]
Property Control.]

[~~§ 5.1~~ § 4.14.] Inventorying acquired equipment.

An Area Agency on Aging shall conduct or have conducted on an annual basis an inventory of all equipment acquired with funds granted by the Virginia Department for the Aging, including equipment acquired by their subcontractors and subgrantees.

[~~§ 5.2~~ § 4.15.] Control of USDA commodities.

To prevent unauthorized diversion, all elderly nutrition projects obtaining commodities from USDA [~~will shall~~] conduct [a ~~periodic~~ an] inventory at least once a year of all USDA commodities and [~~will shall~~] maintain a perpetual inventory system over such commodities.

[~~§ 5.3~~ § 4.16.] Purchase of [~~automated automatic~~] data processing (ADP) equipment.

[A.] An Area Agency on Aging shall take special precautions in the purchase of ADP equipment and software. The purchase, lease, or retention of ADP equipment [~~will shall~~] require prior approval from the Virginia Department for the Aging on an individual or blanket purchase basis.

[~~A. B.~~] In the acquisition of computer equipment, an Area Agency on Aging shall ensure the following:

1. A full requirements analysis has been conducted;
2. Its computer utilization needs are projected over at least a three-year period;
3. The intended software system [~~will meet~~ meets] federal and state reporting requirements;
4. There is adequate post-sale vendor support; and
5. Competitive purchasing procedures are adhered to.

[~~B. C.~~] The cost of ADP services does not require

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federal or state prior approval.

[§ 5.4: § 4.17.] Area Agency on Aging property control policies.

An Area Agency on Aging [~~will~~ shall] have written policies and procedures, approved by the [~~board of directors or the governing body governing board~~], for managing equipment purchased in whole or part with federal, state, or matching funds, to include: (i) accurate and complete property records, (ii) regular physical inventory of equipment, (iii) adequate maintenance procedures, and (iv) disposal of property and equipment.

[PART VI.

Article 5.]

Procurement Practices and Contracting.

[§ 6.1: § 4.18.] Summary of procurement procedures.

[A. In general, all purchases of goods and services in excess of \$500 will be based on competitive bids, except when the provider is a sole source. In the case of a sole source provider, the substantiation for such status will be stated in writing and will be posted in a publicly visible location in the area agency office.

A. Each Area Agency on Aging not subject by statute to the Virginia Public Procurement Act (§§ 11-35 through 11-80 of the Code of Virginia) shall have written policies and procedures which are consistent with the provisions of the Virginia Public Procurement Act.]

[B. An Area Agency on Aging shall adhere to the procurement policies of the Commonwealth of Virginia as contained in Chapter 7 (§ 11-35 et seq.) of Title 11 of the Code of Virginia, or, in the case of Area Agencies on Aging sponsored by governmental entities, those procurement policies adopted by their sponsoring local governing body to the extent that such policies are more stringent than the Commonwealth of Virginia's statutory procurement requirements.

B. The Area Agency on Aging shall incorporate in any contract, grant, or purchase agreement of over \$10,000 the conditions specified in the Virginia Public Procurement Act or those conditions provided in the written policies and procedures required in subsection A of this section.]

[§ 6.2: § 4.19.] Contract awards to Area Agencies on Aging.

The Virginia Department for the Aging is authorized under [Chapter 24 (§ 2.1-372 et seq.) of Title 2.1 § 2.1-372] of the Code of Virginia to award grants or contracts, or a combination of both, to a designated Area Agency on Aging to administer programs under an approved area plan. The Virginia Department for the Aging has determined that the contracts mechanism is the appropriate vehicle for making awards to Area Agencies

on Aging in furtherance of its purpose under its approved area plan. Even though the procuring mechanism is called a contract, for purposes of interpreting federal regulations, the provisions for grants and grantees shall apply to an Area Agency on Aging rather than the provisions for contracts.

[§ 6.2: § 4.20.] Unauthorized awards to debarred, suspended, or high-risk subcontractors.

A. An Area Agency on Aging [~~will~~ shall] make awards only to responsible subcontractors possessing the ability to perform successfully under the terms and conditions of the proposed contract. Consideration [~~will~~ shall] be given to such matters as the integrity of the subcontractor, compliance with public policy, record of past performance, and financial and technical resources.

B. An Area Agency on Aging [~~will~~ shall] not execute any subcontract at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

C. An Area Agency on Aging [~~will~~ shall] require its proposed [~~subrecipients and~~] subcontractors at any tier to certify whether they have been excluded from participation in federal assistance programs.

D. If an Area Agency on Aging believes that there are compelling reasons for executing a subcontract with a debarred, suspended, or voluntarily excluded provider in a particular area, the area agency may apply to the Virginia Department for the Aging for a waiver from this requirement. Such waivers [~~will~~ shall] be granted only in unusual circumstances upon the written determination, by an authorized Virginia Department for the Aging official, that there are compelling reasons justifying the participation.

[§ 6.4: § 4.21.] Authority for multiyear awards.

A. An Area Agency on Aging may enter into a multiyear subcontract provided such contract has a completion date, a binding schedule of costs for each year of the entire contract period, a satisfactory performance clause, and a funds-availability clause. An optional-year contract is the preferred contracting mechanism for multiyear awards.

B. The maximum period of time for a multiyear subcontract from the effective date of the contract to close out shall be three years. Any subcontracts for periods longer than three years shall be reproposed and renegotiated at the end of the three-year period through normal competitive processes.

[§ 6.5: § 4.22.] Preference for small business and minority firm awards of grants and contracts.

It is the Virginia Department for the Aging's policy that a fair share of subcontracts be awarded to small and minority business firms and nonprofit organizations.

Accordingly, affirmative steps [~~will~~ shall] be taken to assure that small and minority businesses are utilized, when possible, as sources of supplies, equipment, construction, and services.

[~~§ 6-6: § 4.23.~~] Contract and competitive grants appeals process.

An Area Agency on Aging [~~will~~ shall] establish an appeals and hearing process to resolve disputes [~~; claims or appeals and claims~~] involving contracts and competitively awarded grants, if such are authorized. At a minimum, this process [~~will~~ shall] describe:

1. Applicable procurement rules to be used in the [appeals] process;
2. Designation of an impartial officer to hear and pass on the dispute [~~; claim, or appeal or claim~~];
3. Form and timing of the claim to be filed;
4. Right of the claimant to counsel;
5. Hearing procedures;
6. Manner and timing of the hearing officer's opinion;
7. Right to appeal to the Virginia Department for the Aging; and
8. [~~Record~~] Retention and disposal of the hearing's record.

[~~PART VII.~~]

Article 6.] General Program Income.

[~~§ 7-1: § 4.24.~~] Acceptable methods for general program income.

An Area Agency on Aging is authorized to observe the additional-costs alternative. Under this alternative, all general program income earned by the Area Agency on Aging shall be retained by the area agency and added to funds committed to the project by the Virginia Department for the Aging and shall be used to further eligible program objectives.

[~~§ 7-2: § 4.25.~~] Treatment of interest earned on advances.

Interest earned on federal funds passed through the Virginia Department for the Aging is to be considered general program income. Such funds may be used as cash match in the supportive services and nutrition programs, to expand any approved program, or to further any activity or benefit to the elderly as approved by the governing board of the Area Agency on Aging. Such funds may not be used to meet the costs associated with the preparation and administration of the area plan.

[~~§ 7-3: § 4.26.~~] Allowable investment and custody policies.

The investment of available federal or state funds shall be directed by two principles: (i) all funds received must be protected from unreasonable loss or diminished value, and (ii) investments must be selected to earn a reasonable return on funds not expected to be disbursed immediately. In furtherance of such principles, the following investment mechanisms are authorized:

1. Any interest bearing checking account that is fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
2. NOW accounts.

[~~§ 7-4: § 4.27.~~] Timing of spending general program income.

In general, there is no time restriction as to when general program income under the additional-costs alternative must be spent. To avoid any excessive accumulation of funds and the abuse of this alternative, the Virginia Department for the Aging has determined that general program income earned under the additional-costs alternative shall be spent in the year in which it is earned. If it is earned near the end of the agency's fiscal year and the agency is unable to spend this income by then, it shall at least be spent before the expenditure of any federal or state funds in the beginning of the next fiscal year.

[~~§ 7-5: § 4.28.~~] Special internal control safeguards over participant contributions.

Because of the cash nature of participant contributions, agencies [~~will~~ shall] exert special safeguards over such funds. At a minimum, agencies receiving [~~cash for~~] participant contributions [~~will~~ shall] employ one or [~~all~~ more] of the following precautions: (i) have two persons count all cash contributions; (ii) deposit the amount intact; (iii) make deposits on a daily basis; (iv) maintain all cash contributions in a secure place until deposit; (v) regularly justify cash counts against deposit receipts received from the bank; (vi) for home-delivered [~~means meals~~], maintain lock boxes in the vans and encourage mailed contributions; (vii) provide a clearly stated policy concerning provision of client receipts, in duplicate, for each cash transaction; and (viii) rotate staff periodically, if staffing permits.

[~~§ 7-6: § 4.29.~~] Area Agency on Aging written policies on program income.

An Area Agency on Aging [~~will~~ shall] formally adopt written policies and procedures, approved by the [~~Board of Directors or local governing body governing board~~], regarding collection, disposition, and accounting for (i) program income, including participant contributions, and (ii) interest and other investment income earned on

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advances of federal and state funds.

[PART VIII.

Article 7.]

Bank Balances and Check-Handling Procedures.

[§ 8.1. § 4.30.] Rules on cash management by Area Agencies on Aging.

A. An Area Agency on Aging shall institute procedures to minimize their cash balances [~~on~~ of] funding provided by the Virginia Department for the Aging. Accordingly, Area Agencies on Aging [~~will~~ shall] tailor projections of cash requirements from the Virginia Department for the Aging to coincide closely with the actual disbursement of such funds.

B. An Area Agency on Aging [~~will~~ shall] adopt procedures for minimizing the time elapsed between the receipt of federal and state funds and their disbursement.

[§ 8.2. § 4.31.] Fidelity bond requirements.

For all personnel handling cash or preparing or signing checks, the Area Agency on Aging shall obtain minimum insurance coverage of three-months' cashflow, including checks received, in blanket fidelity bond coverage.

[PART IX.

Article 8.]

Monitoring of Subcontractors of Area Agencies on Aging.

[§ 9.1. § 4.32.] Area Agency on Aging written policies on [~~subrecipient~~ subcontractor] monitoring.

Each Area Agency on Aging shall adopt formal written policies and procedures, approved by the [~~board of directors or governing body~~ governing board], for monitoring their subcontractors and subgrantees under the approved area plan and for follow-up on any findings.

[PART X.

Article 9.]

Carry-Over Balance Policies.

[§ 10.1. ~~Prior approval to obligate~~ § 4.33.] Carry-over funds.

Carry-over funds may represent obligated but unspent funds. For such funds to be available for expenditure in a subsequent fiscal year, the Virginia Department for the Aging must reauthorize in the subsequent area plan such funds for an area agency to obligate and expend. An Area Agency on Aging shall request authority for such reauthorization of funds. In general, carry-over balances from Titles III-B, III-C(1) [~~and~~ ,] III-C(2) [, and III-D] should not exceed 10% of the federal/state obligation for

the new fiscal year, computed separately. This 10% carry-over policy does not apply to Virginia general fund moneys; all of general fund moneys must be spent by June 30 of the fiscal year in which they have been awarded. Approval for the use of such federal carry-over funds [~~will~~ shall] be granted by the Virginia Department for the Aging only for specific uses and for a specified period of time.

[PART XI.

Article 10.]

Audits.

[§ 11.1. § 4.34.] Area Agencies on Aging retain own independent public [~~accounts~~ accountants].

A. Each Area Agency on Aging shall retain its own public accountant, who is sufficiently independent of those who authorize the expenditure of federal funds, to produce unbiased opinions, conclusions, or judgments. The auditor shall meet the independence criteria established in Chapter 3, Part 3, of the U.S. Government Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

B. In arranging for audit services, an Area Agency on Aging shall follow procurement standards for retaining professional services. Small audit firms and audit firms owned and controlled by [~~socially and economically disadvantaged~~ minority] individuals shall have the maximum practical opportunity to participate in audit contracts awarded.

C. In soliciting and retaining auditors to conduct the annual audit, an Area Agency on Aging must make specific reference in their request for proposals and any resulting subcontract that the auditor [~~will~~ shall] be required to conform [~~its~~ the] audit to the requirements in the Single Audit Act of 1984, P.L. 98-502, and OMB Circular A-128, or Attachment F, OMB Circular A-110, as applicable. This would relate to the scope of the audit, standardized audit report, reportable events, monitoring by the Virginia Department for the Aging and quality assurance review, access to audit work papers, plan for corrective action, and resolution of audit findings.

D. The audit solicitation and any resulting contract for audit services shall make specific reference that "if it is determined that the contractor's audit work was unacceptable as determined by the Virginia Department for the Aging or a federal supervisory agency, either before or after a reasonable time after a draft or final report was issued, because it did not meet the Virginia Department for the Aging's standards, the AICPA Standards, or those promulgated by the Comptroller General of the United States, the contractor may, at the area agency's written request, be required to reaudit at its own expense and resubmit a revised audit report which is acceptable."

[§ 11.2. § 4.35.] Frequency of audits and due date for submission of audit reports.

A. An audit of Area Agencies on Aging and their grantees and cost-reimbursement contractors shall be conducted at least annually.

B. The audit report shall be submitted to the Virginia Department for the Aging by December 15. If, for reasons within the control of the Area Agency on Aging, this report cannot be submitted by this time, funding of the agency may be suspended by the Virginia Department for the Aging. An Area Agency on Aging shall make a written request for an extension of time for justifiable reasons to the Virginia Department for the Aging before December 15. Such request shall be submitted with sufficient time for Virginia Department for the Aging review and approval.

[§ 11.2. § 4.36.] Scope of audit report.

A. The audit shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

B. The audit shall cover the entire operations of the agency or, at the option of that agency, it may cover departments, agencies or establishments that received, expended or otherwise administered federal financial assistance during the year. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

C. The auditor shall determine whether:

1. The financial statements and the accompanying schedules of the agency, department, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles.

2. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations.

3. The organization has complied with laws and regulations that may have a material effect on its financial statements and on each major federal assistance program.

D. The independent public accountant shall render an opinion on three accompanying schedules: Status of Funds, Costs by Program Activity, and Status of Inventories.

[§ 11.4. § 4.37.] Area Agency on Aging audit resolution.

Each Area Agency on Aging [will shall] have a systematic method to assure the timely and appropriate resolution of audit findings and recommendations.

[§ 11.5. Access to records.

In addition to the head of the federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner of the Virginia Department for the Aging and the Comptroller of the Commonwealth of Virginia, or their duly authorized representatives, will have right of access to any pertinent books, documents, papers, and records of the Area Agency on Aging and its subcontractors to make audits, examinations, excerpts, and transcripts.]

[PART XII.

Article 11.]
Close-Out Procedures.

[§ 12.1. Virginia Department for the Aging right to suspend or terminate a grant contract.

Procedures for suspension have been set forth in Part IV of the Regulations Governing Planning and Service Areas and Area Agencies on Aging for notices of termination initiated by the Virginia Department for the Aging and in § 2.4 of the Regulations Governing Area Plans for Aging Services for notices of termination initiated in response to locally brought complaints.]

[§ 12.2. § 4.38.] Close-out.

A. In the event of termination, all property, documents, data, studies, and reports purchased or prepared by the Area Agency on Aging or its subgrantees or subcontractors under its approved area plan shall be disposed of as directed by the Virginia Department for the Aging. The terminated Area Agency on Aging shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred up to the point of receipt of the termination notice in satisfactory performance under its approved area plan. [Notwithstanding In spite of] the above, the Area Agency on Aging shall not be relieved of liability to the Virginia Department for the Aging for damages sustained by the Virginia Department for the Aging by virtue of any breach of the approved [contract and] area plan. The Virginia Department for the Aging may withhold for purpose of a set-off any reimbursement of funds to the Area Agency on Aging until such time as the exact amount of damages due the Virginia Department for the Aging from the Area Agency on Aging is agreed upon or otherwise determined.

B. In the event of rescission, revocation, or termination, all documents and other materials related to the performance under the Area Plan for Aging Services [will shall] become the property of the Virginia Department for the Aging.

[§ 12.2. § 4.39.] Bankruptcy.

Approval of the area plan [will shall] be withdrawn and any contractual relations terminated for cause if, upon 60 days notice, either party is adjudicated bankrupt, is subject to the appointment of a receiver and fails to have

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such receiver removed within 60 days, has any of its property attached and fails to remove such attachment within 60 days, or becomes insolvent or for a period of 60 days is unable to pay its debts as the same become due.

[§ 12.4. § 4.40.] Follow-up actions to grant or subgrantee close-out or termination.

As a consequence of close-out or termination, the following steps shall be taken:

1. Upon request, the Virginia Department for the Aging shall promptly pay the contractor for all allowable reimbursable costs not covered by previous payments.

2. The contractor shall immediately refund or otherwise dispose of [; in accordance with instructions from the Virginia Department for the Aging;] any unobligated balance of cash advanced to the contractor [, in accordance with instructions from the Virginia Department for the Aging] .

3. The contractor shall submit, within 90 days of the date of close-out or termination, all financial, performance, and other reports required by the terms of the agreement. The Virginia Department for the Aging may extend the due date in response to a written or oral request from the contractor. The department [will shall] respond in writing to the request.

4. The Virginia Department for the Aging [will shall] make a settlement for any upward or downward adjustment of the federal share of costs, to the extent called for by the terms of the agreement.

[ARTICLE XIII.

Article 12.]

Record [Retention Requirements Management] .

[§ 12.1. § 4.41.] Area agency record retention requirements.

Fiscal records [will shall] be maintained for five years from the date the Virginia Department for the Aging submits to the U.S. Department of Health and Human Services its final expenditures report for the funding period. This period may be extended, if an audit, litigation, or other action involving the records is started before the end of the five-year period and the records must be retained until all issues arising from the action are resolved or until the end of the five-year period, whichever is later.

[§ 12.2. § 4.42.] Contractors and subcontractors.

In the case of grantees/contractors and subcontractors, there shall be a five-year record retention requirement from the date when final payment is made and all other

pending matters are closed. Grantees/contractors and subcontractors of the Virginia Department for the Aging [will shall] include a provision in contracts for the five-year record retention period and for access to the contractor's records by authorized representatives of the Commonwealth of Virginia and the United States Government.

[§ 12.3. § 4.43.] [Other] record retention requirements.

An Area Agency on Aging and its [subrecipients subcontractors/subgrantees] shall also comply with the record retention requirements of the State Corporation Commission and the Internal Revenue Service for corporations and individuals.

[§ 12.4. § 4.44.] Area agency policy and procedures.

An Area Agency on Aging shall have written policies and procedures approved by [its board of directors or governing body the governing board] regarding the retention and access to all financial and programmatic records, supporting documents, statistical records, and other records.

[§ 4.45. Access to records.

In addition to the head of the federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, the Commissioner of the Virginia Department for the Aging and the Comptroller of the Commonwealth of Virginia, or their duly authorized representatives, shall have the right of access to any pertinent books, documents, papers, and records of the Area Agency on Aging and its subcontractors to make audits, examinations, excerpts, and transcripts.]

[VR 110-01-05. Long-Term Care Ombudsman Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Area Agency on Aging" means the public or private nonprofit agency created pursuant to the federal Older Americans Act of 1965, as amended (42 U.S.C. 3001 et seq.); and incorporated by reference in this regulation, which has submitted an approved Area Plan for Aging Services and is designated by contract with the Virginia Department for the Aging to develop and administer its area plan, as approved, for a comprehensive and coordinated system of services for older persons.

"Area Plan for Aging Services" means the document submitted by an area agency to and approved by the

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Virginia Department for the Aging, as the scope of services in the executed contract, in order to receive funding under the Older Americans Act, as amended.

"Complaint" means any written or oral allegation regarding (i) an action, inaction, or decision of a provider which adversely affects the rights, health, welfare, or safety of the person complaining or the recipient of services, or (ii) a violation of the regulations, policies or procedures which govern long-term care services, brought by or on behalf of a resident of a long-term care facility, regardless of age, or a recipient of long-term care services provided in the community who is at least 60 years of age.

"Complaint counseling" means information, guidance, and support to enable the person complaining or the recipient of services to attempt to resolve the complaint or concern himself, if he so chooses, by utilizing the complaint handling procedures of the long-term care facility or long-term care service provider.

"Long-term care facility" means any facility outside of the service recipient's home in which two or more unrelated persons receive long-term care services, including, but not limited to, nursing homes licensed by the Department of Health, homes for adults licensed by the Department of Social Services, and geriatric treatment centers licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services.

"Long-term care services" means diagnostic, preventive, therapeutic, rehabilitative, supportive, and maintenance services provided on a recurring or continuous basis for the purpose of (i) minimizing the effects of illness or disability, or both, (ii) assisting a person to maintain his highest level of functioning, or (iii) maintaining or restoring independence. Such services may be provided in the recipient's home or in a community setting such as a long-term care facility.

"Office of the State Long-Term Care Ombudsman" means the program administered and managed by the Virginia Department for the Aging, which serves as a point of entry, whereby a complaint is received, investigated or referred for investigation, and resolved.

"Local/Substance Ombudsman Program" means an organizational unit within an Area Agency on Aging which the Virginia Department for the Aging designates, through contract with the Area Agency on Aging, to fulfill the duties of the Office of the State Long-Term Care Ombudsman in a specific geographic area.

PART II.

OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN.

§ 2.1. Complaint handling.]

[PART V.

LONG-TERM CARE OMBUDSMAN PROGRAM.]

[§ 5.1. Office of the State Long-Term Care Ombudsman.]

[The following steps will be followed under the circumstances described: A. When handling complaints, the Office of the State Long-Term Care Ombudsman shall take the following steps:]

1. Staff of the Office of the State Long-Term Care Ombudsman shall provide complaint counseling to an appropriate person alleging a reasonably specified complaint to assist such person in resolving the complaint himself.

2. If said person alleging a reasonably specified complaint is unable or unwilling to resolve the [compliant complaint] himself, [such person shall submit staff of the Office of the State Long-Term Care Ombudsman will attempt to obtain] reasonably specific information [from the complainant] , in accordance with which staff of the Office of the State Long-Term Care Ombudsman shall assess the complaint to determine the most appropriate means of investigating and resolving the complaint.

a. Staff of the Office of the State Long-Term Care Ombudsman shall investigate reasonably specified complaints reported to the office which allege action, inaction, or decisions of providers of long-term care services (or their representatives) which may adversely affect the rights, health, welfare, or safety of the person complaining or the recipient of services.

b. Staff of the Office of the State Long-Term Care Ombudsman shall initiate the investigation of a complaint within two working days of the date on which the complaint is received.

c. Staff of the Office of the State Long-Term Care Ombudsman shall refer complaints concerning long-term care regulatory issues and allegations of abuse, neglect, and exploitation to the appropriate agency for investigation, pursuant to §§ 2.1-373.1 through 2.1-373.3 of the Code of Virginia.

d. When the complaint alleges abuse, neglect, or exploitation, staff of the Office of the State Long-Term Care Ombudsman shall make a referral by telephone immediately to the appropriate Adult Protective Services staff in the appropriate local Department of Social Services. "Appropriate local Department of Social Services" means the Department of Social Services (i) in the locality where the alleging person resides, or (ii) in the locality where the abuse, neglect, or exploitation is alleged to have occurred, or (iii) in the locality where the complaint is discovered.

e. Staff of the Office of the State Long-Term Care

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Ombudsman shall forward a reasonably specified complaint to the appropriate regulatory agency or to the Adult Protective Services [~~unit~~] within three working days of the date on which the complaint is received.

f. Staff of the Office of the State Long-Term Care Ombudsman shall complete their investigation of a complaint handled by the office within 45 working days of the date on which the complaint is received.

g. No action shall be taken or threatened by any [~~person~~ long-term care provider] or facility for the purpose of punishing or retaliating against any resident, ombudsman, employee, or other interested person for presenting a complaint [~~hereunder~~ under this regulation] or for providing assistance to the complaining party.

[§ 2.2. Confidentiality.]

[A. B.] Staff of the Office of the State Long-Term Care Ombudsman shall comply with the provisions of confidentiality required by § 2.1-373.2 and Chapter 26 (§ 2.3-377 et seq.) of Title 2.1 of the Code of Virginia concerning confidentiality with respect to the identity of the alleging person or the service recipient and the records maintained by the office.

[B. C.] Staff of the Office of the State Long-Term Care Ombudsman shall provide identifying information to the Adult Protective Services unit of the Department of Social Services concerning the affected person or service recipient alleged to be a victim of abuse, neglect, or exploitation.

[C. D.] Staff of the Office of the State Long-Term Care Ombudsman may provide identifying information to appropriate agencies involved in the investigation of complaints, at the discretion of the State Ombudsman.

[~~D.~~ E.] All [~~local~~] substate ombudsman representatives, when acting for or on behalf of the Office of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the [~~local~~] substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be bound by the provisions of [§§ 2.2 A, B, and C § 5.1 A through 5.1 C] of these regulations.

[§ 2.3. Access to residents, records, and facilities.]

[A. F.] Section 2.1-373.1 of the Code of Virginia provides to the staff of the Office of the State Long-Term Care Ombudsman the right of access to long-term care facilities and to the residents and records of such facilities.

[B. G.] All [~~local~~] substate ombudsman representatives, when acting for or on behalf of the Office

of the State Long-Term Care Ombudsman pursuant to a duly executed contract between the [~~local~~] substate ombudsman program in the Area Agency on Aging and the Office of the State Long-Term Care Ombudsman in the Virginia Department for the Aging, shall be provided the same rights of access as those set forth in [§ 2.3 A § 5.1 F] of these regulations.

[PART III. SUBSTATE LONG-TERM CARE OMBUDSMAN PROGRAMS.

§ 3.1. Approval and contract; authority.]

[§ 5.2. Substate long-term care ombudsman programs.]

A. An Area Agency on Aging shall obtain approval of its Area Plan for Aging Services from, and shall execute a contract with, the Virginia Department for the Aging before it operates a [~~local~~ substate] ombudsman program. Such contract shall be in the form of an agreement incorporating as the scope of services the approved Area Plan for Aging Services or approved amendments thereto, signed by both parties. The contract shall provide assurances by the Area Agency that adequate legal representation, should any be necessary, shall be supplied on behalf of representatives of the [~~local~~] substate ombudsman program acting in the scope of their services.

B. The actions of the representatives of the [~~local~~] substate ombudsman program when acting on behalf of the Office of the State Long-Term Care Ombudsman pursuant to the duly executed contract, shall be governed, with regard to confidentiality requirements and rights of access, by the provisions of [§§ 2.2 A, B, and C, and 2.3 A §§ 5.1 B through 5.1 D] of these regulations.

C. The authority of the [~~local~~] substate ombudsman program shall be limited to the geographic area specified in the approved Area Plan for Aging Services or in an approved area plan amendment, recognized as the scope of services of the contract.

[§ 3.2. Complaint handling.]

[D.] The following steps will be observed under the circumstances described:

1. Staff of the [~~local~~] substate ombudsman program shall comply with the complaint handling and reporting procedures established by the Office of the State Long-Term Care Ombudsman, in accordance with [Part H § 5.1 A] of these regulations and instructions provided by the Office of the State Long-Term Care Ombudsman.

2. Staff of the [~~local~~] substate ombudsman program shall forward all complaints to the Office of the State Long-Term Care Ombudsman within three working days of the date on which the complaint is received by the [~~local~~] substate ombudsman program.

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3. Staff of the [~~local~~] substate ombudsman program shall forward all complaints regarding long-term care services provided directly by or under contract by the Area Agency on Aging to the Office of the State Long-Term Care Ombudsman within one working day of the date on which the complaint is received by the [~~local~~] substate ombudsman program.

4. Staff of the [~~local~~] substate ombudsman program shall forward all complaints regarding the Office of the State Long-Term Care Ombudsman to the Virginia Department for the Aging within one working day of the date on which the complaint is received by the [~~local~~] substate ombudsman program.

[§ 3.3. Staffing.]

[A. E.] If the [~~local~~] substate ombudsman program utilizes volunteers to visit long-term care facilities, such utilization must be indicated in the Area Plan for Aging Services and specified in the contract. Such volunteers shall be screened and trained by the [~~local~~] substate ombudsman program prior to their assuming their responsibilities.

[B. F.] Each volunteer in a [~~local~~] substate ombudsman program shall sign an agreement with the program which specifies the responsibilities of the volunteer, in accordance with the Area Plan for Aging Services, as approved, and the executed contract.

[C. G.] The [~~local~~] substate ombudsman program shall assure that each volunteer has fulfilled the minimum training requirements established by the Office of the State Long-Term Care Ombudsman Program and has signed the agreement required by [§ 3.3 B § 5.2 F] of these regulations.

[§ 3.4. Reports.]

[H.] The [~~local~~] substate ombudsman program shall submit accurate and timely reports in accordance with instructions provided by the Office of the State Long-Term Care Ombudsman.

[PART IV. CONFLICT OF INTEREST.]

[§ 4.1. § 5.3.] Conflict of interest.

Staff and representatives of the Office of the State Long-Term Care Ombudsman and staff and representatives of the [~~local~~] substate ombudsman program shall have no conflicts of interest with regard to long-term care facilities, long-term care providers, and long-term care issues, pursuant to Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

DEPARTMENT OF FIRE PROGRAMS (VIRGINIA FIRE SERVICES BOARD)

Title of Regulation: VR 310-01-02. Regulations Establishing Certification Standards for Fire Inspectors.

Statutory Authority: § 9-155 of the Code of Virginia.

Effective Date: June 1, 1989

Summary:

These regulation set forth the standards which fire inspectors authorized by their localities to issue summons and serve warrants must meet before they may exercise that authority. The regulations also contain the administrative requirement pertaining to those standards.

The amendments to the regulations incorporate training standards required as a result of the passage of §§ 27-98.1 through 27-98.5 by the 1988 General Assembly. These sections authorize search warrants for inspection and reinspection of buildings.

VR 310-01-02. Regulations Establishing Certification Standards for Fire Inspectors.

PART I. DEFINITIONS.

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

"Approved" means acceptable to the authority having jurisdiction.

"Authority having jurisdiction" means the organization, office or individual responsible for "approving" equipment, an installation or a procedure.

"Basic knowledge" means a fundamental acquaintance with facts, truths, or principles.

"Bleve" means Boiling Liquid Expanding Vapor Explosion.

"Candidate" means the individual who has made application to become a Fire Inspector I or Fire Inspector II.

"Code Requirement(s)" means the statement in a law, ordinance or legally adopted reference which mandates or guides a particular action or procedure, or restricts a particular action or procedure.

"Demonstrate" means to show by actual use, illustration, simulation or explanation.

"Fire Department" means the agency that provides fire

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suppression and other fire-related services.

"Fire hazard" means any situation, process, material or condition which, on the basis of applicable data, may cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion and which poses a threat to life of property.

"Fire Inspector I" means the candidate who has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector I level.

"Fire Inspector II" means the Fire Inspector I who has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector II level.

"Fire Inspector III" means a Fire Inspector II who is qualified to perform as the technical and administrative supervisor of a group of fire inspectors or placed in charge of a particular branch or section of a fire prevention bureau and has demonstrated the knowledge and ability to perform the objectives specified in the standard for the Fire Inspector III level.

"Identify" means to physically select, indicate or explain verbally or in writing, using acceptable and recognizable terms.

"Inspection Warrants" means an order in writing, made in the name Commonwealth, signed by any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, examination, testing or collection of samples for testing required or authorized by the Virginia Statewide Fire Prevention Code.

"Labeled" means equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the "authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

"Listed" means equipment or materials included in a list published by an organization acceptable to the "authority having jurisdiction" and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

"Local fire alarm" means any fire alarm device or system other than a municipal fire alarm system.

"May" means to indicate a recommendation or that

which is advised but not required.

"Objective" means a goal that is achieved through the attainment of a skill, knowledge, or both, which can be observed or measured.

"Qualified" means having satisfactorily completed the requirements of the objectives.

"Refusal" means a deliberate interference; to place limitations; to deny an inspection or denial of entry.

"Regulation" means the statute, laws, ordinance or authorized rules by which something or someone is governed.

"Reasonable time" means normal hours of operations. During working hours of the building, structure, property or premises to be inspected.

"Shall" means to indicate a mandatory requirement.

"Working knowledge" means the ability to translate an understanding of facts, truths or principles into a desired action or application.

PART II. ADMINISTRATION.

Article 1. Purpose.

§ 2.1. The standards are designed as the basis for assuring that a Fire Inspector I has a clear understanding of the Fire Prevention Code, laws, rules, and regulations which have been adopted to make Virginia communities a safer place to live, work and play. Upon successfully completing the course, the student will have a clear understanding of how to conduct a fire prevention inspection and what action is required to have hazardous conditions corrected.

It is not the intent of this course to produce an experienced Fire Inspector or Fire Marshal, but to supply the basic knowledge and skills necessary for functioning at a satisfactory level in this position while continuing to gain experience and knowledge.

The students meeting these prerequisites will be certified as meeting the provisions of N.F.P.A. (National Fire Protection Association) Standards Number 1031 for Fire Inspector I as adopted by the Virginia Fire Services Board and incorporated by reference and made a part of these regulations.

Upon satisfactorily completing the Inspector I course, or meeting the requirement for equivalency, passing the test developed for this course of study and satisfactorily completing the field work, the individual will be certified an Inspector I.

Article 2.

Final Regulations

Instructors for the Course.

§ 2.2. Instructors will be State Certified Fire Instructors who have experience and knowledge in the subject area or persons who have special knowledge or skills in a particular subject and who have been approved by the Department of Fire Programs.

§ 2.3. Law-enforcement subjects will be taught by certified Department of Criminal Justice Services personnel.

§ 2.4. Legal matters will be instructed by a representative from the Attorney General's office, a Commonwealth's Attorney, or an attorney who is knowledgeable in such matters.

Article 3. Reference Material.

§ 2.5. The instructor may choose to use a wide variety of reference material and teaching aids; however, the subject matter will be taken from the currently state accepted BOCA (Building Officials and Code Administrators International, Inc.) Codes and the IFSTA (International Fire Services Training Association) manual 110-Fire Prevention and Inspection Practices promulgated by the Virginia Department of Housing and Community Development.

§ 2.6. Other reference material may include:

Forest Fire and Related Laws, Virginia Department of Forestry

Uniform Statewide Building Code

Statistics from Virginia Fire Incident Reporting System

N.F.P.A. Handbook and Standards.

All other reference materials used shall be approved by the Deputy Director of the Department of Fire Programs.

Article 4. Field Training.

§ 2.7. When the student has successfully completed the Fire Inspector I training, he shall work for a minimum of 15 hours in his own community under the supervision of an Inspector II having two or more years experience. If there is no such experienced Inspector in his community, he shall make arrangements for working with an experienced Inspector II from a neighboring community, state or federal agency.

§ 2.8. The Inspector under whom the student works shall submit a written report recommending that the student be certified or he shall state why he feels the candidate needs additional training.

Article 5.

Qualifications and Certification of Candidates.

§ 2.9. Any member in good standing of any fire department or fire brigade who is responsible for making Fire Prevention Inspections or Fire Safety Inspections may make applications to attend the course. Candidates who wish to be certified under the N.F.P.A. 1031 Standards shall successfully complete the Inspector I course.

§ 2.10. Any individual who is responsible for fire inspection or prevention activities may make application to attend the Inspector I course. Course applications shall be approved by the deputy director.

§ 2.11. Upon satisfactory course completion:

A. Those individuals who meet Department of Fire Program's Firefighter III qualifications and Department of Criminal Justice Services medical requirements will receive a Department of Fire Program's certificate for Inspector I.

or

B. Those individuals not certified as Firefighter III will receive a certificate for completion of the Fire Inspector I course.

Article 6. Grading.

§ 2.12. All grades, reports, and records will be submitted to the Department of Fire Programs within 15 working days following the completion of the course. The procedure for grading will be as follows:

1. All written examinations shall include a minimum of two questions for each hour of mandatory instruction. This requirement likewise includes the classroom instruction on performance-oriented subject matter; however, those subjects which exceed five hours of instruction, 10 questions will suffice as an acceptable minimum.

2. All students shall attain a grade of 85% to satisfactorily complete mandatory training, and shall be tested at the mid-term and course final examination. Any student who does not attain 85% will be allowed one retest.

3. Performance testing, when utilized, will be graded on a satisfactory or unsatisfactory basis. A satisfactory rating on all performance testing will be required to satisfactorily complete the school. The determination of satisfactory or unsatisfactory performance on any performance test will be determined by the instructor administering the test.

Article 7. Attendance.

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§ 2.13. No more than 10% absenteeism for the course will be allowed for any reason. Students who are absent will be required to make up any material missed. If for any reason a student must be absent from the class, he shall advise the instructor or the deputy director of the Department of Fire Programs immediately upon learning this fact.

Article 8. School Location and Dates.

§ 2.14. The deputy director of the Training Division, Department of Fire Programs, will schedule Inspector I classes, as deemed appropriate, based on the number of inquiries and applications received. The deputy director will select the sites where the classes will be held based on availability of facilities and student interest.

Article 9. Failure to Comply With the Rules and Regulations.

§ 2.15. Any student who attends the course shall comply with the rules and regulations established by the Department of Fire Programs and the Department of Criminal Justice Services. The deputy director or instructor will be responsible for the proper enforcement of all rules and regulations. Any student who, in the opinion of the instructor or deputy director, fails to follow the rules or regulations, or who behaves in an unsafe or disruptive manner, may be removed from the class if deemed necessary. The instructor will report to the deputy director immediately after the incident who may expel the individual from the school if after an investigation has been made such action is deemed necessary and appropriate.

Any student who is expelled will be deemed to have not satisfactorily completed the course and will not be awarded a certificate.

The deputy director will immediately report the incident to the executive director of the Department of Fire Programs and to the student's supervisor. The deputy director will make a complete written report of the circumstances associated with the incident and submit it to the executive director of the Department of Fire Programs within 24 hours.

The rules and regulations will be in effect immediately upon the approval by the Department of Criminal Justice Services and the Virginia Fire Services Board, subject to the requirements of the Virginia Administrative Process Act Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia. They will remain in effect until such time as they are amended or rescinded.

Article 10. In-Service Training.

§ 2.16. In order to remain certified and comply with the N.F.P.A. 1031 standards at the Inspector I level an

individual shall attend a minimum of 16 hours of training every two years which is approved by the Department of Fire Programs. This training shall include the following:

Review of constitutional law

Update on state codes

Review of latest court decisions affecting code enforcement

Review of the fire prevention code

Update on code reference material and N.F.P.A. standards.

PART III. CANDIDATES.

§ 3.1. Candidates shall possess a valid driver's license for the Commonwealth of Virginia and shall identify state and local laws governing the operation of emergency vehicles.

Candidates shall demonstrate an ability to clearly express themselves orally.

Candidates shall demonstrate an ability to clearly express themselves in writing.

Candidates shall demonstrate a knowledge of occupationally related personal safety practices and procedures.

Candidates shall demonstrate through tests, or interview, or both, their ability to interact with the public, under conditions of code enforcement, fire investigation, or fire prevention education duties, with tact, discretion, and without loss of authority.

The candidates shall meet the requirements specified for Firefighter III unless such requirements are waived by the executive director.

PART IV. FIRE INSPECTOR I STANDARDS.

Article 1. General.

§ 4.1. General.

A. Fire Inspector I shall demonstrate a knowledge of the legally established responsibilities and authority related to the performance of the inspector's duties.

B. The Fire Inspector I shall demonstrate a knowledge of the established procedure for modification of requirements.

C. The Fire Inspector I shall demonstrate a knowledge of the established appeals procedure and judicial review

process for the jurisdiction in which the inspector is employed.

D. The Fire Inspector I shall demonstrate a knowledge of other agencies which may be referred to for assistance in correcting hazards.

E. The Fire Inspector I shall demonstrate an ability to initiate corrective procedures for fire hazards discovered during fire inspections.

Article 2.

Flammable and Combustible Liquids.

§ 4.2. Properties of Flammable and Combustible Liquids.

A. The Fire Inspector I shall identify and explain general properties of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a working knowledge of the definition of flash point.

C. The Fire Inspector I shall demonstrate a working knowledge of the definition of ignition temperature.

D. The Fire Inspector I shall demonstrate a working knowledge of the basic effects of temperature and pressure on flammable and combustible liquids.

E. The Fire Inspector I shall demonstrate a working knowledge of the definition of flammable and explosive limits.

F. The Fire Inspector I shall demonstrate a working knowledge of the definition of specific gravity.

G. The Fire Inspector I shall demonstrate a working knowledge of the definition of boiling point.

H. The Fire Inspector I shall demonstrate a working knowledge of the basic class of flammable and combustible liquids as defined by NFPA 30, Flammable and Combustible Liquids Code.

I. The Fire Inspector I shall demonstrate a working knowledge of the definition of toxicity.

J. The Fire Inspector I shall demonstrate a working knowledge of the definition of reactivity.

§ 4.3. Storage, handling and use of flammable and combustible liquids.

A. The Fire Inspector I shall identify the fire hazards associated with the storage, handling and use of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate the knowledge of the regulations and hazards attendant to the transfer of flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a knowledge of the regulations and fire hazards attendant to finishing processes that involve flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of what may constitute possible sources of ignition during storage, handling and use of flammable and combustible liquids.

E. The Fire Inspector I shall demonstrate a knowledge of conditions which might be conducive to creating explosive atmospheres in the storage, handling and use of flammable and combustible liquids.

F. The Fire Inspector I shall demonstrate a knowledge of conditions associated with the typical storage, handling and use of flammable and combustible liquids.

G. The Fire Inspector I shall demonstrate a working knowledge of regulations or code provisions related to the storage, handling or use of flammable or combustible liquids.

§ 4.4. Underground storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of regulations and acceptable installation practices relative to underground storage tanks for flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a knowledge of normal venting procedures and devices installed on underground storage tanks for flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a knowledge of the normal requirements and acceptable installation practices relative to piping and valves attendant to underground storage tanks for flammable and combustible liquids.

§ 4.5. Aboveground storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations and acceptable installation practices of aboveground storage tanks for flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate an ability to determine if normal and emergency venting devices are being properly maintained.

C. The Fire Inspector I shall demonstrate a knowledge of drainage or diking systems, or both, that may be required for aboveground storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of the requirements for an installation of piping and

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valves attendant to aboveground storage tanks for flammable and combustible liquids.

§ 4.6. Inside storage tanks for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations and acceptable installation practices relative to inside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate an ability to determine if normal and emergency venting devices are being properly maintained.

C. The Fire Inspector I shall demonstrate a knowledge of drainage or containment systems which may be required for the inside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of requirements and acceptable installation practices relative to piping and valves attendant to the inside storage of flammable and combustible liquids.

§ 4.7. Outside container storage for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulations or code requirements relative to the outside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a knowledge of acceptable flammable and combustible liquid containers for outside storage.

C. The Fire Inspector I shall demonstrate a knowledge of acceptable locations and storage parameters such as aisle spacing, stacking, storing of containers in vertical or horizontal positions, relative to the outside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a basic knowledge of container venting devices and venting practices.

§ 4.8. Inside container storage for flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a knowledge of the regulation, including quantity limitations, that may exist for different occupancies relative to the inside storage of flammable and combustible liquids.

B. The Fire Inspector I shall demonstrate a basic knowledge of acceptable flammable and combustible liquid containers for inside storage.

C. The Fire Inspector I shall demonstrate a basic knowledge of the storage parameters such as aisle spacing, stacking, storage of containers in vertical or horizontal

positions, relative to the inside storage of flammable and combustible liquids.

D. The Fire Inspector I shall demonstrate a knowledge of normal and emergency venting devices or procedures acceptable for the inside storage of flammable and combustible liquids.

§ 4.9. Flammable and combustible liquids fire extinguishment.

A. The Fire Inspector I shall have a knowledge of the basic techniques of flammable and combustible liquids fire extinguishment.

B. The Fire Inspector I shall demonstrate a knowledge of portable fire extinguisher operations and installation requirements for areas involving flammable and combustible liquids.

C. The Fire Inspector I shall demonstrate a basic knowledge of fixed fire extinguishing systems required or installed for flammable and combustible liquids storage, handling or use.

§ 4.10. Flammable and combustible liquids labeling.

The Fire Inspector I shall demonstrate a basic understanding of the regulatory labeling and placarding systems used for flammable and combustible liquids identification.

§ 4.11. Transportation of flammable and combustible liquids.

A. The Fire Inspector I shall demonstrate a basic understanding of regulations relative to the transportation of flammable and combustible liquids within the jurisdiction in which the inspector is employed.

B. The Fire Inspector I shall have a knowledge of which agencies regulate the transportation of flammable and combustible liquids within the jurisdiction in which the inspector is employed.

C. The Fire Inspector I shall have a knowledge of which agencies offer assistance in handling flammable and combustible liquids emergencies in the jurisdiction in which the inspector is employed.

Article 3.

Compressed and Liquefied Gases.

§ 4.12. Properties of compressed and liquefied gases.

A. The Fire Inspector I shall identify the general properties of compressed and liquefied gases.

B. The Fire Inspector I shall demonstrate a working knowledge of the effects of temperature and pressure as they relate to compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate a working knowledge of the definition of specific gravity particularly as it relates to compressed and liquefied gases.

D. The Fire Inspector I shall demonstrate a knowledge of the differences between compressed and liquefied gases.

§ 4.13. Storage, handling and use of compressed and liquefied gases.

A. The Fire Inspector I shall identify the fire hazards associated with the typical storage, handling, and use of compressed and liquefied gases.

B. The Fire Inspector I shall demonstrate a knowledge of possible ignition sources and fire causes involving compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate an understanding of the conditions which might be conducive to fire initiation and propagation involving compressed and liquefied gases.

§ 4.14. Compressed and liquefied gases containers.

The Fire Inspector I shall demonstrate the acceptable practices relative to compressed and liquefied gases container installation and storage.

§ 4.15. Compressed and liquefied gases transfer operations.

The Fire Inspector I shall demonstrate a basic knowledge of the practices and procedures involved in the transfer of compressed and liquefied gases.

§ 4.16. Compressed and liquefied gases leaks.

The Fire Inspector I shall demonstrate a basic knowledge of the means of compressed and liquefied gases leakage control.

§ 4.17. Transportation of compressed and liquefied gases.

A. The Fire Inspector I shall demonstrate a basic knowledge of the regulations relative to the transportation of compressed and liquefied gases.

B. The Fire Inspector I shall have a knowledge of the agencies which regulate the transportation of compressed and liquefied gases within the jurisdiction in which the inspector is employed.

C. The Fire Inspector I shall have a knowledge of agencies which offer assistance in handling compressed and liquefied gases emergencies within the jurisdiction in which the inspector is employed.

§ 4.18. Fire extinguishment of compressed and liquefied gases.

A. The fire Inspector I shall have a knowledge of the

basic fire extinguishment practices and procedures for compressed and liquefied gases emergencies.

B. The Fire Inspector I shall demonstrate a knowledge of portable fire extinguisher operations and installation requirements for areas involving compressed and liquefied gases.

C. The Fire Inspector I shall demonstrate a basic knowledge of fixed fire extinguishing systems required or installed for the storage, handling, or use of compressed and liquefied gases.

§ 4.19. Labeling of compressed and liquefied gases.

The Fire Inspector I shall demonstrate a basic knowledge of the regulatory labeling and placarding regulations relative to compressed and liquefied gases.

Article 4. Explosives, Including Fireworks.

§ 4.20. Properties of explosives.

A. The Fire Inspector I shall identify the classifications of explosives. (See NFPA 495, Code for the Manufacture, Transportation, Storage and Use of Explosive Materials.)

B. The Fire Inspector I shall understand the need for security of explosives.

§ 4.21. The Fire Inspector I shall understand the regulations relative to the transportation of explosives, including fireworks, within the jurisdiction in which the inspector is employed.

§ 4.22. The Fire Inspector I shall identify the common hazards associated with the typical storage, handling and use of explosives, including fireworks.

§ 4.23. Labeling of explosives, including fireworks.

A. The Fire Inspector I shall demonstrate a knowledge of regulatory labeling and placarding systems relative to explosives, including fireworks.

B. The Fire Inspector I shall have a knowledge of the sources from which detailed or technical information on explosives, including fireworks, might be obtained.

§ 4.24. Storage of explosives, including fireworks.

A. The Fire Inspector I shall have a knowledge of the code requirements and regulations for the storage of explosives, including fireworks.

B. The Fire Inspector I shall have a basic knowledge of the type and construction of storage facilities required for the various classes of explosives.

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Other Hazardous Materials.

§ 4.25. General.

A. The Fire Inspector I shall demonstrate a basic knowledge of the regulatory labeling and placarding systems for various types and quantities of hazardous materials.

B. The Fire Inspector I shall demonstrate a working knowledge of the code requirements and regulations for the typical storage, handling and use of various types and quantities of hazardous materials.

C. The Fire Inspector I shall possess a knowledge of sources of detailed and technical information about various hazardous materials.

§ 4.26. Specific hazardous materials.

A. Fire Inspector I shall have a basic knowledge of the characteristics of corrosives and shall be able to name the more common corrosives.

B. Fire Inspector I shall have a basic knowledge of reactive material characteristics and shall be able to name the more common reactive materials.

C. Fire Inspector I shall have a basic knowledge of unstable material characteristics and shall be able to name the more common unstable materials.

D. The Fire Inspector I shall demonstrate a basic knowledge of toxic materials characteristics and shall be able to name the more common toxic materials.

E. The Fire Inspector I shall have a basic knowledge of radioactive material characteristics and shall be able to name the more common radioactive materials.

F. The Fire Inspector I shall demonstrate a basic knowledge of oxidizing material characteristics and shall be able to name the more common oxidizing materials.

G. The Fire Inspector I shall demonstrate a basic knowledge of the general fire hazard properties of the various types of plastics.

H. The Fire Inspector I shall demonstrate a knowledge of the code requirements and regulations for the typical storage, handling and use of natural and synthetic fibers.

§ 4.27. Combustible metals.

A. The Fire Inspector I shall demonstrate an understanding of combustible metal characteristics and shall be able to name the more common combustible metals.

B. The Fire Inspector I shall demonstrate a knowledge of the code requirements and regulations to the typical

storage, handling, and use of combustible metals.

§ 4.28. Combustible dusts.

A. The Fire Inspector I shall demonstrate a basic knowledge of combustible dust characteristics and shall be able to name more common combustible dusts.

B. The Fire Inspector I shall understand the basic fire and explosion characteristics of the various combustible dusts.

C. The Fire Inspector I shall demonstrate a basic knowledge of the code requirements and regulations relative to the typical storage and handling of combustible dusts.

Article 6. Fire Protection Equipment.

§ 4.29. Portable fire extinguishers.

A. The Fire Inspector I shall have a basic knowledge of the types of portable fire extinguishers. (See NFPA 10, Standard on Portable Fire Extinguishers.)

B. The Fire Inspector I shall demonstrate a working knowledge of portable fire extinguishers.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of portable fire extinguishers.

D. The Fire Inspector I shall demonstrate a knowledge of the capability of extinguishing agents and the proper method for agent application.

E. The Fire Inspector I shall demonstrate a knowledge of code requirements and regulations relative to the distribution and location of portable fire extinguishers.

F. The Fire Inspector I shall demonstrate a basic knowledge of portable fire extinguishers maintenance requirements and procedures.

§ 4.30. Fixed fire extinguishing systems.

A. The Fire Inspector I shall demonstrate a basic understanding of fixed fire extinguishing systems.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of fixed fire extinguishing systems.

C. The Fire Inspector I shall demonstrate a working knowledge of fixed fire extinguishing systems.

D. The Fire Inspector I shall demonstrate a knowledge of the capabilities of the extinguishing agent and the proper procedures for agent application in a fixed fire extinguishing system.

§ 4.31. Sprinkler systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of the different types of sprinkler systems. (See NFPA 13, Standard on Sprinkler Systems.)

B. The Fire Inspector I shall demonstrate a working knowledge of sprinkler systems and their appurtenances.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a sprinkler system.

D. The Fire Inspector I shall demonstrate a knowledge of the capabilities or limitations of sprinkler systems.

§ 4.32. Standpipe and hose systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of the types of standpipe and hose systems. (See NFPA 14, Standard on Sprinkler Systems.)

B. The Fire Inspector I shall demonstrate a working knowledge of standpipe and hose systems and their appurtenances.

C. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a standpipe and hose systems.

D. The Fire Inspector I shall demonstrate a knowledge of standpipe and hose system equipment use and capabilities.

§ 4.33. Private water supply systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of private water supply systems.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of a private water supply system.

§ 4.34. Heat, smoke and flame detection systems.

A. The Fire Inspector I shall demonstrate a basic knowledge of heat, smoke and flame detection systems and devices.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of heat, smoke and flame detection systems or device.

C. The Fire Inspector I shall demonstrate a basic knowledge of the proper installation locations of heat, smoke and flame detection devices.

§ 4.35. Fire alarm systems and devices.

A. The Fire Inspector I shall demonstrate a basic knowledge of local fire alarm systems and devices.

B. The Fire Inspector I shall demonstrate an ability to evaluate the operational readiness of local fire alarm systems and devices.

C. The Fire Inspector I shall demonstrate a knowledge of the warning capability of local fire alarm systems and devices.

D. The Fire Inspector I shall demonstrate a basic knowledge of municipal fire alarms systems.

E. The Fire Inspector I shall demonstrate a basic knowledge of the interconnection between local and municipal fire alarm systems.

F. The Fire Inspector I shall differentiate between home, local, proprietary, central station, and municipal fire alarm systems.

G. The Fire Inspector I shall demonstrate a basic knowledge of the proper installation locations of fire alarm system components or devices.

§ 4.36. Heating and cooking equipment.

A. The Fire Inspector I shall demonstrate a basic knowledge of the fire hazards related to the various types of heating and cooking equipment.

B. The Fire Inspector I shall demonstrate a knowledge of the general fire safety safeguards incorporated in the various types of heating and cooking equipment systems.

C. The Fire Inspector I shall demonstrate a basic knowledge of the fire hazards and code requirements related to installation and fuel storage of heating and cooking equipment.

D. The Fire Inspector I shall demonstrate a knowledge of sources of detailed and technical information about heating and cooking equipment.

§ 4.37. Principles of electricity.

A. The Fire Inspector I shall have a basic knowledge of applied elementary electrical theory.

B. The Fire Inspector I shall have a basic knowledge of the construction of and safety devices used in electrical systems.

C. The Fire Inspector I shall have a basic knowledge of the fire and life hazards associated with the typical uses of electricity and electrical systems.

D. The Fire Inspector I shall have a knowledge of sources of detailed and technical information related to electricity and electrical systems.

Article 7.
Safety to Life.

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§ 4.38. General.

The Fire Inspector I shall have a basic knowledge of the code requirements, regulations, basic operational features, and fire hazards presented by various occupancies and, particularly, public assembly, residential, business, mercantile, office, storage, industrial manufacturing and utility occupancies.

§ 4.39. Means of egress.

A. The Fire Inspector I shall have a knowledge of the means of egress requirements for various occupancies.

B. The Fire Inspector I shall demonstrate an ability to determine if existing egress facilities for the building, floor or room are adequate for the occupancy involved.

C. The Fire Inspector I shall demonstrate the ability to determine whether travel distances to exits are within allowable limits.

D. The Fire Inspector I shall demonstrate an ability to determine if there is adequate access to egress facilities.

E. The Fire Inspector I shall demonstrate an ability to determine if exits are properly illuminated, marked, placed, secured, openable and equipped with hardware.

F. The Fire Inspector I shall demonstrate an ability to distinguish between enclosed stairwells and smoke towers and to determine if general construction and access are properly maintained.

G. The Fire Inspector I shall demonstrate an ability to determine if egress paths are adequate in width and properly illuminated and maintained.

H. The Fire Inspector I shall have a knowledge of the code requirements and regulations relative to the maintenance of means of egress from various occupancies.

§ 4.40. Interior finishes.

A. The Fire Inspector I shall demonstrate an ability to determine the proper interior finish for various areas of an occupancy, particularly that for egress paths.

B. The Fire Inspector I shall demonstrate an ability to conduct a field test of interior finish materials.

C. The Fire Inspector I shall demonstrate a knowledge of acceptable flame spread and smoke ratings for the various areas of an occupancy.

D. The Fire Inspector I shall demonstrate a knowledge of acceptable test methods and markings or labeling for interior finishes.

E. The Fire Inspector I shall demonstrate a knowledge of the purpose and acceptability of fire retardant paints

and impregnation treatments.

§ 4.41. Building construction.

A. The Fire Inspector I shall have a basic knowledge of the features of fire protection and life safety related to building construction that are germane to various types of occupancies.

B. The Fire Inspector I shall demonstrate a knowledge of acceptable test methods and marking or labeling for building construction assemblies or devices.

C. The Fire Inspector I shall demonstrate a working knowledge of the types of fire doors and installation requirements.

D. The Fire Inspector I shall demonstrate a basic knowledge of where rated building construction is required.

E. The Fire Inspector I shall demonstrate a knowledge of building construction components installed for fire-related purposes including, but not limited to, fire stops, draft curtains, fire walls, smoke vents, chimneys, flues, and fire rated floor/roof ceiling systems.

F. The Fire Inspector I shall demonstrate a knowledge of the classes of roof covering.

G. The Fire Inspector I shall demonstrate a knowledge of the requirements for and construction of special building construction features including, but not limited to, projection booths, stages, proscenium openings, and flammable liquid storage rooms.

H. The Fire Inspector I shall demonstrate a knowledge of building construction classification.

§ 4.42. Building equipment.

A. The Fire Inspector I shall have a basic knowledge of the types of and installation requirements for building service equipment that are germane to various occupancies and which can, through their operation, affect fire protection and life safety.

B. The Fire Inspector I shall demonstrate a knowledge of the proper installation, maintenance and use of heating, ventilating and air conditioning systems from a fire safety standpoint including, but not limited to, attendant devices such as dampers, detection devices, thermostats and operational controls.

C. The Fire Inspector I shall demonstrate a knowledge of the proper installation, maintenance and use of cooking equipment, including hoods and ducts.

D. The Fire Inspector I shall have a basic knowledge of which other jurisdictional authorities may have requirements, or conduct inspections, involving life safety

or fire protection.

§ 4.43. Decorations, decorative materials and furnishings.

A. The Fire Inspector I shall have a knowledge of the basic fire safety requirements for decorations, decorative materials and furnishings.

B. The Fire Inspector I shall demonstrate an ability to field test decorations, decorative materials and furnishings for acceptability and use in various occupancies.

§ 4.44. Fire drills.

A. The Fire Inspector I shall demonstrate a knowledge of the requirements relative to fire drills which may be required within the jurisdiction in which the inspector is employed.

B. The Fire Inspector I shall demonstrate an ability to conduct or evaluate, or both, fire drills in various occupancies.

§ 4.45. General fire safety.

A. The Fire Inspector I shall have a working knowledge of general fire safety code requirements and regulations including, but not limited to, trash and debris, smoking, open burning, maintaining fire department access, housekeeping procedures, reporting of fire incidents, and limiting combustible decorations and furnishings.

B. The Fire Inspector I shall have a basic knowledge of the requirements, and the purpose of emergency evacuation plans.

Article 8. Code Enforcement Procedures.

§ 4.46. General.

A. The Fire Inspector I shall demonstrate a knowledge of acceptable code enforcement procedures.

B. The Fire Inspector I shall demonstrate a knowledge of jurisdictional responsibilities of federal, state and local governments and organizations relative to code enforcement procedures.

C. The Fire Inspector I shall demonstrate a basic knowledge of anticipated human behavior relative to code enforcement.

D. The Fire Inspector I shall demonstrate a knowledge of local code enforcement procedures.

E. The Fire Inspector I shall demonstrate a basic knowledge of the judicial system, particularly as it relates to code enforcement procedures.

F. The Fire Inspector I shall demonstrate a basic

knowledge of the legal processes as they relate to code enforcement procedures.

G. The Fire Inspector I shall demonstrate a knowledge of recommended courtroom demeanor as it relates to code enforcement procedures.

H. The Fire Inspector I shall demonstrate a basic knowledge of the moral and legal responsibilities associated with code enforcement procedures.

I. The Fire Inspector I shall be knowledgeable as to when licenses, or permits, or both, are required for the sale, use, storage or possession of hazardous materials.

J. The Fire Inspector I shall be knowledgeable of which processes and procedures of business operations involving fire protection equipment require licenses, or permits, or both.

K. The Fire Inspector I shall demonstrate a knowledge of sources of information on code enforcement procedures.

§ 4.47. Report preparation.

A. The Fire Inspector I shall demonstrate a basic knowledge of report preparation.

B. The Fire Inspector I shall demonstrate a knowledge of accepted filing techniques.

§ 4.48. Code enforcement equipment.

The Fire Inspector I shall demonstrate a basic knowledge of the essential equipment necessary to accomplish code enforcement including, but not limited to, elementary photography equipment and portable flammable and combustible atmosphere detection equipment.

§ 4.49. Plans and specifications.

The Fire Inspector I shall be familiar with the procedures required for the processing of plans and specifications.

§ 4.50. Fire cause determination.

The Fire Inspector I shall have a basic knowledge of the requirements, need and purpose for fire cause determination and fire investigation.

§ 4.51. Miscellaneous.

A. The Fire Inspector I shall demonstrate a knowledge of what is required in performing standby fire safety duties in public assembly occupancies.

B. The Fire Inspector I shall demonstrate a knowledge of the general procedures for handling complaints.

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C. The Fire Inspector I shall demonstrate a basic knowledge of building code contents and requirements.

PART V. ADMINISTRATION.

Article 1. Purpose.

§ 5.1. The standards are designed as the basis for assuring that a Fire Inspector II has a clear understanding of the Fire Prevention Code, laws, rules, and regulations which have been adopted to make Virginia communities a safer place to live, work and play. Upon successfully completing the course, the student will have a clear understanding of how to conduct a fire prevention inspection and what action is required to have hazardous conditions corrected.

It is not the intent of this course to produce an experienced fire inspector or fire marshal, but to supply the basic knowledge and skills necessary for functioning at a satisfactory level in this position while continuing to gain experience and knowledge.

The candidate for Fire Inspector II shall have satisfactorily met the standards for Fire Inspector I, as adopted by the Virginia Fire Services Board.

The students who successfully complete this course will be qualified as having met the requirements of § 27-34.2 of the Code of Virginia and may be granted the powers by their locality.

The students meeting these prerequisites will be certified as meeting the provisions of N.F.P.A. (National Fire Protection Association) Standards Number 1031 for Fire Inspector I and II as established by the Department of Fire Programs.

Upon satisfactorily completing the Inspector II course, or meeting the requirement for equivalency testing, passing the test developed for this course of study and satisfactorily completing the field work, the individual will be certified an Inspector II.

Article 2. Instructors for the Course.

§ 5.2. Instructors will be state certified fire instructors who have experience and knowledge in the subject area or persons who have special knowledge or skills in a particular subject and who have been approved by the Deputy Director, Training Division, Department of Fire Programs.

Law-enforcement subjects will be taught by certified Department of Criminal Justice Services personnel.

Legal matters will be instructed by a representative from the Attorney General's office, a Commonwealth's Attorney, or an attorney who is knowledgeable in such

matters.

Article 3. Reference Material.

§ 5.3. The instructor may choose to use a wide variety of reference material and teaching aids; however, the subject matter will be taken from the current state-accepted BOCA (Building Officials and Code Administrators International, Inc.) Codes and the IFSTA (International Fire Services Training Association) manual 110-Fire Prevention and Inspection Practices.

Other reference material may include:

Forest Fire and Related Laws, Virginia Department of Forestry

Uniform Statewide Building Code

Statistics from Virginia Fire Incident Reporting System

N.F.P.A. Handbook and Standards

All other reference materials used shall be approved by the Deputy Director of the Department of Fire Programs.

Article 4. Field Training.

§ 5.4. When the student has successfully completed the Fire Inspector II Program he shall work for a minimum of 15 hours in his own community under the supervision of an Inspector II having two or more years experience. If there is no such experienced Inspector II in his community, he shall work arrangements for working with an experienced Inspector II from a neighboring community, state or federal agency.

The experienced inspector under whom the student works shall submit a written report recommending that the student be certified or he shall state why he feels the candidate needs additional training.

Article 5. Qualifications and Certification of Candidates.

§ 5.5. Any member in good standing of any fire department or fire brigade who is responsible for making fire prevention or fire safety inspections may make applications to attend the course. All inspectors who wish to be granted the powers permissible under § 27-34.2 of the Code of Virginia shall successfully complete both the Fire Inspector I and Fire Inspector II courses. (See application.)

Any individual who is responsible for fire inspection or prevention activities may make application to attend the Inspector II course. Applications shall be approved by the deputy director.

Upon satisfactory course completion:

A. Those individuals certified as Firefighter III (unless granted waiver by the deputy director), who meet DCJS requirements, and who have completed the course requirements for Inspector II and § 27-34.2 of the Code of Virginia, will receive a certificate for Fire Inspector II.

B. Those individuals not certified as Firefighter III will receive a certificate for completion of the Fire Inspector II course.

C. To meet the training requirements of § 27-34.2, the candidate shall be certified in Parts I through VIII of these regulations.

Article 6. Grading.

§ 5.6. All grades, reports, and records will be submitted to the Department of Fire Programs within 15 working days following the completion of the course. The procedure for grading will be as follows:

A. All written examinations shall include a minimum of two questions for each hour of mandatory instruction. This requirement likewise includes the classroom instruction on performance-oriented subject matter; however, for those subjects which exceed five hours of instruction, 10 questions will suffice as an acceptable minimum.

B. All students shall attain a grade of 85% to satisfactorily complete mandatory training, and shall be tested at the mid-term and course final examination. Any student who does not attain 85% will be allowed one retest.

C. Performance testing, when utilized, will be graded on a satisfactory or unsatisfactory basis. A satisfactory rating on all performance testing will be required to satisfactorily complete the school. The determination of satisfactory or unsatisfactory performance on any performance test will be determined by the instructor administering the test.

Article 7. Attendance.

§ 5.7. No more than 10% absenteeism for the course will be allowed for any reason. Students who are absent will be required to make up any material missed. If for any reason a student must be absent from the class, he will advise the instructor or the deputy director of the Department of Fire Programs immediately upon learning this fact.

Article 8. School Location and Dates.

§ 5.8. The deputy director of the training division, Department of Fire Programs, will schedule Inspector II classes as deemed appropriate based on the number of

inquiries and applications received. The deputy director will select the sites where the classes will be held based on availability of facilities and student interest.

Article 9. Failure to Comply With the Rules and Regulations.

§ 5.9. Any student who attends the course shall comply with the rules and regulations established by the Department of Fire Programs and the Department of Criminal Justice Services. The deputy director or instructor will be responsible for the proper enforcement of all rules and regulations. Any student who, in the opinion of the instructor or deputy director, fails to follow the rules or regulations, or who behaves in an unsafe or disruptive manner, may be removed from the class if deemed necessary. The instructor will report to the deputy director immediately after the incident who may expel the individual from the school if after an investigation has been made such action is necessary and appropriate.

Any student who is expelled will be deemed to have not satisfactorily completed the course and will not be awarded a certificate.

The deputy director will immediately report the incident to the executive director of the Department of Fire Programs and to the student's supervisor. The deputy director will make a complete written report of the circumstances associated with the incident and submit it to the executive director of the Department of Fire Programs within 24 hours.

The rules and regulations will be in effect immediately upon the approval by the Department of Fire Programs, the Department of Criminal Justice Services and the Virginia Fire Services Board and will remain in effect until such time as they are amended or rescinded.

Article 10. In-Service Training.

§ 5.10. In order to remain certified and comply with the N.F.P.A. 1031 standards at the Inspector II level an individual must attend a minimum of 16 hours of training every two years which is approved by the Department of Fire Programs. This training must include the following:

Review of Constitutional Law

Update on State Codes

Review of latest Court decisions affecting Code Enforcement

Review of the Fire Prevention Code

Update on Code Reference material and N.F.P.A. standards

PART VI.

Final Regulations

CANDIDATES.

Article 1. General.

§ 6.1. Candidates shall possess a valid driver's license for the state in which they are employed and shall identify state and local laws governing the operation of emergency vehicles.

Candidates shall demonstrate an ability to clearly express themselves orally.

Candidates shall demonstrate an ability to clearly express themselves in writing.

Candidates shall demonstrate a knowledge of occupationally related personal safety practices and procedures.

Candidates shall demonstrate through tests, or interview, or both, their ability to interact with the public, under conditions of code enforcement, fire investigation, or fire prevention education duties, with tact, discretion, and without loss of authority.

The candidates shall meet the requirements specified for Fire Inspector I unless such requirements are waived by the executive director.

PART VII. FIRE INSPECTOR II STANDARDS.

Article 1. Liquids, Gases and Fireworks.

§ 7.1. Flammable and combustible liquids.

A. The Fire Inspector II shall demonstrate a basic knowledge of the effect of pressure on the design, size and contents of storage tanks and containers for flammable and combustible liquids.

B. The Fire Inspector II shall demonstrate a knowledge of the storage, handling and use conditions of flammable and combustible liquids which are most conducive to the initiation, propagation and spread of fire.

C. The Fire Inspector II shall demonstrate a knowledge of the installation and operational requirements of fixed fire extinguishing systems installed concomitant to flammable and combustible liquids storage, handling or use.

D. The Fire Inspector II shall demonstrate a knowledge of how to abate the fire hazards associated with flammable or combustible liquid spills or leaks.

§ 7.2. Compressed and liquefied gases.

A. The Fire Inspector II shall demonstrate a basic

knowledge of the physical and chemical characteristics of compressed and liquefied gases and cryogenics.

B. The Fire Inspector II shall demonstrate a knowledge of the storage, handling and use conditions of compressed and liquefied gases which are most conducive to the initiation, propagation and spread of fire.

C. The Fire Inspector II shall demonstrate a knowledge of which organizations have codes or specifications relative to compressed and liquefied gases containers, cylinders, or tanks.

D. The Fire Inspector II shall demonstrate a knowledge of the requirements for marking, testing, repair, and maintenance of compressed and liquefied gases containers, cylinders or tanks.

E. The Fire Inspector II shall demonstrate a knowledge of the code requirements and regulations relative to quantity limitations, distances, physical damage and protection for aboveground containers for compressed and liquefied gases.

F. The Fire Inspector II shall demonstrate a knowledge of the special handling procedures for gas transfer operations involving compressed and liquefied gases.

G. The Fire Inspector II shall demonstrate a basic knowledge of the operation and use of excess flow check valves in compressed and liquefied gases piping and storage.

H. The Fire Inspector II shall demonstrate a knowledge of how to abate the fire hazards associated with compressed and liquefied gases spills or leaks.

J. The Fire Inspector II shall demonstrate a knowledge of the installation and operations requirements of fixed fire extinguishing systems installed concomitant to the storage, handling and use of compressed and liquefied gases.

§ 7.3. Explosives, including fireworks.

A. The Fire Inspector II shall demonstrate a knowledge of the requirements for security measures for explosives, including fireworks.

B. The Fire Inspector II shall demonstrate a knowledge of which federal or state regulatory agencies govern the transportation of explosives, including fireworks.

C. The Fire Inspector II shall demonstrate a knowledge of the effects of temperature and moisture on explosives, including fireworks.

D. The Fire Inspector II shall demonstrate a knowledge of sensitivity of stability characteristics of the various types of explosives, including fireworks.

E. The Fire Inspector II shall demonstrate a knowledge of explosives storage facility construction and operation.

Article 2.
Other Hazardous Materials.

§ 7.4. Natural and synthetic fibers.

A. The Fire Inspector II shall demonstrate a knowledge of the fire hazards associated with the storage, handling and use of natural and synthetic fibers.

§ 7.5. Combustible dusts.

A. The Fire Inspector II shall demonstrate a knowledge of code requirements and regulations governing combustible dusts.

B. The Fire Inspector II shall demonstrate a knowledge of code requirements, regulations and basic installation practices relative to explosion suppression systems for combustible dusts.

§ 7.6. Fire protection equipment.

A. The Fire Inspector II shall demonstrate an ability to evaluate the proper installation and testing of all types of fire protection equipment including, but not limited to, fire doors, fire walls, fixed fire extinguishing systems, water supply systems, fire detection systems, and fire alarm systems.

B. The Fire Inspector II shall demonstrate an ability to evaluate the testing of portable fire extinguishers.

C. The Fire Inspector II shall demonstrate an ability to evaluate the application, capabilities, testing and maintenance of fixed fire extinguishing systems.

§ 7.7. Water supply systems.

A. The Fire Inspector II shall demonstrate a knowledge of water system pressure and piping requirements.

B. The Fire Inspector II shall demonstrate a knowledge of hydrant construction, location, and spacing.

C. The Fire Inspector II shall demonstrate a knowledge of the factors that affect fire flow demands.

§ 7.8. Heating and cooking equipment.

A. The Fire Inspector II shall demonstrate a working knowledge of the fire hazards related to the various types of heating and cooking equipment and systems.

B. The Fire Inspector II shall demonstrate a working knowledge of the fire safety safeguards normally installed concomitant to heating and cooking equipment.

C. The Fire Inspector II shall demonstrate a working

knowledge of the fire hazards and code requirements related to heating and cooking equipment installation and fuel storage.

§ 7.9. Industrial ovens and furnaces.

A. The Fire Inspector II shall demonstrate a working knowledge of the fire hazards inherent to industrial ovens and furnace systems.

B. The Fire Inspector II shall demonstrate a working knowledge of the fire safety safeguards normally installed concomitant to industrial ovens and furnaces.

§ 7.10. Safety to life.

The Fire Inspector II shall demonstrate a knowledge of the code requirements and purposes for rated interior finishes.

§ 7.11. Means of egress.

A. The Fire Inspector II shall demonstrate a knowledge of how to calculate egress requirements.

B. The Fire Inspector II shall demonstrate an ability to determine the required location of exits.

C. The Fire Inspector II shall demonstrate a working knowledge of acceptable means of egress devices including, but not limited to, doors, hardware, and lights.

§ 7.12. Interior finishes.

A. The Fire Inspector II shall demonstrate a working knowledge for specifying interior finish requirements in various areas of a building according to its designated occupancy.

B. The Fire Inspector II shall demonstrate an ability to evaluate tests and test reports of interior finish materials.

§ 7.13. Building construction.

A. The Fire Inspector II shall demonstrate a working knowledge of when to specify enclosed stairs, smoke towers or other methods of egress.

B. The Fire Inspector II shall demonstrate an ability to evaluate tests and test reports of building construction assemblies or devices.

C. The Fire Inspector II shall demonstrate a working knowledge of what types of fire door assembly are required for the protection of openings of fire rated wall and partitions.

D. The Fire Inspector II shall demonstrate an ability to evaluate the tests and test reports of fire doors.

E. The Fire Inspector II shall demonstrate a working

Final Regulations

knowledge of where fire rated building construction may be required for various occupancies.

F. The Fire Inspector II shall demonstrate a working knowledge of the conditions which require that special fire-related building components be installed including, but not limited to, fire stops, draft curtains, fire walls, smoke vents, chimneys, flues, and fire windows.

§ 7.14. Building equipment.

A. The Fire Inspector II shall demonstrate a working knowledge of the conditions which require that fire related equipment be installed including, but not limited to, extinguishing systems, alarm systems, detection systems, fire dampers, kitchen hood and vent systems, standpipe and hose systems, and portable fire extinguishers.

B. The Fire Inspector II shall demonstrate a working knowledge of the proper installation of the equipment included in § 7.14 A above.

§ 7.15. Decorations, decorative materials and furnishings.

The Fire Inspector II shall demonstrate an ability to evaluate the tests and test reports on flame spread and smoke generation of decorations, decorative materials and furnishings.

§ 7.16. Fire loads.

A. The Fire Inspector II shall demonstrate an ability to calculate fire loads.

B. The Fire Inspector II shall demonstrate a working knowledge of acceptable fire loads for various occupancies.

C. The Fire Inspector II shall demonstrate knowledge of how to classify building contents according to hazard.

§ 7.17. Occupant loads.

A. The Fire Inspector II shall demonstrate an ability to calculate allowable occupant loads for various occupancies and building areas.

B. The Fire Inspector II shall have a working knowledge of code requirements, regulations, basic operational features and fire hazards presented by various occupancies.

C. The Fire Inspector II shall demonstrate a working knowledge of the fire safety regulations and code requirements for industrial occupancies utilizing hazardous processes, equipment or materials.

§ 7.18. Code enforcement.

A. The Fire Inspector II shall demonstrate a basic knowledge of fire scene photography.

B. The Fire Inspector II shall demonstrate a basic knowledge of the legal requirements pertaining to the admissibility of photographs in a civil or criminal court.

§ 7.19. Plans and specifications.

A. The Fire Inspector II shall demonstrate the ability to interpret plans and specifications and symbols related to construction plans and specifications.

B. The Fire Inspector II shall demonstrate an ability to read and interpret construction plans and specifications, and recognize standard symbols used by design.

C. The Fire Inspector II shall demonstrate a basic knowledge of acceptable construction methods and materials related to fire safety.

D. The Fire Inspector II shall demonstrate a knowledge of sources of detailed and technical information relative to plans and specifications details.

E. The Fire Inspector II shall demonstrate a knowledge of the moral and legal responsibilities relative to plans and specifications examination.

§ 7.20. Emergency evacuation plans.

A. The Fire Inspector II shall demonstrate an ability to develop emergency evacuation plans for various occupancies.

B. The Fire Inspector II shall demonstrate a basic knowledge of anticipated human behavior during emergencies.

C. The Fire Inspector II shall demonstrate an ability to implement fire safety programs for crowd control.

D. The Fire Inspector II shall demonstrate a basic knowledge of the role played by each agency and person in implementing an emergency evacuation plan.

E. The Fire Inspector II shall demonstrate an ability to coordinate agencies involved in the development of an emergency evacuation plan.

F. The Fire Inspector II shall demonstrate a knowledge of the sources of technical and detailed information relative to emergency evacuation plans.

§ 7.21. Fire cause determination.

The Fire Inspector II shall demonstrate a working knowledge of fire cause determination procedures.

§ 7.22. Miscellaneous.

A. The Fire Inspector II shall demonstrate a knowledge of building code requirements as they may affect fire safety for the jurisdiction in which the inspector is

employed.

B. The Fire Inspector II shall demonstrate a knowledge of building height and area limitations as they may affect fire behavior.

Article 3. Communication.

§ 7.23. The Fire Inspector II shall demonstrate proficiency in communicating effectively and professionally through written, oral and mechanical media.

A. Understand and have a working knowledge of interpersonal communication.

B. Identify verbal and nonverbal factors which contribute to a negative response from the public.

C. Given practical simulation role-playing exercises depicting stressful situations of interaction with the public, communicate properly and effectively with various types of persons.

§ 7.24. Demonstrate how to properly use the telephone in communications.

A. Identify what shall be accomplished by a Fire Inspector II in a telephonic situation reflecting a law-enforcement problem which results in a positive image and effective communications.

§ 7.25. Demonstrate proper standard radio-use techniques.

Demonstrate the ability to give clear and complete descriptions of persons, locations, and vehicles.

Article 4. Report Writing.

§ 7.26. Identify the basic techniques of notetaking.

A. Identify uses of the inspector's field notes.

B. Identify the types of information that should be entered into field notes.

C. Given a practical simulation role-playing exercise, take notes during an interview in such a manner as to not discourage the person being interviewed from talking.

D. Given word-pictures or audio-visual presentations, properly utilize the fire inspector's notebook by neatly and accurately recording all necessary information in a specified format.

§ 7.27. Be able to demonstrate a basic understanding of report writing principles.

A. Identify the uses of fire inspection reports.

B. Identify essential characteristics of a good report.

C. Identify the questions that should be answered by a complete report.

D. Demonstrate the ability to write clear and concise reports.

E. Given word-pictures or audio-visual presentations depicting law-enforcement problems, organize or write the facts in an appropriate report format.

F. Given word-pictures or audio-visual presentations, complete the primary reports similar to or used by the Fire Inspector's agency.

G. Prepare a memorandum.

PART VIII. STANDARDS RELATING TO ISSUING SUMMONSES AND SERVING WARRANTS.

Article 1. Issuance of Virginia Uniform Summonses.

§ 8.1. The Fire Inspector II shall understand the process for issuance of Virginia Uniform Traffic Summons.

A. Describe the court procedures and violator's alternatives in dealing with an issued summons.

B. Give a blank Virginia Uniform Summons, a word-picture, or audio-visual presentation depicting a fire code violation, and legibly complete the form within the allotted time.

C. Identify that the required signature on a citation is not an admission of guilt but a promise to appear.

Article 2. Court System.

§ 8.2. The inspector shall understand and have a working knowledge of the organization and operation of the Virginia court system.

~~§ 8-3.~~ A. Identify the organizational structure, constitutional basis and primary responsibility for the Virginia Supreme Court, Circuit Court, General District Court, and magistrates.

~~§ 8-4.~~ B. Define jurisdiction and venue of the Circuit Court, General District Court, and the Juvenile and Domestic Court in the locality employing the fire inspector.

~~§ 8-5.~~ C. Identify the organizational structure of the U.S. Federal Courts.

~~§ 8-6.~~ D. Identify the purposes of bail, arraignment, preliminary hearing, indictment, and trial in criminal

Final Regulations

cases.

§ 8.7. E. Define the difference between a judge and a magistrate.

§ 8.8. F. Define the role and functions of the judge, bailiff, Commonwealth's attorney, and defense attorney in the courts.

§ 8.9. G. Given descriptions of several different crimes or violations, identify in which court each would first be tried.

Article III.

Fire Inspection Warrants.

§ 8.3. *The Inspector II shall demonstrate a working knowledge of the proper procedures and legal requirements set forth in §§ 27-98.1 through 27-98.5 of the Code of Virginia for the issuance of a fire inspection warrant.*

A. *The Inspector II shall be able to demonstrate a working knowledge of the constitutional rights of the owner, operator, or agent in charge of a building, structure, property or premises in which the inspection is to be made.*

B. *The Inspector II shall demonstrate a working knowledge of Rules of Evidence.*

ATTACHMENT 3



COMMONWEALTH of VIRGINIA

DEPARTMENT OF FIRE PROGRAMS
VIRGINIA FIRE BOARD

James Monroe Building
17th Floor
101 N. 14th Street
Richmond, Virginia 23219
(804) 225-2681

Executive Director
Carl N. Cimino

- Board Members**
- Frank A. Kitarney
Hampden
Chairman
 - John L. Griffin
Newport News
Vice-Chairman
 - Victoria J. Adams
Peterburg
 - William A. Anderson
Lynchburg
 - Carter W. Beamer
Wytheville
 - James W. Epperly
Christiansburg
 - James W. Garner
Charlottesville
 - Harry T. Gladding, Jr.
Tappahannock
 - James M. Henderson, Jr.
Crabhorn
 - Ann Kavanagh
Sterling
 - William M. Lloyd, Sr.
Virginia Beach
 - Lynn A. Miller
Winchester
 - Jimmy L. Reamy
Richmond
 - Howard M. Summers, Jr.
Richmond

Date _____

From: _____ Area Supervisor
To: _____ Adjunct Instructor
Subject: Instructor for School/Test No. _____

You have been selected as an instructor to teach _____ at the above
(Course)
referenced Fire Service School/Test located at _____
_____ on _____ (Dates)

Your rate of pay for instructing will be \$13.75 per hour plus expenses. In addition to instructing at the school, you will be paid for the necessary administration of the course not to exceed 1 hour.

Please acknowledge acceptance on the below endorsement and return this letter to the area supervisor, no later than _____
Date

Area Supervisor

From: _____
Date

To: _____

I accept employment with the Department of Fire Programs as an Adjunct Instructor for School No. _____

DEPARTMENT OF FIRE PROGRAMS
RICHMOND, VA.

	MON.	TUE.	WED.	THU.	FRI.
0800 AM					
0850 AM					
0900 AM					
0950 AM					
BREAK	***** BREAK *****				
1010 AM					
1100 AM					
1110 AM					
1200 AM					
1200	***** LUNCH *****				
1300 PM					
1350 PM					
1400 PM					
1450 PM					
BREAK	***** BREAK *****				
1510 PM					
1600 PM					
1610 PM					
1700 PM					

REMARKS:

FEED THIS DIRECTION

© 2022 NETC

Class Title: _____ Location: _____

Class Dates	Attendance	Dates	Location
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29.			
30.			

I certify this record to be true and correct to be the best of my knowledge and belief.
 (Signed) _____ Date _____

DEPARTMENT OF VIRGINIA
 DEPARTMENT OF FIRE PROGRAMS
 2720 ENTERPRISE PARKWAY, SUITE 106
 RICHMOND, VIRGINIA 23229

- MAKE HEAVY, DARK MARKS
- ERASE COMPLETELY TO CHANGE
- SAMPLE: 410 420 430 440 450 460

ATTACHMENT 6
 EVALUATION (FOR STUDENT)
 INSTRUCTOR _____ DATES ATTENDED _____

COURSE ASSESSMENT		PARTICIPANT PROFILE	
<p>1) PRINTED MATERIALS WERE:</p> <p>a. well organized</p> <p>b. complete</p> <p>c. readable (printed well)</p>		<p>2) POPULATION SERVED BY YOUR ORGANIZATION:</p> <p>Child _____ Youth _____ Institutional _____</p> <p>Suburban _____ Urban _____ Government _____</p> <p>Street _____ Volunteer _____ Other _____</p>	
<p>3) VISUAL MATERIALS WERE:</p> <p>a. related to the course</p> <p>b. good quality</p> <p>c. in appropriate number</p> <p>d. easy to see</p>		<p>3) ATTENDING COURSE AS:</p> <p>Chief _____ Investigator _____</p> <p>Assistant/Deputy Chief _____ Driver Operator _____</p> <p>Battalion/Division Chief _____ Firefighter _____</p> <p>Company Officer _____ Paramedic/EMT _____</p> <p>Training Officer/Instructor _____ Dispatcher _____</p> <p>Inspector _____ Allied Professional _____</p> <p>Maintenance Officer _____</p>	
<p>4) INSTRUCTOR:</p> <p>a. related material to class needs</p> <p>b. knew subject thoroughly</p> <p>c. encouraged participation</p> <p>d. made course expectations, requirements and objectives clear</p> <p>e. answered questions completely</p> <p>f. used course text and materials effectively</p> <p>g. tolerated differences of opinion</p>		<p>4) YEARS OF EXPERIENCE IN SUBJECT AREA RELATED TO COURSE:</p> <p>Last 12 mo _____ 13 to 18 mo _____</p> <p>19 to 24 mo _____ 25 to 30 mo _____</p> <p>31 to 36 mo _____ 37 to 42 mo _____</p> <p>43 to 48 mo _____ 49 to 54 mo _____</p> <p>55 to 60 mo _____ 61 to 66 mo _____</p> <p>67 to 72 mo _____ 73 to 78 mo _____</p> <p>79 to 84 mo _____ 85 to 90 mo _____</p> <p>91 to 96 mo _____ 97 to 102 mo _____</p> <p>103 to 108 mo _____ 109 to 114 mo _____</p> <p>115 to 120 mo _____ 121 to 126 mo _____</p> <p>127 to 132 mo _____ 133 to 138 mo _____</p> <p>139 to 144 mo _____ 145 to 150 mo _____</p> <p>151 to 156 mo _____ 157 to 162 mo _____</p> <p>163 to 168 mo _____ 169 to 174 mo _____</p> <p>175 to 180 mo _____ 181 to 186 mo _____</p> <p>187 to 192 mo _____ 193 to 198 mo _____</p> <p>199 to 204 mo _____ 205 to 210 mo _____</p> <p>211 to 216 mo _____ 217 to 222 mo _____</p> <p>223 to 228 mo _____ 229 to 234 mo _____</p> <p>235 to 240 mo _____ 241 to 246 mo _____</p> <p>247 to 252 mo _____ 253 to 258 mo _____</p> <p>259 to 264 mo _____ 265 to 270 mo _____</p> <p>271 to 276 mo _____ 277 to 282 mo _____</p> <p>283 to 288 mo _____ 289 to 294 mo _____</p> <p>295 to 300 mo _____ 301 to 306 mo _____</p> <p>307 to 312 mo _____ 313 to 318 mo _____</p> <p>319 to 324 mo _____ 325 to 330 mo _____</p> <p>331 to 336 mo _____ 337 to 342 mo _____</p> <p>343 to 348 mo _____ 349 to 354 mo _____</p> <p>355 to 360 mo _____ 361 to 366 mo _____</p> <p>367 to 372 mo _____ 373 to 378 mo _____</p> <p>379 to 384 mo _____ 385 to 390 mo _____</p> <p>391 to 396 mo _____ 397 to 402 mo _____</p> <p>403 to 408 mo _____ 409 to 414 mo _____</p> <p>415 to 420 mo _____ 421 to 426 mo _____</p> <p>427 to 432 mo _____ 433 to 438 mo _____</p> <p>439 to 444 mo _____ 445 to 450 mo _____</p> <p>451 to 456 mo _____ 457 to 462 mo _____</p> <p>463 to 468 mo _____ 469 to 474 mo _____</p> <p>475 to 480 mo _____ 481 to 486 mo _____</p> <p>487 to 492 mo _____ 493 to 498 mo _____</p> <p>499 to 504 mo _____ 505 to 510 mo _____</p> <p>511 to 516 mo _____ 517 to 522 mo _____</p> <p>523 to 528 mo _____ 529 to 534 mo _____</p> <p>535 to 540 mo _____ 541 to 546 mo _____</p> <p>547 to 552 mo _____ 553 to 558 mo _____</p> <p>559 to 564 mo _____ 565 to 570 mo _____</p> <p>571 to 576 mo _____ 577 to 582 mo _____</p> <p>583 to 588 mo _____ 589 to 594 mo _____</p> <p>595 to 600 mo _____ 601 to 606 mo _____</p> <p>607 to 612 mo _____ 613 to 618 mo _____</p> <p>619 to 624 mo _____ 625 to 630 mo _____</p> <p>631 to 636 mo _____ 637 to 642 mo _____</p> <p>643 to 648 mo _____ 649 to 654 mo _____</p> <p>655 to 660 mo _____ 661 to 666 mo _____</p> <p>667 to 672 mo _____ 673 to 678 mo _____</p> <p>679 to 684 mo _____ 685 to 690 mo _____</p> <p>691 to 696 mo _____ 697 to 702 mo _____</p> <p>703 to 708 mo _____ 709 to 714 mo _____</p> <p>715 to 720 mo _____ 721 to 726 mo _____</p> <p>727 to 732 mo _____ 733 to 738 mo _____</p> <p>739 to 744 mo _____ 745 to 750 mo _____</p> <p>751 to 756 mo _____ 757 to 762 mo _____</p> <p>763 to 768 mo _____ 769 to 774 mo _____</p> <p>775 to 780 mo _____ 781 to 786 mo _____</p> <p>787 to 792 mo _____ 793 to 798 mo _____</p> <p>799 to 804 mo _____ 805 to 810 mo _____</p> <p>811 to 816 mo _____ 817 to 822 mo _____</p> <p>823 to 828 mo _____ 829 to 834 mo _____</p> <p>835 to 840 mo _____ 841 to 846 mo _____</p> <p>847 to 852 mo _____ 853 to 858 mo _____</p> <p>859 to 864 mo _____ 865 to 870 mo _____</p> <p>871 to 876 mo _____ 877 to 882 mo _____</p> <p>883 to 888 mo _____ 889 to 894 mo _____</p> <p>895 to 900 mo _____ 901 to 906 mo _____</p> <p>907 to 912 mo _____ 913 to 918 mo _____</p> <p>919 to 924 mo _____ 925 to 930 mo _____</p> <p>931 to 936 mo _____ 937 to 942 mo _____</p> <p>943 to 948 mo _____ 949 to 954 mo _____</p> <p>955 to 960 mo _____ 961 to 966 mo _____</p> <p>967 to 972 mo _____ 973 to 978 mo _____</p> <p>979 to 984 mo _____ 985 to 990 mo _____</p> <p>991 to 996 mo _____ 997 to 1002 mo _____</p> <p>1003 to 1008 mo _____ 1009 to 1014 mo _____</p> <p>1015 to 1020 mo _____ 1021 to 1026 mo _____</p> <p>1027 to 1032 mo _____ 1033 to 1038 mo _____</p> <p>1039 to 1044 mo _____ 1045 to 1050 mo _____</p> <p>1051 to 1056 mo _____ 1057 to 1062 mo _____</p> <p>1063 to 1068 mo _____ 1069 to 1074 mo _____</p> <p>1075 to 1080 mo _____ 1081 to 1086 mo _____</p> <p>1087 to 1092 mo _____ 1093 to 1098 mo _____</p> <p>1099 to 1104 mo _____ 1105 to 1110 mo _____</p> <p>1111 to 1116 mo _____ 1117 to 1122 mo _____</p> <p>1123 to 1128 mo _____ 1129 to 1134 mo _____</p> <p>1135 to 1140 mo _____ 1141 to 1146 mo _____</p> <p>1147 to 1152 mo _____ 1153 to 1158 mo _____</p> <p>1159 to 1164 mo _____ 1165 to 1170 mo _____</p> <p>1171 to 1176 mo _____ 1177 to 1182 mo _____</p> <p>1183 to 1188 mo _____ 1189 to 1194 mo _____</p> <p>1195 to 1200 mo _____ 1201 to 1206 mo _____</p> <p>1207 to 1212 mo _____ 1213 to 1218 mo _____</p> <p>1219 to 1224 mo _____ 1225 to 1230 mo _____</p> <p>1231 to 1236 mo _____ 1237 to 1242 mo _____</p> <p>1243 to 1248 mo _____ 1249 to 1254 mo _____</p> <p>1255 to 1260 mo _____ 1261 to 1266 mo _____</p> <p>1267 to 1272 mo _____ 1273 to 1278 mo _____</p> <p>1279 to 1284 mo _____ 1285 to 1290 mo _____</p> <p>1291 to 1296 mo _____ 1297 to 1302 mo _____</p> <p>1303 to 1308 mo _____ 1309 to 1314 mo _____</p> <p>1315 to 1320 mo _____ 1321 to 1326 mo _____</p> <p>1327 to 1332 mo _____ 1333 to 1338 mo _____</p> <p>1339 to 1344 mo _____ 1345 to 1350 mo _____</p> <p>1351 to 1356 mo _____ 1357 to 1362 mo _____</p> <p>1363 to 1368 mo _____ 1369 to 1374 mo _____</p> <p>1375 to 1380 mo _____ 1381 to 1386 mo _____</p> <p>1387 to 1392 mo _____ 1393 to 1398 mo _____</p> <p>1399 to 1404 mo _____ 1405 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1644 mo _____ 1645 to 1650 mo _____</p> <p>1651 to 1656 mo _____ 1657 to 1662 mo _____</p> <p>1663 to 1668 mo _____ 1669 to 1674 mo _____</p> <p>1675 to 1680 mo _____ 1681 to 1686 mo _____</p> <p>1687 to 1692 mo _____ 1693 to 1698 mo _____</p> <p>1699 to 1704 mo _____ 1705 to 1710 mo _____</p> <p>1711 to 1716 mo _____ 1717 to 1722 mo _____</p> <p>1723 to 1728 mo _____ 1729 to 1734 mo _____</p> <p>1735 to 1740 mo _____ 1741 to 1746 mo _____</p> <p>1747 to 1752 mo _____ 1753 to 1758 mo _____</p> <p>1759 to 1764 mo _____ 1765 to 1770 mo _____</p> <p>1771 to 1776 mo _____ 1777 to 1782 mo _____</p> <p>1783 to 1788 mo _____ 1789 to 1794 mo _____</p> <p>1795 to 1800 mo _____ 1801 to 1806 mo _____</p> <p>1807 to 1812 mo _____ 1813 to 1818 mo _____</p> <p>1819 to 1824 mo _____ 1825 to 1830 mo _____</p> <p>1831 to 1836 mo _____ 1837 to 1842 mo _____</p> <p>1843 to 1848 mo _____ 1849 to 1854 mo _____</p> <p>1855 to 1860 mo _____ 1861 to 1866 mo _____</p> <p>1867 to 1872 mo _____ 1873 to 1878 mo _____</p> <p>1879 to 1884 mo _____ 1885 to 1890 mo _____</p> <p>1891 to 1896 mo _____ 1897 to 1902 mo _____</p> <p>1903 to 1908 mo _____ 1909 to 1914 mo _____</p> <p>1915 to 1920 mo _____ 1921 to 1926 mo _____</p> <p>1927 to 1932 mo _____ 1933 to 1938 mo _____</p> <p>1939 to 1944 mo _____ 1945 to 1950 mo _____</p> <p>1951 to 1956 mo _____ 1957 to 1962 mo _____</p> <p>1963 to 1968 mo _____ 1969 to 1974 mo _____</p> <p>1975 to 1980 mo _____ 1981 to 1986 mo _____</p> <p>1987 to 1992 mo _____ 1993 to 1998 mo _____</p> <p>1999 to 2004 mo _____ 2005 to 2010 mo _____</p> <p>2011 to 2016 mo _____ 2017 to 2022 mo _____</p> <p>2023 to 2028 mo _____ 2029 to 2034 mo _____</p> <p>2035 to 2040 mo _____ 2041 to 2046 mo _____</p> <p>2047 to 2052 mo _____ 2053 to 2058 mo _____</p> <p>2059 to 2064 mo _____ 2065 to 2070 mo _____</p> <p>2071 to 2076 mo _____ 2077 to 2082 mo _____</p> <p>2083 to 2088 mo _____ 2089 to 2094 mo _____</p> <p>2095 to 2100 mo _____ 2101 to 2106 mo _____</p> <p>2107 to 2112 mo _____ 2113 to 2118 mo _____</p> <p>2119 to 2124 mo _____ 2125 to 2130 mo _____</p> <p>2131 to 2136 mo _____ 2137 to 2142 mo _____</p> <p>2143 to 2148 mo _____ 2149 to 2154 mo _____</p> <p>2155 to 2160 mo _____ 2161 to 2166 mo _____</p> <p>2167 to 2172 mo _____ 2173 to 2178 mo _____</p> <p>2179 to 2184 mo _____ 2185 to 2190 mo _____</p> <p>2191 to 2196 mo _____ 2197 to 2202 mo _____</p> <p>2203 to 2208 mo _____ 2209 to 2214 mo _____</p> <p>2215 to 2220 mo _____ 2221 to 2226 mo _____</p> <p>2227 to 2232 mo _____ 2233 to 2238 mo _____</p> <p>2239 to 2244 mo _____ 2245 to 2250 mo _____</p> <p>2251 to 2256 mo _____ 2257 to 2262 mo _____</p> <p>2263 to 2268 mo _____ 2269 to 2274 mo _____</p> <p>2275 to 2280 mo _____ 2281 to 2286 mo _____</p> <p>2287 to 2292 mo _____ 2293 to 2298 mo _____</p> <p>2299 to 2304 mo _____ 2305 to 2310 mo _____</p> <p>2311 to 2316 mo _____ 2317 to 2322 mo _____</p> <p>2323 to 2328 mo _____ 2329 to 2334 mo _____</p> <p>2335 to 2340 mo _____ 2341 to 2346 mo _____</p> <p>2347 to 2352 mo _____ 2353 to 2358 mo _____</p> <p>2359 to 2364 mo _____ 2365 to 2370 mo _____</p> <p>2371 to 2376 mo _____ 2377 to 2382 mo _____</p> <p>2383 to 2388 mo _____ 2389 to 2394 mo _____</p> <p>2395 to 2400 mo _____ 2401 to 2406 mo _____</p> <p>2407 to 2412 mo _____ 2413 to 2418 mo _____</p> <p>2419 to 2424 mo _____ 2425 to 2430 mo _____</p> <p>2431 to 2436 mo _____ 2437 to 2442 mo _____</p> <p>2443 to 2448 mo _____ 2449 to 2454 mo _____</p> <p>2455 to 2460 mo _____ 2461 to 2466 mo _____</p> <p>2467 to 2472 mo _____ 2473 to 2478 mo _____</p> <p>2479 to 2484 mo _____ 2485 to 2490 mo _____</p> <p>2491 to 2496 mo _____ 2497 to 2502 mo _____</p> <p>2503 to 2508 mo _____ 2509 to 2514 mo _____</p> <p>2515 to 2520 mo _____ 2521 to 2526 mo _____</p> <p>2527 to 2532 mo _____ 2533 to 2538 mo _____</p> <p>2539 to 2544 mo _____ 2545 to 2550 mo _____</p> <p>2551 to 2556 mo _____ 2557 to 2562 mo _____</p> <p>2563 to 2568 mo _____ 2569 to 2574 mo _____</p> <p>2575 to 2580 mo _____ 2581 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2820 mo _____ 2821 to 2826 mo _____</p> <p>2827 to 2832 mo _____ 2833 to 2838 mo _____</p> <p>2839 to 2844 mo _____ 2845 to 2850 mo _____</p> <p>2851 to 2856 mo _____ 2857 to 2862 mo _____</p> <p>2863 to 2868 mo _____ 2869 to 2874 mo _____</p> <p>2875 to 2880 mo _____ 2881 to 2886 mo _____</p> <p>2887 to 2892 mo _____ 2893 to 2898 mo _____</p> <p>2899 to 2904 mo _____ 2905 to 2910 mo _____</p> <p>2911 to 2916 mo _____ 2917 to 2922 mo _____</p> <p>2923 to 2928 mo _____ 2929 to 2934 mo _____</p> <p>2935 to 2940 mo _____ 2941 to 2946 mo _____</p> <p>2947 to 2952 mo _____ 2953 to 2958 mo _____</p> <p>2959 to 2964 mo _____ 2965 to 2970 mo _____</p> <p>2971 to 2976 mo _____ 2977 to 2982 mo _____</p> <p>2983 to 2988 mo _____ 2989 to 2994 mo _____</p> <p>2995 to 3000 mo _____ 3001 to 3006 mo _____</p> <p>3007 to 3012 mo _____ 3013 to 3018 mo _____</p> <p>3019 to 3024 mo _____ 3025 to 3030 mo _____</p> <p>3031 to 3036 mo _____ 3037 to 3042 mo _____</p> <p>3043 to 3048 mo _____ 3049 to 3054 mo 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_____ 3289 to 3294 mo _____</p> <p>3295 to 3300 mo _____ 3301 to 3306 mo _____</p> <p>3307 to 3312 mo _____ 3313 to 3318 mo _____</p> <p>3319 to 3324 mo _____ 3325 to 3330 mo _____</p> <p>3331 to 3336 mo _____ 3337 to 3342 mo _____</p> <p>3343 to 3348 mo _____ 3349 to 3354 mo _____</p> <p>3355 to 3360 mo _____ 3361 to 3366 mo _____</p> <p>3367 to 3372 mo _____ 3373 to 3378 mo _____</p> <p>3379 to 3384 mo _____ 3385 to 3390 mo _____</p> <p>3391 to 3396 mo _____ 3397 to 3402 mo _____</p> <p>3403 to 3408 mo _____ 3409 to 3414 mo _____</p> <p>3415 to 3420 mo _____ 3421 to 3426 mo _____</p> <p>3427 to 3432 mo _____ 3433 to 3438 mo _____</p> <p>3439 to 3444 mo _____ 3445 to 3450 mo _____</p> <p>3451 to 3456 mo _____ 3457 to 3462 mo _____</p> <p>3463 to 3468 mo _____ 3469 to 3474 mo _____</p> <p>3475 to 3480 mo _____ 3481 to 3486 mo _____</p> <p>3487 to 3492 mo _____ 3493 to 3498 mo _____</p> <p>3499 to 3504 mo _____ 3505 to 3510 mo _____</p> <p>3511 to 3516 mo _____ 3517 to 3522 mo _____</p> <p>3523 to 3528 mo _____ 3529 to 3534 mo _____</p> <p>3535 to 3540 mo _____ 3541 to 3546 mo _____</p> <p>3547 to 3552 mo _____ 3553 to 3558 mo _____</p> <p>3559 to 3564 mo _____ 3565 to 3570 mo _____</p> <p>3571 to 3576 mo _____ 3577 to 3582 mo _____</p> <p>3583 to 3588 mo _____ 3589 to 3594 mo _____</p> <p>3595 to 3600 mo _____ 3601 to 3606 mo _____</p> <p>3607 to 3612 mo _____ 3613 to 3618 mo _____</p> <p>3619 to 3624 mo _____ 3625 to 3630 mo _____</p> <p>3631 to 3636 mo _____ 3637 to 3642 mo _____</p> <p>3643 to 3648 mo _____ 3649 to 3654 mo _____</p> <p>3655 to 3660 mo _____ 3661 to 3666 mo _____</p> <p>3667 to 3672 mo _____ 3673 to 3678 mo _____</p> <p>3679 to 3684 mo _____ 3685 to 3690 mo _____</p> <p>3691 to 3696 mo _____ 3697 to 3702 mo _____</p> <p>3703 to 3708 mo _____ 3709 to 3714 mo _____</p> <p>3715 to 3720 mo _____ 3721 to 3726 mo _____</p> <p>3727 to 3732 mo _____ 3733 to 3738 mo _____</p> <p>3739 to 3744 mo _____ 3745 to 3750 mo _____</p> <p>3751 to 3756 mo _____ 3757 to 3762 mo _____</p> <p>3763 to 3768 mo _____ 3769 to 3774 mo _____</p> <p>3775 to 3780 mo _____ 3781 to 3786 mo _____</p> <p>3787 to 3792 mo _____ 3793 to 3798 mo _____</p> <p>3799 to 3804 mo _____ 3805 to 3810 mo _____</p> <p>3811 to 3816 mo _____ 3817 to 3822 mo _____</p> <p>3823 to 3828 mo _____ 3829 to 3834 mo _____</p> <p>3835 to 3840 mo _____ 3841 to 3846 mo _____</p> <p>3847 to 3852 mo _____ 3853 to 3858 mo _____</p> <p>3859 to 3864 mo _____ 3865 to 3870 mo _____</p> <p>3871 to 3876 mo _____ 3877 to 3882 mo _____</p> <p>3883 to 3888 mo _____ 3889 to 3894 mo _____</p> <p>3895 to 3900 mo _____ 3901 to 3906 mo _____</p> <p>3907 to 3912 mo _____ 3913 to 3918 mo _____</p> <p>3919 to 3924 mo _____ 3925 to 3930 mo _____</p> <p>3931 to 3936 mo _____ 3937 to 3942 mo _____</p> <p>3943 to 3948 mo _____ 3949 to 3954 mo _____</p> <p>3955 to 3960 mo _____ 3961 to 3966 mo _____</p> <p>3967 to 3972 mo _____ 3973 to 3978 mo _____</p> <p>3979 to 3984 mo _____ 3985 to 3990 mo _____</p> <p>3991 to 3996 mo _____ 3997 to 4002 mo _____</p> <p>4003 to 4008 mo _____ 4009 to 4014 mo _____</p> <p>4015 to 4020 mo _____ 4021 to 4026 mo _____</p> <p>4027 to 4032 mo _____ 4033 to 4038 mo _____</p> <p>4039 to 4044 mo _____ 4045 to 4050 mo _____</p> <p>4051 to 4056 mo _____ 4057 to 4062 mo _____</p> <p>4063 to 4068 mo _____ 4069 to 4074 mo _____</p> <p>4075 to 4080 mo _____ 4081 to 4086 mo _____</p> <p>4087 to 4092 mo _____ 4093 to 4098 mo _____</p> <p>4099 to 4104 mo _____ 4105 to 4110 mo _____</p> <p>4111 to 4116 mo _____ 4117 to 4122 mo _____</p> <p>4123 to 4128 mo _____ 4129 to 4134 mo _____</p> <p>4135 to 4140 mo _____ 4141 to 4146 mo _____</p> <p>4147 to 4152 mo _____ 4153 to 4158 mo _____</p> <p>4159 to 4164 mo _____ 4165 to 4170 mo _____</p> <p>4171 to 4176 mo _____ 4177 to 4182 mo _____</p> <p>4183 to 4188 mo _____ 4189 to 41</p>	

*STATE CODE

LOCATION: DEPARTMENT/ORGANIZATION:

Please refer to the special numerical codes listed below to complete item 1 on the front of this form. For example, if your department/organization is located in Maryland, which is code 24, then you would fill in the number "2" on the top line of this item, and the number "4" on the bottom line of this item.

EXAMPLE: 02 41 24 03 04 25 02 41 24 03 04 25 02 41 24 03 04 25 (Maryland - 24)

- 01 ALASKA 21 KENTUCKY 41 OREGON
02 ALABAMA 22 LOUISIANA 42 PENNSYLVANIA
03 ARKANSAS 23 MASSACHUSETTS 43 PUERTO RICO
04 AMERICAN SAMOA 24 MARYLAND 44 RHODE ISLAND
05 ARIZONA 25 MAINE 45 SOUTH CAROLINA
06 CALIFORNIA 26 MICHIGAN 46 SOUTH DAKOTA
07 COLORADO 27 MINNESOTA 47 TENNESSEE
08 CONNECTICUT 28 MISSOURI 48 TRUST TERRITORIES
09 CANAL ZONE 29 MISSISSIPPI 49 TEXAS
10 DISTRICT OF COLUMBIA 30 MONTANA 50 UTAH
11 DELAWARE 31 NORTH CAROLINA 51 VIRGINIA
12 FLORIDA 32 NORTH DAKOTA 52 VIRGIN ISLANDS
13 GEORGIA 33 NEBRASKA 53 VERMONT
14 GUAM 34 NEW HAMPSHIRE 54 WASHINGTON
15 HAWAII 35 NEW JERSEY 55 WISCONSIN
16 IOWA 36 NEW MEXICO 56 WEST VIRGINIA
17 IDAHO 37 NEVADA 57 WYOMING
18 ILLINOIS 38 NEW YORK 58 OTHER
19 INDIANA 39 OHIO
20 KANSAS 40 OKLAHOMA

PLEASE ENTER CODE NUMBER ON FRONT PAGE BEFORE CONTINUING.

SUGGESTIONS

- 14. How could the printed and/or audiovisual materials be improved to increase learning?
15. How could the course content or structure be improved?
16. How could the instructor improve the class delivery?
17. How could the classroom be improved?

PLEASE FEEL FREE TO USE ADDITIONAL BLANK PAPER, IF ADDITIONAL COMMENTS ARE NEEDED.

CHECK FRONT PAGE TO MAKE SURE YOU HAVE COMPLETED ALL QUESTIONS.

THANK YOU FOR YOUR COOPERATION.

01-26-83

ATTACHMENT 7

REVISED 7/82

School Number _____

DEPARTMENT OF FIRE PROGRAMS

COURSE COMPLETION REPORT

Location of Course Department Address
Name of Course
Departments or Companies No. per City or F.D.I.D.
participating Dept. County

Type of Course: General [] Advanced [] Other
Date of Course: Begin End Total no. hours
No. Enrolled: Paid: Male Volunteer: Male
Female Female Total

Remarks
Did a representative of the Department of Fire Programs visit this school?
Were State funds involved in this Course?
Signature Date

-Do Not Write Below This Line-
Date Area Supervisor Signature

MARINE RESOURCES COMMISSION

Title of Regulations: VR 450-01-8901. Closed Public Oyster Season.

Statutory Authority: §§ 28.1-82 and 28.1-85 of the Code of Virginia

Effective Date: April 1, 1989 to October 1, 1989

Preamble:

The following order of the Marine Resources Commission closes all public oyster rocks, grounds and shoals within certain designated areas of the state in order to promote and protect the oyster fishery.

VR 450-01-8901. Closed Public Oyster Season.

§ 1. Authority, effective date.

A. This order is promulgated to the authority contained in §§ 28.1-82 and 28.1-85 of the Code of Virginia.

B. The effective date of this order is April 1, 1989.

§ 2. Purpose.

The purpose of this order is to close all public oyster grounds, rocks, and shoals in the "clean cull" areas of the state except the Jail Island clean cull area and all public oyster grounds, rocks, and shoals on the seaside of Eastern Shore to the taking of oysters in order to conserve the resource and promote the growth of the oysters in these areas.

§ 3. Designated areas.

The following areas in the state, where public oyster rocks, grounds, and shoals are located are closed to the taking of oysters:

A. Seaside of Eastern Shore.

B. All "clean cull" areas of the state, except the Jail Island clean cull area of the James River.

§ 4. Expiration date.

This order shall terminate on October 1, 1989.

/s/ William A. Pruitt
Commissioner
March 7, 1989

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-3.1100. Amount, Duration, and Scope of Services - Elimination of Preauthorization of Routine Eye Services.

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

Effective Date: July 1, 1989

Summary:

These final regulations intend to discontinue all prior authorization requirements for routine eye services for all providers. This final rule applies to optometrists, ophthalmologists and opticians. The affected services are examinations, services related to examinations and eyeglasses.

VR 460-03-3.1100. Amount, Duration, and Scope of Services - Elimination of Preauthorization of Routine Eye Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

A. Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to subsection F of this section.)

B. Medicaid does not pay the medicare (Title XVIII) coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to subsection F of this section.)

C. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

D. Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day

Final Regulations

prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

E. Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

F. Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

G. Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

H. Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures

listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

I. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

1. Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

a. Are furnished to outpatients;

b. Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

c. Are furnished by an institution that:

(1) Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

(2) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

2. Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

3. Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory

services furnished by a rural health clinic.

No limitations on this service.

§ 3. Other laboratory and x-ray services.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

1. Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

3. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the Program.

4c. Family planning services and supplies for individuals of child-bearing age.

Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

C. Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

D. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

E. Any procedure considered experimental is not covered.

F. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

G. Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

H. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

I. Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive

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eligibility period.

J. Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirement of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

K. For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas. Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment. The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered kidney transplant services is negotiable with the providers on an individual case basis. Reimbursement for covered cornea transplants is at the allowed Medicaid rate. Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity or for utilization control, or both.

B. [~~Optometrists' Optometric~~] services.

~~1. For recipients age 21 years and older, optometrists services are limited to preauthorized exam (refraction). For recipients younger than 21 years old, optometrists services are limited to preauthorized eye exams and eyeglasses when prescribed as a result of EPSDT.~~

1. [For recipients age 21 years and older, optometrists services are covered as allowed in the Code of Virginia and the Board of Optometry's regulations, for the provision of examinations,

~~examination services and refractions. Diagnostic examination and optometric treatment procedures and services (except for orthoptics) by ophthalmologists, optometrists, and opticians, as allowed by the Code of Virginia and by regulations of the Boards of Medicine and Optometry, are covered for all recipients. Routine refractions are limited to once in 24 months except as may be authorized by the agency.~~

~~2. For recipients younger than 21 years old, optometrists services are covered as allowed in the Code of Virginia and the Board of Optometry's regulations, for the provision of examinations, examination services, refractions, and eyeglasses.~~

~~3. Contingent upon the appropriation of additional funding, optometrists shall be reimbursed for the full exercise of their licenses, as specified in the Code of Virginia, except for orthoptics.]~~

C. Chiropractors' services.

Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home Health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable

for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;

2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and

3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for

dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are not covered: full banded orthodontics; permanent crowns and all bridges; removable complete and partial dentures; routine bases under restorations; and inhalation analgesia.

D. The state agency may place appropriate limits on a service based on dental necessity, for utilization control, or both. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/12 months); routine amalgam and composite restorations (once/three years); and extractions, permanent crowns, endodontics, patient education (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11b. Occupational therapy.

Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see General section and subsections 11a and 11b of this section.)

These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices;

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and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

1. Nonlegend drugs, except insulin, syringes, and needles and all family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

2. Legend drugs, with the exception of anorexant drugs prescribed for weight loss, are covered.

3. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

4. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician [*or other practitioners so licensed and certified to prescribe drugs*] certifies in his own handwriting "brand necessary" for the prescription to be dispensed as written.

12b. Dentures.

Not provided.

12c. Prosthetic devices.

Not provided.

12d. Eyeglasses.

A. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the State Agency. EPSDT covers recipients from birth to the age of 21 years.

Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity [when provided by practitioners as licensed under the Code].

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

Not provided.

13b. Screening services.

Not provided.

13c. Preventive services.

Not provided.

13d. Rehabilitative services.

1. Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

2. Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

3. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

4. An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

Provided, no limitations.

14b. Skilled nursing facility services.

Provided, no limitations.

14c. Intermediate care facility.

Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such

services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

Not provided.

§ 17. Nurse-midwife services.

Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

Not provided.

§ 19. Extended services to pregnant women.

19a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

The same limitations on all covered services apply to this group as to all other recipient groups.

19b. Services for any other medical conditions that may complicate pregnancy.

The same limitations on all covered services apply to this group as to all other recipient groups.

§ 20. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

20a. Transportation.

Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

20b. Services of Christian Science nurses.

Not provided.

20c. Care and services provided in Christian Science sanatoria.

Provided, no limitations.

20d. Skilled nursing facility services for patients under 21 years of age.

Provided, no limitations.

20e. Emergency hospital services.

Provided, no limitations.

20f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

Not provided.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Effective Date: May 12, 1989

EDITOR'S NOTE ON INCORPORATION BY REFERENCE: Pursuant to § 9-6.18 of the Code of Virginia, 49 Code of Federal Regulations, §§ 171-179 and 390-397, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Waste Management, 11th Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia, and in the office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

Summary:

Amendment 7 incorporates by reference changes that were made by U.S. DOT to Title 49 Code of Federal Regulations, §§ 171-179 and 390-397 from January 1, 1987, to June 30, 1988. In addition, § 2.8 was revised to reflect changes made to § 10.1-1451 of the Code of Virginia pursuant to Clause 5, Chapter 891 of the 1988 Virginia Acts of Assembly. Changes in the U.S. DOT regulations include: (i) revision of Motor Carrier Safety rules requiring all commercial motor vehicle over 10,000 pounds gross weight be equipped with brakes on all wheels including front wheels, (ii) adjustment to the minimum dollar limit for reporting accidents resulting in property damage, (iii) emergency final rule for uranium hexafluoride due to health and safety hazards that may be associated with use of cleaning procedures, (iv) revision to the final rule on uranium hexafluoride concerning design criteria for certain types of packaging used for transportation, (v) amendment to the Hazardous Materials Regulations in order to regulate molten sulfur as an ORM-C material, (vi) clarification of method used by states in designating preferred and alternate routes for transportation of certain shipments of radioactive materials, (vii) incorporation of

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definitions for bulk packaging and nonbulking packaging, and to make other miscellaneous changes including required identifications of materials in bulk packaging, (viii) incorporation of a number of changes based on petitions to update and clarify the regulations, (ix) amendments to Part 395, Hours of Service of Drivers, which will provide more judicious accounting of time worked thereby reducing the possibility of accrued driver fatigue and make the regulations more easily understood, and (x) corrections, editorial changes, clarifications and other minor revisions.

VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

“Explosive” means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations Parts 170-177.

“Hazardous material” means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order.

“Transport” or “Transportation” means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1 Authority for regulation.

A. These regulations are issued under the authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which

hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than applicable federal regulations.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials in Virginia.

§ 2.3. Administration of regulations.

A. The Executive Director of the Department of Waste Management is designated by the Virginia Waste Management Board with the responsibility to carry out these regulations.

B. The Department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 of (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia.

§ 2.4. Application of regulations.

Notwithstanding the limitations contained in 49 CFR § 171.1(3), and subject to the exceptions set forth in § 2.5. below, these regulations apply to any person who transports hazardous materials, or offers such materials for shipment.

§ 2.5. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

§ 2.6. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

§ 2.7. Transportation under United States Regulations.

Pursuant to § 10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations,

except when such transportation is excluded from regulation under the laws or regulations of the United States.

§ 2.8. Enforcement.

A. Law-enforcement officers.

The Department of State Police, together with and all other law-enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation, in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials, shall enforce the provisions of these regulations this article, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article, and any regulation promulgated hereunder, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials. Pursuant to § 10.1-1455 of the Code of Virginia, violation of these regulations is a Class 1 misdemeanor.

B. Civil judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

§ 2.9. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings hereunder.

PART III.

COMPLIANCE WITH FEDERAL REGULATIONS.

§ 3.1. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated through December 31, 1986 June 30, 1988, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, part 107, Subpart B.

2. Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.

3. Shipping Container Specifications in 49 CFR, Part 178.

4. Specifications for Tank Cars in 49 CFR Part 179.

5. Driving and Parking Rules in 49 CFR Part 397.

6. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 396.

PART IV.

HAULING EXPLOSIVES IN PASSENGER-TYPE VEHICLES.

§ 4.1. Hauling explosives in passenger-type vehicles.

Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules.

PART V.

OUT OF SERVICE.

§ 5.1 Out of service.

The Department of State Police shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR Part 396.9.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-21-08.8 James River Basin (Upper) - Water Quality Standards.

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

Effective Date: May 10, 1989

REGISTRAR'S NOTICE: Due to the length, the Water Quality Standards filed by the State Water Control Board are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published. Also, the adopted amendment is set out below. The full text of the standards is available for inspection at the offices of the Registrar of Regulations and the State Water Control Board.

Background:

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Water quality standards and criteria consist of narrative statements that describe water quality requirements in general terms and numerical limits for specific physical, chemical and biological characteristics of water. These statements and limits describe water quality necessary for reasonable, beneficial water uses such as swimming, propagation and growth of aquatic life, and domestic water supply.

Summary:

The amendment reclassifies Hot Springs Run, § 12, James River Basin (Upper) from Class VI, natural trout water to Class IV, mountainous zone water. This amendment was adopted in response to recommendations of the Department of Game and Inland Fisheries.

VR 680-21-08.8. James River Basin (Upper) - River Basin Section Tables.

SEC.	SECTION DESCRIPTION	CLASS
	Natural Trout Waters in § 12	VI
12	Cedar Creek from its confluence with the Jackson River to its headwaters confluence with Hot Springs Run .	***

NOTE: The *** in the class column indicates that the stream has no subclassification under the Department of Game and Inland Fisheries classification system. The department's classifications are for informational purposes only and imply no additional requirements.

EMERGENCY REGULATIONS

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Dates: April 25, 1989, through April 24, 1990

Summary:

REQUEST: The Governor's approval is requested to adopt the emergency regulation entitled "Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations," pursuant to § 59.1-369 of the Code of Virginia.

PURPOSE OF THE REQUEST: Paragraph 3 of § 59.1-369 authorizes the Virginia Racing Commission to promulgate regulations governing the conduct of horse racing and pari-mutuel wagering in the Commonwealth. The commission also has the statutory authority to promulgate all other regulations it deems necessary and appropriate to implement the requirements of Chapter 29 of Title 59.1 of the Code of Virginia. This chapter became effective on January 1, 1989, after a majority of Virginia voters approved the statewide referendum, held in November, 1988, to permit horse racing and pari-mutuel wagering.

The purpose of this request to take emergency adoption action is to expedite the commission's collection of comments from interested and affected local governments, citizens groups and business entities regarding the regulations necessary to license racetracks and pari-mutuel wagering operations. This proposed regulation contains the guidelines the commission will follow in obtaining public comments and in promulgating regulations to govern horse racing and pari-mutuel wagering.

PERSONS AFFECTED BY THIS REGULATION: This regulation affects all local governments, business entities, community groups and private citizens which may be affected by or which have an interest in horse racing, racetrack operations, and pari-mutuel wagering. Those who may be affected include, but are not limited to, the following:

° City and county governments where referendums may be held to permit pari-mutuel wagering in conjunction with horse racing;

° Business entities, including partnerships, corporations, and private individuals, which may be interested in constructing or operating a racetrack, or both; or which may be interested in providing goods and services to racetracks;

° Owners, breeders and trainers of race horses; and

° Private citizens and community groups or similar associations which might wish to comment on the possible location or operation of a racetrack in their area.

BACKGROUND: Governor Baliles named the members of the Virginia Racing Commission in January, 1989. As of February, 1989, in two localities, a sufficient number of qualified voters had signed petitions to hold a local referendum to permit pari-mutuel betting and the operation of a racetrack in those localities. Also, at least one business group has been formed for the announced purpose of building a racetrack somewhere in the Commonwealth.

AUTHORITY TO ACT: Chapter 29 of Title 59.1 of the Code of Virginia.

FISCAL IMPACT: The public participation guidelines have no direct fiscal impact. Interested parties may incur costs only to the extent necessary to present oral or written comments to the commission.

/s/ John Shenefield, Chairman
Date: March 16, 1989

Concurrence:

/s/ Carolyn J. Moss
Secretary of Administration
Date: March 20, 1989

/s/ Curry A. Roberts
Secretary of Economic Development
Date: March 17, 1989

Approval:

/s/ Gerald L. Baliles
Governor
Date: March 22, 1989

Filed:

/s/ Joan W. Smith
Registrar of Regulations
Date: March 23, 1989 - 2:52 p.m.

Preamble:

Chapter 29 of Title 59.1 became effective on January 1, 1989. Section 59.1-369 authorizes the Virginia Racing Commission to adopt regulations to govern the operation of horse racing and pari-mutuel wagering in the Commonwealth. These public participation guidelines contain the procedures the commission will use to obtain comments from interested parties regarding commission regulations.

VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of

Emergency Regulations

Regulations.

§ 1. Generally.

A. These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Virginia Racing Commission. These guidelines shall not apply to regulations adopted on an emergency basis.

B. In developing any regulation governing horse racing and pari-mutuel wagering, the Virginia Racing Commission ("commission") is committed to obtaining comments from interested people. The commission intends to involve all interested parties in the development of those regulations.

C. Anyone who is interested in participating in the process of developing regulations should notify the commission in writing. This notification should be sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

1. The commission will maintain a list of the people who notified the commission in writing.

2. The commission will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in § 4 of these guidelines.

§ 2. Identification of needed regulations.

A. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

B. The commission, at its discretion, may consider any regulatory request or change.

§ 3. Identification of interested parties.

Before the commission develops a regulation, it will identify persons who either would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining the statewide listing of business, professional and civic associations published by the Virginia Chamber of Commerce. This list will be used to identify groups which might be interested in the regulation.

2. Using commission files to identify people who have raised questions or expressed an interest in the regulations.

3. Using a list, compiled by the commission, of persons who previously participated in public proceedings.

4. Obtaining from the Secretary of the Commonwealth a list of all persons, associations and other who have registered as lobbyists for the most recent General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.

§ 4. Notification of interested parties.

A. Generally.

The commission will prepare a Notice of Intended Regulatory Action ("notice") before developing any regulation. The notice will identify the subject matter and purpose of the new regulation(s). The notice will specify a time deadline and location for interested persons to submit written comments.

B. Notifying those interested.

The methods for notifying interested persons shall include publishing the notice in the Virginia Register of Regulations (Virginia Register) and also may include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in § 3 above; and

2. Requesting that groups, associations, and organizations to whom the notice is sent publish the notice in newsletters or journals or use other means available to them to inform their members.

§ 5. Public participation in regulation development.

A. Initial comment.

After interested parties have responded to the notice, the commission will determine the level of interest.

1. If sufficient interest exists, and if time permits, the commission may schedule informal meetings before the development of the proposed regulation. The meetings will determine the specific areas of interest and concern and will gather factual information on the subject of the regulation.

2. Instead of informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice.

3. The commission may decide that the notice resulted in receipt of enough information so that it can develop the proposed regulation without either an informal meeting or additional written comments.

B. Preparing a proposed regulation.

After the initial public input on the intended regulatory

action, the commission will develop a proposed regulation for review, revision and adoption.

§ 6. Submission of regulation under the Administrative Process Act.

1. After the drafting process ends, the commission-approved regulation will be submitted to the Registrar of Regulations under the Administrative Process Act (APA), Title 9, Chapter 1.1:1, of the Code of Virginia. The commission-approved regulation will be published as a proposed regulation in the Virginia Register.

2. The commission will furnish a copy of the regulation published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulation.

3. If the commission elects to hold a public hearing, the time, date, and place will be specified. In addition, the cutoff date for people to notify the commission that they will participate in the public hearing will be set out. People who choose to participate in the public hearing will be encouraged to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the formal transcript of the hearing.

4. When the commission issues an order adopting a regulation, it may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in the Virginia Register and will specify the issue number.

§ 7. Publication and distribution of final regulation.

1. The commission will adopt all final regulations. The final regulations will be submitted for publication in the Virginia Register.

2. The commission will order the printing of all adopted final regulations and make appropriate distribution.

3. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the commission and compliance with the commission's regulations.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 2, 1989

COMMONWEALTH OF VIRGINIA, ex rel.

CASE NO. BF1890059

STATE CORPORATION COMMISSION

Ex Parte, in re: Promulgation of
Rules Pursuant to Virginia Code
§ 6.1-302 (Consumer Finance Act)

ORDER

On or about January 20, 1989, the Commissioner of Financial Institutions, pursuant to delegated authority, disseminated to interested persons notice that contained a number of proposed rules designed to carry out various provisions of the Consumer Finance Act (Va. Code §§ 6.1-244 et seq.) and that advised such persons that comments and requests for hearing on the proposed rules must be received by February 24, 1989. No request for a hearing was received, but three persons filed written comments.

The proposed rules are intended to provide a means for the enforcement of provisions of the Consumer Finance Act related, among other things, to (1) prohibited additional charges, and (2) disbursement of full loan proceeds in connection with loans made to persons in the United States military service.

The Commission, after reviewing the proposed rules and comments received, deemed it appropriate to modify the proposed rules in certain respects and, upon consideration of said rules as modified, is of the opinion and finds that they should be adopted; accordingly, it is

ORDERED that the aforesaid modified rules entitled "Rules Governing Allotment Program Loans," attached hereto and made a part hereof, be, and the same hereby are, adopted and shall become effective April 1, 1989.

AN ATTESTED COPY of this Order and a copy of the aforesaid Rules shall be sent to the Commissioner of Financial Institutions, who shall send a copy of the same to each licensee under the Consumer Finance Act, to the Virginia Financial Services Association, and to such other persons as the Commissioner deems appropriate.

Regulation VI-4

Rules Governing Allotment Program Loans

Title 6.1, Chapter 6 - Consumer Finance Act

Authority: § 6.1-302, Chapter 6, Title 6.1, Code of Virginia

I. Applicability

This regulation applies to all licensees under the

Consumer Finance Act (the Act) making any loan under the Act in connection with which loan a borrower authorizes an allotment and automatic disbursement from an account for the purpose of making any payments required by the loan agreement. Such a loan is referred to herein as an "allotment program loan."

II. Definitions

As used in this regulation the following terms shall have the following meanings:

1. "Allotment" means payment of any part of a borrower's military pay to a financial institution as permitted under federal law and regulations.

2. "Automatic disbursement" means payment, by a financial institution to a licensee, of funds received pursuant to an allotment.

3. "Borrower" means any person in the United States military service obligated, directly or contingently, to repay a loan made by a licensee.

4. "Licensee" has the meaning set forth in Virginia Code § 6.1-245.

III. Loan rules

1. No licensee shall require any allotment or automatic disbursement, or a borrower's execution of the Allotment Disclosure Form appended to this regulation, as a condition to making a loan under the Act.

2. A licensee making an allotment program loan shall bear all costs and expenses incident to the allotment and automatic disbursement.

3. When making an allotment program loan, a licensee shall use the Allotment Disclosure Form appended to this regulation. The form shall be printed or typed without alteration on one side of a paper separate from all other papers or documents obtained by the licensee in type of size not less than that known as twelve point. All blanks on the form, other than those blanks to be filled in with the name of the licensee, shall be filled in by the borrower. The completed form shall be kept in the separate loan file maintained with respect to the loan for the period specified in Virginia Code § 6.1-300.

4. No licensee making an allotment program loan shall withhold any part of the proceeds of the loan to be applied to any payment required under the loan.

State Corporation Commission

ALLOTMENT DISCLOSURE FORM

1. I, _____, intend to apply for an allotment
(APPLICANT'S NAME)
of my military pay in the amount of \$ _____ per month
(AMOUNT)
to an account in my name at _____.
(FINANCIAL INSTITUTION)
2. I also intend to authorize disbursement of funds from my
account at _____ in the amount of
(FINANCIAL INSTITUTION)
\$ _____ per month for the purpose of making monthly
(AMOUNT)
payments on my loan with _____.
(FINANCE COMPANY)
3. I am authorizing the allotment and automatic disbursement
voluntarily and solely for my own convenience, and acknowledge
that _____ has not required me to
(FINANCE COMPANY)
authorize the allotment or automatic disbursement, or to
sign this form, as a condition to making me a loan.
4. I understand that I can cancel the allotment and automatic
disbursement at any time, and understand that I am not
obligated to pay any fee or charge to any person or company,
directly or indirectly, for the allotment or automatic
disbursement.

(Applicant's Signature)

(Date)

State Corporation Commission

STATE CORPORATION COMMISSION

Bureau of Insurance

March 10, 1989

Administrative Letter 1989-3

TO: All Companies Licensed to Write Commercial Liability Insurance.

RE: Additional Instructions for Completion of Administrative Letter 1989-1 Regarding the Filing of Supplemental Reports Required by Virginia Code § 38.2-1905.2.

Enclosed are additional instructions for completion of the supplemental reports for certain lines and subclassifications of liability insurance outlined in Administrative Letter 1989-1.

To answer any further questions regarding Administrative Letter 1989-1, a meeting will be held on Wednesday, March 29, 1989 at 10 a.m. in the A Level Auditorium of the Federal Reserve Building, 701 East Byrd Street, Richmond, Virginia. We must have the names of all company representatives who wish to attend this meeting.

Please call (804) 786-4600 or send your written response for reservations to:

JoAnne Goodman Scott
Bureau of Insurance
State Corporation Commission
P.O. Box 1157
Richmond, VA 23209

/s/ Steven T. Foster, Commissioner of Insurance

State Corporation Commission

SUPPLEMENTAL REPORT LINE NOS.

Additional Instructions for Completion of
Administrative Letter 1989-1

<u>Item No.</u>	<u>Data Item Name</u>	<u>Definition</u>
1.	Insurers	The exact verbal name of the insurer.
2.	NAIC Number	NAIC number for each insurer.
3.	Line	Annual Statement Line of Business - General Liability/ Medical Malpractice/C.M.P.
4.	Subline	A subcategorization of Line. See Specific Note #1.
5.	Standard Classification	A classification defined by ISO/CSP.
6.	Other Classification	A classification unique to Virginia AL 1989-1 and not assigned a specific classification in ISO/CSP. See Specific Note #2.
7.	Market Definition	Defined by Virginia AL 1989-1
8.	Calendar Year	Standard definition.
9.	Policy I. D.	Standard definition. This is an enabling item for Number of Policies.
10. <u>1.</u>	Number of Policies Written	A count of policies written in a calendar year within a Market Definition. The count should be annualized. See Specific Note #3.
11. <u>2.</u>	Direct Written Premium	Standard definition.
12. <u>3.</u>	Direct Earned Premium	Standard definition.
13.	Accident Year	Standard definition. This is an enabling item.
14. <u>4.A.(1)</u>	Direct Losses Paid During the Calendar Year for the Current Accident Year.	See Specific Notes #4 & #6.
15. <u>4.A.(2)</u>	Direct Losses Paid During the Calendar Year for Prior Accident Years.	See Specific Notes #5 & #6.
16. <u>4.B.(1)</u>	Reserves for Reported Losses at the End of the Calendar Year for the Current Accident Year.	See Specific Notes #7 & #9.
17. <u>4.B.(2)</u>	Reserves for Reported Losses at the End of the Calendar Year for Prior Accident Years.	See Specific Notes #8 and #9.
18. <u>4.C.</u>	Reserves for Reported Losses at the End of the Previous Calendar Year.	Sum of Items #16 & #17 for the prior year end.

State Corporation Commission

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|--------------------|--|---|
| 19. <i>4.D.(1)</i> | Reserves for Incurred But Not Reported Losses at the End of the Calendar Year for the Current Accident Year. | See Specific Notes #10 & #12. |
| 20. <i>4.D.(2)</i> | Reserves for Incurred But Not Reported Losses at the End of the Calendar Year for Prior Accident Years. | See Specific Notes #11 & #12. |
| 21. <i>4.E.</i> | Reserves for Incurred But Not Reported Losses at the End of the Previous Calendar Year. | Sum of Items #19 & #20 for the prior year end. |
| 22. <i>4.F.</i> | Accident Year Incurred Losses | As defined in AL 1989-1 (Line 4F) |
| 23. <i>4.G.</i> | Calendar Year Incurred Losses | As defined in AL 1989-1 (Line 4G) |
| 24. | Claim I.D. | A company's individual claim identification. This is an enabling item for Number of Claims. |
| 25. | Open/Closed Status | An indication in the company's records as to whether the claim is open or closed. This is an enabling item. |
| 26. <i>5.</i> | Number of Claims Closed With Payment During the Calendar Year. | A count of claims with indemnity and/or medical payments only. |
| 27. <i>6.</i> | Number of Open Claims at the End of the Calendar Year. | Self defining. |
| 28. <i>7.</i> | Investment Income Allocated to This Line or Subclassification (in Dollars). | Investment income should include income on surplus allocated to this market definition. |

General Notes

1. This analysis has confined itself to those parts of Virginia AL 1989-1 relating to experience data reporting. We have omitted analysis of those portions of the call that relate to company policy or marketing.
2. Enabling items are those items which, while not themselves present on the Virginia forms, are necessary for developing the reported items.
3. All accident year data should be evaluated as of the end of each calendar year being reported.

Specific Notes

1. Where necessary to refer to a statistical plan CSP (ISO) has been used as the benchmark.

Related Subline values in CSP:

Premises/Operations (334)
Products (316 & 336)
OL&T (314)
M&C (313)
Professional Liability/Non Medical (317)
Professional Liability/Medical (210; 220; 230; 240)

Data for the Homeowners Day Care Liability Endorsement should NOT be included in Supplemental Report - Exhibit 7.

2. Other Classifications:

Landfill Liability - Market 11.
Law Enforcement Agency Liability - Market 12.
School Board E & O - Market 24.
Underground Tanks Liability - Market 29.

3. Policy counts should be annualized (e.g. 6 months policies should be counted once in a given year and 3 year policies should be counted in each year).
4. Calendar year paid are divided between (1) paid where the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are the same, this paid amount is reported under Item #14.

(Paid losses in this item exclude Loss Adjustment Expense.)

5. Calendar year paid are divided between (1) paid where the accident year is the same as the calendar year and (2) other accident years. Where the calendar and accident year are NOT the same, this paid amount is reported under Item #15.

(Paid losses in this item exclude Loss Adjustment Expense.)

6. The sum of Items in #14 & #15 equals the total calendar year paid.

7. Reserves for reported losses at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar and accident year are the same, this reserve amount should be reported under Item #16.

(Reserves in this item exclude Loss Adjustment Expense.)

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8. Reserves for reported losses at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are NOT the same, this reserve amount should be reported under Item #17.

(Reserves in this item exclude Loss Adjustment Expense.)

9. The sum of Items #16 & #17 equals the total reserves at the end of the calendar year.

10. IBNR reserves at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are the same, this IBNR amount should be reported under Item #19.

(This figure should exclude Loss Adjustment Expense.)

11. IBNR reserves at the end of the calendar year are divided between (1) those in which the accident year is the same as the calendar year and (2) other accident years. Where the calendar year and accident year are NOT the same, this reserve amount should be reported under Item #20.

12. The sum of Items #19 & #20 equals the total IBNR reserves at the end of the calendar year.

13. Enabling items for Items #26 & #27 are Items #24, #25 and Market Definition.

State Corporation Commission

ADDITIONAL INSTRUCTIONS ITEM NO. 7.

SUPPLEMENTAL REPORT REQUIRED BY VIRGINIA CODE SECTION 38.2-1905.2
FOR CERTAIN LINES OR SUBCLASSIFICATIONS OF LIABILITY INSURANCE

BY ORDER OF THE STATE CORPORATION COMMISSION THIS REPORT IS DUE ON OR BEFORE MAY 1, 1989, AT THE STATE CORPORATION COMMISSION BUREAU OF INSURANCE, P. O. BOX 1157, RICHMOND, VIRGINIA 23209.

All insurers licensed to write the classes of insurance defined in Section 38.2-117 (Personal injury liability) and 38.2-118 (Property damage liability) shall file a report showing their direct experience in the Commonwealth attributable to the line or subclassification of liability insurance below which has been designated by the Commission in accordance with subsection B of Section 38.2-1905.1.

For the line or subclassification designated, provide the information requested:

Line or Subclassification: 3. & 4.
 Insurer: 1.
 Market Definition Number 7. NAIC# 2. (Each insurer must report separately,
 group reports are not permitted)
 CSP Code(s) 5. & 6.

	8. Calendar Year				
	1984	1985	1986	1987	1988
1. Number of policies written	<u>10.</u>				
2. Direct premium written	<u>11.</u>				
3. Direct premium earned	<u>12.</u>				
4. Direct losses incurred					
A. Direct losses paid during the calendar year					
(1) for the current accident year	<u>14.</u>				
(2) for prior accident years	<u>15.</u>				
B. Reserves for reported losses at the end of the calendar year					
(1) for the current accident year	<u>16.</u>				
(2) for prior accident years	<u>17.</u>				
C. Reserves for reported losses at the end of the previous calendar year	<u>18.</u>				
D. Reserves for incurred but not reported losses at the end of the calendar year					
(1) for the current accident year	<u>19.</u>				
(2) for prior accident years	<u>20.</u>				
E. Reserves for incurred but not reported losses at the end of the previous calendar year	<u>21.</u>				
F. Accident year incurred losses [A(1) + B(1) + D(1)]	<u>22.</u>				

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G. Calendar year incurred losses
(A(1) + A(2) + B(1) + B(2) -
C + D(1) + D(2) - E)

- 23 _____
5. Number of claims closed with payment during the calendar year 26. _____
6. Number of open claims at the end of the calendar year 27. _____
7. Investment income allocated to this line or subclassification (in dollars) 28. _____
8. Have you sought to write or obtain new business within this line or subclassification within the past year?
- Yes _____ No _____

Signed: _____

Title: _____

Telephone: _____

Print Name: _____

Date: _____

- Note: 1. All figures are to be reported in whole numbers or dollars. Do not include dollar signs, decimal points, or commas.
2. Losses exclude all loss adjustment expenses.
3. For Item 1, policies written for other than a 12 month term should be adjusted to an annual basis.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF COMMERCE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-03-01. Polygraph Examiners.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity and clarity in accordance with the Public Participation Guidelines.

Statutory Authority: § 54.1-1802 of the Code of Virginia.

Written comments may be submitted until May 10, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, SCATS 367-8534 or 1-800-552-3016 (toll-free)

DEPARTMENT OF CORRECTIONS (BOARD OF)

Notice of Intended Regulatory Action

Title of Regulation: Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

See Notice under Department of Social Services for additional information.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to seek public participation from interested parties prior to formation and during the drafting, promulgating and final adoption process of regulations.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-553-7917 (toll-free)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-01-02. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The purpose of the proposed regulation is to screen eligible hearing-impaired and speech-impaired residents of Virginia for the Telecommunications Assistance Program (TAP) and to determine the approved applicant's contribution toward the purchase of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-552-7917 (toll-free)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Deaf and Hard-of-Hearing intends to consider promulgating regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Hearing Impaired.** The purpose of the proposed regulation is to regulate the administration of interpreter services and the administration of quality assurance screenings.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-2570, SCATS 225-2570 or 1-800-552-7917 (toll-free)

General Notices/Errata

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Title of Regulation: Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

See Notice under Department of Social Services for additional information.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **Standards for Accrediting Public Schools in Virginia**. The purpose of the proposed action is to provide a foundation for quality education and to provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students.

Statutory Authority: § 22.1-19 of the Code of Virginia.

Written comments may be submitted until April 14, 1989.

Contact: Kenneth Beachum, Director of Program Compliance, P. O. Box 60, Richmond, VA 23216, telephone (804) 225-2106 or SCATS 225-2106

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider promulgating regulations entitled: **Regulations Governing Funeral Industry Practice**. The purpose of the proposed regulations is to govern preneed planning; reevaluate the qualifications of managers of establishments; and to reevaluate the qualifications of establishments.

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Written comments may be submitted until May 1, 1989.

Contact: Mark L. Forberg, Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-3. Survey Standards for the Inspection of Buildings Being Converted to Condominiums for the Presence of Asbestos**. The purpose of the proposed action is to amend the standards for inspections, management programs and response actions for condominium conversions.

Statutory Authority: § 55-79.94 of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 OR SCATS 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code - Volume I, New Construction Code - 1987 Edition**. The purpose of the proposed action is to amend those portions of the regulations pertaining to; Article 1 - § 104.0 Fees (fee schedules); Article 5 - § 512.0 Building Accessibility and Usability for the Physically Handicapped; Article 6 - § 627.0 Installation of Underground Storage Tanks; and Articles 5, 8, 9, and 10 Fire Protection Systems for Use Groups R-1 (Hotels, Motels) and R-2 (Multifamily Dwellings)

Statutory Authority: 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone, (804) 371-7772 or SCATS 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Statewide Fire Prevention Code - 1987 Edition**. The purpose of the proposed action is to amend those portions of the regulations governing; Article 26 - Manufacture, Handling, Storage and Use of Explosives, Ammunition and Blasting

Agents; and Article 4 - Hazard Abatement in Existing Buildings; Fire Protection Systems for Use Group R-1 (Hotels, Motels).

Statutory Authority: § 27-29 of the Code of Virginia

Written comments may be submitted until April 21, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.** The purpose of the proposed action is to amend the standards for inspection and management of buildings to be renovated or demolished.

Statutory Authority: § 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II Building Maintenance Code.** The purpose of the proposed action is to amend those portions of the regulations pertaining to Article 9, Hazard Abatement in Existing Buildings; Fire Protection for Use Group R-1 (Hotels, Motels).

Statutory Authority: 36-98 et seq. of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development - Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Client Appeals.** The proposed regulation will establish procedures governing client appeal for Medical Assistance Services.

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

Written comments may be submitted until 4:30 p.m. on April 10, 1989, to Terry Conoway, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Client Confidentiality.** The purpose of the proposed action is to promulgate regulations to safeguard against the use and disclosure of information concerning applicants for and recipients of medical assistance.

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

Written comments may be submitted until 4:30 p.m. on April 24, 1989.

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

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Community Spouse's Retention of Income and Resources.** The purpose of the proposed action is to promulgate regulations governing the income and resources to be retained by the community spouse when the institutionalized spouse applies for Medicaid.

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

Written comments may be submitted until 4:30 p.m. on

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April 24, 1989, to Ann E. Cook, Director, Division of Medical Social Services, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

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

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Review Program of New Drugs**. The purpose of the proposed regulation is to review new drugs approved by the Food and Drug Administration to assure cost effective coverage and utilization of drugs in Medicaid.

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

Written comments may be submitted until 4:30 p.m. on April 24, 1989, to Mary Ann Johnson, Program Pharmacist, Health Services Review, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

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

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture**. The purpose of the proposed action is to (i) develop regulations regarding misleading and deceptive advertising when using the term "board certified;" and (ii) amend Part VII to establish a fee for withdrawing an application for licensure by endorsement, establish a fee to take the SPEX Exam, establish a fee to take one component of the FLEX exam for out-of-state candidates, and to clarify eligibility to sit for the FLEX exam.

Statutory Authority: § 54.1-2400(6) of the Code of Virginia.

Written comments may be submitted until Monday, May 10, 1989.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, VA 23229-5005, telephone (804) 662-9925

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider promulgating regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture**. The purpose of the proposed action is to consider a petition for amending to amend Part II of Licensure and General Requirements, and § 2.2 A, Prerequisites to examination. The board will determine whether they should approve the addition of Straight Chiropractic Academic Standards Association, Inc., as an accredited agent for the selection of approved chiropractic colleges whose graduates would be eligible for licensure in Virginia.

Statutory Authority: § 54.1-2400(6) of the Code of Virginia.

Written comments may be submitted until Monday, June 12, 1989.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, VA 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MOTOR VEHICLES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Motor Vehicles intends to consider promulgating regulations entitled: **Virginia Commercial Driver Regulations**. The purpose of the proposed action is to establish licensing requirements and standards for commercial drivers, as permitted or required by the Virginia Commercial Driver's License Act, Article 4.1 (§ 46.1-372.1 et seq.) of Chapter 5 of Title 46.1 and the Federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of the Public Law 99-570).

Statutory Authority: §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

Written comments may be submitted until May 5, 1989.

Contact: Rudolph C. Mccollum, Jr., Commercial Driver's License Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-6633 or SCATS 367-6633

BOARD OF NURSING HOME ADMINISTRATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **VR 500-01-2. Regulations of the Board**

of **Nursing Home Administrators**. The purpose of the proposed action is to establish requirements and standards for continuing education and competency for nursing home administrators.

Statutory Authority: § 54.1-103 of the Code of Virginia.

Written comments may be submitted until May 1, 1989.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider amending regulations entitled: **Provision of Vocational Rehabilitation Services**. The purpose of the proposed action is to amend certain portions of the regulations to comply with new federal regulations and broaden the service capabilities of the department.

Statutory Authority: § 51.5-5 of the Code of Virginia.

Written comments may be submitted until April 28, 1989, to Charles H. Merritt, Assistant Commissioner, P.O. Box 11045, Richmond, VA 23230.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-6446, SCATS 367-6446, 1-800-552-5019 TDD/Voice or (804) 367-0280 TDD/Voice

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Rehabilitative Services intends to consider promulgating regulations entitled: **State Plan Preprint for the State Vocational Rehabilitation Service Program and the State Supported Employment Services Program**. The purpose of the proposed regulation is to update state activities under the State Vocational Rehabilitation Services Program authorized under Title I of the Rehabilitation Act of 1973, as amended, and the State Supported Employment Services Program authorized under Title VI, Part C of the Act covering Fiscal Years 1989, 1990 and 1991.

Statutory Authority: § 51.5-14 of the Code of Virginia.

Written comments may be submitted until July 8, 1989.

Contact: Robert J. Johnson, State Plan Coordinator, Department of Rehabilitative Services, 4901 Fitzhugh Ave.,

P.O. Box 11045, Richmond, VA 23230, telephone (804) 367-6379, SCATS 367-6379 or 1-800-552-5019 (toll-free)

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Boards of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children**. The regulation establishes standards to provide children in residential facilities with at least a minimal level of care. The current effort is intended to amend and clarify those sections of the standards which address supervision of children.

Statutory Authority: §§ 63.1-196, 63.1-217, 22.1-321, 37.1-179, and 16.1-311 of the Code of Virginia.

Written comments may be submitted until April 14, 1989.

Contact: Ms. Tommye R. Finley, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-7124 or SCATS 662-7124

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider promulgating regulations entitled: **Parental Placement Adoptions**. The purpose of the proposed action is to develop procedures for implementing legislative changes to §§ 63.1-220 through 63.1-238 of the Code of Virginia.

Statutory Authority: § 63.1-25 and Chapter 11 (§§ 63.1-220 et seq.) of the Title 63.1 of the Code of Virginia.

Written comments may be submitted until May 5, 1989.

Contact: Brenda Kerr, Child Welfare Supervisor, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9081

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to promulgate regulations entitled: **Sharing of Child Protective Services Information With Military Family Advocacy Representatives**. The purpose of the proposed action is to establish the mechanism for sharing

General Notices/Errata

information regarding child protective services reports involving active duty military personnel or members of their household with family advocacy representatives of the United States Armed Forces.

Statutory Authority: §§ 2.1-386, 63.1-25 and 63.1-248.6 of the Code of Virginia.

Written comments may be submitted until May 5, 1989, to Janine Tondrowski, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friendenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-7091, or 1-800-552-7091 (toll-free)

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation that the State Water Control Board intends to consider promulgating or amending regulations entitled: **Groundwater Management Area**. The purpose of the proposed action is to consider declaring a groundwater management area or expanding an existing area to potentially encompass the following localities: Charles City, James City, King William, New Kent, and York Counties; the area east of Interstate 95 in Chesterfield, Henrico, and Hanover Counties; and the Cities of Hampton, Newport News, Poquoson, and Williamsburg. Declaration of a groundwater management area imposes controls on groundwater use within the area in order to protect the groundwater resources.

The Groundwater Act of 1973 authorizes the board to initiate a groundwater management area proceeding whenever in its judgment there may be reason to believe that there is (i) excessive groundwater level decline, or (ii) substantial well interference, or (iii) potential for overdrawing the groundwater supply, or (iv) potential for regional groundwater pollution. Further, the Act authorizes the board to declare a groundwater management area if it finds that the circumstances set forth in § 62.1-44.95(a) are true and the public welfare, health and safety require that any one or more corrective controls be adopted. If a groundwater management area is declared, all nonagricultural groundwater users in excess of 300,000 gallons per month will be required to obtain a groundwater withdrawal permit.

Issues under consideration include whether any action is necessary to protect the groundwater resource in the above-named localities; which, if any, of the above localities should be included in an area; and whether a new area should be declared or the existing area in Southeastern Virginia expanded. Applicable laws and regulations include The Groundwater Act of 1973, Rules of the Board and Standards for Water Wells, and the

Administrative Process Act. These documents can be reviewed by contacting the receptionist at the Tidewater Regional Office, State Water Control Board, 287 Pembroke Office Park, Pembroke 2, Suite 310, Virginia Beach, Virginia 23462; Piedmont Regional Office, 2201 West Broad Street, Richmond, Virginia 23220; or State Water Control Board, 2111 N. Hamilton Street, Richmond, Virginia 23230.

A public meeting on this intended regulatory action will be held at 2:00 p.m. on Tuesday, May 16, 1989, at the James City County Complex, Building C, Board of Supervisors Room, 101 C Mounts Bay Road, Williamsburg, Virginia.

Statutory Authority: § 62.1-44.96(a) of the Code of Virginia.

Written comments may be submitted until 2:00 p.m. on Tuesday, May 16, 1989.

Contact: Fred K. Cunningham, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411 or SCATS 367-0411

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-13-02. Underground Storage Tanks; Financial Responsibility**. The purpose of the proposed regulations is to delineate state requirements for financial responsibility for owners and operators of underground storage tanks, and for disbursements from the Virginia Underground Petroleum Storage Tank Fund (VUPSTF). The new amendments to state law require owners and operators to show financial responsibility in amounts of not less than \$50,000 per occurrence for corrective action and not less than \$150,000 per occurrence for third party liability.

The proposed regulation will affect owners and operators of regulated USTs in the Commonwealth. The cost for insurance will be borne by a large portion of the regulated community. Some of the issues we seek comment on include: What should be the amount of tangible net worth an owner/operator must have to self insure? Should the minimum amount of required coverage be \$50,000/\$150,000 or a greater amount? The availability of insurance for tank owners/operators. How should the staff determine that an owner is financially incapable of taking corrective action? Applicable laws and regulations include the State Water Control Law, the new amendments to the UST section of the law, the federal UST financial responsibility regulations, and the federal UST Technical Standards and Corrective Action Requirements.

A public meeting on promulgating these regulations will be held at 2:00 p.m. on Wednesday, May 10, 1989, at the Virginia War Memorial Auditorium, 621 S. Belvidere Street, in Richmond, Virginia.

Statutory Authority: § 62.1-44.34:12 of the Code of Virginia.

number is VR 460-04-8.5.

Written comments may be submitted until 4:00 p.m. on Wednesday, May 17, 1989.

Contact: Russell P. Ellison, Office of Water Resource Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 367-6685 or SCATS 367-6685

NOTICES TO STATE AGENCIES

RE: 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: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, 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 OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.2. VR 460-04-8.5. Home and Community Based Ventilation Services.

Publication: 5:5 VA.R. 689-694 December 5, 1989

Correction to Final Regulation:

The regulation identification number (VR 460-04-8.2) was incorrectly assigned to this regulation. The correct VR

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† April 24, 1989 - 10 a.m. - Open Meeting
† April 25, 1989 - 8 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases; (ii) review applications for certification and licensure; (iii) review correspondence; (iv) consider regulatory review; and (v) conduct routine business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

May 17, 1989 - 10 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-04-01. Rules and Regulations for Enforcement of the Endangered Plant and Insect Species Act.** This amendment adds the following rare plant species as endangered under the Virginia Endangered Plant and Insect Species Act: Shale

Barren Rock Cress, Arabis serotina; Mat-Forming Water-Hyssop, Bacopa stragula; Piratebush, Buckleya distichophylla; Variable Sedge, Carex polymorpha; Harper's Fimbristylis, Fimbristylis perpusilla; Virginia Sneezeweed, Helenium virginicum; Swamp-Pink, Helonias bullata; Long-Stalked Holly, Ilex collina; Peter's Mountain Mallow, Iliamna corei; Nestronia, Nestronia umbellula; Northeastern Bulrush, Scirpus ancistrochaetus; Virginia Spiraea, Spiraea virginiana.

Statutory Authority: §§ 3.1-1020 through 3.1-1030 of the Code of Virginia.

Written comments may be submitted until April 27, 1989.

Contact: D. J. Schweitzer, Endangered Species Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3516

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May 17, 1989 - 10 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law.** The purpose of the proposed action is to amend the regulation to exempt users of vehicle scales from the minimum net load restriction (50 scale divisions) of U.R.3.7. of the Scale Code, National Bureau of Standards Handbook 44, 1989 Edition.

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until 5 p.m., April 28, 1989.

Contact: J. Alan Rogers, Bureau Chief, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 402, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-2476 or SCATS 786-2476

VIRGINIA AGRICULTURAL COUNCIL

May 15, 1989 - 9 a.m. - Open Meeting
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia. ☒

Calendar of Events

A meeting of the Council called by the Chairman to (i) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; (ii) review progress reports on research completed on approved projects funded during this fiscal year; and (iii) consider any other business that may come before the members of the Council.

Contact: Henry H. Budd, Assistant Secretary, Washington Bldg., 1100 Bank St., Room 203, Richmond, VA 23219, telephone (804) 786-2373

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIRE POLLUTION CONTROL BOARD)

April 12, 1989 - 10:30 a.m. – Public Hearing
Hampton Roads Regional Office, 2010 Old Greenbrier Road, Chesapeake, Virginia

Public hearing being held to consider an amendment Consent Agreement and Order for VI-TEX PACKAGING, INC.

Contact: Frank Daniel, Regional Director, Department of Air Pollution Control, 2010 Old Greenbrier Rd., Suite A, Chesapeake, VA, telephone (804) 838-6627

April 28, 1989 - 9 a.m. – Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia

A general meeting of the board.

Contact: Richard Stone, Public Information Officer, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-5478 or SCATS 786-5478

ALCOHOLIC BEVERAGE CONTROL BOARD

† **April 10, 1989 - 9:30 a.m. – Open Meeting**
† **April 24, 1989 - 9:30 a.m. – Open Meeting**
† **May 8, 1989 - 9:30 a.m. – Open Meeting**
† **May 22, 1989 - 9:30 a.m. – Open Meeting**
† **June 12, 1989 - 9:30 a.m. – Open Meeting**
† **June 26, 1989 - 9:30 a.m. – Open Meeting**
Virginia Alcoholic Beverage Control Board, 2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **May 19, 1989 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230. ☒

A meeting to (i) approve minutes of March 10, 1989, meeting; (ii) review and discuss enforcement files; and (iii) review correspondence.

Board for Professional Engineers

† **May 4, 1989 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230 ☒

A meeting to (i) approve minutes of the February 8, 1989, meeting; (ii) review applications; (iii) review general correspondence; and (iv) review enforcement files.

Board for Land Surveyors

† **May 18, 1989 - 9 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230. ☒

A meeting to (i) approve minutes of March 9, 1989, meeting; (ii) review applications; (iii) review and discuss correspondence; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, SCATS 367-8514 or toll-free 1-800-552-3016

AUCTIONEERS BOARD

April 11, 1989 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to conduct (i) review of complaints; (ii) review of certification applications; (iii) discussion of revenue and expenditures; and (iv) other board business.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

Calendar of Events

VIRGINIA AVIATION BOARD

† May 4, 1989 - 9 a.m. - Open Meeting
Martha Washington Inn, Abingdon, Virginia. ☒

A meeting to discuss matters affecting aviation in Virginia.

Contact: Kenneth A. Rowe, P.O. Box 7716, Richmond, VA 23231, telephone (804) 786-6284

BOARD FOR BARBERS

† April 10, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review enforcement cases; (ii) review applications; (iii) review correspondence; (iv) conduct regulatory review; (v) and discuss routine business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

VIRGINIA BOATING ADVISORY BOARD

April 13, 1989 - 10:30 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to review and act on issues, legislation and regulations affecting Virginia's recreational boating public.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, VA 23229, telephone (804) 740-7206

CHESAPEAKE BAY COMMISSION

April 27, 1989 - 10:30 a.m. - Open Meeting
April 28, 1989 - 9 a.m. - Open Meeting
Holiday Inn - Harrisburg East, 4751 Lindle Road, Harrisburg, Pennsylvania

Quarterly meeting of Chesapeake Bay Commission. Agenda will include summaries of legislative activities in the three states and discussions concerning Toxics, Population Growth and Development, and Non-Tidal Wetlands Commitments. In addition, there will be a presentation of Pennsylvania's environmental programs.

Contact: Ann Pesiri Swanson, Executive Director, 60 West St., Suite 200, Annapolis, MD 21401, telephone (301) 263-3420

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

† April 27, 1989 - 5:30 p.m. - Open Meeting
† June 1, 1989 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

To meet requirements of Superfund Amendment and Reauthorization Act of 1989.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

CHILD DAY-CARE COUNCIL

April 13, 1989 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building, 8007 Discovery Drive, Conference Rooms A & B, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Child Day-Care Council will meet to discuss issues, concerns, and programs that impact licensed child care centers.

Contact: Ariene Kasper, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9034 or SCATS 662-9034

DEPARTMENT FOR CHILDREN

Consortium on Child Mental Health

May 3, 1989 - 9 a.m. - Open Meeting
June 7, 1989 - 9 a.m. - Open Meeting
Virginia Department for Children, Eighth Street Office Building, 11th Floor Conference Room, 805 East Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

Rural Child Care Project Committee

† April 18, 1989 - 10:30 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A planning meeting for the Rural Child Care Project.

Contact: Linda B. Thomas, Human Resources Developer, Department for Children, Eighth Street Office Bldg., 805 E.

Broad St., Richmond, VA 23219, telephone (804) 786-5793 or SCATS 786-5793

State-Level Runaway Youth Services Network

† April 12, 1989 - 10:30 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia 23219. ☒

A regular business meeting open to the public.

Contact: Martha Frickert, Human Resources Developer, Virginia Department for Children, 805 East Broad St., Richmond, VA 23219, telephone (804) 786-5994

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† April 17, 1989 - 10 a.m. - Open Meeting
Department of Corrections, 6900 Atmore Drive, VA Board Room, 3rd Floor, Richmond, Virginia. ☒ ☛

The council will discuss issues raised concerning the interpretation of the interdepartmental council's rules and regulations. After lunch, the meeting will adjourn into a committee meeting on preparation of the council's biennial report to the Governor.

Contact: Nancy W. Bockes, 120 Armory Road, Galax, VA 24333, telephone (703) 235-2452

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

April 14, 1989 - 8:30 a.m. - Open Meeting
May 12, 1989 - 8:30 a.m. - Open Meeting
June 9, 1989 - 8:30 a.m. - Open Meeting
Interdepartmental Licensure and Certification, Office of the Coordinator, Tyler Building, 1603 Santa Rosa Drive, Suite 210, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee.

Contact: John Allen, Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

BOARD FOR COMMERCIAL DRIVER TRAINING SCHOOLS

April 28, 1989 - 10 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to conduct regulatory review.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Historic Landmarks Board

April 18, 1989 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A general business meeting.

Division of Historic Landmarks State Review Board

April 18, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to consider the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Belle-Hampton House, Pulaski County
Christ Episcopal Church, Wise County
Miles Carpenter House, Sussex County
Liberty Hall, Sussex County
Monticola, Albemarle County
Woodlands, Albemarle County
Holly School, Northumberland County
Hartwood Presbyterian Church, Stafford County
Farmville Historic District, Farmville, Prince Edward County
Mt. Pleasant, Augusta County
Bethel Church, Clarke County
Pentagon, Arlington

The following properties will be considered for removal from the Virginia Landmarks Register and the National Register of Historic Places:

Exeter, Loudoun County
Waverley, Loudoun County
Bristol Railroad Station, Bristol
Oak Hill, Pittsylvania County

Contact: Margaret T. Peters, Information Officer, Division of Historic Landmarks, 221 Governor St., Suite 206,

Calendar of Events

Richmond, VA 23219, telephone (804) 786-3143 or SCATS 786-3143

Division of Soil and Water Conservation

April 10, 1989 - 7 p.m. - Open Meeting
Prince William County Administration Center, McCourt Building, 4850 Davis Ford Road, Board of Supervisors Room, Prince William, Virginia. ☐

A meeting to provide an opportunity for public review and comment on the Virginia Nonpoint Source Pollution Assessment Report and the Virginia Nonpoint Source Pollution Management Plan developed and revised in accordance with § 319 of the Clean Water Act of 1987.

Contact: Deborah Southard, Environmental Engineer, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064 or SCATS 786-2064

BOARD FOR CONTRACTORS

NOTE: CHANGE IN MEETING DATE

April 12, 1989 - 9 a.m. - Open Meeting
April 13, 1989 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☐

A quarterly meeting to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review staff recommendations for revisions to its rules and regulations to determine needed changes, additions and revisions in procedures, requirements, and standards applicable to Class B Registrations and Class A Licenses; and (iv) review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a large portion of the board's business will be discussed in the executive session.

Contact: Laster G. Thompson, Jr., Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

BOARD OF CORRECTIONAL EDUCATION

May 19, 1989 - 10 a.m. - Open Meeting
Hanover Learning Center, Hanover, Virginia. ☐ (Interpreter for deaf provided if requested)

A meeting to discuss general business of the Board of Correctional Education.

Contact: Joan C. Macklin, Confidential Secretary, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219,

telephone (804) 225-3314 or SCATS 335-3314

BOARD OF CORRECTIONS

April 12, 1989 - 10 a.m. - Open Meeting
Board of Corrections Board Room, 6900 Atmore Drive, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

BOARD FOR COSMETOLOGY

† April 17, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☐

A meeting to (i) review enforcement cases; (ii) review applications; (iii) review correspondence; and (iv) consider routine business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

† May 12, 1989 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

The Board for Cosmetology will meet to conduct a formal administrative hearing: **Board of Cosmetology v. Hairstylist University.**

Contact: Gayle Eubank, Hearings Coordinator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

CRIMINAL JUSTICE SERVICES BOARD

May 3, 1989 - 9 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-enforcement, Jailor or Custodial, Courtroom Security and Civil Process Officers and Officers of the Department of Corrections, Division of Adult Institutions.** These rules amend existing in-service training requirements for criminal justice officers and promulgate in-service training requirements for court security officers and process servers in accordance with the 1988 amendments to § 9-170 of the Code of Virginia.

Calendar of Events

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

Written comments may be submitted until April 13, 1989.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

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May 3, 1989 - 9 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-3. Compulsory Minimum Training Standards for Undercover Investigative Officers.** The purpose of the proposed amendments is to update and revise required training for law-enforcement personnel assigned duties as undercover investigating officer.

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

Written comments may be submitted until April 13, 1989.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730

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May 3, 1989 - 9 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-5. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** The purpose of the proposed action is to update and state added requirements for compulsory minimum training standards for dispatchers employed by or in local law-enforcement agencies or independent communication centers.

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

Written comments may be submitted until April 13, 1989.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

April 13, 1989 - 7 p.m. - Public Hearing

Virginia Highlands Community College, Route 372, off Route 140 (Exit 7/ I-81), Lecture Auditorium, Room 605, Abingdon, Virginia

April 14, 1989 - 7 p.m. - Public Hearing
New River Community College, Route 100 North, Robinson Auditorium, Dublin, Virginia

April 15, 1989 - 7 p.m. - Public Hearing
Virginia School for the Deaf and Blind, East Beverly Street, Haley Hall Auditorium, Staunton, Virginia

April 17, 1989 - 7 p.m. - Public Hearing
J. Sargeant Reynolds Community College, Downtown Campus, 7th and Jackson Streets, Auditorium, Richmond, Virginia

April 20, 1989 - 7 p.m. - Public Hearing
Virginia School for the Deaf and Blind, 700 Shell Road, Auditorium, Hampton, Virginia

April 21, 1989 - 7 p.m. - Public Hearing
John Tyler Community College, 1310 Jefferson Davis Highway, Moyer Hall, Room R120 AB (Downstairs), Chester, Virginia

April 24, 1989 - 7 p.m. - Public Hearing
Fairfax Resource Center for the Hearing Impaired, 2724 Dorr Road, Suite B14, Basement Meeting Room, Fairfax, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard-of-Hearing intends to adopt regulations entitled: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The regulations will be used to screen hearing-impaired and speech-impaired applicants for the Telecommunications Assistance Program (TAP) and to determine the applicant's contribution toward the purchase of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-2570/TDD ☎, toll-free 1-800-552-7917 or SCATS 225-2570/TDD ☎

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April 13, 1989 - 7 p.m. - Public Hearing
Virginia Highlands Community College, Route 372, off Route 140 (Exit 7/ I-81), Lecture Auditorium, Room 605, Abingdon, Virginia

April 14, 1989 - 7 p.m. - Public Hearing
New River Community College, Route 100 North, Robinson

Calendar of Events

Auditorium, Dublin, Virginia

April 15, 1989 - 7 p.m. - Public Hearing
Virginia School for the Deaf and Blind, East Beverly Street, Haley Hall Auditorium, Staunton, Virginia

April 17, 1989 - 7 p.m. - Public Hearing
J. Sargeant Reynolds Community College, Downtown Campus, 7th and Jackson Streets, Auditorium, Richmond, Virginia

April 20, 1989 - 7 p.m. - Public Hearing
Virginia School for the Deaf and Blind, 700 Shell Road, Auditorium, Hampton, Virginia

April 21, 1989 - 7 p.m. - Public Hearing
John Tyler Community College, 1310 Jefferson Davis Highway, Moyar Hall, Room R120 AB (Downstairs), Chester, Virginia

April 24, 1989 - 7 p.m. - Public Hearing
Fairfax Resource Center for the Hearing Impaired, 2724 Dorr Road, Suite B14, Basement Meeting Room, Fairfax, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard-of-Hearing intends to adopt regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Hearing Impaired.** These regulations are designed to govern the maintenance of interpreter services and the administration of Virginia Quality Assurance Screenings for potential interpreters.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until May 26, 1989.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard-of-Hearing, 101 N. 14th St., 7th Floor, Richmond, VA 23219-3678, telephone (804) 225-2570/TDD ☎, toll-free 1-800-552-7917 or SCATS 225-2570/TDD ☎

DEPARTMENT OF ECONOMIC DEVELOPMENT

† **April 17, 1989 - 1 p.m. - Open Meeting**
Roanoke Workshop - Virginia Western Community College, Business Science Auditorium. Take I-581 to Colonial Avenue/Wonju Street exit. Take left onto Colonial Avenue. Follow the signs to the Community College.

† **April 18, 1989 - 1 p.m. - Open Meeting**
Locust Grove Workshop - Germanna Community College, Administration Building, Room 56. Take I-95 to Route 3 west exit. The Community College is 18 miles west of Fredericksburg on Route 3.

† **April 19, 1989 - 9 a.m. - Open Meeting**
Middletown Workshop - Lord Fairfax Community College, Special Events Center Auditorium. Take I-81 to Middletown

exit. If traveling from Harrisonburg direction, make a left from exit ramp onto Reliance Road. If traveling from Winchester direction, make a right from exit ramp onto Reliance Road. From either direction, take a right onto Route 11. The Community College will be the first right.

† **April 24, 1989 - 1 p.m. - Open Meeting**
Abingdon Workshop - Virginia Highlands Community College, Learning Resources/Business Technology Center, Room 600. Take I-81 to exit 7. Follow the signs to the Community College

† **April 25, 1989 - 2 p.m. - Open Meeting**
Keysville Workshop - Southside Virginia Community College/John H. Daniel Campus, Administration Building, Room 55. Take 360 to second exit for Keysville. Take a left onto 40 east. The Community College will be 1/2 mile on the left.

† **April 27, 1989 - 1 p.m. - Open Meeting**
Newport News Workshop - Christopher Newport College, Administration Building, Room A105. From the west, take I-64 to Jefferson Avenue South. Turn right onto J. Clyde Morris Boulevard, then right onto Warwick Boulevard. Take next left onto Shoe Lane. The Community College will be on the right. From the east, take I-64 to J. Clyde Morris Boulevard South. Take a right onto Warwick Boulevard, then a left onto Shoe Lane. The Community College will be on the right.

† **April 28, 1989 - 10 a.m. - Open Meeting**
Richmond Workshop - General Assembly Building, House Room C. The General Assembly Building is located at 9th and Broad Streets, adjacent to the Capitol Grounds.

A meeting to conduct a workshop outlining program guidelines and application materials for the Virginia Shell Building Initiative.

Contact: Betty-Anne Teter, Community Services Representative, Department of Economic Development, 1000 Washington Bldg., Richmond, VA 23219, telephone (804) 786-3791 or SCATS 786-3791

STATE BOARD OF EDUCATION

April 26, 1989 - 9 a.m. - Open Meeting
April 27, 1989 - 9 a.m. - Open Meeting
April 28, 1989 - 9 a.m. - Open Meeting
Fair Oaks Holiday Inn, 11787 Lee Jackson Highway, Fairfax, Virginia. (Interpreter for deaf provided if requested)

May 25, 1989 - 9 a.m. - Open Meeting
May 26, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North Fourteenth Street, Conference Room D & E, Richmond, Virginia. (Interpreter for deaf provided if requested)

A regularly scheduled meeting to be conducted

according to items listed on the agenda. The agenda is available upon request. The public is reminded that the Board of Vocational Education may convene, if required.

Contact: Margaret Roberts, James Monroe Building, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

April 26, 1989 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

A regular meeting of the board.

Contact: Marilyn Mandel, Division Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

VIRGINIA FIRE SERVICES BOARD

† **April 27, 1989 - 9 a.m. – Open Meeting**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A meeting of the staff of the Department of Fire Programs and the members of the Virginia Fire Services Board to discuss fire training and fire policies.

† **April 27, 1989 - 7 p.m. – Public Hearing**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A public hearing to discuss fire training and fire policies. This public hearing is for comments and questions relating to the fire services in the Commonwealth and the area in which the hearing is held.

† **April 28, 1989 - 9 a.m. – Open Meeting**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A regular business meeting of the Virginia Fire Service Board. This meeting is open to the public for their input and comments.

Fire/EMS Training Committee

† **April 27, 1989 - 1 p.m. – Open Meeting**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A meeting to discuss fire training and fire policies. The committee meeting is open to the public for their

input.

Fire Prevention and Control Committee

† **April 27, 1989 - 1 p.m. – Open Meeting**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

Legislative Committee

† **April 27, 1989 - 1 p.m. – Open Meeting**
Sheraton-Fredericksburg, Route 3 and I-95, Fredericksburg, Virginia. ☒

A meeting to discuss fire training and fire policies. The committee meeting is open to the public for their input.

Contact: Anne J. Bales, Executive Secretary Senior, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2681 or SCATS 225-2681

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 23, 1989 - 3 p.m. – Open Meeting
Shoney's Inn of Richmond, 7007 West Broad Street, Richmond, Virginia. ☒

Special Study Committee to study the qualifications of managers of funeral establishments and the qualifications for the establishments in order to be licensed.

NOTE: CHANGE OF MEETING DATE

April 24, 1989 - 9 a.m. – Open Meeting
Shoney's Inn of Richmond, 7007 West Broad Street, Richmond, Virginia. ☒

A general board meeting to consider certifying candidates for the May examination and to discuss proposed regulations.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Division of Consolidated Laboratory Services

May 5, 1989 - 9:30 a.m. – Open Meeting
Department of Agriculture and Consumer Services, 1100 Bank Street, Board Room, Richmond, Virginia

The advisory board will discuss issues, concerns and

Calendar of Events

programs that impact the Division of Consolidated Laboratory Services and its user agencies.

Contact: Dr. A. W. Tiedemann, Jr., Director, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, VA 23219, telephone (804) 786-7905 or SCATS 786-7905

BOARD FOR GEOLOGY

† **May 2, 1989 - 10 a.m.** – Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of the March 28, 1989 meeting; (ii) review applications; and (iii) review correspondence.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, SCATS 367-8514 or toll-free 1-800-552-3016

GLOUCESTER LOCAL EMERGENCY PLANNING COMMITTEE

† **May 24, 1989 - 6:30 p.m.** – Open Meeting
Old Courthouse, Court Green, Gloucester, Virginia. ☒

To provide an opportunity to review comments from the VERC on the final draft of the County Hazardous Materials Response Plan and to plan a table top exercise of the county plan.

Contact: Gerogette N. Hurley, Assistant County Administrator, P.O. Box 329, Gloucester, VA 23061, telephone (804) 693-4042

STATE BOARD OF HEALTH

May 22, 1989 - 9 a.m. – Open Meeting
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia

Regular meetings of the board.

Contact: Sarah H. Jenkins, Legislative Analyst/Secretary to the Board, Department of Health, Commissioner's Officer, 109 Governor St., Room 400, Richmond, VA 23219, telephone (804) 786-3561 or SCATS 786-3561

BOARD OF HEALTH PROFESSIONS

April 17, 1989 - 10 a.m. – Public Hearing
NOTE: CHANGE IN LOCATION
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Informational hearing on criteria for evaluating the need to regulate health professions: The board invites testimony or written comments on the validity, adequacy, consistency with statutory principles, and suitability of six criteria used to (i) evaluate the need for regulation of unregulated health professions and occupations and the appropriate level for any such regulation, and (ii) evaluate the continuing need for and level of regulation of currently regulated health professions and occupations. Written comments must be received by May 31, 1989.

April 17, 1989 - 2 p.m. – Public Hearing

NOTE: CHANGE IN LOCATION
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Informational Hearing on the regulation of physical therapists: Physical Therapists are licensed by the Virginia Board of Medicine (§ 54.1-2900 of the Code of Virginia) and it is currently unlawful for any person to engage in the practice of physical therapy except upon the referral and direction of a licensed doctor of medicine, osteopathy, chiropractic, podiatry or dental surgery.

Legislation may be proposed to provide for the practice of physical therapy in some instances without referral by a physician, chiropractor, podiatrist or dentist. The Board of Health Professions invites comments on this issue. Testimony may be presented during the informational hearing and written comments will be received at this address through May 31, 1989.

† **April 18, 1989 - 11 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A quarterly meeting of the Board of Health Professions.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918

DEPARTMENT OF HEALTH PROFESSIONS

Administration and Budget Committee

† **April 17, 1989 - 11 a.m.** – Open Meeting
General Assembly Building, 910 Capitol Street, 4th Floor West, Richmond, Virginia

A meeting to discuss preliminary budget proposals.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9918

Calendar of Events

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

April 25, 1989 - 9:30 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, VA 23219, telephone (804) 786-6371 or SCATS 786-6371

HOPEWELL INDUSTRIAL SAFETY COUNCIL

May 2, 1989 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

April 14, 1989 - 10 a.m. - Open Meeting
Human Services Center Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia. ☒

April 17, 1989 - 9 a.m. - Open Meeting
Prince William County Board Chamber, County Administration Building, 1 County Complex Court, Prince William, Virginia. ☒

April 18, 1989 - 10 a.m. - Open Meeting
City Office Building, First Floor, 2039 Sycamore Avenue, Buena Vista, Virginia. ☒

April 19, 1989 - 10 a.m. - Open Meeting
Smyth County Courthouse, Ground Floor Conference Room, Marion, Virginia. ☒

A meeting to receive public comments regarding the Board of Housing and Community Development's intent to amend the 1987 Virginia Uniform Statewide Building Code, Volume I, New Construction Code; the 1987 Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code; the 1987 Virginia Statewide Fire Prevention Code; the Asbestos Survey Standards for Buildings to be Renovated or Demolished; and the Survey Standards for the Inspection of Buildings being Converted to

Condominiums for the Presence of Asbestos.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

† **April 21, 1989** - Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-103. Multifamily Rehabilitation Loan Program.** These amendments establish program guideline changes to Multifamily Rehabilitation Loan Program.

STATEMENT

Purpose: The proposed program guidelines for the Multifamily Rehabilitation Loan Program provide the basic technical and administrative framework for administering the program throughout Virginia.

Basis: Chapter 9 (§§ 36-137 et seq.) of Title 36 of the Code of Virginia.

Impact: The program impacts all owners of multifamily property which meet program requirements. The program makes available low interest loan moneys for the rehabilitation of rental housing made available to low- and moderate-income Virginia residents.

Statutory Authority: Chapter 9 (§§ 36.1-137 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Pamela R. Coaxum, Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-1575

† **April 21, 1989** - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-104. Congregate Loan Program.** This regulation establishes guidelines for administration of the state's Congregate Loan Program.

STATEMENT

Purpose: The proposed program guidelines for Congregate Loan Program provide the basic technical and administrative framework for administering the program

Calendar of Events

throughout Virginia.

Basis: Chapter 9 (§§ 36-137 et seq.) of Title 36 of the Code of Virginia.

Impact: The program impacts all owners of congregate housing which meet program requirements. The program makes available low interest loans for the construction and rehabilitation of congregate housing.

Statutory Authority: Chapter 9 (§§ 36-137 et seq.) of Title 36 of the Code of Virginia.

Written comments may be submitted until April 21, 1989.

Contact: Pamela R. Coaxum, Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-1575

COUNCIL ON HUMAN RIGHTS

April 13, 1989 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 18th Floor Conference Room, Richmond, Virginia. ☒

A monthly council meeting.

Contact: Alison Browne Parks, Administrative Staff Specialist, P.O. Box 717, Richmond, VA 23206, telephone (804) 225-2292, toll-free 1-800-633-5510/TDD ☎ or SCATS 225-2292

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

April 20, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

A regular quarterly meeting. Public session begins at 10 a.m. The council meeting will begin immediately after conclusion of public session.

Contact: Robert S. Baumgardner, Director of Apprenticeship, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2381 or SCATS 786-2381

LIBRARY BOARD

April 29, 1989 - 9 a.m. – Open Meeting
Lynchburg Public Library, Lynchburg, Virginia. ☒

A regular business meeting.

Contact: Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square,

Richmond, VA 23219-3491, telephone (804) 786-2332 or SCATS 786-2332

COMMISSION ON LOCAL GOVERNMENT

† **May 22, 1989 - 3:30 p.m. – Open Meeting**
Holiday Inn, Wytheville, Virginia

A regular meeting of the Commission on Local Government to consider such matters as may be presented.

† **May 23, 1989 - 11 a.m. – Open Meeting**
Site to be determined, Wytheville, Virginia.

An oral presentation regarding the Town of Wytheville - Wythe County Settlement Agreement.

† **May 23, 1989 - 7:30 p.m. – Public Hearing**
Site to be determined, Wytheville, Virginia.

A public hearing regarding the Town of Wytheville - Wythe County Settlement Agreement.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth St. Office Bldg., 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6508

LONGWOOD COLLEGE

Board of Visitors

April 17, 1989 - 10 a.m. – Open Meeting
Longwood College, Lankford Building, Farmville, Virginia

A meeting to conduct business pertaining to the governance of the institution.

Contact: William F. Dorrill, Longwood College, Farmville, VA 23901, telephone (804) 392-9211 or SCATS 265-4211

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

April 13, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14.7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: VR 460-03-2.6150. Burial Exclusion. The amendment to this regulation proposes to incorporate the SSI burial set aside policy as modified by the General Assembly.

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

Written comments may be submitted until April 13, 1989,

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to Marsha Vandervall, Manager, Division of Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219.

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

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April 14, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.3. Lock-in/Lock-out Programs.** The Lock-in/Lock-out Programs provide medical management to recipients who have high utilization patterns of service.

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

Written comments may be submitted until April 14, 1989, to Steven B. Riggs, D.D.S., Director, Division of Health Services Review, Department of Medical Assistance, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219.

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

* * * * *

May 25, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-2.6100. Eligibility Conditions and Requirements: State Plan for Medical Assistance Relating to Continued Eligibility for Pregnant Women.** The regulation proposes to continue Medicaid eligibility regardless of income changes.

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

Written comments may be submitted until 4:30 p.m., May 25, 1989, to Ann E. Cook, Director of Medical Social Services, 600 E. Broad St., Suite 1300, Richmond, Virginia 23219.

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

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† **May 25, 1989** – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to adopt regulations entitled: **VR 460-04-8.4. Home and Community Based Services for the Elderly and Disabled Individuals.** The purpose of the proposed regulation is to regulate the provision of home and community based long-term care services to elderly and physically disabled individuals who would otherwise require the level of care found only in intermediate or skilled care nursing facilities.

STATEMENT

Basis and authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of proposed regulations subject to executive review.

The 1988 General Assembly approved item 389 A in the Appropriations Act to wit: The Director of the Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover a range of noninstitutional, long-term care services which may provide less expensive alternatives to institutional care.

Also approved in this Appropriations Act was item 389 F to wit: "The Department of Medical Assistance Services shall develop and submit to the Health Care Financing Administration, for approval, a Section 2176 Home and Community Based Care Waiver for Adult Day Health Care Services as an alternative to institutional care."

Summary and analysis: This proposed regulation will not become a part of the State Plan for Medical Assistance since it is not federally required to be in the Plan.

The Department's (DMAS) objective in the final adopted regulation, is to cover medically appropriate and cost-effective services necessary to maintain elderly and physically disabled individuals in their communities, who would otherwise require nursing home care. To attain this objective, the 1988 General Assembly directed DMAS to submit a waiver request to the Health Care Financing Administration (HCFA) for approval for federal financial participation for these home and community-based care services.

On June 18, 1982, the Commonwealth obtained initial approval from HCFA to offer Medicaid reimbursed personal care services through a Section 2176 Home and Community-Based Care Waiver. DMAS offers personal care

Calendar of Events

to individuals in their homes as an alternative to institutionalization for those individuals who meet the intermediate or skilled criteria for Medicaid authorization of nursing home care and for whom personal care services is an appropriate and cost-effective service. HCFA has recently approved an extension to Virginia's highly effective Personal Care Waiver through June 17, 1993.

DMAS, at the direction of the 1988 General Assembly, wishes to expand available home and community-based care options to elderly and disabled individuals who would otherwise require nursing home placement by amending the approved Section 2176 Waiver to:

- Expand the definition of personal care services to include additional tasks which could be performed by personal care aides and increase the individual cost-effectiveness service limits for all waiver services;
- Include adult day health care services as an additional service option to personal care. DMAS proposes to contract with only the Department of Social Services (DSS) licensed day care centers. Reimbursement for adult day health care services will only be made for Medicaid eligible individuals who meet the criteria for Medicaid-funded Long-Term Care through Nursing Home Preadmission Screening, are at risk of nursing home placement, and for whom adult day health care (either solely or in conjunction with personal care and/or respite care) would be appropriate and cost equal to or less than care in an intermediate or skilled care nursing facility.

Adult Day Health Care (ADHC) would be offered to the same target population as those currently offered nursing home or personal care services. The ADHC program would be administered using the identical prescreening authorization, eligibility determination, admission certification, management information systems and reporting as that of the Medicaid personal care program. Utilization review would be conducted by DMAS staff in the same manner as personal care with the exception of the home visit component.

- Include respite care services as a third home and community-based care service option for elderly and disabled individuals. This option would be offered only to individuals who meet nursing home preadmission screening criteria and for whom respite care is determined to be the necessary service to avoid institutionalization. The option of respite care may be offered either as a secondary home and community-based care service to those individuals who receive either personal care or adult day health care, but who, because of the continuous heavy care needs placed on their caretakers, are at risk of institutionalization or as the sole home and community-based care services received in lieu of nursing home placement. Individuals offered respite care will have the same assessment and authorization

process, admission certification, and eligibility determination as other recipients of nursing home preadmission screening. Also the same management information system and reporting mechanisms will be used. Respite care services will be offered pursuant to the existing statutory requirements and assurances submitted to HCFA in the existing Personal Care Waiver.

Entitlement for all home and community-based care services will be limited to those individuals for whom Medicaid expenditures for home and community-based care would not exceed the expenditures of institutional care. The Commonwealth intends to offer the two additional service options in all parts of the state where enrolled Medicaid providers for these services are available.

An individual Plan of Care will be developed for each recipient covered under the waiver subject to the approval of the state Medicaid agency prior to any reimbursement for waiver services. No services will be offered to inpatients of a hospital, skilled nursing facility, intermediate nursing facility or intermediate care facility for the mentally retarded.

Impact: Section 1915 (c) of the Social Security Act allows states to offer home and community-based services to individuals who would otherwise be institutionalized as long as the state can prove that such waived services will be less costly to Medicaid than the costs of the individuals' institutionalization. DMAS originally obtained a Home and Community Based Care waiver in FY 1983. This regulation continues the existing waiver with mandated modifications.

"Savings" achieved by these regulations are primarily the avoidance of new costs that would be incurred in the absence of the waiver's continuation. In the absence of this waiver, DMAS estimates that during the next four years (state fiscal years 1990-93), the annual number of individuals who will receive care in an intermediate or skilled care facility will be 29,373, 30,620, 31,844, and 33,189 respectively. The estimated total costs to Medicaid for institutionalization of these individuals over four years would be \$1,955,221,076. During that same period, the expected utilization of all waiver services is projected to be 6,822, 7,541, 8,210, and 8,979 respectively. With an approved waiver, the estimated Medicaid expenditure for these individuals is \$1,782,832,336. Thus, the department expects the approval of the waiver to result in a direct service cost avoidance to the Commonwealth of \$172,388,740 over the first four years of the waiver's existence. In the absence of the waiver, the DMAS' budget would require additional appropriations to cover the needed institutionalization services.

The Commonwealth of Virginia has submitted to HCFA estimates of the costs to Medicaid for individuals who would receive home and community-based services through a section 1915 waiver and the costs to Medicaid for

institutionalization of these individuals in the absence of a waiver. The department derived these utilization and costs estimates from data obtained from the Medicaid management information system, consultation with providers of the services, analysis of DMAS studies of long-term care recipients, and analysis of studies by the Virginia Institute on Adult Day Care, the Long-Term Care Council, the Respite Care Study Advisory Group and other states which offer similar home and community-based care services.

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

Written comments may be submitted until 4:30 p.m., May 25, 1989, to Charlotte Carnes, Manager, Division of Medical Social Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

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

BOARD OF MEDICINE

April 13, 1989 - 9 a.m. – Open Meeting
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Informal Conference Committee

† **April 18, 1989 - 9:30 a.m. – Open Meeting**
Holiday Inn Fanny's, I-64 and West Broad Street, Richmond, Virginia

† **April 21, 1989 - 9 a.m. – Open Meeting**
Patrick Henry Inn and Conference Center, York and Page Streets, Route 60 East, Williamsburg, Virginia. ☒

An informal conference to inquire into allegations that certain practitioners may have violated laws and regulations governing to practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Advisory Committee on Physician Assistants

† **April 14, 1989 - 9:30 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Dr., Board Room 2, Richmond, Virginia. ☒

A meeting to review and discuss the regulations which were effective February 1, 1989, and to discuss any other items that may come before this committee.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Building, 2nd Floor, Richmond, VA 23229, telephone (804) 662-9925

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

April 12, 1989 - 9 a.m. – Open Meeting
Howard Johnson, I-95 at Exit 14, 3207 North Boulevard, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Meeting of the Virginia Interagency Coordinating Council for Part H, P.L. 99-457 (VICC). The council is an advisory body assisting the Department of Mental Health, Mental Retardation and Substance Abuse Services, the lead agency, in the development and implementation of a statewide interagency, multidisciplinary system of early intervention services for infants and toddlers with disabilities, ages birth through 2.

Contact: Myrna Mandlawitz, Project Assistant, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

State Human Rights Committee

† **April 21, 1989 - 9 a.m. – Open Meeting**
Catawba Hospital, P.O. Box 200, Catawba, Virginia. ☒

A regular meeting of the committee to discuss business relating to human rights issues. Agenda items will be listed prior to meeting.

Contact: Elsie D. Little, State Human Rights Director, P.O. Box 1797, Richmond, Virginia 23214, telephone, (804) 786-3988

Substance Abuse Advisory Council

† **April 27, 1989 - 10 a.m. – Open Meeting**
James Madison Building, 109 Governor Street, 13th Floor Board Room, Richmond, Virginia. ☒

The advisory council will discuss issues related to substance abuse services in Virginia during this regularly scheduled meeting.

Contact: Wayne Thacker, Director, Office of Substance Abuse, 109 Governor St., Richmond, VA 23214, telephone (804) 786-3906

DEPARTMENT OF MINES, MINERALS AND ENERGY (DIRECTOR OF DIVISION OF MINERAL MINING)

April 28, 1989 - 10 a.m. – Public Hearing
Department of Mines, Minerals and Energy, Division of Mineral Mining, 7705 Timberlake Road, Lynchburg, Virginia

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Director of the Division of Mineral Mining of the Department of Mines, Minerals and Energy intends to amend regulations entitled: **VR 480-05-1.2. Safety and Health Regulation for Mineral Mining.** The amended regulation governs safety and health of persons working in surface and underground noncoal mineral mines.

Statutory Authority: §§ 45.1-33 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until April 28, 1989.

Contact: William O. Roller, Director, Division of Mineral Mining, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602 or SCATS 947-2169

BOARD OF NURSING

† April 17, 1989 - 9:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A formal hearing will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560

Special Conference Committee

† April 11 1989 - 8:30 a.m. - Open Meeting
† April 28, 1989 - 8:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (toll-free) 1-800-533-1560

JOINT BOARDS OF NURSING AND MEDICINE

April 14, 1989 - 1:30 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia

A regular meeting to consider matters related to the Regulation of Nurse Practitioners in the

Commonwealth.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560

BOARD OF NURSING HOME ADMINISTRATORS

† April 17, 1989 - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A general board meeting and working session to establish requirements and standards for continuing education in the form of proposed regulations.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

BOARD OF OPTOMETRY

† May 4, 1989 - 9 a.m. - Open Meeting
City of Norfolk Council Chambers, City Hall Building, 810 Union Street, 11th Floor, Norfolk, Virginia.

An informal conference and a general business meeting.

Contact: Catherine W. Green, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9910

VIRGINIA OUTDOORS FOUNDATION

† April 19, 1989 - 11 a.m. - Open Meeting
Little River Inn, Aldie, Virginia. ☒

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539 or SCATS 786-5539

BOARD OF PHARMACY

April 26, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

A meeting to formulate proposed regulations for physicians to sell drugs.

Contact: Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

† June 10, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: VR 530-01-1. Virginia Board of Pharmacy Regulations. The purpose of this action is to increase fees for licenses.

STATEMENT

Statement of purpose: The changes to existing regulation will increase fees for licensure to produce an increase of \$450,000 in revenue. The last general fee increase was in 1980.

Estimated impact:

A. Regulated entities: Affected annually are:

6,000 pharmacists
1,500 pharmacies
46 manufacturers
85 wholesalers
20 physicians licensed to dispense

B. Projected costs to regulated entities: The proposed amendment will increase costs for most licensees by increasing licensee fees in § 1.3 as follows:

§ 1.3 (C). Renewal of pharmacist license will be increased from the \$20 fee to an annual fee of \$50. 6,000 pharmacists will be affected annually.

§ 1.3 (C) (1). The application fee for a person whose license has been revoked or suspended will be increased from the \$50 fee to a \$300 fee. Five applicants will be affected annually.

§ 1.3 (C) (2). The delinquent renewal fee for a pharmacist will be increased from \$10 to a fee of \$25. 400 licensees will be affected annually.

§ 1.3 (D). The permit to conduct a pharmacy will be increased from the \$75 fee to a fee of \$200. 1,500 licensees will be affected annually.

§ 1.3 (E). The permit for a physician in a rural area to sell drugs will be increased from the \$75 to a fee of \$200. 20 licensees will be affected annually.

§ 1.3 (F) (1). The permit for a nonrestricted manufacturers license will increase from a \$200 fee to a fee of \$300. 23 licensees will be affected annually.

§ 1.3 (F) (2). The permit for a restricted manufacturers license will be increased from \$200 to \$300. 23 licensees will be affected annually.

§ 1.3 (F) (3). The permit for a wholesaler will be increased from the \$200 fee to a fee of \$300. 85 licensees will be affected annually.

§ 1.3 (H). The fee for a licensee who fails to renew a license, permit or registration on or before the expiration date will be increased from the \$10 fee to a fee of \$25. 900 licensees will be affected annually.

§ 1.3 (I). The \$15 fee for a duplicate pharmacist certificate or certification of grades will be increased from the \$15 fee to a fee of \$25. Five licensees will be affected annually.

C. Projected cost to the agency: The changes will not increase costs to the agency.

D. Source of funds: The source of all funds for the regulated activities will be from the fees imposed on licensees of the board.

Legal authority: Sections 54.1-2400(5) and 54.1-3307 of the Code of Virginia provides general authority for the board to levy and collect fees for licensure and to promulgate regulations.

Statement of need: The Board of Pharmacy will require additional revenue of approximately \$450,000 annually to support increased services and to replace revenues available in the past from Controlled Substances Registration fees. Controlled Substances Registration fees are imposed on licensed physicians, dentists and veterinarians for the privilege of prescribing controlled substances in accordance with § 54.1-3422 of the Code of Virginia. In the past, these fees of approximately \$250,000 annually have been available to support operating expenses of the Board of Pharmacy, with the Boards of Dentistry, Medicine and Veterinary Medicine supporting investigations of violations with respect to Schedule II through V drugs by licensees of these boards.

Under new accounting systems, Controlled Substances Registration fees will be made available to the Boards of Dentistry, Medicine and Veterinary Medicine to defray costs of investigating violations of the Drug Control Act. Therefore, the Board of Pharmacy must replace Controlled Substances Registration fees by increasing fees charged to licensees of the board.

In addition, the board will require increased revenues amounting to approximately \$200,000 to support the cost of inflation and increased services over the 1990-92 biennium. In total, proposed fee increases will generate additional revenues of approximately \$450,000 annually required to continue and expand board operations.

The fee increases are not out of line with licensure and other fees charged by boards of pharmacy in other states. No general fee increases have been imposed in Virginia since 1980.

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Clarity: The regulation changes are fee changes only.

Small business impact: Fee increases are proposed for individual pharmacists and for organizations (pharmacies, drug manufacturers and wholesalers). It is estimated that 60% of Virginia's 1,500 community pharmacies meet the definition of "small business." These small businesses will be differentially affected by the increase in fees to conduct a pharmacy from \$75 to \$200; however, the increase is of approximately the same magnitude as other proposed fee increases and should not place an undue burden on small businesses in the Commonwealth since the proposed fees are generally aligned with those charged in most other states.

Alternatives considered: There are not suitable alternatives to increasing fees. In order to maintain a viable enforcement and inspection program for the accountability of drugs of abuse, it is necessary that continual and somewhat increased inspection and investigation activity remain in place.

Continued need: The board will review all regulations on a biennial basis as required by Executive Order 5 (86) of the Governor. The next review will include these proposed regulations and will occur in mid-1990.

Forms, reports mandated: The amendments will not necessitate any forms or reports.

Effective date: The anticipated effective date of the regulations will be August 21, 1989.

Statutory Authority: §§ 54.1-2400 and 54.1-3007 of the Code of Virginia.

Written comments may be submitted until June 10, 1989.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

BOARD FOR BRANCH PILOTS

April 26, 1989 - 10 a.m. - Open Meeting
Virginia Port Authority, World Trade Center, Suite 600,
Norfolk, Virginia. ☒

The board will meet to conduct routine business and to adopt proposed regulations at its regular quarterly business meeting.

Contact: David E. Dick, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500

POLYGRAPH EXAMINERS ADVISORY BOARD

† April 10, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

An open meeting to conduct regulatory review.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534, SCATS 367-8534 or toll-free 1-800-552-3016

PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

April 14, 1989 - 2 p.m. - Open Meeting
April 28, 1989 - 2 p.m. - Open Meeting
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800

BOARD OF PROFESSIONAL COUNSELORS

April 14, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A meeting to conduct general board business, including committee reports and regulatory review.

Contact: Stephanie A. Sivert, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912

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May 11, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors intends to amend regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.**

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

Written comments may be submitted until May 11, 1989.

Contact: Stephanie A. Sivert, Executive Director, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond,

Calendar of Events

VA 23229-5005, telephone (804) 662-9912

BOARD OF PSYCHOLOGY

† April 27, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) receive the reports of the committees of the board; (ii) review credentials for applicants for licensure and residency as well as registrants for technical assistance; and (iii) conduct regulatory review of regulations governing technical assistance.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912

REAL ESTATE BOARD

April 14, 1989 - 10 a.m. - Open Meeting
Old Board Chambers, 9250 Lee Avenue, Manassas, Virginia

The Real Estate Board will meet to conduct a formal administrative hearing: Real Estate Board v. Michael B. Dispennett.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23220, telephone (804) 367-8524

† May 2, 1989 - 9 a.m. - Open Meeting
Travelers Building, 3600 W. Broad Street, 5th Floor,
Richmond, Virginia. ☒

† June 2, 1989 - 9 a.m. - Open Meeting
Royce Hotel, 415 Richmond Road, Williamsburg, Virginia

A regular business meeting of the board. The agenda will consist of investigative cases (files) to be considered, files to be considered, matters relating to fair housing, property registration and licensing issues (e.g., reinstatement, eligibility requests).

Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., 5th Fl., Richmond, VA 23230, telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552

DEPARTMENT FOR RIGHTS OF THE DISABLED

† April 19, 1989 - 11:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Rooms C and D, Richmond, Virginia. ☒

A quarterly meeting of the board to review current, on-going and completed projects of the board and its six committees.

Education Committee

† April 19, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 18th Floor,
Small Conference Room, Richmond, Virginia. ☒

A quarterly meeting of the Education Committee to review on-going and completed projects.

Employment Committee

† April 19, 1989 - 9:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Room C, Richmond, Virginia. ☒

A quarterly meeting of the Employment Committee to review on-going and completed projects.

Health Committee

† April 19, 1989 - 9:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 15th Floor,
Board Conference Room, Richmond, Virginia. ☒

A quarterly meeting of the Health Committee to review on-going and completed projects.

Housing Committee

† April 19, 1989 - 9:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor,
Fire Prevention Conference Room, Richmond, Virginia. ☒

A quarterly meeting of the Housing Committee to review completed and on-going projects.

Planning Committee

† April 19, 1989 - 10 a.m. - Open Meeting
Department for the Visually Handicapped, 397 Azalea
Avenue, Conference Rooms 1 and 2, Richmond, Virginia. ☒

A quarterly meeting of the planning committee to review on-going and completed projects.

Transportation Committee

† April 19, 1989 - 9:30 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Room B, Richmond, Virginia. ☒

A quarterly meeting of Transportation Committee to review on-going and completed projects.

Contact: Sarah A. Liddle, Board Administrator, James Monroe Bldg., 101 N. 14th St., 17th Fl., Richmond, VA 23219, telephone (804) 225-2042, toll-free 1-800-552-3962/TDD ☎ or SCATS 225-2042

Protection and Advocacy for Mentally Ill Individuals
Advisory Council

Calendar of Events

April 28, 1989 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regularly scheduled meeting for the conduct of business.

Contact: Barbara Hoban, PAMI Program Manager, Department for Rights of the Disabled, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042/TDD ☎, toll-free 1-800-552-3962/TDD ☎ or SCATS 225-2042/TDD ☎

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **April 19, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, VA 23219, telephone (804) 786-3559

BOARD OF SOCIAL SERVICES

† **April 19, 1989 - 2 p.m. - Open Meeting**
Lawrenceville Town Council Chambers, 400 North Main Street, Lawrenceville, Virginia. ☒

A work session and formal business meeting of the board.

If necessary, the board will also meet Thursday, April 20, 1989, at 9 a.m.

† **May 17, 1989 - 2 p.m. - Open Meeting**
Ramada Inn-Duffield, at US 23 and US 58-421, Duffield, Virginia. ☒

A work session and formal business meeting of the board.

If necessary, the board will also meet Thursday, May 18, 1989, at 9 a.m.

† **June 14, 1989 - 2 p.m. - Open Meeting**
Department of Social Services, 8007 Discovery Drive, Blair Building, 2nd Floor Conference Room, Richmond, Virginia.

A work session and formal business meeting of the board.

If necessary, the board will also meet Thursday, June 15, 1989, at 9 a.m.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236 or SCATS 662-9236

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

May 11, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt new regulations and repeal existing regulations entitled: **VR 615-01-15. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project.** This regulation will provide financial assistance to needy two-parent families.

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

Written comments may be submitted until May 11, 1989, to Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Agency Regulatory Liaison, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

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May 25, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **VR 615-45-2. Child Protective Services Client Appeals.** The purpose of the proposed action is to establish regulations by which child protective services clients can appeal the decision made by a local department of social services regarding the disposition of a child protective services complaint.

Statutory Authority: §§ 63.1-25 and 63.1-248.6:1 of the Code of Virginia.

Written comments may be submitted until May 25, 1989, to Marvin Warren, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9081

COMMONWEALTH TRANSPORTATION BOARD

April 20, 1989 - 10 a.m. - Open Meeting
Department of Transportation, 1401 East Broad Street,
Board Room, Richmond, Virginia. ☒ (Interpreter for deaf
provided if requested)

A monthly meeting to vote on proposals presented
regarding bids, permits, additions and deletions to the
highway system, and any other matters requiring
board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner,
Department of Transportation, 1401 E. Broad St.,
Richmond, VA 23219, telephone (804) 786-9950

DEPARTMENT OF TRANSPORTATION
(COMMONWEALTH TRANSPORTATION BOARD)

April 10, 1989 - 10 a.m. - Open Meeting
Suffolk District Office, 1700 North Main Street (Route 460)
City of Suffolk, Virginia. ☒ (Interpreter for deaf provided
if requested)

April 11, 1989 - 10 a.m. - Public Hearing
Lynchburg District Office, Route 501, 0.26 mile south of
intersection Routes 460 and 501 south of Lynchburg,
Virginia. ☒ (Interpreter for deaf provided if requested)

April 12, 1989 - 10 a.m. - Public Hearing
Culpeper District Office, Route 15, 0.5 mile south of Route
3 in Culpeper, Virginia. ☒ (Interpreter for deaf provided if
requested)

NOTE: CHANGE OF MEETING DATE

April 13, 1989 - 10 a.m. - Public Hearing
Salem District Office, Harrison Avenue, north of Main
Street and east of VA 311 in Salem, Virginia. ☒
(Interpreter for deaf provided if requested)

April 14, 1989 - 10 a.m. - Public Hearing
Staunton District Office, Commerce Road (Route 11
Bypass) just north of Staunton, Virginia. ☒ (Interpreter for
deaf provided if requested)

April 21, 1989 - 10 a.m. - Public Hearing
Fairfax City Hall, City of Fairfax, Virginia. ☒ (Interpreter
for deaf provided if requested)

A public hearing to receive comments on highway
allocations for the coming year and on updating the
six-year improvement program for the interstate,
primary, and urban systems.

Contact: Albert W. Coates, Jr., Assistant Commissioner,
Department of Transportation, 1401 E. Broad St.,
Richmond, VA 23219, telephone (804) 786-9950

April 20, 1989 - 2:00 p.m. - Public Hearing
Virginia Department of Transportation, 1221 East Broad

Street, Auditorium, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Commonwealth
Transportation Board intends to amend regulations
entitled: VR 385-01-12. **Hauling Permit Travel
Regulations.** The proposed regulation establishes
guidelines relating to the operation of vehicles over
the highways of Virginia with loads that, when
reduced to their smallest dimensions, exceed the
maximum legal size and weight established by the
Code of Virginia.

Statutory Authority: §§ 33.1-12(3) and 46.1-343 of the Code
of Virginia.

Written comments may be submitted until April 20, 1989,
to C. O. Leigh, Department of Transportation, 1401 East
Broad Street, Richmond, Virginia 23219.

Contact: R. M. Ketner, III, Permit and Truck Weight
Manager, Department of Transportation, 1401 E. Broad St.,
Richmond, VA 23219, telephone (804) 786-2810 or SCATS
786-2810

COMMISSION ON VIRGINIA ALCOHOL SAFETY
ACTION PROGRAM (VASAP)

May 4, 1989 - 1 p.m. - Open Meeting
May 5, 1989 - 9 a.m. - Open Meeting
Martha Washington Inn, Abingdon, Virginia

This is the second of four quarterly business meetings
held each year by the Commission on VASAP.

Contact: Kim Morris, Executive Assistant, Commission on
Virginia Alcohol Safety Action Program, 1001 E. Broad St.,
Box 28, Old City Hall Bldg., Richmond, VA 23219,
telephone (804) 786-5895 or SCATS 786-5895

June 15, 1989 - This public hearing is tentatively
scheduled. The time and location will be announced at a
later date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Commission on
Virginia Alcohol Safety Action Program intends to
adopt regulations entitled: VR 647-01-01. **Public
Participation Guidelines.** Adoption of proposed
guidelines which will encourage participation of
citizens in the formation and development of
regulatory proposals under the Virginia Administrative
Process Act.

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until March 20, 1989.

Calendar of Events

Contact: Kim Morris, Executive Assistant, Commission on Virginia Alcohol Safety Action Program, 1001 E. Broad St., Box 28, Old City Hall Bldg., Richmond, VA 23219, telephone (804) 786-5895 or SCATS 786-5895

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June 13, 1989 - This public hearing is tentatively scheduled. The time and location will be announced at a later date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on Virginia Alcohol Safety Action Program intends to amend regulations entitled: **Policy and Procedure Manual**. The Commission on VASAP is empowered to establish, amend and assure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information and administrative procedures for the 26 local alcohol safety action programs. The Commission also oversees program plans, operations and performance and a system for allocating funds to cover deficits which may occur in the budget of local programs.

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until April 22, 1989. Individuals interested in speaking before the Commission on VASAP must submit written comments prior to April 22, 1989.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, Old City Hall Bldg., 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5896

VIRGINIA RESOURCES AUTHORITY

† **April 11, 1989 - 10 a.m.** - Open Meeting
Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia

The board will meet to approve minutes of the meeting of March 14, 1989; to review the authority's operations for the prior months; and to consider other matters and take other actions as they 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.

Contact: Shockley D. Gardner, Jr., P.O. Box 1300, Richmond, VA 23210, telephone (804) 644-3100

DEPARTMENT FOR THE VISUALLY HANDICAPPED

April 10, 1989 - 2 p.m. - Public Hearing
Roanoke Regional Office, Commonwealth of Virginia

Building, 210 Church Avenue, S.W., Conference Room in Basement, Roanoke, Virginia

April 17, 1989 - 2 p.m. - Public Hearing
Holiday Inn-Waterside, 700 Monticello Avenue, Norfolk, Virginia

A public hearing to seek public input for the development of programs and policies for the provision of services by the vocational rehabilitation program of the Department for the Visually Handicapped.

Contact: James G. Taylor, 397 Azalea Ave., Richmond, VA 23227

Advisory Committee on Services

April 22, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee meets quarterly to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☎

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

April 25, 1989 - 1:30 p.m. - Open Meeting
May 23, 1989 - 1:30 p.m. - Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140

VIRGINIA VOLUNTARY FORMULARY BOARD

April 20, 1989 - 10:30 a.m. - Open Meeting
James Madison Building, Main Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☒

A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of

Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

Contact: Fred K. Cunningham, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0411 or SCATS 367-0411

STATE WATER CONTROL BOARD

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May 2, 1989 - 7 p.m. - Public Hearing
Old General District Courthouse, Main Street, County Board Meeting Room, Fincastle, Virginia

† **May 31, 1989 - 2 p.m. - Public Hearing**
War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-16-03. Upper James River Basin Water Quality Management Plan.** The purpose of the proposal is to amend the Jackson River Subarea portion of the plan to reflect new policies, regulations, current data and information regarding point and nonpoint sources of pollution.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-13-02. Underground Storage Tanks; Technical Standards and Corrective Action Requirements.** The purpose of these proposed regulations is to control and manage underground storage tanks in order to prevent, control and cleanup releases of regulated substances to state waters.

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

STATEMENT

Written comments may be submitted until 4 p.m., May 31, 1989, to Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Subject: The subject of this proposed regulation is the management of Underground Storage Tanks (USTs) to prevent, control and cleanup releases of regulated substances to state waters. Regulated substances include petroleum and CERCLA listed substances.

Contact: Wellford S. Estes, West Central Regional Office, State Water Control Board, 5312 Peters Creek Rd., N.W., Roanoke, VA 24019, telephone (703) 982-7432 or SCATS 676-7432

Substance: This proposed regulation would prevent releases of regulated substances to state waters by requiring technical standards for UST systems. This proposed regulation prohibits the installation of substandard UST systems, requires the upgrading of existing systems and outlines the requirements for reporting and cleaning up releases. It would also require that owners and operators certify financial responsibility in accordance with federal regulations.

† **May 10, 1989 - 2 p.m. - Open Meeting**
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

A public meeting to receive views and comments and to answer questions of the public on the board's notice of intended regulatory action on promulgating regulations entitled **Underground Storage Tanks; Financial Responsibility.**

Impact: There are approximately 70,000 USTs regulated under the federal program and an additional 10,000 (estimated) USTs regulated under state law which would be impacted by these proposed regulations.

Contact: Russell P. Ellison, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6685 or SCATS 367-6685

Issues: An issue under consideration is whether the Commonwealth should have an UST regulatory program that will be as stringent, less stringent, or more stringent than the federal regulations.

† **May 16, 1989 - 2 p.m. - Open Meeting**
James City County Complex, 101C Mounts Bay Road, Building C, Board of Supervisors Room, Williamsburg, Virginia

A meeting to receive comments, views and suggestions on the possible declaration of a groundwater management area to potentially encompass the following localities: Charles City, James City, King William, New Kent, and York Counties; the area east of Interstate 95 in Chesterfield, Henrico, and Hanover Counties; and the Cities of Hampton, Newport News, Poquoson, and Williamsburg.

Basis: The basis for this proposed regulation is Chapter 44 (§§ 62.1-44.34:8 et seq.) of Title 62.1 of the Code of Virginia. Specifically, § 62.1-44.34:9 authorizes the board to exercise general supervision and control over underground storage tank activities in the Commonwealth and promulgate such regulations as may be necessary to carry out its powers and duties with regard to USTs in accordance with applicable federal laws and regulations. In addition, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth.

Calendar of Events

Purpose: This proposed regulation is designed to control and manage Underground Storage Tanks (USTs) in order to prevent, control and clean up releases of regulated substances to state waters.

Statutory Authority: §§ 62.1-44.15(10) and 62.1-44.34:9 of the Code of Virginia.

Written comments may be submitted until 4 p.m., June 14, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Russell P. Ellison, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6350 or SCATS 367-6350

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† May 30, 1989 - 2 p.m. -- Public Hearing
War Memorial Auditorium, 621 South Belvidere Street,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-14-01. Permit Regulation. The proposed amendments will revise the pretreatment program portions of the Permit Regulation to conform with federal regulations. In addition to comments on the proposed changes, the board seeks comments on requiring indirect industrial users to notify downstream users of violations of pretreatment permit limits. Comments are sought on the appropriateness of such an amendment and procedures for implementation.

STATEMENT

Basis: The Permit Regulation delineates the authority and general procedures to be followed in connection with any Virginia Pollutant Discharge Elimination System (VPDES) and Virginia Pollution Abatement (VPA) permit issued by the board. In addition, the regulation establishes legal requirements for the state, local government, and industry to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in publicly owned treatment works (POTW) or which may contaminate sewage sludge.

Under the authority of §§ 62.1-44.15(5) and 62.1-44.15(10) of the Code of Virginia, the State Water Control Board is authorized to issue permits for the discharge of treated sewage, industrial wastes or other wastes into or adjacent to state waters and to adopt such regulations as it deems necessary to enforce water quality management in the Commonwealth. Other pertinent authority can be found in §§ 62.1-44.15(7) and (14), 62.1-44.16 - 21 of the Code of Virginia.

Sections 402 and 307 of the Clean Water Act establish a National Pretreatment Program and authorize

administration of the program by the states.

Purpose: The purpose of the proposed amendments is for the pretreatment portions of the Permit Regulation to conform with federal regulations. The proposed amendments will satisfy federal requirements for state administration of the pretreatment program.

Impact: Since the U.S. Environmental Protection Agency has been administering the program for the last 10 years and those POTWs previously required to have a pretreatment program have obtained program approval, there should be little impact on those municipalities.

The greatest potential for impact would be for those municipalities that have a design capacity of less than 5 MGD and receive wastewater from categorical industrial users. The evaluation of those municipalities is presently being undertaken and the impact per municipality is estimated at (i) 5,000 to \$10,000, if a pretreatment program is required; and (ii) less than \$1,000, if only a control mechanism and compliance reporting is required.

These proposed amendments, however, impose no requirements beyond those required by federal regulations and result in no impact above that already imposed by the federal regulations.

Issues: The issue under consideration is whether to adopt the proposed amendments.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., June 13, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: LaVern H. Corkran, Office of Engineering Application, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6313 or SCATS 367-6313

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† May 23, 1989 - 2 p.m. -- Public Hearing
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia

† May 24, 1989 - 1 p.m. -- Public Hearing
Roanoke County Administration Center, 3738 Brambleton
Avenue, S.W., Community Room, Roanoke, Virginia

† June 26, 1989 - 3 p.m. -- Formal Hearing
Sheraton Beach Inn and Conference Center, Ocean Front
and 36th Street, Virginia Beach, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-21-01.11. Chlorine Standard and Policy and VR

680-21-07.2. Outstanding State Resource Waters. The purpose of the proposed amendments is to adopt as permanent regulations VR 680-21-01.11 - Chlorine Standard and Policy and VR 680-21-07.2 - Outstanding State Resource Waters which were previously adopted as emergency regulations.

STATEMENT

Basis: Section 62.1-44.15(3a) of the Code of Virginia authorizes the board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of that State Water Control Law, and to modify, amend, or cancel any such standards or policies established.

Purpose: Water quality standards establish the requirements for the protection of water quality and of beneficial uses of these waters. The purpose of this proposed action is to promulgate as permanent regulations amendments to the Water Quality Standards, VR 680-21-01.11 - Chlorine in Surface Waters and VR 680-21-07.2 - Outstanding State Resource Waters.

These proposed regulations were previously adopted as emergency regulations which became effective on September 29, 1988. The regulations establish a statewide chlorine standard and policy and designate certain state waters as outstanding state resource waters. Further, the regulations prohibit or restrict the use of chlorine or other halogen compounds for disinfection by dischargers of more than 20,000 gallons per day to natural trout waters, or waters containing endangered or threatened species.

Impact: Adoption of these regulations as permanent regulations of the agency will allow the State Water Control Board to continue to enforce these regulations for currently impacted dischargers as well as any new dischargers. The major impacts of these proposed amendments are a result of the requirement that chlorine or other halogen products not be used for disinfection purposes for any discharges over 20,000 gallons per day to waters containing endangered or threatened species, or natural trout waters.

This will have an impact on dischargers located on either of these type waters that are currently using chlorine for disinfection. This will impact 23 dischargers (16 municipal and 7 industrial or commercial facilities). The requirement to install alternative disinfection technology will cost an estimated total of \$5.5 million in capital costs at all the facilities. The impact of the proposed revision on water quality is that the use of alternative disinfection should remove all chlorine residuals from 23 miles of stream (estimated at 1 mile per discharge). Such a revision will provide the ultimate level of protection for these sensitive waters from the potential adverse impacts of chlorine residuals.

An additional 24 dischargers with discharges of less than or equal to 20,000 gallons per day would be required to

dechlorinate at an estimated cost of \$480,000. This cost estimate is at the upper range limit as previous regulations have already required some of these dischargers to install dechlorination facilities. This dechlorination requirement would provide protection for an additional 24 miles of stream.

In both cases, the estimated number of miles of stream protected is probably less than that actually afforded protection due to site-specific stream and discharge conditions and the particular compounds used by the discharger for disinfection.

A list identifying river reaches providing essential or critical habitat for endangered or threatened species as identified by the U.S. Fish and Wildlife Service is proposed for adoption in the Outstanding State Resource Waters Section of the Water Quality Standards. This change is needed in order to support the proposed chlorine standard which will prohibit the use of chlorine for disinfection for discharges to such waters. Other restrictions affecting such waters may be adopted in the future in order to provide protection for endangered species and trout found in these waters. The proposed list, therefore, will in itself have no economic impact on the regulated community. The list will, however, establish waters within the Commonwealth worthy of greater regulatory control, which ultimately may have a significant impact on the regulated community. Some minor impacts on agency resources are projected for initial implementation. Long-term impacts should be negligible.

Issues: The public participation to date has elicited the following issues:

The lowest detection limit for total residual chlorine based on approved analytical methods is in some cases higher than the standards creating problems for enforcement of the standards.

The mixing zone concentrations are stricter than those established by the U.S. Environmental Protection Agency.

Provisions should be added which would allow dischargers who intermittently chlorinate for biofouling control to dechlorinate; establish, under specific conditions, special standards for intermittent discharges; establish mechanisms to demonstrate compliance with subdivisions A.1 and A.2; allow for exceptions for discharges to waters containing endangered or threatened species upon demonstration that an exception would not result in damage to aquatic life; allow a permittee to use chlorine for biofouling control treatment upon a case-by-case demonstration that there is no reasonably available alternative control technology; and acknowledge the above in the variance section of the standard.

Additional streams should be included as providing essential habitat for newly listed endangered species.

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

Calendar of Events

Virginia.

Written comments may be submitted until 4 p.m., June 13, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Affected persons may petition to be a party to the formal hearing being held June 26, 1989, concerning any fact issues directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person designated below by May 10, 1989. The board seeks comments, orally at the hearing and in writing, on the proposed amendments including, but not limited to, any necessary revisions based on the issues raised to date.

Contact: Jean Gregory, Environmental Program Manager, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6985 or SCATS 367-6985

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† May 24, 1989 - 7 p.m. - Public Hearing
Board of Supervisors Chamber, Administration Building,
120 North Main Street, Pearisburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: VR 680-21-08. River Basin Section Tables: Water Quality Standards. This proposed amendment to the River Basin Section Tables will revise the stream classification for Stony Creek, Section 1d New River Basin.

STATEMENT

Basis: Section 62.1-44.15(3) of the Code of Virginia authorizes the board to establish water quality management and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards or policies established. Such standards shall be adopted only after a hearing is held and the board takes into consideration the economic and social costs and benefits which can reasonably be expected to be obtained as a result of the standards as adopted, modified or cancelled.

Purpose: Water quality standards establish the requirements for the protection of water quality and of beneficial uses of these waters. The purpose of this proposed action is to amend the standards so as to reclassify Stony Creek, Section 1d, New River Basin from Class VI, natural trout water to Class V, put-and-take trout water.

These amendments are being proposed in response to recommendations from the Department of Game and Inland Fisheries which is responsible for determining

appropriate trout stream classifications.

Impact: If Stony Creek is reclassified as put-and-take trout water, the APG Lime Corporation will be required to meet those temperature requirements in their effluent which apply to put-and-take trout streams. These include a maximum temperature limitation of 21°C rather than 20°C, a rise above natural temperature which does not exceed 3°C rather than 1°C, and a maximum hourly temperature change which shall not exceed 2°C rather 0.5°C. Adoption of this amendment should not impose additional costs on the APG Lime Corporation for compliance, but is likely to result in a cost savings.

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

Written comments may be submitted until 4 p.m., June 13, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Eleanore Moll, Environmental Program Planner, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6418 or SCATS 367-6418

COUNCIL ON THE STATUS OF WOMEN

April 26, 1989 - 6:30 p.m. - Open Meeting
James City County Human Services Center, Auditorium,
5249 Olde Towne Road, Williamsburg, Virginia

May 23, 1989 - 7 p.m. - Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road,
Roanoke, Virginia

A public meeting to receive information on the most important issues that affect women in Virginia, innovative ways communities have addressed specific issues, and suggestions of strategies to address specific issues in the future. The Council has identified many issues which affect Virginia's women including Aging, Child Abuse, Child Care, Divorce/Child Support, Employment, Estates, Family Life Education, Health, Housing, Leadership Development, Media/Pornography, Minority Women, Nontraditional Careers, Sexual Assault, Sex Equity in Insurance, Spouse Abuse, Reproductive Health, Teen Pregnancy, Welfare Reform and Women in Prison.

For more information on the public meeting or to register to speak contact the Council office. Written comments should be submitted to the Council Office by May 15, 1989.

May 24, 1989 - 9 a.m. - Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road,
Roanoke, Virginia

A regular meeting of the Council on the Status of Women to conduct general business and to receive

reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE

VIRGINIA CODE COMMISSION

May 11, 1989 - 9 a.m. - Open Meeting
 May 12, 1989 - 9 a.m. - Open Meeting
 The Michie Company, Town Hall Square, Charlottesville, Virginia

The commission will review 1989 projects and will meet with representatives of the The Michie Company.

Contact: Joan W. Smith, Registrar of Regulations, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

VIRGINIA STATE CRIME COMMISSION

† April 18, 1989 - 10 a.m. - Open Meeting
 General Assembly Building, Capitol Square, Senate Room A, 1st Floor, Richmond, Virginia. ☒

A meeting to review and approve the 1988 Annual Report for publication and distribution; also to review the 1989 legislative actions and discussion of any other concerns of members.

Contact: Robert E. Colvin, Executive Director, General Assembly Bldg., 9th Floor, Room 915, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 225-4534

CHRONOLOGICAL LIST

OPEN MEETINGS

April 10

- † Alcoholic Beverage Control Board
- † Barbers, Board for
- Conservation and Historic Resources, Department of
 - Division of Soil and Water Conservation
- † Polygraph Examiners Advisory Board

April 11

- Auctioneers Board
- † Nursing, Board of
 - Special Conference Committee
- † Virginia Resources Authority

April 12

- Air Pollution Control, Department of
- † Children, Department for
 - State-Level Runaway Youth Services Network
- Contractors, Board for
- Corrections, Board of
- Mental Health, Mental Retardation and Substance Abuse Services, Department of

April 13

- Boating Advisory Board, Virginia
- Child Day-Care Council
- Contractors, Board for
- Human Rights, Council on
- Medicine, Board of

April 14

- Children, Coordinating Committee for
- Interdepartmental Licensure and Certification of Residential Facilities for
- Housing and Community Development, Department of
- Nursing and Medicine, Committee of the Joint Boards of
 - † Medicine, Board of
 - Advisory Committee on Physician Assistants
 - Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee
 - Professional Counselors, Board of
 - Real Estate Board

April 17

- † Children's Facilities, Interdepartmental Council on
- Rate-Setting for
- † Cosmetology, Board for
- † Economic Development, Department of
- † Health Professions, Board of
- † Health Professions, Department of
 - Administration and Budget Committee
- Housing and Community Development, Department of
- Longwood College
 - Board of Visitors
- † Nursing, Board of
- † Nursing Home Administrators, Board of

April 18

- † Children, Department for
 - Rural Child Care Project Committee
- Conservation and Historic Resources, Department of
 - Virginia Historic Landmarks Board
 - Division of Historic Landmarks State Review Board
- † Crime Commission, Virginia State
- † Economic Development, Department of
- † Health Professions, Board of
- Housing and Community Development, Department of
- † Medicine, Board of
 - Informal Conference Committee

April 19

- † Economic Development, Department of
- Housing and Community Development, Department of
- † Outdoors Foundation, Virginia

Calendar of Events

- † Rights of the Disabled, Board for
 - Education Committee
 - Employment Committee
 - Health Committee
 - Housing Committee
 - Planning Committee
 - Transportation Committee
- † Sewage Handling and Disposal Appeals Review Board, State
- † Social Services, Board of

April 20.

- Labor and Industry, Department of
 - Virginia Apprenticeship Council
- Transportation Board, Commonwealth
- Voluntary Formulary Board, Virginia

April 21

- † Medicine, Board of
 - Informal Conference Committee
- † Mental Health, Mental Retardation, and Substance Abuse Services, Department of
 - State Human Rights Committee

April 22

- Visually Handicapped, Department for the
 - Advisory Committee on Services

April 23

- Funeral Directors and Embalmers, Board of

April 24

- † Accountancy, Board for
- † Alcoholic Beverage Control Board
- † Economic Development, Department of
- Funeral Directors and Embalmers, Board of

April 25

- † Accountancy, Board for
- † Economic Development, Department of
- Health Services Cost Review Council, Virginia
- Visually Handicapped, Department for the
 - Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

April 26

- Education, State Board of
- Farmworkers Board, Governor's Migrant and Seasonal
- Pharmacy, Board of
- Pilots, Board for Branch
- Women, Council on the Status of

April 27

- Chesapeake Bay Commission
- † Chesterfield County, Local Emergency Planning Committee of
- † Economic Development, Department of
- Education, State Board of
- † Fire Services Board, Virginia
 - Fire/EMS Training Committee
 - Fire Prevention and Control Committee

- Legislative Committee
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Substance Abuse Advisory Council
- † Psychology, Board of

April 28

- Air Pollution Control, Department of
- Chesapeake Bay Commission
- Commercial Driver Training Schools, Board for
- † Economic Development, Department of
- Education, State Board of
- † Fire Services Board, Virginia
- † Nursing, Board of
 - Special Conference Committee
- Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee
- Rights of the Disabled, Department for
 - Protection and Advocacy for Mentally Ill Individuals Advisory Council

April 29

- Library Board

May 2

- † Geology, Board for
- Hopewell Industrial Safety Council
- † Real Estate Board

May 3

- Children, Department for
 - Consortium on Child Mental Health

May 4

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Professional Engineers
- † Aviation Board, Virginia
- † Optometry, Board of
- Virginia Alcohol Safety Action Program, Commission on

May 5

- General Services, Department of
 - Division of Consolidated Laboratory Services
- Virginia Alcohol Safety Action Program, Commission on

May 8

- † Alcoholic Beverage Control Board

May 10

- † Water Control Board, State

May 11

- Code Commission, Virginia

May 12

- Children, Coordinating Committee for
- Interdepartmental Licensure and Certification of Residential Facilities for

Calendar of Events

Code Commission, Virginia
† Cosmetology, Board for

May 15
Agricultural Council, Virginia

May 16
† Water Control Board, State

May 17
† Social Services, Board of

May 18
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Land Surveyors

May 19
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
Correctional Education, Board of

May 22
† Alcoholic Beverage Control Board
Health, State Board of
† Local Government, Commission on

May 23
† Local Government, Commission on
Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of
Related Services to Handicapped Children
Women, Council on the Status of

May 24
† Gloucester Local Emergency Planning Committee
Women, Council on the Status of

May 25
Education, State Board of

May 26
Education, State Board of

June 1
† Chesterfield County, Local Emergency Planning
Committee of

June 2
† Real Estate Board

June 7
Children, Department for
- Consortium on Child Mental Health

June 9
Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for

June 12

† Alcoholic Beverage Control Board

June 14
† Social Services, Board of

June 26
† Alcoholic Beverage Control Board

PUBLIC HEARINGS

April 10
Transportation, Department of
Visually Handicapped, Department for the

April 11
Transportation, Department of

April 12
Transportation, Department of

April 13
Deaf and Hard-of-Hearing, Department for the
Transportation, Department of

April 14
Deaf and Hard-of-Hearing, Department for the
Transportation, Department of

April 15
Deaf and Hard-of-Hearing, Department for the

April 17
Deaf and Hard-of-Hearing, Department for the
Health Professions, Board of
Visually Handicapped, Department for the

April 20
Deaf and Hard-of-Hearing, Department for the
Transportation, Department of

April 21
Deaf and Hard-of-Hearing, Department for the
Transportation, Department of

April 24
Deaf and Hard-of-Hearing, Department for the

April 27
† Fire Services Board, Virginia

April 28
Mines, Minerals and Energy, Department of

May 2
Water Control Board, State

May 3
Criminal Justice Services Board

May 17

Calendar of Events

Agriculture and Consumer Services, Department of

May 23

† Local Government, Commission on
† Water Control Board, State

May 24

† Water Control Board, State

May 30

† Water Control Board, State

May 31

† Water Control Board, State

June 13

Virginia Alcohol Safety Action Program, Commission
on

June 26

† Water Control Board, State