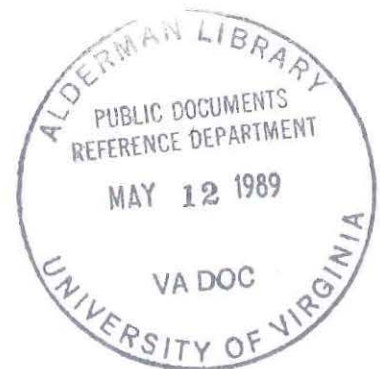


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THE VIRGINIA REGISTER

OF REGULATIONS

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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.

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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.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority (Formerly: Rules and Regulations).

Statutory Authority: § 36-35.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

Pursuant to its Rules and Regulations, the Authority has previously adopted Procedures, Instructions and Guidelines to set forth the requirements and procedures for its programs. The use by the Authority of both its Rules and Regulations and its Procedures, Instructions and Guidelines with respect to the Authority's programs has, in certain instances, resulted in unnecessary duplication of provisions and may have created confusion as to applicable procedures and requirements.

The proposed amendments will adopt and incorporate the provisions of the Authority's Procedures, Instructions and Guidelines into its Rules and Regulations. The amendments also include certain changes for clarification and technical correction of existing provisions in the Rules and Regulations and the Procedures, Instructions and Guidelines.

The Authority is amending 16 regulations. Seven of the regulations appear in this issue of The Virginia Register. The remainder will be published May 22, 1989.

NOTICE: A summary will not be provided with each regulation since each summary is identical to the one above.

VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.

Pursuant to § 36-55.30:3 of the Code of Virginia, VR

400-01-0001, Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority, are hereby amended and adopted as hereinafter set forth. These rules and regulations shall be effective as of July 1, 1989.

PART I: GENERAL PROVISIONS:

§ 1.1. § 1. Definitions.

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

"Act" means the Virginia Housing Development Authority Act, being Chapter 1.2 (§ 36-55.24, et seq.) of Title 36 of the Code of Virginia.

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its ~~procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations~~ that the adjusted family income shall be computed, for the purpose of determining eligibility under

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~~§ 12 of these rules and regulations~~ for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the ~~procedures, instructions and guidelines applicable rules and regulations of the authority~~ , only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the ~~procedures, instructions and guidelines applicable rules and regulations of the authority~~) rather than in the manner provided in the preceding sentence.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making application to receive an authority mortgage loan or other assistance under the Act.

"Application" means a request for an authority mortgage loan or other assistance under the Act.

"Authority" means the Virginia Housing Development Authority.

"Authority mortgage loan" or *"mortgage loan"* means a loan which is made or financed or is to be made or financed, in whole or in part, by the authority pursuant to these rules and regulations and is secured or is to be secured by a mortgage.

"Board" means the Board of Commissioners of the authority.

"Dwelling unit" or *"unit"* means a unit of living accommodations intended for occupancy by one person or family.

"Executive director" means the executive director of the authority or any other officer or employee of the authority who is authorized to act *on his behalf* or on behalf of the authority pursuant to a resolution of the board.

"Family" means, in the context of the financing of a single family dwelling unit, two or more individuals related by blood, marriage or adoption, living together on the premises as a single nonprofit housekeeping unit. In all contexts other than the financing of a single family dwelling unit, *"family"* means two or more individuals living together in accordance with law.

"FHA" means the Federal Housing Administration and any successor entity.

"For-profit housing sponsor" means a housing sponsor which is organized for profit and may be required by the authority to agree to limit its profit in connection with the sponsorship of authority financed housing in accordance with the terms and conditions of the Act and these rules and regulations and subject to the regulatory powers of

the authority.

"Gross family income" means the annualized gross income of a person or all members of a family residing or intending to reside in a dwelling unit from whatever source derived and before taxes or withholdings. For the purpose of this definition, annualized gross income means gross monthly income multiplied by 12. Gross monthly income is the sum of monthly gross pay; plus any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income; plus other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

"Multi-family dwelling unit" means a dwelling unit in multi-family residential housing.

"Nonprofit housing sponsor" means a housing sponsor which is organized not for profit and may be required by the authority to agree not to receive any limited dividend distributions from the ownership and operation of a housing development.

"Person" means:

1. An individual who is 62 or more years of age;
2. An individual who is handicapped or disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director; or
3. An individual who is neither handicapped nor disabled nor 62 or more years of age; provided that the board may from time to time by resolution (i) limit the number of, fix the maximum number of bedrooms contained in, or otherwise impose restrictions and limitations with respect to single family dwelling units that may be financed by the authority for occupancy by such individuals and (ii) limit the percentage of multi-family dwelling units within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

"Rent" means the rent or other occupancy charge applicable to a dwelling unit within a housing development operated on a rental basis or owned and operated on a cooperative basis.

"Reservation" means the official action , as evidenced in writing, taken by the authority to designate a specified amount of funds for the financing of a mortgage loan on a single family dwelling unit.

"Single family dwelling unit" means a dwelling unit in single family residential housing.

The foregoing words and terms, when used in any other rules and regulations of the authority, shall have the same meaning as set forth above, unless otherwise defined in such rules and regulations. Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

§ 1.2. § 2. Eligibility for occupancy.

A. The board shall from time to time establish, by resolution or by ~~procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations,~~ income limitations with respect to single family dwelling units financed or to be financed by the authority. Such income limits may vary based upon the area of the state, type of program, the size and circumstances of the person or family, the type and characteristics of the single-family dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of its programs. Such resolution or ~~procedures, instructions and guidelines~~ rules and regulations shall specify whether the person's or family's income shall be calculated as adjusted family income or gross family income. To be considered eligible for the financing of a single family dwelling unit, a person or family shall not have an adjusted family income or gross family income, as applicable, which exceeds the applicable limitation established by the board. It shall be the responsibility of each applicant for the financing of a single family dwelling unit to report accurately and completely his adjusted family income or gross family income, as applicable, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority with verification thereof.

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by ~~procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations,~~ lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by ~~procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations.~~

C. It shall be the responsibility of the housing sponsor to examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units, report such determinations to the authority in such form

as the executive director may require, reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director, and report such redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of a multi-family dwelling unit, and of each occupant of such dwelling units, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the housing sponsor and the authority with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharge as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the executive director may direct or permit the housing sponsor to terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit. If any person or family residing in a housing development which is a cooperative is so required to be removed from the housing development, such person or family shall be discharged from any liability on any note, bond or other evidence of indebtedness relating thereto and shall be reimbursed for all sums paid by such person or family to the housing sponsor on account of the purchase of stock or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

§ 1.3. Procedures, instructions and guidelines.

The board may from time to time by resolution establish and modify ~~procedures, instructions and guidelines for the implementation and administration of programs established under these rules and regulations.~~

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Such procedures, instructions and guidelines may include and, where deemed appropriate by the board, may authorize the executive director to establish and modify, such requirements, conditions and standards as may be deemed necessary or appropriate for the purpose of implementing and administering such programs, subject to and consistent with the requirements of the Act and these rules and regulations. Upon promulgation, such procedures, instructions and guidelines shall be available to the public upon request.

§ 1-4. § 3. Forms.

Forms of documents, instruments and agreements to be employed with respect to the processing of applications, the making or financing of loans under these rules and regulations, the issuance and sale of authority notes and bonds, and any other matters relating to such loans and the implementation and administration of the authority's programs shall be prepared, revised and amended from time to time under the direction and control of the executive director.

§ 1-5. § 4. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 1-5 § 4 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

§ 1-6. § 5. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

§ 1-7. § 6. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter

into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

B. The board by resolution may authorize the acceptance by the authority of gifts, grants, loans, contributions or other aid, including insurance and guarantees, from the federal government, the Commonwealth of Virginia or any agency thereof, or any other source in furtherance of the purposes of the Act, do any and all things necessary in order to avail itself of such aid, agree and comply with such conditions upon which such gifts, grants, loans, contributions, insurance, guarantees or other aid may be made, and authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate to implement any such gifts, grants, loans, contributions, insurance guarantees or other aid.

C. Without limitation on the provisions of subsection B of this section, the board by resolution may authorize the acceptance by the authority of any insurance or guarantee or commitment to insure or guarantee its bonds or notes and any grant with respect to such bonds or notes, whether insured, guaranteed or otherwise, and may authorize and direct the execution on behalf of the authority of any instrument or agreement which it considers necessary or appropriate with respect thereto.

§ 1-8. § 7. Assistance of mortgage lenders.

The authority may, at its option, utilize the assistance and services of mortgage lenders in the processing, originating, disbursing and servicing of loans under these rules and regulations. The executive director is authorized to take such action and to execute such agreements and documents as he shall deem necessary or appropriate in order to procure, maintain and supervise such assistance and services. In the case of authority mortgage loans to be financed from the proceeds of obligations issued by the authority pursuant to § 36-55.37:1 of the Code of Virginia, the authority shall be required to utilize such assistance and services of mortgage lenders in the origination and servicing of such authority mortgage loans.

§ 8. Purchase of mortgage loans.

A. The authority may from time to time, pursuant and subject to its rules and regulations, purchase mortgage loans from mortgage lenders. In furtherance thereof, the executive director may request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage

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lenders, advertising in newspapers or other publications and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this section that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this section, the mortgage lender shall certify to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be invested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this section shall be established in accordance with subdivision (2) of § 36-55.35 of the Code of Virginia.

§ 1-9. § 9. Waiver.

The board by resolution executive director may for good cause in any particular case waive or vary any of the provisions of these rules and regulations to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 1-10. § 10. Amendment.

These rules and regulations may be amended and supplemented by the board at such times and in such manner as it may determine, to the extent not inconsistent with the Act or with other applicable provisions of law.

§ 1-11. § 11. Separability.

If any clause, sentence, paragraph, section or part of these rules and regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

PART II. MULTI-FAMILY RENTAL HOUSING PROGRAM.

§ 2-1. Mortgage loans.

A. This Part II shall govern mortgage loans made by the authority to housing sponsors to finance the development, construction and rehabilitation and/or the ownership and operation of multi-family residential housing. For purposes of this Part II, multi-family residential housing shall include housing developments intended to be owned and operated on a cooperative basis.

B. Authority mortgage loans as described in subsection A of this section may be made to for-profit housing sponsors in original principal amounts not to exceed 95% of the housing development costs as determined by the authority, and to nonprofit housing sponsors in amounts not to exceed 100% of the housing development costs as determined by the authority.

C. Authority mortgage loans as described in subsection A of this section may be made for terms of up to 50 years, including the period of any development and construction or rehabilitation of the housing development. The term of any such mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the housing sponsor, any assurances of successful completion and operational stability of the housing development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued on behalf of the authority pursuant to such resolution.

§ 2-2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part II will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1-3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1-3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing development.

C. Notwithstanding anything in subsection B hereof to

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the contrary, for any loan which has a maximum principal amount of \$300,000 or less and which is to finance the development, construction, rehabilitation and/or the ownership and operation of a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled, the executive director may, in his discretion, issue on behalf of the authority an authority mortgage loan commitment to the applicant for the financing of such development without following the procedure described in subsection B hereof; provided, however, that such a commitment shall in all cases be subject to the approval or ratification thereof by resolution of the board.

D. Any such resolution made pursuant to either subsection B or C hereof, or the authority mortgage loan commitment issued by the executive director pursuant to or subject to approval and ratification by such resolution, as applicable, shall include such terms and conditions as the authority considers appropriate with respect to the development, construction or rehabilitation of the proposed housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the authority mortgage loan, and other matters related to the development, construction or rehabilitation and the ownership and operation of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development, setting forth the initial schedule of rents, the approved initial budget for operation of the housing development and a schedule of the estimated housing development costs. Such a resolution authorizing an authority mortgage loan to a for-profit housing sponsor shall, if applicable, include a determination of the maximum annual rate at which distributions may be made by such for-profit housing sponsor with respect to such housing development pursuant to the provisions of subsection B of § 2.4 of these rules and regulations.

E. An authority mortgage loan shall not be authorized by the board in advance of commitment therefor in accordance with subsection B hereof or ratified thereafter in accordance with subsection C hereof unless the board by resolution shall make the applicable findings required by § 36-55.30 of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority mortgage loan in advance of the issuance of the commitment therefor or ratify the commitment therefor all in accordance herewith without making the finding, if applicable, required by subsection B of § 36-55.30 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the authority mortgage loan.

F. Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of the principal amount of such authority mortgage loan, provided that such an

increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

§ 2.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia and the terms of the agreements relating to the authority mortgage loan at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation, operations, use and disposition of the proposed housing development and of the activities of the housing sponsor as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

§ 2.4. Allowable categories of cost; limited dividend distributions.

A. The categories of cost which shall be allowable by the authority in development, construction or rehabilitation of a housing development financed under this Part II shall include the following: (i) development and construction or rehabilitation costs, including equipment, labor and materials furnished by the owner, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the project operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the housing development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the authority shall determine to be reasonable and necessary for the development and construction or rehabilitation of the housing development. The extent to which costs in any of such categories shall be recognized or allowed in respect of a specific housing development shall be established by the terms of a cost certification guide which shall be prepared and, from time to time, revised by the executive director and which shall

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be incorporated by reference into the documents executed with respect to each such mortgage loan. Upon completion of the development and construction or rehabilitation of the housing development, the housing sponsor shall certify to the authority the total of the housing development costs in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require the housing sponsor to provide such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

B. In connection with an authority mortgage loan to a for-profit housing sponsor pursuant to this Part II:

1. The board's resolution authorizing such mortgage loan shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to such housing development, expressed as a percentage of such for-profit housing sponsor's equity in such housing development (such equity being established in accordance with paragraph 3 of this subsection), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar housing developments. The board's resolution authorizing such mortgage loan shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative;

2. Any payments to a person or entity who is a principal, stockholder or holder of a beneficial interest in such for-profit housing sponsor shall not be deemed a "distribution" or "return" to such person or entity if the funds with which such payment is made are funds paid or contributed to such for-profit housing sponsor by persons or entities purchasing a beneficial interest in such for-profit housing sponsor; and

3. Subsequent to completion of such housing development and in conjunction with other determinations made on behalf of the authority as to allowable housing development costs and related matters, the executive director shall establish the for-profit housing sponsor's equity in such housing development. Such equity shall be the difference between (i) the amount of either (A) the total housing development costs of such housing development as finally determined by the authority or (B) the fair market value of such housing development and (ii) the final principal amount of the authority mortgage loan as to such housing development. The authority may thereafter from time to time adjust such equity to be the difference, as of the date of adjustment, between the fair market value of such housing development and the outstanding principal balance of

the authority mortgage loan. The manner for so determining and adjusting such equity shall be established in the board's resolution authorizing the authority mortgage loan or in amendments to such resolution.

§ 2-5. Tenant selection plan.

As a part of each application for an authority mortgage loan under this Part II, the housing sponsor shall prepare and submit to the authority for its review and approval a proposed tenant selection plan with respect to the proposed housing development. The proposed tenant selection plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed rent structure of the proposed housing development;
2. The utilization of any subsidy or other assistance from the federal government or any other source;
3. Income limitations of the authority for initial occupancy of the dwelling units in the proposed housing development as determined in accordance with these rules and regulations;
4. The proposed income levels of occupants;
5. Any arrangements contemplated by the housing sponsor for occupant referrals or relocations from federal, state or local government agencies or community organizations;
6. The marketing activities to be performed with respect to the leasing of the proposed housing development (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing and management agents of the housing sponsor; and
7. Any criteria to be used for disapproving applicants and for establishing priorities among eligible applicants for occupancy of the proposed housing development.

PART III. SINGLE FAMILY DEVELOPMENT AND CONSTRUCTION LOANS.

§ 2-1. Development and construction loans.

A. This Part III shall govern mortgage loans made by the authority to housing sponsors for the development and construction or rehabilitation of single family residential housing for eventual sale to persons or families of low or moderate income.

B. Authority mortgage loans as described in subsection A of this section may be made to housing sponsors for terms not in excess of five years and in original principal

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amounts not to exceed 95% of the estimated total housing development costs as determined by the authority, except that in the case of nonprofit housing sponsors the original principal amount of the authority mortgage loans may not exceed 100% of the estimated total housing development costs as determined by the authority. In determining the estimated total housing development costs, the categories of costs which shall be includable therein shall be those set forth in § 2.4 of these rules and regulations, to the extent deemed by the executive director to be applicable to the housing development, and such other costs as the authority shall deem reasonable and necessary for the sale and conveyance of the single family dwelling units. The estimated total housing development costs and the principal amount of the authority mortgage loan with respect to such housing development, together with other terms and conditions of the authority mortgage loan and related matters, shall be set forth in the board's resolution authorizing such mortgage loan or in the mortgage loan commitment issued by the authority pursuant to such resolution.

§ 2.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part III will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The authority board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize an authority mortgage loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority mortgage loan commitment to the housing sponsor for the financing of the proposed housing development.

An authority mortgage loan shall not be authorized unless the board by resolution shall make the findings required by subsection A § 36-55.30 of the Code of Virginia.

Such resolution, or the authority mortgage loan commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed housing development, the marketing and sale of the single family dwelling units in such housing development, the disbursement and

repayment of the authority mortgage loan, assurances of successful completion of the proposed housing development, and all other matters related to the development, construction or rehabilitation and sale of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development setting forth the sales price limits for the single family dwelling units within the proposed housing development and a schedule of the estimated housing development costs.

Subsequent to adoption of the resolution of the board authorizing an authority mortgage loan pursuant to this Part III, the executive director may, without further action by the board, increase the principal amount of such authority mortgage loan by an amount not to exceed 2.0% of such mortgage loan, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

§ 2.3. Regulation of housing sponsors.

The authority shall have the power to supervise the housing sponsor in accordance with the provisions of § 36-55.34:1 of the Code of Virginia and the terms of the agreements relating to the authority mortgage loan at all times during which the authority mortgage loan is outstanding. The executive director may require the housing sponsor to execute a regulatory agreement with the authority, and such other related documents as the executive director shall determine to be necessary or appropriate, which shall authorize the authority to regulate such aspects of the development, construction or rehabilitation and sale of the proposed housing development as the executive director shall determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

§ 2.4. Sale of single family housing units.

A. As a part of each application for an authority mortgage loan under this Part III, the housing sponsor shall prepare and submit to the authority a proposed marketing plan for review and approval by the authority. The proposed marketing plan shall include, among other information that the executive director may require from time to time, the following:

1. The proposed sales prices of the single family dwelling units;
2. The utilization of any mortgage insurance, subsidy or other assistance from the federal government or any other source;
3. The proposed income levels of purchasers therefor, which income levels shall not exceed the income limitations of the authority applicable to the single

family dwelling units; and

4. The marketing activities to be performed with respect to the sale of the single family dwelling units (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing agent of the housing sponsor.

B. In the event that a single family dwelling unit shall be sold to a purchaser who is not qualified to receive an authority mortgage loan under the applicable income limitations established pursuant to subsection A of § 1.2 of these rules and regulations, the authority shall have the right to require the housing sponsor to pay a penalty in such amount as shall be prescribed in the board's resolution authorizing the mortgage loan or in the authority mortgage loan commitment issued pursuant to such resolution.

PART IV. SINGLE FAMILY LOANS TO INDIVIDUAL PURCHASERS.

§ 4.1. Mortgage loans.

A. This Part IV shall govern mortgage loans made by the authority to persons or families of low or moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family dwelling units.

B. Authority mortgage loans pursuant to subsection A of this section may be made only to persons or families of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations.

C. The board may from time to time establish by resolution sales price limits for single family dwelling units financed or to be financed by the authority. Such sales price limits may vary based upon the area of the state, the type of program, the size and circumstances of the person or family who is to occupy such dwelling unit, the type and characteristics of such dwelling unit, and any other factors determined by the board to be necessary or appropriate for the administration of the program under this Part IV.

D. An authority mortgage loan to be financed under this Part IV hereof may be made for a term not to exceed 50 years. The original principal amount and term of any such authority mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. The original principal amount of authority mortgage loans made pursuant to this Part IV shall not exceed 98%

of the first \$25,000 of the sales price of the single family dwelling unit and 95% of the amount of the sales price of the single family dwelling unit in excess of \$25,000 or, in the case of authority mortgage loans guaranteed or insured by the Veterans' Administration, 100% of the sales price of the single family dwelling unit, to the extent such sales price is approved by the executive director and subject to such further limitations as may be provided in the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. The term "sales price," with respect to authority mortgage loans for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months; as the executive director shall determine that such dwelling unit will not be available for occupancy.

§ 4.2. Applications and processing.

A. The processing of applications for authority mortgage loans pursuant to this Part IV will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority an authority mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval or ratification thereof by the board. Such authority mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority mortgage loan commitment.

PART V. HOME REHABILITATION LOANS.

§ 5.1. General purpose.

This Part V shall govern the making of loans by the authority to persons or families of low or moderate income for the rehabilitation of single family dwelling units. For the purposes of this Part V, such loans shall be referred to as "home rehabilitation loans."

§ 5.2. Terms of home rehabilitation loans.

A. A home rehabilitation loan may be made pursuant to this Part V only to a borrower who is a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The types of improvements which may be financed by a home rehabilitation loan shall be established from time to time by the board and shall be set forth in the procedures, instructions and guidelines promulgated by the authority

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pursuant to § 1-3 of these rules and regulations:

B. Home rehabilitation loans to be financed under this Part V may be made for a term not to exceed 30 years. The original principal amount of any such home rehabilitation loan shall not exceed 100% of the total cost of the rehabilitation.

C. Home rehabilitation loans shall be secured by mortgages, in such form or forms as may be approved by the executive director, on the real property with respect to which such home rehabilitation loans are made.

§ 5-3. Application and processing:

A. The processing of application for home rehabilitation loans under this Part V will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1-3 of these rules and regulations:

B. If the executive director determines that the applicant and the application for a home rehabilitation loan meet the requirements of the Act, the rules and regulations set forth in this Part V, and the applicable procedures, instructions and guidelines promulgated by the authority pursuant to § 1-3 of these rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such home rehabilitation loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on the home rehabilitation loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment.

PART VI. ENERGY LOANS.

§ 6-1. General purpose; applicability.

A. This Part VI shall govern the making of loans to finance the purchase and installation of energy saving measures and alternative energy sources which will reduce the reliance on present sources of energy for use in the dwellings of residents of the Commonwealth of Virginia or in public or nonprofit buildings or facilities. Such measures and sources shall include, but not be limited to, insulation, caulking, weatherstripping, storm windows and doors, furnace modification or replacement, and solar energy devices. For purposes of this Part VI, such loans shall be referred to as "energy loans."

B. Any energy loans made with respect to dwellings shall be limited to dwellings occupied by persons and families of low and moderate income qualified pursuant to subsection A of § 1-2 of these rules and regulations or pursuant to standards under applicable federal rules and regulations as approved by the board with any modifications thereto. Energy loans shall be made only for the purposes set forth in subsection A of this section.

§ 6-2. Terms of energy loans:

A. Energy loans to be financed under this Part VI may be made for a term not to exceed 30 years. The original principal amount of any such energy loans shall not exceed 100% of the total cost of the energy saving measures and alternative energy sources as described in § 6-1 of these rules and regulations.

B. The authority may, at its option, require that energy loans (i) be insured by a private mortgage insurance company, (ii) be insured or otherwise assisted by an appropriate agency of the federal or state government, and/or (iii) be secured by a mortgage.

§ 6-3. Processing of loan application and issuance of loan commitments:

The processing of applications for energy loans pursuant to this Part VI will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1-3 of these rules and regulations. If the executive director determines that the applicant and the application for an energy loan meet the requirements of (i) the Act, (ii) the rules and regulations set forth in this Part VI, and (iii) the applicable procedures, instructions and guidelines promulgated pursuant to § 1-3 of these rules and regulations, he may issue on behalf of the authority a loan commitment to the applicant with respect to such energy loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on any energy loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the loan commitment issued by the authority with respect to such energy loan.

PART VII. PURCHASE OF MORTGAGE LOANS.

§ 7-1. Applicability.

This Part VII shall govern the purchase of mortgage loans from a mortgage lender to finance residential housing for persons and families of low and moderate income qualified pursuant to § 1-2 of these rules and regulations.

§ 7-2. Purchase of mortgage loans to finance single family dwelling units:

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing single family dwelling units. Any mortgage loan to be so purchased shall have been made to a mortgagor who as of the date of the mortgage loan was a person or family of low or moderate income qualified pursuant to subsection A of § 1-2 of these rules and regulations. The sales price for the single family dwelling unit to be financed by any such mortgage loan shall comply with any applicable limits established

pursuant to subsection C of § 4.1 of these rules and regulations or otherwise established by resolution of the board. The term of the mortgage loan to be so purchased shall not exceed 50 years, and the date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such numbers of years as the executive director may from time to time prescribe. The original principal amount of the mortgage loan shall not exceed the limits set forth in subsection E of § 4.1 of the rules and regulations.

B. The processing of applications for the purchase of mortgage loans pursuant to this § 7.2 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the applicant and the application meet the requirements of the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the executive director may issue on behalf of the authority a commitment to the mortgage lender to purchase such mortgage loan, subject to the approval or ratification thereof by the authority board. Such commitment shall include such terms and conditions as the executive director shall consider necessary or appropriate with respect to such purchase of the mortgage loan.

§ 7.3. Purchase of mortgage loans to finance multi-family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing multi-family dwelling units. The term of the mortgage loan to be so purchased shall not exceed 50 years, including the period (if any) of development and construction or rehabilitation. The date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such number of years as the executive director may from time to time prescribe. Any mortgage loan to be so purchased shall comply with, and shall be subject to, the provisions of §§ 2.3 and 2.5 of these rules and regulations and such other provisions of Part II of these rules and regulations as the resolution authorizing the purchase of such mortgage loan, or the commitment issued pursuant thereto, shall require.

B. The processing of application for the purchase of mortgage loans pursuant to this § 7.3 will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize the purchase of the mortgage loan and the issuance of a commitment with respect thereto.

Such resolution, or the authority commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to any construction or rehabilitation of the housing development, the marketing and occupancy of such housing development, the disbursement and repayment of the mortgage loan, and other matters related to the financing of the housing development. Such resolution or authority commitment may include a financial analysis of the housing development, which shall set forth the initial schedule of rents, the initial budget approved by the authority for operation of the housing development and, if applicable, a schedule of the estimated housing development costs. Subsequent to adoption of such resolution, the executive director may increase the principal amount of the mortgage loan in accordance with the provisions of subsection C of § 2.2 of these rules and regulations.

§ 7.4. Requests for proposals; reinvestment of proceeds; certification as to prudent investment.

A. The executive director may from time to time request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may take such action as he shall deem necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to mortgage lenders, advertising in newspapers or other publications, and any other methods of public announcement which he may select as appropriate under the circumstances. The executive director may also consider and accept offers for sale of individual mortgage loans submitted from time to time to the authority without any solicitation therefor by the authority.

B. The authority shall require as a condition of the purchase of any mortgage loans from a mortgage lender pursuant to this Part VII that such mortgage lender within 180 days from the receipt of proceeds of such purchase shall enter into written commitments to make, and shall thereafter proceed as promptly as practical to make and disburse from such proceeds, residential mortgage loans in the Commonwealth of Virginia having a stated maturity of not less than 20 years from the date thereof in an aggregate principal amount equal to the amount of such proceeds.

C. At or before the purchase of any mortgage loan pursuant to this Part VII, the mortgage lender shall certify

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to the authority that the mortgage loan would in all respects be a prudent investment and that the proceeds of the purchase of the mortgage loan shall be reinvested as provided in subsection B of this section or invested in short-term obligations pending such investment.

D. The purchase price for any mortgage loan to be purchased by the authority pursuant to this Part VII shall be established in accordance with subdivision 2 of § 36-55.35 of the Code of Virginia.

PART VIII. MULTI-FAMILY HOUSING ACQUISITION PROGRAM.

§ 8.1. Acquisition of developments and the making of construction loans:

A. This Part VIII shall govern (i) the acquisition, ownership and operation by the authority of multi-family housing developments and (ii) the making of construction loans by the authority to housing sponsors to finance the development and construction of such developments prior to acquisition thereof by the authority. The term "construction" as used in this part shall be deemed to include rehabilitation.

B. Authority acquisitions as described in subsection A of this section shall be made at such purchase price and on such terms and conditions as shall be set forth in the board's resolution authorizing such acquisition or in the commitment issued on behalf of the authority pursuant to such resolution. The authority may acquire either (i) existing developments or (ii) proposed developments upon completion of construction in accordance with plans and specifications approved by the authority.

C. Authority construction loans as described in subsection A of this section may be made to for-profit housing sponsors in original principal amounts not to exceed 95% of the estimated housing development costs as determined by the authority, and to nonprofit housing sponsors in amounts not to exceed 100% of the estimated housing development costs as determined by the authority. In determining the estimated total housing development costs, the categories of costs which shall be includable therein shall be those set forth in § 2.4 of these rules and regulations, to the extent deemed by the executive director to be applicable to the housing development. The term of any such construction loan, the estimated housing development costs, the principal amount of the construction loan, the terms and conditions applicable to any equity contribution by the housing sponsor, any assurances of successful completion of the housing development, and other terms and conditions of such construction loan shall be set forth in the board's resolution authorizing such construction loan and acquisition of the development or in the commitment issued on behalf of the authority pursuant to such resolution.

§ 8.2. Applications and processing.

A. The processing of applications for authority acquisitions and construction loans pursuant to this Part VIII will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. Upon satisfactory completion of the processing of such application by the authority staff in accordance with the aforesaid procedures, instructions and guidelines and approval of the application by the executive director, the authority staff's analysis of the application and the executive director's recommendation with respect thereto shall be presented to the board.

The board shall review each such analysis and recommendation and, if it determines that the application meets the requirements of the Act, these rules and regulations and the authority's procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, the board may by resolution authorize the authority's acquisition of the development and, if applicable, an authority construction loan to the housing sponsor. Such resolution shall authorize the executive director to issue an authority commitment to the housing sponsor to enter into a contract to acquire the development and, if applicable, to provide construction financing for the development.

C. Any such resolution made pursuant to subsection B hereof, or the authority commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the development and construction, if applicable, and the acquisition of the proposed housing development, the disbursement and repayment of the authority construction loan, if applicable, and other matters related to the development and construction, if applicable, and, prior to the acquisition thereof by the authority, the ownership, operation, marketing and occupancy of the proposed housing development. Such resolution or authority commitment may include a financial analysis of the proposed housing development, setting forth the initial schedule of rents, the approved initial budget for operation of the housing development and a schedule of the estimated housing development costs.

D. Neither an acquisition by the authority of a development nor an authority mortgage loan for such development pursuant to this Part VIII shall be authorized unless the board by resolution shall make the applicable findings required by § 36-55.33:2 and § 36-55.39, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority acquisition or mortgage loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the authority's acquisition of the development and, if applicable, the financing of the

authority mortgage loan for such development. As used in this section, mortgage loan shall include a construction loan as described in § 8.1 hereof or a mortgage loan as described in § 8.4 hereof.

E. Subsequent to adoption of the resolution of the board authorizing the acquisition by the authority of a development and, if applicable, an authority mortgage loan for such development, the executive director may, without further action by the board, increase the purchase price of such development and, if applicable and if deemed appropriate by the executive director, the principal amount of the authority mortgage loan for such development by an amount not to exceed 2.0% of such purchase price or mortgage loan, as applicable, provided that such an increase is consistent with the Act, these rules and regulations and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

§ 8.2. Tenant selection plan.

As a part of each application for the authority's acquisition of a development and, if applicable, an authority construction loan under this Part VIII, the housing sponsor shall prepare and submit to the authority for its review and approval a proposed tenant selection plan with respect to the proposed housing development as described in § 2.5 of these rules and regulations. Upon the acquisition of a development by the authority or by an entity described in § 8.4 of these rules and regulations, the authority or such entity, as applicable, shall also prepare a tenant selection plan as described in § 2.5 of these rules and regulations (it being understood that for the purpose of complying with that section the authority or aforementioned entity shall be deemed to be the housing sponsor with regard to the development). In addition, in the case of a tenant selection plan prepared by an entity described in § 8.4 of these rules and regulations, such plan shall be submitted to the authority for its review and approval.

§ 8.4. Acquisition by an entity formed by the authority.

With respect to any development which the authority contracts to acquire, the authority may assign all of its right, title and interest under such contract to acquire such development to an entity formed by the authority, on its own behalf or in conjunction with other parties, to serve as the housing sponsor for such development pursuant to § 36-55.33-2 of the Act. The resolution authorizing the acquisition of the development may authorize an authority mortgage loan to such entity to finance the acquisition and ownership of the development. Such mortgage loan shall be made in such principal amount and on such terms and conditions as shall be set forth in the resolution or in the commitment, if any, issued on behalf of the authority pursuant thereto or as shall be determined by the executive director in accordance with the resolution authorizing such mortgage loan, the Act, these rules and regulations, and the

procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. Such entity shall be subject to regulation as provided in § 2.3 of these rules and regulations and, if such entity is a for-profit housing sponsor, the board may in its resolution prescribe in accordance with subsection B of § 2.4 of these rules and regulations, the maximum annual rate at which distributions may be made by such entity. For the purpose of determining any maximum annual dividend distributions and the maximum principal amount of the mortgage loan, the total development cost shall be the cost of acquisition as determined by the authority and such other costs relating to such acquisition, the financing of the mortgage loan and the ownership and operation of the development as the authority shall determine to be reasonable and necessary. Except as otherwise expressly provided herein, the provisions of this Part VIII shall, with respect to any mortgage loan to such an entity and the ownership, operation and occupancy of the development financed thereby, supersede Part I and any provisions of these rules and regulations contrary hereto or inconsistent herewith.

§ 8.5. Operation and income limits.

A. The developments shall be owned and operated by the authority (or an entity as described in § 8.4 of these rules and regulations) in accordance with the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations.

B. To be considered eligible for occupancy of a multi-family dwelling unit in a development acquired by an authority (or an entity as described in § 8.4 of these rules and regulations), a person or family shall not have an adjusted family income greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, lower income limits for occupancy of such dwelling unit; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations.

C. The authority (or an entity as described in § 8.4 of these rules and regulations) shall examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units in a development acquired pursuant to this Part VIII and shall reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director. In the case of determinations and redeterminations made by an entity described in § 8.4 of these rules and regulations, such entity shall report such determinations and redeterminations to the authority in such form as the

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executive director may require. It shall be the responsibility of each applicant for occupancy of such a dwelling unit, and of each occupant thereof, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority (or an entity as described in § 8.4 of these rules and regulations) with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

D. With respect to a person or family occupying a multi-family dwelling unit, if a periodic reexamination and redetermination of the adjusted family's income and eligibility as provided in subsection C of this section establishes that such person's or family's adjusted family income then exceeds the maximum limit for occupancy of such dwelling unit applicable at the time of such reexamination and redetermination, such person or family shall be permitted to continue to occupy such dwelling unit; provided, however, that during the period that such person's or family's adjusted family income exceeds such maximum limit, such person or family may be required by the executive director to pay such rent, carrying charges or surcharges as determined by the executive director in accordance with a schedule prescribed or approved by him. If such person's or family's adjusted family income shall exceed such maximum limit for a period of six months or more, the authority (or an entity as described in § 8.4 of these rules and regulations) may terminate the tenancy or interest by giving written notice of termination to such person or family specifying the reason for such termination and giving such person or family not less than 90 days (or such longer period of time as the authority shall determine to be necessary to find suitable alternative housing) within which to vacate such dwelling unit.

PART IX. HOME EQUITY ACCOUNTS.

§ 9.1. General purpose.

This Part IX shall govern the extension of home equity accounts and the making of loan payments pursuant thereto by the authority to elderly persons and families of low and moderate income who are owners of single family dwelling units for the purpose of enabling them to utilize the equity in such dwelling units.

§ 9.2. Eligibility and terms.

A. A home equity account may be extended pursuant to this Part IX only to a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The requirements and criteria for eligibility of applicants and single family dwelling units and the terms and conditions governing the home equity account shall be set forth in the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. A home equity account loan shall not be made for a fixed term but shall be due and payable only upon the death of the borrower, sale or transfer of the dwelling unit or any interest therein, failure to continue to occupy the dwelling unit as the principal residence of the borrower, or default under the loan documents, all as more particularly set forth in the procedures, instructions and guidelines. All principal and interest payments shall be deferred until the home equity account loan becomes due and payable. The total amount which may be disbursed pursuant to any home equity account shall be based upon the interest rate or rates charged thereon, the age of the applicant and the value of the dwelling unit in accordance with a schedule established pursuant to the procedures, instructions and guidelines but in no event shall such total amount exceed \$50,000.

C. Home equity accounts shall be secured by mortgages, in such form or forms as may be approved by the executive director, on the single family dwelling units owned and occupied by the borrowers as their principal residences.

§ 9.3. Application and processing.

A. The processing of applications for home equity accounts under this Part IX shall be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the executive director determines that the application for a home equity account meet the requirements of the Act, the rules and regulations set forth in this Part IX, and the applicable procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations, he may issue, on behalf of the authority, a commitment to the applicant with respect to such home equity account subject to the approval or ratification thereof by the authority's board. The maximum amount of the home equity account and the interest rate or rates to be charged thereon (or the manner for determining such maximum amount and interest rate or rates), the terms and conditions relating to prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment. Such maximum amount and interest rate may be subject to adjustment in such manner as the procedures, instructions and guidelines may provide. Such commitment shall be issued only upon the determination of the authority that such a home equity account loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority commitment.

The effective date of the foregoing amendments to the rules and regulations shall be July 19, 1988.

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Proposed Regulations

Title of Regulation: VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments (Formerly: Procedures, Instructions and Guidelines for Multi-Family Housing Developments.)

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events Section for additional information)

VR 400-02-0001. Rules and Regulations for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following procedures, instructions and guidelines rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the Virginia Housing Development Authority (the "authority") to mortgagors to provide the construction and/or permanent financing of multi-family housing developments (including any such developments to be owned and operated on a cooperative basis) intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These procedures, instructions and guidelines rules and regulations shall be applicable to the making of such mortgage loans directly by the authority to mortgagors, the purchase of such mortgage loans, the participation by the authority in such mortgage loans with mortgage lenders and any other manner of financing of such mortgage loans under the Virginia Housing Development Authority Act (the "Act"). These procedures, instructions and guidelines rules and regulations shall not, however, apply to any developments which are subject to any other procedures, instructions and guidelines rules and regulations adopted by the authority. If any mortgage loan is to provide either the construction or permanent financing (but not both) of a development, these procedures, instructions and guidelines rules and regulations shall be applicable to the extent determined by the executive director to be appropriate for such financing. If any development is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision. Furthermore, if the mortgage loan on any development is to be insured by the federal government, the provisions of these procedures, instructions and guidelines rules and regulations shall be applicable to such development only to the extent determined by the executive director to be necessary in order to (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. Developments shall include housing intended to be owned and operated on a cooperative basis. The term "construction", as used herein, shall include the

rehabilitation, preservation or improvement of existing structures.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

These procedures, instructions and guidelines shall supersede the processing procedures, instructions and guidelines adopted by the authority on January 17, 1984.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriated by him for good cause, to the extent not inconsistent with the Act ; the authority's rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein refers to the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the Board of Commissioners of the authority (the "board").

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the initial closing documents as described in § 7 of these procedures, instructions and guidelines rules and regulations.

These procedures, instructions and guidelines rules and regulations are intended to provide a general description of the authority's processing requirements and not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's multi-family housing programs. These procedures, instructions and guidelines rules and regulations are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines rules and regulations adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs.

§ 2. Income limits and general restrictions.

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than seven times the total annual rent, including utilities except telephone, applicable

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to such dwelling unit. The authority's rules and regulations authorize its board to establish from time to time by resolution *and by rules and regulations* lower income limits for initial occupancy.

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in §§ 11 and 14 of these ~~procedures, instructions and guidelines~~ *rules and regulations*), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose *adjusted family incomes* (at the time of their initial occupancy) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose *adjusted family incomes* (at the time of their initial occupancy) do not exceed 150% of such area median income as so determined.

The board may establish, in the resolution authorizing any mortgage loan to finance a development under these rules and regulations, income limits lower than those provided herein or in the authority's rules and regulations for the occupants of the units in such developments.

Furthermore, in the case of developments which are subject to federal mortgage insurance or assistance or are financed by notes or bonds exempt from federal income taxation, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

If federal law or rules and regulations impose limitations on the incomes of the persons or families who may occupy all or any of the units in a development, the *adjusted family incomes* (as defined in the ~~authority's rules and regulations~~) of applicants for occupancy of all of the units in the development shall be computed, for the purpose of determining eligibility for occupancy thereof *hereunder and* under the authority's rules and regulations ~~and these procedures, instructions and guidelines~~, in the manner specified in such federal law and rules and regulations, subject to such modifications as the executive director shall require or approve in order to facilitate processing, review and approval of such applications.

Notwithstanding anything to the contrary herein, all developments and the processing thereof under the terms hereof must comply with (i) the Act ~~and the authority's rules and regulations~~; (ii) the applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued by the authority to finance such developments; (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws and regulations relating thereto; and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions are available upon request.

§ 3. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance development intended for occupancy by persons and families of low and moderate income. The term of the mortgage loan shall be equal to (i) if the mortgage loan is to finance the construction of the proposed development, the period determined by the executive director to be necessary to: (1) complete construction of the development, (2) achieve sufficient occupancy to support the development and (3) consummate the final closing of the mortgage loan; plus (ii) if the mortgage loan is to finance the ownership and operation of the proposed development, an amortization period set forth in the mortgage loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any federal insurance, assistance or subsidy.

Mortgage loans may be made to: (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 95%; and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the minimum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed, the economic feasibility and marketability of the proposed development at the rents necessary to pay the debt service on the mortgage loan and the operating expenses of the proposed development, and the income levels of the persons and families who would be able to afford to pay such rents.

The categories of cost which shall be allowable by the authority in the acquisition and construction of a development financed under these rules and regulations shall include the following: (i) construction costs, including equipment, labor and materials furnished by the mortgagor, contractor or subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and

mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the development operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the executive director shall determine to be reasonable and necessary for the acquisition and construction of the development. The extent to which costs in any of such categories shall be allowable in respect of a specific development and includable in the housing development costs thereof as determined by the authority at final closing shall be governed by the terms of the authority's cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide"). In accordance with the authority's rules and regulations, the executive director is authorized to prepare and from time to time revise a the cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide") which shall, unless otherwise agreed to by the authority, govern the extent to which costs may be eligible for inclusion in the housing development costs as determined by the authority at final closing. Copies of such guide are shall be available upon request. Upon completion of the acquisition and construction of the development, the total of the housing development costs shall be certified to the authority in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and terms of the deed of trust note. The authority shall charge a financing fee equal to 2.5% of the mortgage loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may

select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of proposals and the selection of developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and acceptance for processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the mortgagor (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience and financial capacity of the applicant and general

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contractor and the qualifications of the architect, management agent and other members of the proposed development team;

3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;

4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and

5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to

acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the residents intended to be benefitted by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these ~~procedures, instructions, and guidelines,~~ *rules and regulations*, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these ~~procedures, instructions, and guidelines,~~ *rules and regulations*, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the units to such persons and families; and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these ~~procedures, instructions and guidelines,~~ *rules and regulations*.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these ~~procedures, instructions and guidelines~~ *rules and regulations* and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act and the ~~authority's rules and regulations~~, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these ~~procedures, instructions and guidelines~~ *rules and regulations* and without unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

Applications shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds to finance mortgage loans for the proposed developments.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these ~~procedures, instructions and guidelines~~ *rules and regulations*.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he

shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

§ 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;

2. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;

3. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed mortgage loan amount; (iii) proposed rents; (iv) proposed annual operating budget and the individual components thereof; (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting information as shall be requested by the executive director;

4. *The applicant's proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) the proposed rent structure; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.*

4. 5. The applicant's management ; and marketing ~~and~~ *tenant selection* plans, including description and analysis of ~~marketing and tenant selection~~ strategies, techniques and procedures to be followed in marketing *and managing* the units ~~and selecting tenants~~ ; and

5. 6. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development,

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including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;
2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation (such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of competitive projects;
3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;
4. A final review of the (i) ability, experience and

financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the proposed development team.

5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units; the amenities and facilities to be provided to the proposed residents; and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a mortgage loan commitment be issued to the applicant with respect to the proposed development only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these ~~procedures, instructions and guidelines~~ *rules and regulations*.
2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.
3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's cost certification guide or under such other requirements as shall be agreed to by the authority.
4. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.
5. All operating expenses (including replacement and other reserves) necessary or appropriate for the

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operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

6. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include: (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space; and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

7. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

8. The units will be occupied by persons and families intended to be served by the proposed development and qualified *hereunder and* under the Act and , the authority's rules and regulations, and any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development will (i) attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, debt service and replacement and other required reserves and escrows) within the usual and customary time for a development for its size, nature, location and type, and without any delay in the commencement of amortization; and (ii) will continue to be self-sufficient for the full term of the mortgage loan.

9. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 above.

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and

customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

11. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

12. The management plan includes such management procedures and requirements as are necessary for the proper and successful operations, maintenance and management of the proposed development in accordance with these ~~procedures, instructions and guidelines~~ *rules and regulations*.

13. The marketing and tenant selection plans submitted by the applicant shall comply with the ~~authority's~~ *these* rules and regulations and shall provide for actions to be taken such that: (i) the dwelling units in the proposed development will be occupied in accordance with item 8 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served by the proposed development; (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin; and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these ~~procedures, instructions and guidelines~~ *rules and regulations*) to be applied by the mortgagor in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

14. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

15. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the proposed development; and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are

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issued or to be issued.

16. The prerequisites necessary for the members of the applicant's development team to acquire, own, construct or rehabilitate, operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval; (ii) proper zoning status; (iii) assurances of the availability of the requisite public utilities; (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development; (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia; (vi) building permits; and (vii) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed development).

17. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

19. Subject to a final determination by the board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to 0.5% of the then estimated mortgage loan amount less any processing fees previously paid by the applicant. Such fee shall be applied at initial closing toward the

payment of the authority's financing fee.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the authority's rules and regulations.

The term of the mortgage loan, the amortization period, the estimated housing development costs, the principal amount of the mortgage loan, the terms and conditions applicable to any equity contribution by the applicants, any assurances of successful completion and operational stability of the proposed development, and other terms and conditions of such mortgage loan shall be set forth in the board's resolution authorizing such mortgage loan or in the commitment issued on behalf of the authority pursuant to such resolution. The resolution or commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed development, the marketing and occupancy of the proposed development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the mortgage loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development, setting forth the initial schedule of rents, the approved initial budget for operation of the proposed development and a schedule of the estimated housing development costs. Such a resolution authorizing a mortgage loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit housing sponsor's equity in such development (such equity being established in accordance with § 9 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with § 9 of these rules and regulations.

A mortgage loan shall not be authorized by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the mortgage loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the

mortgage loan.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of

mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained final completion. Upon such final completion of the development, the mortgagor, general contractor, and any other parties required to do so by the initial closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the authority's cost certification guide or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents in order to attain final completion, make the final disbursement of mortgage loan proceeds, obtain any federal insurance, subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the initial closing documents:

1. The total development costs, the fair market value of the development (if such value is to be used to determine the mortgagor's equity investment); the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;
2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and
3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of

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the final closing.

Unless otherwise agreed to by the authority, the mortgagor and contractor shall, within such period of time as is specified in the authority's cost certification guide, submit supplemental cost certifications, and the authority shall have the right to make such adjustments to the foregoing determinations as it shall deem appropriate as a result of its review of such supplemental cost certification.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the development as finally determined by the authority and the final principal amount of the mortgage loan as to such development. If the mortgage loan commitment and initial closing documents so provide and subject to such terms and conditions as shall be set forth therein, the equity shall be adjusted subsequent to final closing to an amount equal to the difference, as of the date of adjustment, between the fair market value of the development and the outstanding principal balance of the mortgage loan.

§ 10. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and operation of the proposed development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or ~~the authority's~~ these rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;
2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;
3. Where a mortgage loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or
4. Where the authority has entered into an agreement

with the mortgagor prior to initial closing to provide a mortgage loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

In the event that a person or entity acceptable to the authority is prepared to provide financing on a participation basis on such terms and conditions as the authority may require, the authority will consider and, where appropriate, approve an increase in its mortgage loan subsequent to initial closing to the extent of the financing by such person or entity in any of the following instances:

1. One or more of the instances set forth in subdivision 1 through 4 above; or
2. Where costs are incurred which are:
 - a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;
 - b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;
 - c. Evidenced by change orders in accordance with the original contract documents or by other documentation acceptable to the authority; and
 - d. Approved by the authority for inclusion within the total development cost in accordance with the Act, ~~the authority's~~ these rules and regulations and the authority's cost certification guide.

Any such mortgage loan increase to be financed on a participation basis shall be granted only to the extent that such costs cannot be funded from mortgage loan proceeds, any income from the operation of the development approved by the authority for application thereto, and other moneys of the mortgagor available therefor. As used herein, the term "other moneys of the mortgagor" shall include moneys received or to be received as a result of the sale or syndication of limited partnership interest in the mortgagor. In the event that any limited dividend mortgagor shall have sold or syndicated less than 90% of the partnership interests, such term shall include the amount, as determined by the authority, which would have been received upon the sale or syndication of 90% of such interest under usual and customary circumstances.

Any such increase in the mortgage loan subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan to be financed from the proceeds of the authority's notes or

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bonds).

2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such mortgage loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.

3. A determination by the authority that the mortgage loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development.

4. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the authority's cost certification guide and as approved by the authority) as is established in the resolution authorizing the mortgage loan in accordance with § 3 of these ~~procedures, instructions and guidelines~~; *rules and regulations*.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and ~~the authority's~~ *these* rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the mortgage loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment, provided that such increase is consistent with the Act and ~~the authority's~~ *these* rules and regulations and ~~the provisions of these procedures, instructions and guidelines~~. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any mortgage loan, as the decision as to whether to grant a mortgage loan increase shall be within the sole and absolute discretion of the authority.

§ 11. Operation, management and marketing.

The development shall be subject to a regulatory agreement entered into at initial closing between the authority and the mortgagor. Such regulatory agreement shall govern the rents, operating budget, occupancy, marketing, management, maintenance, operation, use and disposition of the development and the activities and operation of the mortgagor, as well as the amount of assets or income of the development which may be distributed to the mortgagor. *The mortgagor shall execute such other documents with regard to the regulation of the development and the mortgagor as the executive director*

may determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

Except as otherwise agreed by the authority pursuant to § 14 hereof, only rents established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for dwelling units in the development. Notwithstanding the foregoing, in the case of any developments financed subsequent to January 1, 1986, the authority may agree with the mortgagor that the rents may be established and changed by the mortgagor without the prior approval of the authority, subject to such restrictions in the regulatory agreement as the authority shall deem necessary to assure that the rents shall be affordable to persons and families intended to be served by the development and subject to compliance by the mortgagor with the provisions in § 2 of these ~~procedures, instructions and guidelines~~; *rules and regulations*.

Any costs for supportive services not generally included in the rent for similar developments shall not be funded from the rental income of the development.

If the mortgagor is a partnership, the general partner or partners shall be required to retain at least a 10% interest in the net proceeds from any sale, refinancing or other disposition of the development during the life of the mortgage loan.

The mortgagor shall lease the units in the development only to persons and families who are eligible for occupancy thereof as described in § 2 of these ~~procedures, instructions and guidelines~~; *rules and regulations*. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding: (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the development; and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the development.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;
2. The status and physical condition of the housing then occupied by such applicants; and
3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and

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with the tenant selection plan approved by the authority pursuant to § 6 of these ~~procedures, instructions and guidelines~~ *rules and regulations*.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement entered into at initial closing between the mortgagor and its management agent, or where the mortgagor and the management agent are the same entity, between the authority and the mortgagor. Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The mortgagor and its management agent (if any) shall manage the development in accordance with the Act, ~~the authority's~~ *these* rules and regulations, the regulatory agreement, the management agreement, the authority's housing management handbook, and the management plan approved by the authority.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the initial closing documents or other agreements relating to the mortgage loans. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable to assure compliance with this § 11.

§ 12. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 12 shall apply only to transfers of ownership to be made subject to the authority's deed of trust and regulatory agreement. Such provisions shall not be applicable to transfers of ownership of developments subject to HUD FHA mortgage insurance, it being the policy of the authority to consent to any such transfer approved by HUD FHA and permitted by the Act and applicable note or bond resolutions.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale,

conveyance or other direct or indirect transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer; (ii) all documentation to be executed in connection with the transfer; (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity); (iv) an analysis of the current physical and financial condition of the development, including a current audited financial report for the development; (v) information regarding the experience and ability of any proposed management agent; and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the development in a manner satisfactory to the authority.

2. The development's physical and financial condition must be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the development, will reduce the costs of operating or maintaining the development, will benefit the residents or otherwise improve the liveability of the development, or will improve the financial strength and stability of the development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the development on its behalf must have the experience and ability necessary to manage the development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

If the development is subsidized or otherwise assisted by HUD, the U.S. Department of Housing and Urban Development or any successor entity ("HUD"), the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

C. The authority will charge the proposed ownership entity a fee of \$5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. The amount and terms of any secondary financing (i.e., any portion of the purchase price is to be paid after closing of the transfer of ownership) shall be subject to the review and approval of the authority. Secondary financing which would require a lien on the development is prohibited by the authority's bond resolution and, therefore, will not be permitted or approved. The authority will not provide a mortgage loan increase or other financing in connection with the transfer of ownership. The authority will also not approve a rent increase in order to provide funds for the repayment of any secondary financing. Cash flow (other than dividend distributions) shall not be used to repay the secondary financing. Any proposed secondary financing must not, in the determination of the authority, have any material adverse effect on the operation and management of the development, the security of the mortgage loan, the interests of the authority as lender, or the fulfillment of the authority's public purpose under the Act. The authority may impose such conditions and restrictions (including, without limitation, requirements as to sources of payment for the secondary financing and limitations on the remedies which may be exercised upon a nonpayment of the secondary financing) with respect to the secondary financing as it may deem necessary or appropriate to

prevent the occurrence of any such adverse effect.

E. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and the authority's these rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the development.

At the closing of the transfer of the ownership, the total development cost and the equity of a proposed for-profit owner shall be determined by the authority. The resolution of the board approving the transfer of ownership shall include a determination of the maximum annual rate, if any, at which distributions may be made by the proposed for-profit owner pursuant to the authority's these rules and regulations. The proposed for-profit owner shall execute and deliver such agreements and documents as the authority may require in order to incorporate the then existing policies, requirements and procedures relating to developments owned by for-profit owners. The role of the nonprofit owner in the ownership, operation and management of the development subsequent to the transfer of ownership shall be subject to the review and approval of the authority. The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

F. A request for transfer of ownership shall be reviewed by the executive director. If the executive director determines to recommend approval thereof, he shall present his analysis and recommendation to the board. The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the request and authorize the executive director to consent thereto, subject to such terms and conditions as the board shall require in such resolution.

Notwithstanding the foregoing, if any proposed transfer of a partnership interest is determined by the executive director to be insubstantial in effect and to have no material detrimental effect on the operation and management of the development or the authority's interest therein as lender, such transfer may be approved by him without approval of the board.

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After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the resolution of the board. The partnership agreement of the proposed ownership entity shall be subject to review by the authority and shall contain such terms and conditions as the authority may require.

The authority may require that the proposed ownership entity execute the then current forms of the authority's mortgage loan documents in substitution of the existing mortgage loan documents and/or to execute such amendments to the existing mortgage loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the development.

In the case of a development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the development and/or to protect the authority's interest as lender.

§ 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual

or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies. The provisions of this § 13 shall be subject to modification pursuant to § 14 hereof.

§ 14. Modification of regulatory controls and mortgage loan.

If the executive director determines that (i) the mortgagor of any development is not receiving a sufficient financial return from the operation thereof as a result of a reduction in the amount of federal tax benefits available to the development (generally, at least 10 years, in the case of new construction, or five years, in the case of substantial rehabilitation, after the date of initial occupancy), (ii) the reserves of such development are and, after any action taken pursuant to this section, will continue to be adequate to assure its proper operation and maintenance and (iii) the rental and other income is and, after any action taken pursuant to this section, will continue to be sufficient to pay the debt service on the mortgage loan and the operating expenses of the development (including required payments to reserve accounts), then he may agree to one or more of the following modifications to the regulatory controls of the authority:

1. Rents may be thereafter established and changed by the mortgagor without the prior approval of the authority, subject to (i) such restrictions as he shall deem necessary to assure that the rents shall be affordable to persons and families to be served by the development, (ii) compliance by the mortgagor with the provisions in § 2 of these ~~procedures, instructions~~

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and guidelines, rules and regulations, and (iii) such limitations on rent increases to existing residents as he shall deem necessary to prevent undue financial hardship to such residents;

2. Subject to prior approval by the board, any limitation on annual dividend distributions may be increased or eliminated, as determined by him to be necessary to provide an adequate financial return to the mortgagor without adversely affecting the financial strength or proper operation and maintenance of the development; and

3. The mortgagor may be given the right to prepay the mortgage loan on the date 20 years after the date of substantial completion of the development as determined by the executive director (or such later date as shall be necessary to assure compliance with federal laws and regulations governing the tax exemption of the notes or bonds issued to finance the mortgage loan), provided that the mortgagor shall be required to pay a prepayment fee in an amount described in § 13 of these procedures, instructions and guidelines, rules and regulations, and provided further that such right to prepay shall be granted only if the prepayment pursuant thereto would not, in the determination of the executive director, result in a reduction in the amount or term of any federal subsidy or assistance for the development. The executive director may require that the mortgagor grant to the authority (i) a right of first refusal upon a proposed sale of the development which would result in an exercise by the mortgagor of its right, as described above, to prepay the mortgage loan and (ii) an option to purchase the development upon an election by the mortgagor otherwise to exercise its right, as described above, to prepay the mortgage loan, which right of first refusal and option to purchase shall be effective for such period of time and shall be subject to such terms and conditions as the executive director shall require.

The foregoing modifications shall be made only to the extent permissible under and consistent with applicable federal laws and regulations and any agreements governing federal subsidy, assistance or mortgage insurance.

Upon a determination by the executive director as described in (i), (ii) and (iii) above in this section, the authority may also approve an increase in the principal amount of its mortgage loan or a restructuring of such mortgage loan (such as a modification of the mortgage loan by conversion thereof into an obligation guaranteed by a federal agency or instrumentality), subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. Compliance with the conditions and limitations in the Act and the authority's rules and regulations and with any applicable federal law and regulations and

any agreements governing federal subsidy, assistance or mortgage insurance;

2. The ability of the authority to sell bonds to finance any mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only if any such mortgage loan increase is to be financed by the authority from proceeds of its bonds);

3. A determination by the authority that the rents shall remain affordable to persons and families of low and moderate income to be served by the development and that the mortgage loan increase or restructuring and any increase in debt service will have no material adverse effect on the financial security of its mortgage loan or proper operation and maintenance of the development;

4. If the development receives federal subsidy or assistance or is subject to federal mortgage insurance, assurances satisfactory to the authority that such mortgage loan increase or restructuring and any increase in debt service are permissible under applicable federal law and regulations and will not adversely affect the term or amount of any federal subsidy or assistance or the coverage of any mortgage insurance and that any federal subsidy or assistance may be applied to pay any increase in debt service;

5. Such terms and conditions as the authority shall require in order to protect the security of its mortgage loan; to reimburse the authority for costs and expenses that may result from such mortgage loan increase or restructuring; to comply with covenants and agreements with, and otherwise to protect the interests of, the holders of its bonds issued to finance the mortgage loan or any increase thereof; and to carry out its public purpose.

Upon a determination as described in (i), (ii) and (iii) above in this section, the executive director may also approve a release of moneys held in the reserve funds of the development in such amount as he shall determine to be in excess of the amount required to assure the proper operation and maintenance of the development.

The executive director may require that all or a portion of the proceeds from any increase or restructuring of the mortgage loan or from any release of reserve funds be applied, in such manner and amount and on such terms and conditions as he shall deem necessary or appropriate, for improvements to the development or for providing additional housing for persons and families of low and moderate income.

The authorizations in this section for modifications of regulatory controls, mortgage loan increases and restructurings, and releases of reserve funds shall be cumulative and shall not be exclusive of each other. Accordingly, the authority, in its discretion, may elect to

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exercise for any development one or more or all of such authorizations.

The effective date of the foregoing amendments to multi-family procedures, instructions and guidelines shall be July 1, 1988.

* * * * *

Title of Regulation: VR 400-02-0002. Rules and Regulations for Single Family Housing Developments (Formerly: Procedures, Instructions and Guidelines for Single Family Housing Developments).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

VR 400-02-0002. Rules and Regulations for Single Family Housing Developments.

§ 1. Purpose and applicability.

The following ~~procedures, instructions and guidelines rules and regulations~~ will be applicable to mortgage loans which are made or are proposed to be made by the authority to housing sponsors to provide the construction financing of single family housing developments intended for ownership and occupancy by persons and families of low and moderate income (hereinafter referred to as the "development" or "developments"). The term "construction," as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefore.

The ~~procedures, instructions and guidelines~~ herein shall supersede the ~~Processing Procedures, Instructions and Guidelines~~ adopted by the Authority on September 17, 1973.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Authority's Act ; ~~Rules and Regulations~~, and any applicable covenants and agreements with the holders of its notes or bonds .

"Executive Director" as used herein means the Executive Director of the Authority or any other officer or employee of the Authority who is authorized to act on behalf of the Authority pursuant to a resolution of the Board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these ~~procedures, instructions and guidelines rules and regulations~~ shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the initial closing documents (as defined in § 6 hereof).

The ~~procedures, instructions and guidelines rules and regulations~~ set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's single family housing construction loan program. These ~~procedures, instructions and guidelines rules and regulations~~ are subject to change at any time by the authority and may be supplemented by policies, ~~procedures, instructions and guidelines rules and regulations~~ adopted by the authority from time to time with respect to any particular development or developments or single family housing program or programs.

§ 2. General description.

The authority may make mortgage loans secured by a lien on real property in order to finance the construction of developments intended for ownership and occupancy by persons and families of low and moderate income. The Authority's board of Commissioners establishes, from time to time, ~~by resolution~~ income limits for ownership and occupancy of single family homes financed by the authority. For the purpose of these ~~procedures, instructions and guidelines rules and regulations~~ , a person or family shall be deemed to be of low and moderate income if the Adjusted gross family income (as defined in the Authority's Rules and Regulations) of such person or family does not exceed the applicable income limit established by the Authority's board of Commissioners . Furthermore, *the board may establish, in the resolution authorizing any mortgage loan to finance a development under these rules and regulations, lower income limits for the purchasers of single family dwelling units in such development.* In the case of developments which are subject to federal mortgage insurance or assistance, federal regulations may establish lower income limitations which in effect supersede the authority's income limits as described above.

Notwithstanding anything to the contrary herein, all developments must comply with ~~(1)~~ (i) the Authority's Act and *the authority's* rules and regulations, ~~(2)~~ (ii) the applicable federal laws and regulations governing the federal tax exemption of any notes or bonds issued by the authority to finance such developments, ~~(3)~~ (iii) in the case of developments subject to federal mortgage insurance or other assistance, all applicable federal laws

and regulations relating thereto and ~~(4)~~ (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the developments. Copies of the authority's note and bond resolutions shall be available upon request.

§ 3. Terms of mortgage loans.

The term of the mortgage loan shall be equal to the period determined by the executive director to be necessary to complete construction of the development and to sell and convey the housing units to persons and families of low and moderate income, *but in no event shall such period exceed five years.*

Mortgage loans may be made in amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the estimated housing development costs ~~(including costs relating to the sale and transfer of units in the proposed development and a reasonable profit to the mortgagor as determined by the Executive Director)~~ of the development as is established in such commitment, but in no event shall such percentage exceed 95% in the case of ~~limited profit~~ for-profit housing sponsors and 100% in the case of nonprofit housing sponsors.

In determining the estimated total development costs, the categories of costs which shall be includable therein shall be those set forth in the authority's rules and regulations for multi-family housing developments (including a reasonable profit to the mortgagor), to the extent deemed by the executive director to be applicable to the development, and such other costs as the executive director shall deem reasonable and necessary for the sale and conveyance of the units in the proposed development.

The maximum principal amount and percentage of estimated housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and the fulfillment of its public purpose.

The board may ~~by resolution~~ establish *from time to time* maximum sales prices which will be applicable to units financed hereunder; *provided, that the board may establish, in the resolution authorizing any mortgage loan to finance a development under these rules and regulations, lower maximum sales prices for the units in such development.*

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a nonrefundable processing fee of \$500 and a financing fee equal to 1-1/2% (less the \$500 processing fee) of the mortgage loan amount, unless the executive director shall for good cause require the

payment of a different processing or financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of proposals and the selection of developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to:

- a. 1. Financial statement of the applicant, the general contractor and the principals therein and information regarding other projects in which the applicant, general contractor and principals therein are or have been involved.
- b. 2. If the applicant is incorporated, a corporate resolution setting forth the applicant's borrowing capacity and a certificate of incumbency identifying officers of the corporation.
- c. 3. Information regarding the business status and experience of the applicant, general contractor, and any other members of the proposed development team.
- d. 4. Plans and specifications for roads and streets which are to serve the proposed development.
- e. 5. Site plans and specifications showing location of homes and streets, topography, ground cover, easements, drainage, lots, driveways and utilities.

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f. 6. Plans and specifications for each unit type.

g. 7. The subdivision plat which has been or will be recorded.

h. 8. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to own, construct, and sell the units in the proposed development, including local governmental approvals, proper zoning status, licenses and other necessary legal authorizations, and any easements necessary for the construction and occupancy of the development.

i. 9. Any option or sales contract to acquire the site of the proposed development.

j. 10. Area and location maps indicating location of the proposed development and public and private facilities in the immediate vicinity of the proposed development.

k. 11. Evidence of the availability and capacity of public water and sewer systems and/or approval of individual well and/or septic systems by lot by the appropriate authority and/or all necessary permits for the construction of private utility systems with supporting documents.

l. 12. The applicant's (i) best estimates of the housing development costs and the components thereof, (ii) proposed mortgage loan amount, and (iii) proposed sales prices.

m. 13. The applicant's marketing plan, including description and analysis of marketing strategies, techniques and procedures to be followed in marketing the housing units (i) the proposed sales prices of the single family dwelling units; (ii) the utilization of any mortgage insurance, subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of purchasers therefor, which income levels shall not exceed the income limitations of the authority applicable to the single family dwelling units; and (iv) the marketing strategies, techniques and procedures to be followed with respect to the sale of the single family dwelling units (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing agent of the applicant.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval of such forms, documents and information.

The executive director may require that the

nonrefundable processing fee of \$500 accompany the application. If after a site inspection by the authority the application is disapproved, then the authority will deduct its expenses to date and will refund the balance.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The executive director may require the applicant to reimburse the authority for the cost of such appraisal. The executive director may also obtain such other reports, analyses, information and data as he deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority's staff shall review the application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of the proposed development. Such review shall be performed in accordance with § 36-55.33:1 D 2 of the authority's Act and shall include, but not be limited to, the following:

(i) 1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;

(ii) 2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of any other members of the proposed development team;

(iii) 3. An evaluation of the estimated construction costs, the proposed sales prices, and the design and structure of the proposed development;

(iv) 4. A market analysis as to the present and projected demand for the proposed development in the market area, including: an evaluation of existing and future market conditions; an analysis of trends and projections of housing production, employment and population for the market area; a site evaluation (such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and an analysis of competitive projects;

(v) 5. A review of the marketing plan, including its effect on the economic feasibility of the proposed development and its efficacy in carrying out the

programs and policies of the authority;

(vi) 6. An analysis of the plans and specifications, including the functional use and living environment of the units, the marketability of the units as designed, the amenities, equipment and facilities to be provided, and the maintenance and energy conservation characteristics of the units in the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall prepare a recommendation to the Authority board that a mortgage loan commitment be issued to the applicant with respect to the proposed development if he determines that all of the foregoing criteria have been satisfied.

a. 1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in the value of the units in the proposed development or which could adversely affect its marketability or economic feasibility.

b. 2. There are or will be available on or before the estimated completion date (1) (i) direct access to adequate public roads and any necessary public utilities and (2) (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

c. 3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction.

d. 4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for ownership and occupancy thereof.

e. 5. The applicant either owns the site of the proposed development or has the legal right to acquire the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing (any such ownership acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the

construction or sale of the proposed development).

f. 6. The design of the proposed development and the units therein is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in similar developments in the area by the contemplated residents, and will otherwise provide safe, habitable and pleasant living accommodations and environment for such residents.

g. 7. Any administrative, community, health, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental to the proposed development and are necessary, convenient or desirable with respect to the occupancy and ownership of the units in the proposed development.

h. 8. The applicant's estimates of housing development costs (1) (i) include all costs necessary for the development, construction and sale of the proposed development, (2) (ii) are reasonable in amount, (3) (iii) are based upon valid data and information, and (4) (iv) are comparable to costs for similar single family developments.

i. 9. The proposed sales prices are in amounts which (1) (i) do not exceed any applicable maximum sales prices established by the authority, (2) (ii) will permit the applicant to recover his costs of development, construction and sale of the proposed development and to receive a reasonable profit as determined by the executive director, (3) (iii) will be affordable by the persons and families intended to be assisted by the authority and (4) (iv) will permit the successful marketing of the units to such persons and families within the term of the mortgage loan.

j. 10. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, marketing, and sale of the proposed development.

k. 11. Any other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

l. 12. The marketing plan submitted by the applicant shall comply with the Authority's these rules and regulations and shall provide for actions to be taken such that (1) (i) the dwelling units in the proposed development will be sold and occupied within the term of the mortgage loan by those eligible persons and families who are expected to be served by the proposed development and (2) (ii) the residents will be selected without regard to race, color, religion,

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creed, sex or national origin.

~~m.~~ 13. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and regulations, and adequate federal insurance, subsidy, or assistance is available for the proposed development and will be expected to remain available during the term of the mortgage loan.

~~n.~~ 14. The proposed development will comply with ~~(1)~~ (i) all applicable federal laws and regulations governing the federal tax exemption of any notes or bonds issued or to be issued by the authority to finance the proposed development and ~~(2)~~ (ii) all requirements set forth in the resolutions pursuant to which any such notes or bonds are issued or to be issued.

~~o.~~ 15. The prerequisites necessary for the owner, general contractor and other members of the applicant's development team to acquire, own, construct and sell the units in the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval, (ii) proper zoning status, (iii) assurances of the adequacy and availability of the requisite public or private utilities and services, (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and occupancy of the proposed development, (v) licenses and other legal authorizations necessary to permit the owner, general contractor, and any other member of the applicant's development team to perform his or its duties and responsibilities in the State of Virginia, and (vi) building permits.

~~p.~~ 16. The proposed development will not have a materially adverse effect on any other housing development located or to be located in the same market area for ownership and occupancy by the same type of resident and financed or to be financed by the authority.

~~q.~~ 17. The application and proposed development conform to any requirements, limitations and conditions imposed by the executive director pursuant to § 4 hereof.

~~r.~~ 18. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

~~s.~~ 19. It appears that the proposed development will

otherwise continue to be processed through initial closing and will be completed and sold, all in compliance with the Authority's Act and these rules and regulations, the documents and contracts executed at initial closing, any applicable federal laws, rules and regulations, and the provisions hereof and without unreasonable delay, interruptions or expense.

~~t.~~ 20. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

~~u.~~ 21. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

~~v.~~ 22. Subject to a final determination by the Authority's board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 A of the ~~Act~~ Code of Virginia .

Proposed developments shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds or from other sources to finance mortgage loans. If funds are insufficient to finance all of the mortgage loans for the proposed developments then being considered, the executive director shall select those proposed developments which best satisfy the foregoing criteria.

In the selection of an application, the executive director may take into account the desirability of allocating funds to different housing sponsors throughout the Commonwealth.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to one-half of 1.0% of the then estimated mortgage loan amount less any processing fee previously paid by the applicant. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

The board shall review and consider the analysis and

recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the Authority's Rules and Regulations. Such resolution or commitment shall set forth the estimated total housing development costs and the principal amount and term of the mortgage loan and shall include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed development, the marketing and sale of the single family dwelling units in such development (including any income limits or maximum sales prices lower than those established in the authority's rules and regulations), the disbursement and repayment of the mortgage loan, assurances of successful completion of the proposed development and all other matters related to the construction and sale of the proposed development. Such resolution or commitment may include a financial analysis of the proposed development setting forth the sales price limits for the single family dwelling units within the proposed development and a schedule of the estimated housing development costs.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 6. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts,

reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate for the satisfactory construction, completion and sale of the development. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 7. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of the mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 8. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan and/or the maximum sales prices may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and sale of the proposed development, can be funded (in the case of a mortgage loan increase) from available moneys of the authority or proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Authority's Act or these rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve an increase in the principal amount of the mortgage loan and/or the maximum sales prices in the following instances:

- a. 1. Where cost increases are incurred as the direct result of ~~(a)~~ (i) changes in work required or requested by the authority of ~~(b)~~ (ii) betterments to the development approved by the authority which will improve the quality or value of the development;
- b. 2. Where cost increases are incurred as a direct

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result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;

e. 3. Where an increase in the mortgage loan or maximum sales price is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or

d. 4. Where the authority has entered into an agreement with the mortgagor prior to initial closing to provide an increase in the mortgage loan or maximum sales price if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

Any such increase in the mortgage loan or maximum sales price subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

a. 1. The ability of the authority to sell notes or bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds).

b. 2. A determination by the authority that the mortgage loan increase in the principal amount of the mortgage loan and/or in the maximum sales price will have no material adverse effect on the marketability of the development.

e. 3. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost as is established in the resolution authorizing the mortgage loan in accordance with § 3 hereof.

d. 4. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of any notes or bonds issued to finance the mortgage loan, to comply with the Authority's Act and these rules and regulations, and to carry out its public purpose.

The executive director may, at any time and without further action by the board, increase ~~(a)~~ (i) the principal amount of the mortgage loan by an amount or amounts not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment and/or ~~(b)~~ (ii) the maximum sales prices for the units in the developments to the highest maximum sales prices then established by the authority for newly constructed units in the area in which the development is located; provided that any such increase in the mortgage loan or maximum sales price is consistent with the Authority's Act and these

rules and regulations and the provisions hereof. Any increase in excess of the foregoing amounts shall require the approval of the board.

Nothing contained in this § 8 shall impose any duty or obligation on the authority to increase any mortgage loan or maximum sales price, as the decision as to whether to grant such increase shall be within the sole and absolute discretion of the authority.

§ 9. Sale of housing units; supervision by the authority.

The sale of units in the development shall be subject to a regulatory agreement executed at the initial closing by the authority and the mortgagor. Such regulatory agreement shall govern *the construction of the development*, the marketing and sale of the units, the maximum sales prices for such units, eligibility of purchasers of such units, the use and disposition of the development, the payment of any penalty *described below* for sale to a person or family not of low and moderate income, and such other matters as the executive director shall deem appropriate. Only sales prices established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for units in the development. *The mortgagor shall execute such other documents with regard to the regulation of the development as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.*

In the event that a single family dwelling unit shall be sold to a purchaser who is not of low or moderate income as described in § 2 of these rules and regulations, the authority shall have the right to require the mortgagor to pay a penalty in such amount as shall be prescribed in the resolution authorizing the mortgage loan or in the commitment issued pursuant to such resolution.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Authority's Act Code of Virginia. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable.

* * * * *

Title of Regulation: VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income ((Formerly: Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A

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(See Calendar of Events section for additional information)

NOTICE: Documents and forms referred to as exhibits have not been adopted by the authority as a part of the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income but are attached thereto for reference and informational purposes. Accordingly, such documents and forms have not been included in the amendment to Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income. Copies of such documents and forms are available upon request at the office of the authority.

VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.

PART I. GENERAL.

§ 1.1. General.

The following ~~procedures, instructions and guidelines rules and regulations~~ will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to persons and families of low and moderate income for the acquisition (and, where applicable, rehabilitation), ownership and occupancy of single family housing units.

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" or "gross family income" (as determined in accordance with the authority's rules and regulations) as applicable, which does not exceed the applicable income limitation ~~established by the authority, set forth in Part II hereof.~~ Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit ~~established by the authority, set forth in Part II hereof.~~ The term "sales price," with respect to a mortgage loan for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds : Such income and sales price limitations and other restrictions shall be set forth in the Processing and Disbursing Guide as set forth in Part II hereof.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any mortgage loan hereunder to waive or modify any provisions of these ~~procedures, instructions and guidelines rules and regulations~~ where deemed appropriate by him for good cause, to the extent not inconsistent with the authority's Act ; rules and regulations, and covenants and agreements with the holders of its bonds .

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these ~~procedures, instructions and guidelines rules and regulations~~ shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the mortgagor under the agreements and documents executed in connection with the mortgage loan.

The ~~procedures, instructions and guidelines rules and regulations~~ set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's single family housing program. These ~~procedures, instructions and guidelines rules and regulations~~ are subject to change at any time by the authority and may be supplemented by policies, ~~procedures, instructions and guidelines rules and regulations~~ adopted by the authority from time to time.

§ 1.2. PDS agents.

A. Approval.

The processing of applications for the making or financing of mortgage loans hereunder, the disbursement of proceeds of mortgage loans and the servicing of mortgage loans shall be performed through commercial banks, savings and loan associations and private mortgage bankers approved as Processing/Disbursing/Servicing Agents ("PDS agents") of the authority. To be initially approved as PDS agents, the applicant must meet the following qualifications:

1. Be authorized to do business in the Commonwealth of Virginia;
2. Have a satisfactory rating from any state and federal agencies responsible for the regulation of the applicant;
3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan

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Insurance Corporation;

4. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;
5. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;
6. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and
7. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualifications set forth in (3) and (4) above only with respect to the origination of mortgage loans.

All PDS agents approved by the authority shall enter into Processing/Disbursing/Servicing Agreements ("PDS agreements") with the authority containing such terms and conditions as the executive director shall require with respect to the processing, disbursing and servicing of mortgage loans hereunder. The PDS agents shall maintain adequate books and records with respect to such mortgage loans, shall permit the authority to examine such books and records, and shall submit to the authority such reports (including annual financial statements) and information as the authority may require. The fees payable to the PDS agent for originating and servicing mortgage loans hereunder shall be established from time to time by the executive director and shall be set forth in the PDS agreements.

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to mortgage loan applicants on a first-come, first-serve or other basis, (ii) to PDS agents and state and local government agencies and instrumentalities for the origination of mortgage loans to qualified applicants and/or (iii) to builders for the permanent financing of residences constructed or rehabilitated or to be constructed or or rehabilitated by them and to be sold to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and disbursement of such funds for mortgage loans;
2. The need and demand for the financing of

mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any PDS agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and
5. Housing conditions in the Commonwealth.

In the event that the executive director shall determine to make allocations of funds to builders as described above, the following requirements must be satisfied by each such builder:

1. The builder must have a valid contractor's license in the Commonwealth;
2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and
3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Processing and disbursing guide and servicing guide.

The processing and disbursing guide attached hereto as Part II is incorporated into and made a part of these ~~procedures, instructions and guidelines, rules and regulations.~~ *All exhibits and other documents referenced in the processing and disbursing guide are not included in, and shall not be deemed to be a part of, these rules and regulations.* The executive director is authorized to prepare and from time to time revise a servicing guide which shall

set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the servicing guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the processing and disbursing guide and the servicing guide.

D. Making and purchase of new mortgage loans.

The authority may from time to time (i) make mortgage loans directly to mortgagors with the assistance and services of its PDS agents and (ii) agree to purchase individual mortgage loans from its PDS agents upon the consummation of the closing thereof. The review and processing of applications for such mortgage loans, the issuance of mortgage loan commitments therefor, the closing and servicing (and, if applicable, the purchase) of such mortgage loans, and the terms and conditions relating to such mortgage loans shall be governed by and shall comply with the provisions of the PDS agreement, the processing and disbursing guide, the servicing guide and , the authority's Act and these rules and regulations.

If the applicant and the application for a mortgage loan meet the requirements of the Act and these rules and regulations, the executive director may issue on behalf of the authority a mortgage loan commitment to the applicant for the financing of the single family dwelling unit, subject to the approval of ratification thereof by the board. Such mortgage loan commitment shall be issued only upon the determination of the authority that such a mortgage loan is not otherwise available from private lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the mortgage loan commitment. The original principal amount and term of such mortgage loan, the amortization period, the terms and conditions relating to the prepayment thereof, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth or incorporated in the mortgage loan commitment issued on behalf of the authority with respect to such mortgage loan.

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. *The sales prices of the single family housing units financed by such mortgage loans, the gross family incomes of the mortgagors thereof, and the original principal amounts of such mortgage loans shall not exceed such limits as the executive director shall establish, subject to approval or ratification by resolution of the*

board. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's Act and the authority's rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing commitments for mortgage loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which PDS agents may qualify for such delegation. If such delegation has been made, the PDS agents shall submit all required documentation to the authority after closing of each mortgage loan. If the executive director determines that a mortgage loan does not comply with the processing and disbursing guide, the PDS agreement or , the authority's Act or these rules and regulations, he may require the PDS Agents to purchase such mortgage loan, subject to such terms and conditions as he may prescribe.

PART II. VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

Article I. Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible.

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B. Family.

A single family loan can be made to more than one person only if all such persons to whom the loan is made are related by blood, marriage or adoption and are living together in the dwelling as a single nonprofit housekeeping unit.

§ 2.2. Compliance with certain requirements of the Internal Revenue Code of 1986, as amended (hereinafter "the tax code").

The tax code imposes certain requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with these federal requirements and restrictions, the authority has established certain procedures which must be performed by the PDS agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing and signing the "PDS Agent's Checklist for Certain Requirements of the Tax Code" (Exhibit A (1)) prior to the authority's approval of each loan. No loan will be approved by the authority unless all of the federal eligibility requirements are met as well as the usual requirements of the authority set forth in other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

In order to be considered an eligible borrower for an authority mortgage loan, an applicant must, among other things, meet all of the following federal criteria:

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);
2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabilitation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);
3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);
4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

5. Must execute an affidavit of borrower (Exhibit E) at the time of loan application;

6. Must not receive income in an amount in excess of the applicable federal income limit imposed by the tax code (See § 2.5 Income requirements); and

7. Must agree not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan unless certain requirements are met. (See § 2.10 Loan assumptions).

B. Three-year requirement.

An eligible borrower does not include any borrower who, at any time during the three years preceding the date of execution of the mortgage loan documents, had a "present ownership interest" (as hereinafter defined) in his principal residence. Each borrower must certify on the affidavit of borrower that at no time during the three years preceding the execution of the mortgage loan documents has he had a present ownership interest in his principal residence. This requirement does not apply to residences located in "targeted areas" (see § 2.3 "Targeted areas"); however, even if the residence is located in a "targeted area," the tax returns for the most recent taxable year (or the letter described in 3 below) must be obtained for the purpose of determining compliance with other requirements.

1. Definition of present ownership interest. "Present ownership interest" includes:

- a. A fee simple interest,
- b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,
- c. The interest of a tenant shareholder in a cooperative,
- d. A life estate,
- e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and
- f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would constitute a present ownership interest if held directly by the eligible borrower.

Interests which do not constitute a "Present ownership interest" include:

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,

c. A mere expectancy to inherit an interest in a principal residence,

d. The interest that a purchaser of a residence acquires on the execution of an accepted offer to purchase real estate, and

e. An interest in other than a principal residence during the previous three years.

2. **Persons covered.** This requirement applies to any person who will execute the mortgage document or note and will have a present ownership interest (as defined above) in the eligible dwelling.

3. **Prior tax returns.** To verify that the eligible borrower meets the three-year requirement, the PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three tax years immediately preceding execution of the mortgage documents (or certified copies of the returns) or a copy of a letter from the Internal Revenue Service stating that its Form 1040A or 1040EZ was filed by the eligible borrower for any of the three most recent tax years for which copies of such returns are not obtained. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return or letter from the Internal Revenue Service for such year or years is waived.

The PDS agent shall examine the tax returns particularly for any evidence that the eligible borrower may have claimed deductions for property taxes or for interest on indebtedness with respect to real property constituting his principal residence.

4. **Review by PDS agent.** The PDS agent must, with due diligence, verify the representations in the borrower affidavit regarding the applicant's prior residency by reviewing any information including the credit report and the tax returns furnished by the eligible borrower for consistency, and certify to the authority that on the basis of its review, it is of the opinion that each borrower has not had present ownership interest in a principal residence at any time during the three-year period prior to the anticipated date of the loan closing.

C. Principal residence requirement.

1. **General.** An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a purchase and rehabilitation loan) of the mortgage loan

closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from the authority. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of a purchase and rehabilitation loan) after the closing of the mortgage loan on the affidavit of borrower and as part of the attachment to the deed of trust.

2. **Definition of principal residence.** A principal residence does not include any residence which can reasonably be expected to be used: (i) primarily in a trade or business, (ii) as an investment property, or (iii) as a recreational or second home. A residence may not be used in a manner which would permit any portion of the costs of the eligible dwelling to be deducted as a trade or business expense for federal income tax purposes or under circumstances where any portion of the total living area is to be used primarily in a trade or business.

3. **Land not to be used to produce income.** The land financed by the mortgage loan may not provide, other than incidentally, a source of income to the eligible borrower. The eligible borrower must indicate on the affidavit of borrower that, among other things:

a. No portion of the land financed by the mortgage loan provides a source of income (other than incidental income);

b. He does not intend to farm any portion (other than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

4. **Lot size.** Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas. However, exceptions may be made: (i) if the land is owned free and clear and is not being financed by the loan, the lot may be as large as five acres, (ii) if difficulty is encountered locating a well or septic field, the lot may exceed two acres to include the additional acreage required, and (iii) local city and county zoning ordinances which require more acreage will be taken into consideration.

5. **Review by PDS agent.** The affidavit of borrower must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS agent shall review the appraiser report of an

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authority approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to the authority for approval.

6. Post-closing procedures. The PDS agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the borrower are the same and (ii) notify the authority if such addresses are not the same. Subject to the authority's approval, the PDS agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

Mortgage loans may be made only to persons who did not have a mortgage (whether or not paid off) on the eligible dwelling at any time prior to the execution of the mortgage. Mortgage loan proceeds may not be used to acquire or replace an existing mortgage or debt for which the eligible borrower is liable or which was incurred on behalf of the eligible borrower, except in the case of construction period loans, bridge loans or similar temporary financing which has a term of 24 months or less.

1. Definition of mortgage. For purposes of applying the new mortgage requirement, a mortgage includes deeds of trust, conditional sales contracts (i.e. generally a sales contract pursuant to which regular installments are paid and are applied to the sales price), pledges, agreements to hold title in escrow, a lease with an option to purchase which is treated as an installment sale for federal income tax purposes and any other form of owner-financing. Conditional land sale contracts shall be considered as existing loans or mortgages for purposes of this requirement.

2. Temporary financing. In the case of a mortgage loan (having a term of 24 months or less) made to refinance a loan for the construction of an eligible dwelling, the authority shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. Review by PDS agent. Prior to closing the mortgage loan, the PDS agent must examine the affidavit of borrower, the affidavit of seller, and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new

mortgage requirements. Upon such review, the PDS agent shall certify to the authority that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

Any eligible borrower may not have more than one outstanding authority mortgage loan.

§ 2.2.2. Eligible dwellings.

A. In general.

In order to qualify as an eligible dwelling for which an authority loan may be made, the residence must:

1. Be located in the Commonwealth;
2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and
3. Satisfy the acquisition cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases for new loans such federal limits equal or exceed the authority's sales price limits shown in § 2.3. Therefore, for new loans the residence is an eligible dwelling if the acquisition cost is not greater than the authority's sales price limit. In the event that the acquisition cost exceeds the authority's sales price limit, the PDS agent must contact the authority to determine if the residence is an eligible dwelling.

2. Acquisition cost requirements for assumptions. To determine if the acquisition cost is at or below the federal limits for assumptions, the PDS agent must in all cases contact the authority.

3. Definition of acquisition cost. Acquisition cost means the cost of acquiring the eligible dwelling from the seller as a completed residence.

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures

under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

(2) The reasonable costs of completing or rehabilitating the residence (whether or not the cost of completing construction or rehabilitation is to be financed with the mortgage loan) if the eligible dwelling is incomplete or is to be rehabilitated. As an example of reasonable completion cost, costs of completing the eligible dwelling so as to permit occupancy under local law would be included in the acquisition cost. A residence which includes unfinished areas (i.e. an area designed or intended to be completed or refurbished and used as living space, such as the lower level of a tri-level residence or the upstairs of a Cape Cod) shall be deemed incomplete, and the costs of finishing such areas must be included in the acquisition cost. (See Acquisition Cost Worksheet, Exhibit G, Item 4 and Appraiser Report, Exhibit H).

(3) The cost of land on which the eligible dwelling is located and which has been owned by the eligible borrower for a period no longer than two years prior to the construction of the structure comprising the eligible dwelling.

b. Acquisition cost does not include:

(1) Usual and reasonable settlement or financing costs. Such excluded settlement costs include title and transfer costs, title insurance, survey fees and other similar costs. Such excluded financing costs include credit reference fees, legal fees, appraisal expenses, points which are paid by the eligible borrower, or other costs of financing the residence. Such amounts must not exceed the usual and reasonable costs which otherwise would be paid. Where the buyer pays more than a pro rata share of property taxes, for example, the excess is to be treated as part of the acquisition cost.

(2) The imputed value of services performed by the eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence.

4. Acquisition cost worksheet (Exhibit G) and Appraiser Report (Exhibit H). The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The PDS agent must also obtain from the appraiser a completed appraiser's report which may also be relied upon in completing the acquisition cost

worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the affidavit of borrower required to be submitted with the loan submission. The affidavit of seller shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

5. Review by PDS agent. The PDS agent shall for each new loan determine whether the acquisition cost of the eligible dwelling exceeds the authority's applicable sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact the authority to determine if the residence is an eligible dwelling for a new loan. (For an assumption, the PDS agent must contact the authority for this determination in all cases). Also, as part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to the authority that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this subsection B. In addition, the PDS agent must compare the information contained in the acquisition cost worksheet with the information contained in the affidavit of seller and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

6. Independent appraisal. The authority reserves the right to obtain an independent appraisal in order to establish fair market value and to determine whether a dwelling is eligible for the mortgage loan requested.

§ 2.2.3. Targeted areas.

A. In general.

In accordance with the tax code, the authority will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. The authority will exercise due diligence in making mortgage loans in targeted areas by advising PDS agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to a PDS agent exclusively for targeted areas will be specified in a forward commitment agreement between the PDS agent and the authority.

B. Eligibility.

Mortgage loans for eligible dwellings located in targeted areas must comply in all respects with the requirements in § 2.2 and elsewhere in this guide for all mortgage loans, except for the three-year requirement in § 2.2.1.B.

1. Definition of targeted areas.

Proposed Regulations

a. A targeted area is an area which is a qualified census tract, as described in b below, or an area of chronic economic distress, as described in c below.

b. A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury.

c. An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the tax code. PDS agents will be informed by the authority as to the location of areas so designated.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

B. For reservations made between August 10, 1987, and March 1, 1989.

The authority's maximum allowable sales prices for new loans for which reservations are taken by the authority on or after August 10, 1987, but prior to March 1, 1989, shall be as follows:

§ 2.3. Sales price limits.

A. For reservations made on or after March 1, 1989.

The authority's maximum allowable sales price for new loans for which reservations are taken by the authority on or after March 1, 1989, shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority On or after March 1, 1989

AREA	NEW CONSTRUCTION/ EXISTING/ SUBSTANTIAL REHABILITATION
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$120,000
Norfolk-Virginia Beach- Newport News MSA 2/	\$ 81,500
Richmond-Petersburg MSA 3/	\$ 79,500
Charlottesville MSA 4/	\$ 77,000
Fauquier County	\$ 77,000
Spotsylvania and King George Counties	\$ 75,500
Balance of State	\$ 75,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

MAXIMUM ALLOWABLE SALES PRICES

Applicable to All New Loans for which Reservations are Taken by the Authority on or after August 10, 1987, but prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA (Virginia Portion) 1/	\$120,000	\$120,000	\$110,000
Norfolk-Virginia Beach- Newport News MSA 2/	\$ 81,500	\$ 81,500	\$ 75,500
Richmond-Petersburg MSA 3/	\$ 77,000	\$ 71,500	\$ 68,500
Roanoke MSA 4/	\$ 73,500	\$ 56,500	\$ 56,500
Lynchburg MSA 5/	\$ 65,000	\$ 58,500	\$ 58,500
Charlottesville MSA 6/	\$ 77,000	\$ 74,500	\$ 68,500
Fringe of Washington MSA Fauquier County	\$ 77,000	\$ 77,000	\$ 77,000
Fredericksburg	\$ 64,000	\$ 60,000	\$ 60,000
Spotsylvania County	\$ 66,000	\$ 60,000	\$ 60,000
Winchester Area 7/	\$ 64,000	\$ 58,500	\$ 58,500

Proposed Regulations

North Piedmont (Rural Part)			
8/	\$ 64,000	\$ 56,500	\$ 56,500
Balance			
of State	\$ 64,000	\$ 56,500	\$ 56,500

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County, Winchester City.

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

C. The applicable maximum allowable sales price for new construction shall be increased by the amount of any grant to be received by a mortgagor under the authority's Solar Home Grant Program in connection with the acquisition of a residence.

§ 2.4. Net worth.

To be eligible for authority financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of income over \$20,000. (The value of furniture and household goods shall not be included in determining net worth.) In addition, the portion of the applicant's liquid assets which are used to make the down payment and to pay closing costs, up to a maximum of 25% of the sale price, will not be included in the net worth calculation.

Any income producing assets needed as a source of income in order to meet the minimum income requirements for an authority loan will not be included in the applicant's net worth for the purpose of determining

whether this net worth limitation has been violated.

§ 2.5. Income requirements.

A. Maximum gross income.

As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this subsection A apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are met as long as the requirements of this subsection are met. The maximum annual gross family incomes for eligible borrowers shall be determined or set forth as follows:

1. For reservations made on or after March 1, 1989.

MAXIMUM ALLOWABLE GROSS INCOMES

Applicable only to loans for which reservations are taken by the authority and to assumptions for which applications are taken by the PDS Agent on or after March 1, 1989.

The maximum allowable gross income for each borrower shall be a percentage (based on family size) of the applicable median family income (as defined in § 143(f)(4) of the Internal Revenue Code of 1986 (as amended), with respect to the residence of such borrower, which percentages shall be as follows:

Family Size	Percentage of applicable Median Family Income (Regardless of whether residence is new construction, existing or substantially rehabilitated)
1 person	70%
2 person	85%
3 or more persons	100%

However, the maximum allowable gross income for each borrower assuming a mortgage loan made prior to March 1, 1989, shall be the amount established for a family of three or more persons, regardless of the family size of such borrowers.

The authority shall from time to time inform the PDS Agents by written notification thereto of the foregoing maximum allowable gross income limits expressed in dollar amounts for each area of the state and each family size. The effective dates of such limits shall be determined by the executive director.

2. For reservations made between August 10, 1987, and March 1, 1989.

MAXIMUM ALLOWABLE GROSS INCOMES

Proposed Regulations

Applicable only to loans for which reservations are taken by the Authority and to assumptions for which applications are taken by the PDS agent on or after August 10, 1987, and prior to March 1, 1989.

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA (Virginia Portion)			
1/	\$ 49,400	\$ 49,400	\$ 46,000
Norfolk-Virginia Beach- Newport News MSA			
2/	\$ 37,000	\$ 37,000	\$ 35,800
Richmond-Petersburg MSA			
3/	\$ 36,400	\$ 34,400	\$ 33,300
Roanoke MSA			
4/	\$ 35,100	\$ 32,700	\$ 31,500
Lynchburg MSA			
5/	\$ 32,200	\$ 32,200	\$ 30,000
Charlottesville MSA			
6/	\$ 36,400	\$ 35,400	\$ 33,300
Fringe of Washington MSA			
Fauquier County	\$ 34,400	\$ 34,400	\$ 34,400
Fredericksburg	\$ 32,700	\$ 32,700	\$ 31,500
Spotsylvania County	\$ 32,700	\$ 32,700	\$ 31,500
Winchester Area			
7/	\$ 32,200	\$ 32,200	\$ 30,000
North Piedmont (Rural Part)			
8/	\$ 32,700	\$ 32,700	\$ 31,500
Balance of State	\$ 32,200	\$ 32,200	\$ 30,000

1/ Includes: Alexandria City, Arlington County, Fairfax City, Fairfax County, Falls Church City, Loudoun County, Manassas City, Manassas Park City, Prince William County, Stafford County.

2/ Includes: Chesapeake City, Gloucester County, Hampton City, James City County, Newport News City, Norfolk City, Poquoson City, Portsmouth City, Suffolk City, Virginia Beach City, Williamsburg City, York County.

3/ Includes: Charles City County, Chesterfield County, Colonial Heights City, Dinwiddie County, Goochland County, Hanover County, Henrico County, Hopewell City, New Kent County, Petersburg City, Powhatan County, Prince George County, Richmond City.

4/ Includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

5/ Includes: Amherst County, Campbell County, Lynchburg City.

6/ Includes: Albemarle County, Charlottesville City, Fluvanna County, Greene County.

7/ Includes: Clarke County, Frederick County, Winchester City.

8/ Includes: Caroline County, Culpeper County, King George County, Louisa County, Madison County, Orange County, Rappahannock County.

B. Minimum income (not applicable to applicants for loans to be insured or guaranteed by the Federal Housing Administration or the Veterans Administration (hereinafter referred to as "FHA or VA loans").

An applicant satisfies the minimum income requirement for authority financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Exhibit B) For units in condominiums, 60% of the monthly condominium assessment shall be used in the foregoing ratio calculations.

§ 2.6. Calculation of maximum loan amount.

Single family detached residence and townhouse (fee simple ownership) Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - Maximum of 95% (or, in the case of a FHA or VA loan, such other percentage as may be permitted by FHA or VA) of the lesser of the sales price or appraised value, except as may be otherwise approved by the authority.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) The value of personal property included in the appraisal shall not be deducted from the appraised value. (See Appraiser Report, Exhibit H)

In the case of a FHA or VA loan, the FHA or VA insurance fees charged in connection with such loan (and, if a FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and VA

requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

Unless the loan is an FHA or VA loan, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If the authority requires FHA or VA insurance, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the PDS agent's name and purchased by the authority once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event the authority purchases an FHA or VA loan, the PDS agent must enter into a purchase and sale agreement. (See Exhibit C) For assumptions of conventional loans (i.e., loans other than FHA and VA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

1. Employment and income.

a. Length of employment. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Self-employed applicants. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See § 2.2.1.C Principal residence requirement.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. Income derived from sources other than primary employment.

(1) Alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant for a loan.

(2) Social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant for a loan.

(3) Part-time employment. Part-time employment must be continuous for a minimum of six months. Employment with different employers is acceptable so long as it has been uninterrupted for a minimum of six months. Part-time employment as used in this section means employment in addition to full-time employment.

Part-time employment as the primary employment will also be required to be continuous for six months.

(4) Overtime, commission and bonus. Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. Credit.

a. Credit experience. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references are considered to be one of the most important requirements in order to obtain an authority loan.

b. Bankruptcies. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years and has a poor credit history. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy and poor credit history. The authority has complete discretion to decline a loan when a bankruptcy and poor credit is involved.

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c. Judgments. An applicant is required to submit a written explanation for all judgments. Judgments must be paid before an applicant will be considered for an authority loan.

3. Appraisals. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

B. FHA loans only.

1. In general. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, most of the authority's basic eligibility requirements including those described in §§ 2.1 through 2.5 hereof remain in effect due to treasury restrictions or authority policy.

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed, except that, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. Closing fees. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. Appraisals. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

C. VA loans only.

1. In general. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, most of the authority's basic eligibility requirements (including those described in §§ 2.1 through 2.5 hereof) remain in effect due to treasury restrictions or authority policy.

2. VA funding fee. 1.0% funding fee can be included in loan amount provided final loan amount does not exceed the authority's maximum allowable sales price.

3. Appraisals. VA certificates of reasonable value (CRV's) are acceptable.

§ 2.9. Funds necessary to close.

A. Cash (Not applicable to FHA or VA loans).

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or

closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

A gift letter is required when an applicant proposes to obtain funds from a third party. The gift letter must confirm that there is no obligation on the part of the borrower to repay the funds at any time. The party making the gift must submit proof that the funds are available. This proof should be in the form of a verification of deposit.

C. Housing expenses.

Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed carefully to determine if there is a substantial increase. If there is a substantial increase, the applicant must demonstrate his ability to pay the additional expenses.

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

VHDA currently permits assumptions of all of its single family mortgage loans as long as certain requirements are met. The requirements for each of the four different categories of mortgage loans listed below are as follows:

1. Assumptions of conventional loans.

a. For assumptions of conventional loans financed by the proceeds of bonds issued on or after December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirement).
- (2) § 2.2.1.C (Principal residence requirement)
- (3) § 2.8 (Authority underwriting requirements)
- (4) § 2.2.1.B (Three year requirement)
- (5) § 2.2.2.B (Acquisition cost requirement)
- (6) § 2.7 (Mortgage insurance requirement).

b. For assumptions of conventional loans financed by the proceeds of bonds issued prior to December 17, 1981, the requirements of the following sections hereof must be met:

- (1) § 2.5 (Income requirements)
- (2) § 2.2.1.C (Principal residence requirements)
- (3) § 2.8 (Authority underwriting requirements)

(4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA or VA loans.

a. For assumptions of FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981 the following conditions must be met:

(1) § 2.5.A (Maximum income requirement)

(2) § 2.2.1.C (Principal residence requirement)

(3) § 2.2.1.B (Three year requirement)

(4) § 2.2.2.B (Acquisition cost requirements).

In addition, all applicable FHA or VA underwriting requirements, if any, must be met.

b. For assumptions of FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981, only the applicable FHA or VA underwriting requirements, if any, must be met.

B. Requirement that the authority be contacted.

The PDS agent must in each case of a request for assumption of a mortgage loan contact the authority in order to determine which category of loans described in subsection A above applies to the loan and whether or not the requirements of the applicable category are satisfied. (For example, in cases of assumptions, the PDS agent may not rely - as it may for new loans - on the fact that the acquisition cost of the dwelling is less than the authority's sales price limits to satisfy the acquisition cost requirement. It is therefore essential that the authority be contacted in each case.)

C. Application package for assumptions.

Once the PDS agent has contacted the authority and it has been determined which of the four categories described in subsection A above applies to the loan, the PDS agent must submit to the authority the information and documents listed below for the applicable category:

1. Assumption package for conventional loans:

a. Conventional loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

(4) Appraiser's report (Exhibit H).

(5) Three year's tax returns.

(6) PDS agent's checklist (Exhibit A(1)).

(7) 4506 form (Exhibit Q).

(8) PDS agent's loan submission cover letter (Exhibit 0(1)).

(9) Authority's completed application (Exhibit D).

(10) Verification of employment (VOE's) (and other income related information).

(11) Verification of deposit (VOD's).

(12) Credit report.

(13) Sales contract.

(14) Truth-in-lending (Exhibit K) and estimate of charges.

(15) Equal credit opportunity act (ECOA) notice (Exhibit I).

(16) Authority underwriting qualification sheet (Exhibit B(1)).

b. Conventional loans financed by the proceeds of bonds issued prior to December 17, 1981:

(1) Authority's completed application (Exhibit D).

(2) Verification of employment (VOE's) (and other income related information).

(3) Verification of deposit (VOD's).

(4) Credit report.

(5) Sales contract.

(6) Truth-in-lending (Exhibit K) and estimate of charges.

(7) Equal credit opportunity act (ECOA) notice (Exhibit I).

(8) Authority underwriting qualification sheet (Exhibit B(2)).

2. Assumption package for FHA or VA loans.

a. FHA or VA loans financed by the proceeds of bonds issued on or after December 17, 1981:

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

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- (4) Appraiser's Report (Exhibit H).
- (5) Three year's tax returns.
- (6) PDS agent's checklist (Exhibit A(1)).
- (7) 4506 form (Exhibit Q).
- (8) PDS agent's loan submission cover letter (Exhibit 0(2) or (3)).
- (9) Authority's completed application (Exhibit D).
- (10) In addition, all applicable requirements, if any, of FHA or VA must also be met.

b. FHA or VA loans financed by the proceeds of bonds issued prior to December 17, 1981: Only the applicable requirements, if any, of FHA or VA must be met.

D. Review by the authority/additional requirements.

Upon receipt of an application package for assumption, the authority will determine whether or not the applicable requirements referenced above for assumption of the loan have been met and will advise the PDS agent of such determination in writing. The authority will further advise the PDS agent of all other requirements necessary to complete the assumption process. Such requirements may include but are not limited to the submission of satisfactory evidence of hazard insurance coverage on the property, approval of the deed of assumption, satisfactory evidence of mortgage insurance or mortgage guaranty including, if applicable, pool insurance and submission of an escrow transfer letter.

§ 2.11. Leasing, loan term, and owner occupancy.

A. Leasing.

The owner may not lease the property without first contacting the authority.

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

No loan will be made unless the residence is to be occupied by the owner as the owner's principal residence.

§ 2.12. Reservations/fees.

A. Making a reservation.

The authority currently reserves funds for each mortgage loan on a first come, first served basis. In order to make a reservation of funds for a loan, the PDS agent shall:

1. First make a determination based on the information then made available to it by the applicant or otherwise that neither the applicant nor the property appears to violate any of the authority's eligibility requirements for a new loan.

2. Collect a \$100 nonrefundable reservation fee (or such other amount as the authority may require).

3. Determine what type of mortgage insurance will be required; specifically, whether the loan will be a conventional loan, an FHA loan or a VA loan.

4. Complete a reservation sheet (Exhibit C).

5. Call the authority (after completing the four preceding requirements) between 9 a.m. and 5 p.m. Monday through Friday for the assignment of a reservation number for the loan, an interest rate for the reserved funds and an expiration date for the reservation, all of which will be assigned after the PDS agent gives to the authority the following information:

- a. Name of primary applicant
- b. Social security number of applicant
- c. Estimated loan amount
- d. PDS agent's servicer number
- e. Gross family income of applicant and family, if any
- f. Location of property (city or county)
- g. Verification of receipt of the reservation fee
- h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F;" and, if VA, it will be "V").

6. Complete the reservation card by filling in the reservation number, interest rate, expiration date and by executing it (only an authorized representative of the PDS agent may sign the reservation card).

7. Submit the complete application package to the authority (see § 2.13) along with evidence of receipt of the reservation fee within 60 days after the authority assigns the reservation number to the loan (i.e., takes the reservation). Funds will not be reserved longer than 60 days unless the PDS agent requests and receives an additional one-time extension prior to the 60-day deadline.

B. More than one reservation.

An applicant may request a second reservation if the

first has expired, but in no case may the interest rate be reduced without the authority's prior approval. In addition, a second reservation fee must be collected for a second reservation.

C. The reservation fee.

Under no circumstances is this fee refundable. If the loan closes, it will be retained by the PDS agent as part of its 1.0% origination fee. If (i) the application is not submitted prior to the expiration of the reservation, or (ii) the authority determines at any time that the loan will not close, this reservation fee must be submitted to the authority within 30 days after such expiration or such determination by the authority, as applicable. If, in such cases, the fee is not received by the authority within such 30-day period, the PDS Agent shall be charged a penalty fee of \$50 in addition to the reservation fee (see subsection D for other fees). No substitutions of applicants or properties are permitted.

D. Other fee.

1. Commitment fee. The PDS agent must collect at the time of the issuance of a commitment by the authority an amount equal to 1.0% of the loan amount less the amount of the reservation fee already collected (such that the total amount received by the PDS agent at that point equals 1.0% of the loan amount - please also note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only). If the loan closes, the PDS agent retains the full 1.0% as its original fee. If the loan does not close the origination fee (which includes the reservation fee) must be submitted to the authority when the failure to close is due to the fault of the applicant. On the other hand, if the failure to close is not due to the fault of the applicant, then everything collected except for the reservation fee may at the option of the authority be refunded to the applicant. (The reservation fee, as required in subsection C above is always submitted to the authority when a loan fails to close.)

2. Discount point. The PDS agent must collect at the time of closing an amount equal to 1.0% of the loan amount from the seller. This fee is to be remitted to the authority by the PDS agent.

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

The application package submitted to the authority for approval of a conventional loan must contain the following:

1. Reservation sheet (Exhibit C).
2. Application - the application must be made on the authority's approved application form. (Exhibit D)

3. Preliminary underwriting form. (Exhibit B)

4. Credit report issued by local credit bureau and miscellaneous information as applicable explanation of bankruptcies, etc., (and any additional documentation).

5. Verification of employment (and any additional documentation).

6. Verification of other income.

7. Verification of deposits (and any additional documentation).

8. Gift letters (and verification).

9. Sales contract - contract must be signed by seller and all parties entering into the contract and state which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) should be the Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") form and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to the authority or who has a certification from a trade organization approved by the authority (photos and required supporting documentation).

11. Loan submission cover letter. (Exhibit O(1))

12. Appraiser's report. (Exhibit H)

13. Acquisition cost worksheet. (Exhibit G)

14. Affidavit of seller. (Exhibit F)

15. Affidavit of borrower. (Exhibit E)

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

17. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))

18. Signed request for copy of tax returns. (Exhibit Q)

19. U.S. Department of Housing and Urban Development ("HUD") information booklet acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended the Real Estate Settlement Procedures Act

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Amendments of 1975 (RESPA), as amended, and Regulations Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

20. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of the ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

21. Truth-in-lending disclosure. (Exhibit K)

B. FHA loans.

The application package submitted to the authority for approval of an FHA loan must contain the following items:

1. Reservation sheet (Exhibit C).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the HUD application (FHA form 92900).
4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).
5. Copy of the credit report.
6. Copy of verification of employment.
7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Assignment letter - this must reference the case number, name of applicant.
12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.
13. FHA Notice to Buyers (Document F-9)
14. Loan submission cover letter. (Exhibit O(2))
15. Appraiser's report. (Exhibit H)
16. Acquisition cost worksheet. (Exhibit G)
17. Affidavit of seller. (Exhibit F)
18. Affidavit of borrower. (Exhibit E)
19. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by

Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1 B3 hereof, such letter must be enclosed instead).

20. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))

21. Signed request for copy of tax returns (Exhibit Q)

22. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

23. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

24. Truth-in-lending disclosure. (Exhibit K)

C. VA loans.

The application package submitted to the authority for approval of a VA loan must contain the following items:

1. Reservation sheet (Exhibit C).
2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).
3. Copy the VA application (VA form 26-1802A).
4. Copy of the Loan Analysis Worksheet (VA form 6393).
5. Copy of the credit report.
6. Copy of verification of employment.
7. Copy of verification of other income.
8. Copy of verification of deposits.
9. Copy of gift letters (and verification).
10. Copy of sales contract.
11. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting

documentation necessary for valuation.

12. Loan submission cover letter. (Exhibit O(3))

13. Appraiser's report. (Exhibit H)

14. Acquisition cost worksheet. (Exhibit G)

15. Affidavit of seller. (Exhibit F)

16. Affidavit of borrower. (Exhibit E)

17. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 6 in the affidavit of borrower and § 2.2.1.B.3 hereof.

(NOTE: If a letter from the Internal Revenue Service is to be delivered pursuant to paragraphs § 2.2.1.B.3 hereof, such letter must be enclosed instead).

18. PDS agent's checklist for certain requirements of the tax code. (Exhibit A(1))

19. Signed request for copy of tax returns (Exhibit Q)

20. U.S. Department of Housing and Urban Development ("HUD") information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, as amended, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), as amended, and Regulation Z (Truth-In-Lending), as amended. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

21. Equal Credit Opportunity Act ("ECOA") notice statement to borrower of provisions of ECOA, with borrower's acknowledgement of receipt. (Exhibit I)

22. Truth-in-lending disclosure. (Exhibit K)

D. Delivery of package to authority.

After the application package has been completed, it should be forwarded to:

Single Family Originations Division
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

§ 2.14. Commitment. (Exhibit J)

A. In general.

Upon approval of the applicant, the authority will send a

mortgage loan commitment to the borrower in care of the PDS agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the PDS agent. A commitment must be issued in writing by an authorized officer of the authority and signed by the applicant before a loan may be closed. The term of a commitment may be extended in certain cases upon written request by the applicant and approved by the authority. Generally, no more than one commitment will be issued to an applicant in any calendar year. However, if an applicant who received a commitment fails to close the mortgage loan transaction through no fault of his own, that borrower may be considered for one additional commitment upon proper reapplication to the authority within the one year period from the cancellation or expiration of the original commitment; provided, however, that the interest rate offered in the additional commitment, if issued, may be higher than the rate offered in the original commitment. Such new rate and the availability of funds therefor shall in all cases be determined by the authority in its discretion.

B. Loan rejection.

If the application fails to meet any of the standards, criteria and requirements herein, a loan rejection letter will be issued by the authority (see Exhibit L). In order to have the application reconsidered, the applicant must resubmit the application within 30 days after loan rejection. If the application is so resubmitted, the credit documentation cannot be more than 90 days old and the appraisal not more than six months old.

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the PDS agent with the documents which the closing attorney is required to complete. After the authority reviews the closing attorney's preliminary work and has been advised by the PDS agent in the case of an FHA or VA loan that all applicable FHA or VA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan

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proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

2. Special note regarding check for buy-down points. A certified or cashier's check made payable to the authority is to be provided at loan closing for buy-down points, if any. Under the tax code, the original proceeds of a bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. If buy-down points are paid out of mortgage loan proceeds (which are financed by bonds), then this federal regulation is violated because bond proceeds have in effect been used to pay interest rather than for the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down fees may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

All post-closing documents, including the post-closing cover letter (Exhibit P), should be forwarded as follows to:

Single Family Servicing Division
Post-Closing Section
Virginia Housing Development Authority
13 South 13th Street
Richmond, VA. 23219

Within five days after the closing of the loan, the PDS agent must forward the fees, interest and any other money due the authority, a repayment of the authority's outstanding construction loan, if any, private mortgage insurance affidavit and all closing documents except the original recorded deed of trust and title insurance policy and hazard insurance policy.

Within 45 days after loan closing, the PDS agent shall forward to the authority the original recorded deed of trust and final mortgage title insurance policy. Within 55 days after loan closing the PDS agent shall forward to the authority the original hazard insurance policy.

During the 120-day period following the loan closing the PDS agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the

address of the borrower are the same, and also to ascertain any change of address during such period and shall notify the authority if such addresses are not the same or if there is any such change of address. Subject to the authority's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the PDS agent's checklist for certain requirements of the tax code may not be correct or proper, the PDS agent shall immediately notify the authority.

§ 2.16. Property guidelines.

A. In general.

For each application the authority must make the determination that the property will constitute adequate security for the loan. The determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property.

In addition, manufactured housing may be financed only if it is new construction and insured 100% by FHA (see subsection C).

B. Conventional loans.

1. Existing housing and new construction. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road (easements or right-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements will be acceptable to the authority; and (iii) joint ownership of well and septic will be considered on a case-by-case basis to determine whether such ownership is acceptable - to - the authority.

2. Additional requirements for new construction. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. FHA or VA loans.

1. Existing housing and new construction. Both new construction and existing housing financed by an FHA or VA loan must meet all applicable requirements imposed by FHA or VA.

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a

permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

For the purpose of qualifying as substantially rehabilitated housing under the authority's maximum sales price limitations, the housing unit must meet the following definitions:

1. Substantially rehabilitated means improved to a condition which meets the authority's underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.
2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.
3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.
4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:
 - a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and
 - b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the

rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to the authority for approval.
2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which the authority has not previously financed the purchase of any units, Exhibit S providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. The authority will review the above described form and financial information. If on the basis of such review the authority finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit S requires that the Unit Owners Association agree to submit to the authority upon its request, the condominium's annual financial statements, operating budget and other information as the authority may require. The association is also required to agree that the authority shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for the authority's termination of its approval of the condominium.
3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to

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condominiums previously approved by the authority.

4. If a condominium is approved by FNMA, the authority will make mortgage loans on no more than 50% of the units in the condominium. If the condominium is not approved by FNMA, the authority will make mortgage loans on no more than 25% of the units in the condominium. If a condominium is to be phased, the foregoing percentage limits will be applied to each phase until all phases are completed. If the condominium has been previously approved by the authority and exceeds the foregoing percentage limitations, the authority will make no further mortgage loans for the purchase of the units in the condominium until such time as its percentage limits are no longer violated.

B. FHA or VA loans. The authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, or by VA, in the case of a VA loan.

The effective date of the foregoing amendments shall be March 1, 1989.

* * * * *

Title of Regulation: VR 400-02-0004. Rules and Regulations for Home Rehabilitation Loans (Formerly: Procedures, Instructions and Guidelines for Home Rehabilitation Loans).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A

(See Calendar of Events section for additional information)

VR 400-02-0004. Rules and Regulations for Home Rehabilitation Loans.

§ 1-1. § 1. Purpose and applicability.

The following ~~procedures, instructions and guidelines rules and regulations~~ will be applicable to mortgage loans which are made or are proposed to be made by the authority to low and moderate income persons and families for the purpose of financing certain rehabilitation improvements to eligible residences owned and occupied by such persons and families. Such mortgage loans are referred to herein as "home rehabilitation loans."

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any home rehabilitation loan to waive or modify any provisions herein where deemed appropriate by him for good cause,

to the extent not inconsistent with the authority's Act, rules and regulations, and any applicable covenants and agreements with the holders of its notes or bonds.

"Executive director" as used herein means the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these ~~procedures, instructions and guidelines rules and regulations~~ shall be made for the sole and exclusive benefit and protection of the authority, and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the borrower under the agreements and documents executed in connection with the home rehabilitation loan.

The ~~procedures, instructions and guidelines rules and regulations~~ set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's Home Rehabilitation Loan Program. These ~~procedures, instructions and guidelines rules and regulations~~ are subject to change at any time by the authority and may be supplemented by policies, ~~procedures, instructions and guidelines rules and regulations~~ adopted by the authority from time to time with respect to the Home Rehabilitation Loan Program.

Notwithstanding anything to the contrary herein, all home rehabilitation loans must comply with (i) the authority's Act and the authority's rules and regulations, (ii) the applicable federal laws, rules and regulations governing the federal tax exemption of any notes or bonds issued by the authority to finance such home rehabilitation loans, (iii) in the case of home rehabilitation loans subject to federal mortgage insurance or other assistance, all applicable federal laws, rules and regulations relating thereto and (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the home rehabilitation loans. Copies of the authority's note and bond resolutions shall be available upon request.

§ 1-2. § 2. Terms of home rehabilitation loans.

The amortization period and principal amount of each home rehabilitation loan shall be established by the executive director based upon his review and analysis of the application for such loan; provided, however, that the amortization period shall not exceed 30 years and the principal amount shall not exceed the total cost of the rehabilitation to be financed. Furthermore, in no event shall the principal amount of a home rehabilitation loan be less than \$1,000 nor shall the scheduled monthly payment of principal and interest for any home

rehabilitation loan be less than \$10 per month. The interest rate or rates to be charged on home rehabilitation loans shall be determined by the executive director in accordance with applicable provisions of the authority's Act and the authority's rules and regulations. If a home rehabilitation loan is subject to federal mortgage insurance or assistance, the terms of such home rehabilitation loan shall comply with all applicable federal law, rules and regulations.

§ 1-3. § 3. Eligibility of applicant.

In order to be eligible for a home rehabilitation loan, the person or family applying for such loan must have an adjusted family income (as defined in the authority's rules and regulations) which does not exceed 120% of the median income adjusted for family size as established from time to time by the U.S. Department of Housing and Urban Development for the jurisdiction in which the residence is located. The applicant must also satisfy such underwriting criteria and standards as the executive director may from time to time establish and modify in order to determine the financial capacity and creditworthiness of the applicant.

§ 1-4. § 4. Eligibility of residence.

The applicant must own and occupy the residence to which the improvements are to be made. The residence must be the principal residence of the applicant and must have been completed and occupied for at least 90 days prior to the submission of the application for a home rehabilitation loan. However, the requirements set forth in the preceding sentence shall not apply to a nonresidential structure which is being converted to residential use with the proceeds of a home rehabilitation loan and is intended to be used as the principal residence of the applicant upon completion of the rehabilitation. The residence must be located in the Commonwealth of Virginia.

§ 1-5. § 5. Eligibility of improvements.

Proceeds of a home rehabilitation loan may be used to finance the purchase and installation of eligible improvements. Improvements which are eligible for financing are structural alterations, repairs, additions to the residence itself, or other improvements upon or in connection with the residence. In order to be eligible, such improvements must substantially protect or improve the basic liveability or utility of the residence. Improvements which are physically removed from the residence but which are located on the property occupied by the residence may be eligible for financing if these improvements substantially protect or improve the basic liveability or utility of the residence (i.e., installation of a septic tank or the drilling of a well). The costs of the improvements to be financed with the proceeds of the home rehabilitation loan shall be reasonable. The executive director may review such costs and may require that the principal amount of the home rehabilitation loan not exceed such amount as he shall determine to be

reasonable for the proposed improvements. Such review shall be conducted for the sole and exclusive benefit and protection of the authority and shall not constitute any assurance or representation to the applicant as to the validity, propriety or reasonableness of the costs.

Improvements which, in the determination of the executive director, are deemed to be luxury items (such as swimming pools and spas) shall not be eligible for financing hereunder.

If the home rehabilitation loan is to be subject to any federal mortgage insurance or assistance, the improvements to be financed must also satisfy the requirements of any applicable federal law, rules or regulations.

Home rehabilitation loan proceeds may not be used to finance any improvements which have been completed at the time the application is submitted to the authority.

All work financed with the proceeds of a home rehabilitation loan shall be performed pursuant to a duly issued building permit, if required, and shall comply with all applicable state and local health, housing, building, fire prevention and housing maintenance codes and other applicable standards and requirements. Compliance with the foregoing shall be evidenced by such documents and certifications as shall be prescribed by the executive director.

All work financed with the proceeds of a home rehabilitation loan shall be covered by a warranty for workmanship and materials. The warranty shall be in such form and shall contain such terms and conditions as the executive director may require.

§ 1-6. § 6. Lien requirement.

The home rehabilitation loan shall be secured by a duly recorded deed or trust creating a valid, binding and enforceable lien on the residence.

§ 1-7. § 7. Origination of home rehabilitation loans by mortgage lenders.

The origination of home rehabilitation loans (i.e. the processing of applications and the disbursement of proceeds) may be performed through commercial banks, savings and loans associations, mortgage bankers, and state and local governmental agencies and instrumentalities (the foregoing are collectively referred to herein as "mortgage lenders") approved by the authority pursuant to this section. The authority may originate home rehabilitation loans directly utilizing its own staff, and in such event, the following provisions of this section shall be inapplicable.

Interested mortgage lenders may submit to the authority a loan origination application for participation in the Home Rehabilitation Loan Program. This application must be completed on such forms and shall contain such

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information and documents as the executive director may prescribe. The executive director shall review each loan origination application and may accept or reject such application after an analysis of relevant factors which may include the mortgage lender's net worth, financial and corporate history, experience in originating home improvement loans, capability in terms of personnel and facilities to originate home rehabilitation loans, and accessibility to the public. If the loan origination application is approved, the executive director is empowered to execute on behalf of the authority a loan origination agreement with the mortgage lender authorizing such mortgage lender to originate home rehabilitation loans. The loan origination agreement shall contain the terms under which the mortgage lender may originate home rehabilitation loans on behalf of the authority, including:

1. Covenants and warranties by the mortgage lender that it will comply with the authority's Act and *these* rules and regulations, ~~these procedures, instructions and guidelines~~, and all applicable federal and state laws, rules and regulations with respect to the origination of home rehabilitation loans;
2. Agreements to maintain in force such bonds, insurance policies, and qualifications as the executive director may specify;
3. Fees and reimbursements payable to the mortgage lender;
4. Documentation required in order to originate home rehabilitation loans;
5. Provisions for termination of the loan origination agreement; and
6. Such other terms and conditions as shall be deemed by the executive director to be necessary or appropriate for the origination of the home rehabilitation loans.

~~§ 1-8.~~ § 8. Allocation of funds.

The executive director shall allocate funds for the making of home rehabilitation loans hereunder in such manner, to such persons and entities, in such amounts, for such periods, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (i) to applicants for home rehabilitation loans on a first-come, first-serve or other basis and/or (ii) to mortgage lenders (who have been approved by the authority pursuant to ~~§ 1-7~~ § 7) for the origination of home rehabilitation loans to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

1. The need for the expeditious commitment and

disbursement of such funds for home rehabilitation loans;

2. The need and demand for the financing of home rehabilitation loans with such funds in the various geographical areas of the Commonwealth;
3. The cost and difficulty of administration of the allocation of funds;
4. The capability, history and experience of any mortgage lenders who are to receive an allocation;
5. Housing conditions in the Commonwealth;
6. Any financial contribution to be made to the authority by state and local governmental agencies and instrumentalities in order to provide funds for the Home Rehabilitation Loan Program; and
7. Requirements of federal or state law.

The executive director may from time to time take such actions as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to perspective applicants and other members of the public, and other methods of public announcements which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he may consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

~~§ 1-9.~~ § 9. Application and processing.

The applicant shall submit such forms, documents, and information as the authority may require in order to apply for a home rehabilitation loan.

If the home rehabilitation loan is to be originated through a mortgage lender, the application shall be initially reviewed by the mortgage lender for compliance with the authority's Act and *these* rules and regulations, ~~these procedures, instructions and guidelines~~, and any applicable federal law, rules and regulations. If the mortgage lender determines that the application so complies, the application shall be forwarded to the authority for its review and approval.

The executive director shall review the application, and if he determines that the application complies with the

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authority's Act and *these* rules and regulations, ~~these procedures, instructions and guidelines~~, and any applicable federal law, rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such home rehabilitation loan, subject to the ratification thereof by the board of the authority. The principal amount, amortization period and interest rate on the home rehabilitation loan, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment. ~~The closing of the home rehabilitation loan shall be consummated in accordance with the terms of the commitment. The improvements to be financed by the home rehabilitation loan shall be completed in accordance with the agreements and documents executed and submitted at the closing and within such period of time as the executive director may deem necessary therefor. The authority shall have the right from time to time to enter upon the property on which the residence is located in order to inspect the improvements. Any such inspections shall be made for the sole and exclusive benefit and protection of the authority.~~

The executive director may, in his discretion, delegate to any mortgage lenders the responsibility for issuing commitments for home rehabilitation loans and disbursing the proceeds thereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which mortgage lenders may qualify for such delegation. If such delegation has been made, the mortgage lender shall submit all required documentation to the authority after closing of the home rehabilitation loan. If the executive director determines that the home rehabilitation loan does not comply with the authority's Act or *these* rules and regulations, ~~these procedures, instructions and guidelines~~, or any applicable federal law, rules or regulations, he may require the mortgage lender to purchase the home rehabilitation loan, subject to such terms and conditions as he may prescribe.

~~§ 1-10.~~ § 10. Loan servicing procedures.

A. The executive director may contract with one or more mortgage lenders to service home rehabilitation loans. Interested mortgage lenders may submit a loan servicing application which shall be on such form and shall contain such information as the executive director may require. The executive director shall review each loan servicing application and may accept or reject such application after an analysis of relevant factors which may include the mortgage lender's net worth, financial and corporate history, experience in servicing home improvement loans, capability in terms of personnel and facilities to service home rehabilitation loans, and accessibility to the public. Upon approval of a loan servicing application, the mortgage lender and the authority shall execute a servicing agreement which shall specify the mortgage lender's duties and responsibilities,

the compensation which the mortgage lender will receive from the authority for such services, and all other terms and conditions pursuant to which the home rehabilitation loans will be serviced.

B. The mortgage lender's duties and responsibilities may include any of the following:

1. Collection, when due, of all payments on home rehabilitation loans;
2. Deposit of payments collected with respect to home rehabilitation loans into such accounts as the authority may direct;
3. Safekeeping and retention of all documents;
4. Delivery of payment schedules to the borrowers;
5. Accounting to the authority at such times and in such manner as the authority may direct; and
6. Such other duties as the executive director may deem necessary and appropriate with respect to the servicing of home rehabilitation loans.

C. The mortgage lender shall maintain adequate insurance and bonding coverage in such amounts as may be deemed necessary by the executive director and as shall be set forth in the servicing agreement.

D. The mortgage lender shall maintain adequate procedures to monitor delinquent home rehabilitation loans, shall use diligence to obtain payment of installments due on home rehabilitation loans, and shall promptly inform the authority of any delinquencies.

E. The authority may service home rehabilitation loans directly with its own staff and perform any or all of the above duties and responsibilities in connection therewith.

* * * * *

Title of Regulation: VR 400-02-0005. Rules and Regulations for Energy Loans (Formerly: Procedures, Instructions and Guidelines for Energy Loans).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

VR 400-02-0005. Rules and Regulations for Energy Loans.

§ 1. Purpose and applicability.

The following ~~procedures, instructions and guidelines~~ rules and regulations will be applicable to loans which are made or are proposed to be made by the authority to persons and families of low and moderate income for the

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purpose of financing certain energy saving improvements to eligible residences owned and occupied by such persons and families. Such loans are referred to herein as "energy loans."

Loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any energy loan to waive or modify any provisions herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Authority's Act, Rules and Regulations, and any applicable covenants and agreements with the holders of its notes or bonds.

"Executive director" as used herein means the Executive director of the Authority or any other officer or employee of the Authority who is authorized to act on behalf of the Authority pursuant to a resolution of the Board.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines rules and regulations shall be made for the sole and exclusive benefit and protection of the authority, and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority or the borrower under the agreements and documents executed in connection with the energy loan.

The procedures, instructions and guidelines rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of loans under the authority's energy loan program. These procedures, instructions and guidelines rules and regulations are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines rules and regulations adopted by the authority from time to time with respect to the energy loan program.

Notwithstanding anything to the contrary herein, all energy loans must comply with ~~(1)~~ (i) the Authority's Act and the authority's rules and regulations, ~~(2)~~ (ii) the applicable federal laws, rules and regulations governing the federal tax exemption of any notes or bonds issued by the authority to finance such energy loans, ~~(3)~~ (iii) in the case of energy loans subject to federal mortgage insurance or other assistance, all applicable federal laws, rules and regulations relating thereto and ~~(4)~~ (iv) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the energy loans. Copies of the authority's note and bond resolutions shall be available upon request.

§ 2. Terms of energy loans.

The amortization period and principal amount of each energy loan shall be established by the executive director based upon his review and analysis of the application for such loan; provided, however, that the amortization period shall not exceed 30 years and the principal amount shall not exceed the total cost of the improvements to be financed. Furthermore, in no event shall the principal amount of an energy loan be less than \$500 nor shall the scheduled monthly payment of principal and interest for any energy loan be less than \$10 per month. The interest rate or rates to be charged on energy loans shall be determined by the executive director in accordance with applicable provisions of the Authority's Act and the authority's rules and regulations. The executive director may require that energy loans be insured by private mortgage insurance companies or be insured or otherwise assisted by an appropriate agency of the federal or state government. If an energy loan is subject to federal mortgage insurance or assistance, the terms of such energy loan shall comply with all applicable federal law, rules and regulations.

§ 3. Eligibility of applicant.

In order to be qualified as a person or family of low or moderate income eligible for an energy loan, the person or family must ~~(a)~~ (i), in the case of an energy loan not subject to any federal mortgage insurance or assistance, have an adjusted family income (as defined in the authority's rules and regulations) which does not exceed the applicable limit established from time to time by the Authority's board of Commissioners the authority for ownership and occupancy of single family homes financed by the authority or ~~(b)~~ (ii) in the case of an energy loan subject to federal mortgage insurance or assistance, have an income (calculated in accordance with applicable federal rules and regulations) which does not exceed the limits under applicable federal rules and regulations as may be approved by the Authority's board of Commissioners the authority with any modifications thereto, provided that if such federal rules and regulations do not establish any income limits, the requirement of ~~(a)~~ subdivision (i) of this paragraph shall be applicable in determining the person's or family's eligibility for an energy loan. The applicant must also satisfy such underwriting criteria and standards as the executive director may from time to time establish and modify in order to determine the financial capacity and creditworthiness of the applicant.

§ 4. Eligibility of residence.

The applicant must own and occupy the residence to which the improvements are to be made. The residence must be the principal residence of the applicant, must be located in the Commonwealth of Virginia, and must have been completed prior to such date as may be established from time to time by the executive director or as may be required by any applicable federal rules and regulations.

§ 5. Eligibility of improvements.

Proceeds of an energy loan may be used to finance the purchase and installation of eligible improvements. Improvements which are eligible for financing are energy saving devices and alternative energy sources which will reduce the reliance on present sources of energy. Such eligible improvements include, but are not limited to, the following:

- (a) 1. *Insulation, caulking and weatherstripping;*
 - (b) 2. Furnace efficiency modifications including: replacement of burners, furnaces or boilers or any combination thereof which increases the energy efficiency of the heating system; devices for modifying flue openings which will increase energy efficiency of the heating system; and electrical and mechanical furnace ignition systems which replace standing gas pilot lights;
 - (c) 3. Clock thermostats;
 - (d) 4. Sealing attic wall floor and duct insulation;
 - (e) 5. Water heater insulation;
 - (f) 6. Storm windows and doors, multi-glazed windows and doors, heat absorbing or heat reflecting window and door materials;
 - (g) 7. Devices associated with load management techniques; and
 - (h) 8. Replacement air conditioners ; and
9. *Solar energy devices.*

In order to be eligible an improvement must have a "pay back" of six years or less. An improvement has such a "pay back" if the estimated energy saving resulting from the installation of the improvement will within six years equal or exceed the initial cost of purchasing and installing the improvement. This determination shall be made by the authority based upon a review of the home energy audit and the cost estimate provided by the applicant and approved by the authority.

If the energy loan is to be subject to any federal mortgage insurance or assistance, the improvements to be financed must also satisfy the requirements of any and all applicable federal law, rules and regulations.

Energy loan proceeds may not be used to finance any improvements which have been completed at the time the application is submitted to the authority.

All work financed with the proceeds of an energy loan shall be performed pursuant to a duly issued building permit, if required, and shall comply with all applicable state and local health, housing, building, fire prevention

and housing maintenance codes and other applicable standards and requirements. Compliance with the foregoing shall be evidenced by such documents and certifications as shall be prescribed by the executive director.

All work financed with the proceeds of an energy loan shall be covered by a warranty for workmanship and materials. The warranty shall be in such form and shall contain such terms and conditions as the executive director may prescribe.

§ 6. Lien requirement.

The executive director may from time to time establish maximum principal amounts of energy loans which may be financed without a lien as security therefor. Any energy loan having an original principal amount in excess of any such maximum principal amount applicable thereto shall be secured by a duly recorded deed of trust creating a valid, binding and enforceable lien on the residence. Such a lien shall also be required as security for any energy loan which, in the determination of the executive director, would involve an unacceptable risk to the authority without the security of such a lien.

§ 7. Home energy audit.

In conjunction with an application for an energy loan, the applicant must have a home energy audit performed on the residence. The purpose of this audit is to determine which improvements will result in the greatest energy and cost savings to the applicant. The authority may determine not to finance any improvements which, in the judgment of the executive director, will not represent, in comparison with alternative energy saving improvements, a reasonable expenditure of funds to provide energy and cost savings. The executive director may specify the procedure to be followed in the conduct of the home energy audit and may prescribe the form on which the results of the home energy audit will be described. The home energy audit must be conducted by a professional in the energy conservation field who is familiar with the conduct of home energy audits in the manner required under the energy loan program. If such a professional auditor is not available to the applicant, the executive director may, if he deems appropriate under the circumstances, allow the applicant to complete certain sections of the home energy audit, subject to such conditions as he may require.

The completed home energy audit comprises a part of the application for an energy loan and must be submitted to the authority with the application.

§ 8. Origination of energy loans by mortgage lenders.

The origination of energy loans (i.e., the processing of applications and the disbursement of proceeds) may be performed through commercial banks, savings and loans associations, mortgage bankers, and state and local governmental agencies and instrumentalities (the foregoing are collectively referred to herein as "mortgage lenders")

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approved by the the authority pursuant to this section. The authority may originate energy loans directly utilizing its own staff, and, in such event, the following provisions of this section shall be inapplicable.

Interested mortgage lenders may submit to the authority a loan origination application for participation in the energy loan program. This application must be completed on such forms and shall contain such information and documents as the executive director may prescribe. The executive director shall review each loan origination application and may accept or reject such application after an analysis of factors which may include the mortgage lender's net worth, financial and corporate history, experience in originating similar loans, capability in terms of personnel and facilities to originate energy loans, and accessibility to the public. If the loan origination application is approved, the executive director is empowered to execute on behalf of the authority a loan origination agreement with the mortgage lender authorizing the mortgage lender to originate energy loans. The loan origination agreement shall contain the terms under which the mortgage lender may originate energy loans on behalf of the authority, including:

- (a) 1. Covenants and warranties by the mortgage lender that it will comply with the Authority's Act and ~~these~~ rules and regulations; ~~these procedures, instructions, and guidelines~~ and all applicable federal and state laws, rules and regulations with respect to the origination of energy loans;
- (b) 2. Agreements to maintain in force such bonds, insurance policies, and qualifications that the executive director may require;
- (c) 3. Fees and reimbursements payable to the mortgage lender;
- (d) 4. Documentation required in order to originate energy loans;
- (e) 5. Provisions for termination of the loan origination agreement; and
- (f) 6. Such other terms and conditions as shall be deemed by the executive director to be necessary or appropriate for the origination of energy loans.

§ 9. Allocation of funds.

The executive director shall allocate funds for the making of energy loans hereunder in such manner, to such persons and entities, in such amounts, for such periods, and subject to such terms and conditions as he shall deem appropriate to best accomplish the purposes and goals of the authority. Without limiting the foregoing, the executive director may allocate funds (a) (i) to loan applicants for energy loans on a first-come, first-serve or other basis and/or (b) (ii) to mortgage lenders (who have been approved by the authority pursuant to § 8) for the

origination of energy loans to qualified applicants. In determining how to so allocate the funds, the executive director may consider such factors as he deems relevant, including any of the following:

- (a) 1. The need for the expeditious commitment and disbursement of such funds for energy loans;
- (b) 2. The need and demand for the financing of energy loans with such funds in the various geographical areas of the Commonwealth;
- (c) 3. The cost and difficulty of administration of the allocation of funds;
- (d) 4. The capability, history and experience of any mortgage lenders who are to receive an allocation;
- (e) 5. Housing conditions in the Commonwealth;
- (f) 6. Relative climatic conditions in the Commonwealth; and
- (g) 7. Requirements of federal or state law.

The executive director may from time to time take such actions as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to perspective applicants and other members of the public, and other methods of public announcements which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 10. Application and processing.

The applicant shall submit such forms, documents and information as the executive director may require in order to apply for an energy loan.

The authority shall submit the home energy audit to the staff of the State Office of Emergency and Energy Services (the "state office") for review. The state office shall review the home energy audit to determine if the proposed improvements are eligible hereunder and if the audit has been conducted properly. Upon completion of its review, the state office shall forward the home energy audit to the authority with its recommendations.

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If the energy loan is to be originated through a mortgage lender, the application shall be initially reviewed by the mortgage lender for compliance with the Authority's Act and , rules and regulations ; ~~these procedures, instructions and guidelines~~; and any applicable federal law, rules and regulations. If the mortgage lender determines that the application so complies, the application shall be forwarded to the authority for its review and approval.

The executive director shall review the application, and, if he determines that the application complies with the Authority's Act and , rules and regulations ; ~~these procedures, instructions and guidelines~~; *rules and regulatins* and any applicable federal law, rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such energy loan, subject to the ratification thereof by the Authority board of the authority . The principal amount, amortization period and interest rate on the energy loan, and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment. The closing of the energy loan shall be consummated in accordance with the terms of the commitment. The improvements to be financed by the energy loan shall be completed in accordance with the agreements and documents executed and submitted at the closing and within such period of time as the executive director may deem necessary therefor. The authority shall have the right from time to time to enter upon the property on which the residence is located in order to inspect the improvements. Any such inspection shall be made for the sole and exclusive benefit and protection of the authority.

The executive director may, in his discretion, delegate to any mortgage lenders the responsibility for issuing commitments for energy loans and disbursing the proceeds hereof without prior review and approval by the authority. The issuance of such commitments shall be subject to ratification thereof by the board of the authority. If the executive director determines to make any such delegation, he shall establish criteria under which mortgage lenders may qualify for such delegation. If such delegation has been made, the mortgage lenders shall submit all required documentation to the authority after closing of the energy loan. If the executive director determines that the energy loan does not comply with the Authority's Act or , rules and regulations ; ~~these procedures, instructions and guidelines~~ , or any applicable federal law, rules or regulations, he may require the mortgage lender to purchase the energy loan, subject to such terms and conditions as he may prescribe.

§ 11. Loan servicing procedures.

The executive director may contract with one or more mortgage lenders to service energy loans. Interested mortgage lenders may submit a loan servicing application which shall be on such form and shall contain such information as the executive director may require. The

executive director shall review each loan servicing application and may accept or reject such application after analysis of relevant factors which may include the mortgage lender's net worth, financial and corporate history, experience in servicing similar loans, capability in terms of personnel and facilities to service energy loans, and accessibility to the public. Upon approval of a loan servicing application, the mortgage lender and the authority shall execute a servicing agreement which shall specify the mortgage lender's duties and responsibilities, the compensation which the mortgage lender will receive from the authority for such services, and all other terms and conditions pursuant to which energy loans will be serviced. The mortgage lender's duties and responsibilities may include any of the following:

- (a) 1. Collection, when due, of all payments on energy loans;
- (b) 2. Deposit of payments collected with respect to energy loans into such accounts as the authority may direct;
- (c) 3. Safekeeping and retention of all documents;
- (d) 4. Delivery of payment schedules to the borrower;
- (e) 5. Accounting to the authority at such times and in such manner as the authority may direct; and
- (f) 6. Such other duties as the executive director may deem necessary and appropriate with respect to the servicing of energy loans.

The mortgage lender shall maintain adequate insurance and bonding coverage in such amounts as may be deemed necessary by the executive director and as shall be set forth in the servicing agreement.

The mortgage lender shall maintain adequate procedures to monitor delinquent energy loans, shall use diligence to obtain payment of installments due on energy loans, and shall promptly inform the authority of any delinquencies.

The authority may service energy loans directly with its own staff and perform any or all of the above duties and responsibilities in connection therewith.

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Title of Regulation: VR 400-02-0006. Rules and Regulations for Section 8 Existing Housing Assistance Payment Program (Formerly: Procedures, Instructions and Guidelines for Section 8 Existing Housing Assistance Payments Program).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

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VR 400-02-0006. Rules and Regulations for Section 8 Existing Housing Assistance Payment Program.

§ 1. General program description.

The following ~~procedures, instructions and guidelines rules and regulations~~ will be applicable to the assistance of existing rental housing units subsidized under Section 8 of the U.S. Housing Act of 1937, as amended ("section 8") and the applicable rules and regulations ("section 8 rules and regulations") promulgated pursuant thereto. These ~~procedures, instructions and guidelines rules and regulations~~ are intended to provide a general description of the authority's processing requirements and are not intended to include all actions which may be involved or required. Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause. These ~~procedures, instructions and guidelines rules and regulations~~ are subject to change at any time by the board of Commissioners of the authority.

The section 8 existing housing assistance payments program (the "program") provides rental assistance from the U.S. Department of Housing and Urban Development ("HUD") to families and elderly, handicapped or disabled individuals whose incomes do not exceed the limitations established by HUD pursuant to the section 8 rules and regulations. Once certified as income eligible under the program, such families or individuals must locate and select a rental housing unit in the private market. If such unit meets the housing quality standards established by HUD for decent, safe and sanitary housing, a lease may be executed by the owner of the unit and the family or individual, and the owner and the authority simultaneously therewith enter into a housing assistance payments contract (the "HAP contract"). The rent under the lease, plus an allowance for utilities (other than telephone) not furnished by the owner, must normally not exceed the fair market rent established by HUD for the area. Any such allowance for utilities shall be established by the authority from time to time in accordance with the section 8 rules and regulations. The tenant pays no more than 30% of his adjusted income (as determined in accordance with the section 8 rules and regulations) for rent and utilities to the extent of the allowance therefor. The difference between the rent (plus any utility allowance) and the tenant's contribution is paid as housing assistance payments ("housing assistance payments") to the owner by the authority with section 8 subsidy funds received from HUD. The housing assistance payments are applied by the owner toward the payment of the rent on the rental housing unit. The tenant pays directly to the owner the portion of the rent not paid by the authority. In certain instances, the amount of the housing assistance payments may exceed the contract rent, and the balance is paid by the authority to the tenant as a utility allowance.

The authority acts as the statewide administrator of the program by allocating its set-aside of section 8 subsidy funds received from HUD to those local governmental

agencies or entities participating or wishing to participate in the program as administrative agents ("administrative agents") of the authority. The authority receives an administrative fee from HUD for its services as administrator of the program, and the authority shares this fee with the administrative agents.

Upon the completion of the moderate rehabilitation of rental housing unit(s) pursuant to the authority's ~~Procedures, Instructions and Guidelines rules and regulations~~ for section 8 moderate rehabilitation program, these ~~procedures, instructions and guidelines rules and regulations~~ shall govern the administration of the section 8 subsidy and the HAP contract for such rental housing unit(s). The term "section 8 rules and regulations" shall, when used with respect to moderate rehabilitation units, be deemed to refer to the rules and regulations applicable to the section 8 moderate rehabilitation program.

Housing assistance payments may be made available to eligible persons and families pursuant to these rules and regulations only if and to the extent that the authority has received from HUD section 8 subsidy funds therefor.

The program shall in all respects be governed by, and administered in accordance with, the section 8 rules and regulations and all other applicable procedures and requirements imposed by HUD with respect to the program. The section 8 rules and regulations and such other procedures and requirements imposed by HUD shall control over any inconsistent provision herein.

The executive director or any authorized officer of the authority acting under his supervision is authorized to act on behalf of the authority with respect to all matters hereunder. The executive director or such authorized officer may delegate all or part of his authority to any employee who is acting under his control and supervision.

§ 2. Implementation of the program.

The authority shall contact local governments throughout the Commonwealth to determine their interest in participating in the program. If a local government desires to participate in the program, the governing body shall adopt a resolution accepting the program and designating a local governmental agency or entity to act as the administrative agent. The authority and the governing body shall then execute a memorandum of understanding which shall reserve an allocation of funds for the locality if funding is made available from HUD. In the event that funds are not provided by HUD in an amount sufficient to fund all of the reservations by the localities, the authority shall allocate the available funds among the localities in such manner and amounts as the authority shall deem to best serve the purposes of the program. Upon notification from HUD of the availability of funds for the authority, an application for the participation by the locality in the program shall be submitted to HUD for review and approval. If HUD approves the application, the authority and HUD enter into an annual contributions contract

("ACC") which shall set forth the terms and conditions relating to the funding and administration of the program. The authority and the administrative agent shall thereupon sign an administrative services agreement ("ASA") for a term of one year. The ASA shall be renewable annually during the term of the ACC, provided that the administrative agent has complied with the ASA and has otherwise performed to the satisfaction of the authority. After execution of the ASA, the administrative agent shall initiate the administration of the program.

§ 3. Administration of the program.

The administrative agent shall conduct an outreach program satisfactory to the authority and in compliance with the HUD approved equal opportunity housing plan for the purpose of attracting the participation in the program of owners of rental housing units and eligible families and individuals. The administrative agent shall then receive applications from families and individuals who desire to qualify for assistance under the program. The application shall be on such form(s) and shall include such documentation as may be required by the authority and HUD. Based upon such application, the administrative agent shall verify income, family composition, medical and unusual expenses, and other relevant factors and shall determine whether the family or individual is eligible for assistance under the program. If such family or individual is determined to be eligible, the administrative agent shall calculate such family's or individual's contribution ("gross family contribution") to be made for rent and utilities and shall issue such family or individual a certificate of family participation which shall be valid for 60 days. The administrative agent shall also advise and brief the family or individual on the procedures and requirements under the program in such manner as the authority shall require.

The family or individual shall locate and select the rental housing unit and shall submit to the administrative agent such forms and documents as may be required by the authority or HUD. The administrative agent shall thereafter meet with the owner of the rental housing unit and complete an inspection of each unit. The administrative agent shall determine if the rental housing unit meets the housing quality standards established by HUD, shall review the terms of the proposed lease for compliance with the requirements of the program and shall determine rent reasonableness. If the rental housing unit and proposed lease are approved by the administrative agent and if the rent is determined by the administrative agent to be reasonable, the owner and the family or individual may execute the approved lease, and the owner shall sign the HAP contract. Within such time period as the authority shall require, the administrative agent shall submit to the authority all forms and documents required by the authority for its final approval.

Upon final approval, the authority shall make monthly payments to the owner (and, where required, the tenant) of the rental housing unit in accordance with the terms of

the HAP contract. The balance, if any, of the rent shall be paid by the tenant in accordance with the terms of the lease. The owner of the rental housing unit shall comply with all of the terms and conditions of the HAP contract and in the event of a breach thereof, shall be subject to the exercise by the authority of the rights and remedies provided therein. The tenant shall comply with all requirements imposed on him under the section 8 rules and regulations and with all other applicable procedures and requirements established by HUD and the authority with respect to the program.

Persons holding the following offices and positions may not participate as owners in the program during their tenure and for one year thereafter because their relationship with the authority or the program would constitute a prohibited interest under the ACC and HAP contracts: ~~(1)~~ (i) present or former members or officers of the authority or the administrative agent, ~~(2)~~ (ii) employees of the authority or the administrative agent who formulate policy or influence decisions with respect to the program, and ~~(3)~~ (iii) public officials or members of a governing body or state or local legislators who exercise functions or responsibilities with respect to the program. In addition, current members of or delegates to the Congress of the United States of America or resident commissioners are not eligible to participate in the programs as owners.

§ 4. Program funding.

Under the ACC, funding shall be made available for ~~(a)~~ (i) housing assistance payments and ~~(b)~~ (ii) administrative expenses incurred for operation of the program. The ASA shall provide two types of funds which may be used by the administrative agent to pay for expenses incurred for operation of the program:

~~(a)~~ 1. Preliminary expense reimbursement. An administrative agent shall be allowed preliminary expense reimbursement during the first 12 months (24 months if the housing assistance payments are being made in connection with the moderate rehabilitation of the rental housing unit) of the operation of the program or until each rental housing unit is leased, whichever comes first. To be eligible for reimbursement, the expense must be directly related to the first year of the operation of the program, e.g., the purchase of nonexpendable equipment, salaries, employee benefits, office supplies, rent, telephone charges, copying costs, etc. Prior to implementation of the program, the local government shall prepare a proposed budget setting forth the allocation of funds among the various categories. This proposed budget is reviewed by the authority and is submitted to HUD for approval as part of the local government's application. Preliminary expenses shall be reimbursable only if, and to the extent that, actual expenses are incurred. Payments shall be made in arrears by the authority on a monthly basis upon submission by the administrative agent of such forms

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and documents as the authority shall deem necessary or appropriate for the review and approval thereof.

~~(b)~~ 2. Administrative fee income. Administrative fee income is a set fee paid by the authority to the administrative agent for each rental housing unit under lease each month. Payment of this fee normally commences at the beginning of the administrative agent's second year of operation under the program, unless otherwise agreed by the authority and the administrative agent. Adequate records shall be maintained by the administrative agent evidencing costs incurred in the administration of the program. Adjustments to the administrative fee will be made if a surplus of income over expenses occurs. Annually, on July 1 or such other date as shall be agreed to by the authority and the administrative agent, redetermination shall be made regarding the amount of fee income which will be required to fund expenses expected to be incurred in the operation of the program. Such redetermination shall be made based upon a budget submitted by the administrative agent and approved by the authority.

§ 5. Responsibilities of the authority and the administrative agent.

Under the terms of the ASA, the authority will provide the following services:

- a. 1. Train and supervise the administrative agent and provide the administrative agent with current forms, policies, and procedures.
- b. 2. Process proposals for the moderate rehabilitation of rental housing units, as applicable.
- c. 3. Provide information to administrative agents to use in their outreach program to owners and income-eligible individuals and families, and pay for the costs of media advertising within the budgeted amount as approved.
- d. 4. Provide final review of and action on requests for lease approval submitted by the administrative agent.
- e. 5. Make housing assistance payments to owners and, where required, utility payments to individuals and families.
- f. 6. Review eviction proceedings; review and approve claims by owners as submitted by the administrative agent.
- g. 7. Administer and enforce Housing Assistance Payments HAP contracts with owners.
- h. 8. Monitor and enforce compliance with equal opportunity requirements, including the administrative agent's efforts to provide opportunities for individuals

and families seeking housing outside areas of economic and racial concentration.

i. 9. Monitor and enforce compliance with HUD's procedures and policies for program administration and fiscal reporting.

j. 10. Process and approve for payment requisitions for reimbursement of preliminary expenses of the program as submitted by the administrative agent; make administrative fee payments to administrative agents.

k. 11. Review the administrative agent's administration of the program, including unit inspections, at regularly scheduled intervals.

Under the terms of the ASA, the administrative agent shall be responsible for implementing and administering the program with its jurisdiction by performing the responsibilities set forth in the ASA, including but not limited to the following:

- a. 1. Provide outreach to owners of rental housing units and income-eligible individuals and families to encourage participation by them in the program, including media advertising.
- b. 2. Encourage owners to make their rental housing units available by direct contact with landlords or associations.
- c. 3. Complete the certifications and recertifications for tenant eligibility, on such form(s) as the authority may require, to determine tenant eligibility.
- d. 4. Verify each applicant's income, assets, family composition, medical and unusual expenses.
- e. 5. Calculate the gross family contribution of each eligible individual or family.
- f. 6. Maintain a waiting list of eligible individuals and families.
- g. 7. Refer individuals and families from the waiting list to vacant moderate rehabilitation units as applicable.
- h. 8. Issue certificates of family participation to eligible individuals and families, as needed, and conduct a briefing for each participant as to the procedures and requirements under the program.
- i. 9. Review the leases proposed by owners; determine rent reasonableness; and inspect the rental housing units.
- j. 10. Determine the amount of the housing assistance payments and the portion of the rent payable by the tenants.

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k. 11. Explain program procedures to owners, including those who have been approached by holders of certificates of family participation.

l. 12. Complete the necessary paperwork for submission of requests for lease approval to the authority by the required deadline.

m. 13. Reexamine tenant income and redetermine amount of rent at least annually beginning ~~ninety (90)~~ 90 days prior to the anniversary date of each lease.

n. 14. Perform inspections of rental housing units at least annually and as requested by the tenants, owners, or the authority.

o. 15. Inform owners of proper eviction proceedings; coordinate eviction proceedings through the authority; and complete and submit to the authority the necessary paperwork for processing claims by the owners.

p. 16. Notify tenants and owners of any changes made in the HAP contract pursuant to the terms thereof.

q. 17. Maintain family folders and other documents and records required by the authority to ensure program efficiency and accuracy.

r. 18. Requisition the authority monthly for reimbursement of preliminary expenses, if applicable; review fee income payments received from the authority for any discrepancies; maintain adequate documentation for all program related costs; and maintain a record of advertising expenses.

s. 19. Inventory at least annually all nonexpendable equipment purchased with section 8 subsidy funds.

t. 20. Endeavor to ensure compliance with equal opportunity requirements, including efforts to provide opportunities for individuals and families seeking housing outside areas of economic and racial concentration.

u. 21. Maintain a folder of all outreach efforts including copies of ads run, copies of mass mailings, etc.

v. 22. Advise participating individuals and families of other support services available in the community.

w. 23. Maintain all forms and reports according to the requirements of the Virginia Privacy Protection Act.

BOARD OF MEDICINE

Title of Regulation: VR 465-04-01. Regulations Governing the Practice of Respiratory Therapy Practitioners.

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

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

These regulations prescribe the standards for the certification of respiratory therapy practitioners to practice in the Commonwealth of Virginia under qualified medical direction as provided by doctors of medicine, osteopathy, podiatry or dental surgery.

VR 465-04-01. Regulations Governing the Practice of Certified Respiratory Therapy Practitioners.

PART I. GENERAL PROVISIONS.

§ 1.1. 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 Medicine.

"Certified respiratory therapy practitioner" means a person who has passed the certification examination for the entry level practice of respiratory therapy administered by the National Board of Respiratory Care, Inc., or other examination approved by the board, who has complied with such rules and regulations pertaining to certification as shall be prescribed by the board, and who has been issued a certificate by the board.

"Committee" means the Advisory Committee on Respiratory Therapy to the board.

"NBRC" means the National Board of Respiratory Care, Inc.

"Referral and direction" means the referral of a patient by a licensed doctor of medicine, osteopathy, podiatry or dental surgery to a certified respiratory therapy practitioner for a specific purpose and for consequent treatment that will be performed under the direction of and in continuing communication with the referring doctor.

§ 1.2. A separate board regulation, VR 465-01-01, short title: Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

PART II. REQUIREMENTS FOR PRACTICE AS A CERTIFIED RESPIRATORY THERAPY PRACTITIONER.

Proposed Regulations

§ 2.1. Requirements, general.

A. No person shall practice as a certified respiratory therapy practitioner in the Commonwealth of Virginia except as provided in these regulations.

B. All services rendered by a certified respiratory therapy practitioner shall be performed only upon referral and direction of a doctor of medicine, osteopathy, podiatry or dental surgery licensed to practice in the Commonwealth of Virginia.

§ 2.2. Certification.

An applicant for a certificate to practice as a certified respiratory therapy practitioner shall:

1. Submit to the board written evidence, verified by affidavit, that the applicant has passed the NBRC entry level examination for respiratory therapy, or its equivalent;
2. Make application on forms supplied by the board and completed in every detail; and
3. Pay at the time of filing the application, the application fee prescribed in § 4.1 of these regulations.

§ 2.3. Renewal of certificate.

Every certified respiratory therapy practitioner intending to continue his certification shall annually on or before July 1:

1. Register with the board for renewal of his certificate; and
2. Pay the prescribed renewal fee at the time he files for renewal.

PART III. SCOPE OF PRACTICE.

§ 3.1. Individual responsibilities.

Practice as a certified respiratory therapy practitioner means, upon medical referral and direction, the evaluation, care and treatment of patients with deficiencies and abnormalities associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory therapy shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques

required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

PART IV. FEES.

§ 4.1. The following fees are required:

A. The application fee, payable at the time the application is filed, shall be \$100.

B. The annual fee for renewal of registration, payable on or before July 1, shall be \$25.

C. An additional fee to cover administrative costs for processing a late application may be imposed by the board. The additional fee for late renewal of licensure shall be \$10 for each renewal cycle.

INSTRUCTIONS FOR COMPLETING A CERTIFICATION AS A
RESPIRATORY THERAPY PRACTITIONER APPLICATION

REQUIREMENTS FOR CERTIFICATION AS A RESPIRATORY THERAPY PRACTITIONER

The Board may accept for certification, a candidate as a Respiratory Therapy Practitioner who has submitted satisfactory evidence that he has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of respiratory therapy.

THE FEE - Each applicant must submit a completed application to the Virginia State Board of Medicine. This must be accompanied by the application fee on ONE HUNDRED DOLLARS (\$100.00). Applications will not be processed unless the fee is attached. The fee must be a certified check or money order, made payable to the Virginia State Board of Medicine.

CERTIFICATE OF PROFESSIONAL EDUCATION - This section of the application (bottom, page 4) should be completed by your respiratory therapy school. The entire application must be forwarded. We will not accept copies.

TWO LETTERS OF TESTIMONIAL OF MORAL CHARACTER - Sign statement and forward to Respiratory Therapy Practitioners of your choice, who have known you for six months or longer. The recommending therapist should return the letters directly to the Board office.

CERTIFICATION OF CREDENTIALS FROM NBRC - Certification should be requested from the National Board for Respiratory Care, Inc., 11015 West 75th Terrace, Shawnee Mission, Kansas 66214, Phone (913) 268-4050. Please use the enclosed form. This should be mailed directly from the NBRC to the Board office. (A two dollar fee is required).

HOSPITAL AND STATE QUESTIONNAIRES - Upon receipt of your application, you will be sent hospital questionnaires to be sent to the hospitals in which you have had training or employment. Also, state questionnaires to be sent to those state/s in which you have been licensed/certified. Your application will not be complete until all of those forms are returned to this office. Please note that your signature must be on the front of the questionnaire.

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered YES, explain and substantiate with available documentation. Letters must be submitted by your attorney regarding malpractice suits. Letters must be submitted by any treating professionals regarding treatment. These shall include diagnosis, treatment, and prognosis.

- 3. I hereby certify that I studied respiratory therapy and received the degree of _____ on _____ from _____ (TYPE OF DEGREE) (DATE) (SCHOOL)
4. Do you intend to engage in the active practice of respiratory therapy care in the Commonwealth of Virginia? (a) If YES, give location _____
5. Specify type of practice: () Hospital () Home Care () Education () Research () Other, specify _____
6. List all states in which you have been issued a certificate or license to practice respiratory therapy, active or inactive. Indicate number and date issued. _____
7. Have you ever been denied the privilege of taking a respiratory therapy examination? Yes No
8. Have you ever taken an NBRC, Inc. credentialing examination? Yes No
9. What professional credentials do you presently hold with the NBRC, Inc.? Yes No
10. Have you ever been denied a certificate or the privilege of taking an examination before any state, territory, or country? Yes No
11. Have you ever been convicted of a violation of/or Pled Nolo Contendere to any federal, state, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence). Yes No
12. Have you ever been censured, warned, or requested to withdraw from any licensed hospital staff, nursing home, or other health care facility? Yes No
13. Have you ever had any of the following disciplinary actions taken against your credentials to practice respiratory therapy, or any such actions pending? (a) suspension/revocation (b) probation (c) reprimand/cease and desist (d) have your practice monitored. If YES, please send complete details. Yes No
14. Have you ever had any membership in a state or local professional society revoked, suspended, or withdrawn? Yes No
15. Have you had any malpractice suits brought against you in the last ten years? If so, how many, and provide a letter from your attorney explaining each case. Yes No
16. Have you ever been physically or emotionally dependent upon the use of alcohol/drugs or treated by, consulted with, or been under the care of a professional for substance abuse? If so, please provide a letter from the treating professional. Yes No
17. Have you ever received treatment for/or been hospitalized for a nervous, emotional or mental disorder? If so, please provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. Yes No
(a) Do you have a serious physical disease or diagnosis which could affect your performance of professional duties? If so, please provide a letter from the treating professional. Yes No
(b) Have you ever been adjudged mentally incompetent or been voluntarily or involuntarily committed to a mental institution? Please provide details. Yes No

18. AFFIDAVIT OF APPLICANT:

I, _____ being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, organizations "including the NBRC, Inc.," my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal or foreign) to release to the Virginia State Board of Medicine any information files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my certificate to practice respiratory therapy in the Commonwealth of Virginia.



IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

SIGNATURE OF APPLICANT

THIS MUST BE NOTARIZED

NOTARY: City/County of _____ State of _____ Subscribed and Sworn to me before this _____ day of _____ 19_____

My Commission Expires _____ NOTARY PUBLIC

NOTARY SEAL

CERTIFICATE OF PROFESSIONAL EDUCATION

It is hereby certified that _____ of _____ matriculated in _____ at _____ date _____ attended _____ courses of lectures of _____ months each, and received a diploma from _____ conferring the degree of _____

DATE

(SCHOOL SEAL)

(President, Secretary or Dean)

HRB-30-061
3/5/87

PLEASE COMPLETE THE TOP PORTION OF THIS FORM AND FORWARD IT AND A CHECK OR MONEY ORDER FOR \$2.00 (PAYABLE TO NBRC) TO:

The National Board for Respiratory Care, Inc.
11015 West 75th Terrace
Shawnee Mission, Kansas 66214
(913) 268-4050

Dear Sirs:

I am applying for a certificate to practice respiratory therapy in the Commonwealth of Virginia. The State Board of Medicine requires that this form be completed by the NBRC. Please complete the form and return it to the address below. Thank you.

COMMONWEALTH OF VIRGINIA
VIRGINIA STATE BOARD OF MEDICINE
1601 ROLLING HILLS DRIVE
RICHMOND, VIRGINIA 23229-5005

Name _____
FIRST MIDDLE LAST

Social Security No. _____

Name Credentialed by if different from above: _____

Complete all that apply:

DATE CERTIFIED (CRTT) - _____

DATE REGISTERED (RRT) - _____ REGISTRY NO. - _____

(APPLICANT SIGNATURE)

TO BE COMPLETED BY THE NATIONAL BOARD FOR RESPIRATORY CARE, INC.

This is to verify that the individual named above has obtained the following credentials from the National Board for Respiratory Care, Inc.:

_____ CERTIFIED RESPIRATORY THERAPY TECHNICIAN (CRTT) _____ DATE _____

_____ REGISTERED RESPIRATORY THERAPIST (RRT) _____ RRT # _____

(AUTHORIZED SIGNATURE)

SEAL

ZHRB-30-062
3/5/87

Department of Health Regulatory Boards
Virginia State Board of Medicine
1601 Rolling Hills Drive
Richmond, Virginia 23229-5005

RE: _____
(name)

*Applicant must sign the bottom of this form.

To Whom It May Concern:

The Virginia State Board of Medicine receives a great number of applications for certification. Since we cannot personally interview these applicants, we are forced to depend on information from the businesses/institutions in which the applicant has been employed, had post-graduate training, affiliations, and/or staff privileges. We feel that in making our decisions we can get invaluable help from those with whom the applicant has worked.

1. Date of employment: This person served with us a Respiratory Therapist. from (month) _____ (year) _____ to (month) _____ (year) _____
2. Was this person of responsibility? _____
3. Was this person ethical and honest? _____
4. Did he/she have the ability to get along with others? _____
5. Did he/she have a good knowledge of his/her profession? _____
6. Did he/she have any defects or handicaps which might limit his/her effectiveness? _____ (If yes, please explain)
7. Were you satisfied with this person's performance and would you welcome him/her to work with you in the future? _____
8. My judgement of this person's character and professional ability is as follows: _____

Date _____ Signed _____
Title _____

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all governmental agencies and instrumentalities (local, state, federal or foreign) to release to the Virginia State Board of Medicine any information, files or records requested by the Board in connection with the processing of any application.

(Signature of Applicant)

Proposed Regulations

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

Title of Regulation: VR 595-01-1. Provision of Vocational Rehabilitation Services.

Statutory Authority: § 51.5-5 of the Code of Virginia.

Public Hearing Date: July 12, 1989 - 2 p.m.
(See Calendar of Events section for additional information.)

Summary:

Amendments to the current Vocational Rehabilitation Services Regulations are to comply with new Federal regulations; to assign responsibility for establishing financial and service limitations to the Board of Rehabilitative Services to be set on an annual basis at a minimum and, in some cases, allow for changes as needed; to broaden the service capabilities of the department; and, generally, to provide consumers and the general public with a better understanding of the type, duration and limitations on services being provided.

Amendments which reflect federal regulation requirements appear throughout and, where authority may be assigned to the department, the Code of Virginia assigns regulatory authority to the Board of Rehabilitative Services.

In cases where language describing services being provided has been stricken it is meant to reduce verbiage, not to eliminate the service. However, in one section, the board has proposed that some medical procedures heretofore "considered" shall no longer be provided (§ 12(3)(e)).

Major language changes also appear in the client/applicant appeals section to reflect federal regulation changes, which the reader should see as expanding the client/applicant's opportunities for a timely resolution to his concerns.

VR 595-01-1. Provision of Vocational Rehabilitation Services.

§ 1. Definitions: Vocational Rehabilitation.

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

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of Rehabilitative Services.

"Client" means any person receiving a service provided by the Department of Rehabilitative Services, whether

referred to as a client, participant, patient, resident, or other term.

"Commissioner" means the Commissioner of Rehabilitative Services.

"Comparable services and benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Department" means the Department of Rehabilitative Services.

"Economic/Financial needs test" means a test used to consider the financial need of handicapped individuals individuals with handicaps for the purpose of determining the extent of their participation in the costs of vocational rehabilitation services.

"Eligible" or "eligibility" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that (i) an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment, and (ii) vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; supported employment or other gainful work.

"Establishment of a rehabilitation facility" means (i) the acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them or increase their effectiveness for rehabilitation facility purposes; (ii) the acquisition of initial or additional equipment for these buildings essential for providing vocational rehabilitation services; or (iii) the initial or additional staffing of a rehabilitation facility for a period, in the case of any individual staff person not longer than four years and three months.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of

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employability; (iii) any other goods or services necessary, including rehabilitation engineering services, to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

"Family member" or *"member of the family"* means any relative by blood or marriage of a handicapped individual (and other individual) living in the same household with whom the handicapped individual has a close interpersonal relationship.

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Impartial hearing officer" means an individual (i) who is not an employee of a public agency that is involved in any decision regarding the furnishing or denial of rehabilitation services to a vocational rehabilitation applicant or client. An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer; (ii) who has not been involved in previous decisions regarding the vocational rehabilitation applicant or client; (iii) who has background and experience in, and knowledge of, the delivery of vocational rehabilitation services; and (iv) who has no personal or financial interest that would be in conflict with the individual's objectivity.

"Individual with a severe handicap" means a handicapped individual (i) who has a severe physical or mental disability which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employability; and (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia,

quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitations.

"IWRP" means an individualized written rehabilitation program for each individual being provided services under an extended evaluation to determine rehabilitation potential or for a vocational rehabilitation program that describes all services to be provided and places primary emphasis on the determination and achievement of a vocational goal.

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long-range goals and intermediate objectives" means the establishment of a vocational goal attainable with the provision of vocational rehabilitation services such as physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Mental disability" means (i) having a disability attributable to mental retardation, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by mentally retarded individuals; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"Otolological examination" means any examination conducted by a physician skilled in otology.

"Physical disability" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual ~~in~~ or regain other suitable employment after closure.

"Prevocational training" means individual and group instruction or counseling, the controlled use of varied activities, and the application of special behavior modification techniques; clients/patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures, (ii) acquire personal-social behaviors which would make them acceptable employees and coworkers on the job, and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one or more of man's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities, and whose handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to ~~handicapped individuals,~~ *individuals with handicaps* and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management, medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated native groups, regional corporations and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely handicapped individual" means a ~~handicapped individual~~ (i) who has a severe physical or mental

disability which seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitations.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal and work related skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

"Supported employment" means paid work in a variety of settings for severely handicapped individuals (i) for whom competitive employment at or above minimum wage has not occurred, and (ii) who because of their disability, need intensive ongoing post-employment support to perform in a work setting. Supported employment requires that an individual work at least 20 hours per week in a job setting which includes no more than eight coworkers with disabilities.

"Third party funding" means the use of money from a public or private source to match available allocations.

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the

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individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation/habilitation plan.

"Vocational rehabilitation services when provided to an individual" means those services listed in § 1 of these regulations.

"Vocational rehabilitation services when provided for the benefit of groups of individuals" means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities, which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf person.

"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"Work activity services" means therapeutic work activities and educational, social, personal and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"Work adjustment training" means a treatment and training process utilizing individual and group work, or work related activities, to assist individuals in understanding the meaning, value and demands of work; to modify or develop attitudes, personal characteristics, work behavior, and to develop functional capacities, as required in order to assist individuals toward their optimum level of vocational development.

"Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in production or service operation for the primary purpose of providing gainful employment as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

§ 2. Referrals and applicants.

The department shall expeditiously and equitably process referrals and applications for vocational rehabilitation services.

A. Referrals.

An individual is a referral when the following items of information are secured:

1. Name;
2. Address;
3. Disability;
4. Age;
5. Sex;
6. Date of referral;
7. Source of referral; and
8. Social security number or temporary case number.

B. Applicant.

An individual is an applicant when the department has secured the items of information as listed in subsection A of § 1 and has a document signed by the individual, or the individual's guardian requesting vocational rehabilitation services. A thorough explanation of rights and responsibilities shall be given to the applicant in the manner best suited to ensure its comprehension. This explanation shall include the right for to an *informal* administrative review and or fair hearing and the availability of the Client Assistance Project Program within the Department for Rights of the Disabled *including the names and addresses of individuals with whom appeals may be filed*. A rights and responsibilities form shall be signed by the applicant. A face-to-face interview with the applicant is required.

§ 3. Eligibility for vocational rehabilitation services.

A. Eligibility requirements shall be applied without regard to sex, race, age, creed, color, or national origin. No group of individuals shall be excluded or found ineligible solely on the basis of the type of disability. No upper or lower age limit shall be applied which shall in and of itself result in a determination of ineligibility for any person with a disability who otherwise meets the basic eligibility requirements. No residence requirement, durational or other, shall be imposed which excludes from services any individual who is present in the Commonwealth.

B. Preliminary diagnostic study-eligibility determination.

A preliminary diagnostic study is required on each individual who makes application for services. Diagnostic and evaluative services needed are provided to determine the applicant's eligibility for vocational rehabilitation services; ineligibility for vocational rehabilitation services; or the need for an extended evaluation and, as appropriate, evaluations by qualified personnel of the potential to benefit from rehabilitation engineering services. In all cases, the evaluation places primary emphasis upon determining the applicant's potential for achieving a vocational goal as determined by the applicant and the

department. Eligibility determination is accomplished when an individual completes applicant status, or extended evaluation. When sufficient information is not available without cost, the department shall purchase the information needed.

§ 4. Basic eligibility criteria.

A. The individual shall have a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

B. There shall be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

1. The existence of a physical or mental disability, shall be substantiated by adequate medical, psychiatric or psychological reports.

2. A substantial handicap to employment is a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) that impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

3. Data accumulated in the case study not directly related to a disability may be used to substantiate a substantial handicap to employment.

4. Employability refers to a determination by the applicant and the department that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; *supported employment* or other gainful work.

§ 5. Evaluation of vocational rehabilitation potential.

An evaluation shall be required in order to determine eligibility for services; the need for an extended evaluation, or ineligibility for services.

A. The preliminary diagnostic study.

The preliminary diagnostic study shall both determine and document the basic eligibility criteria.

B. Extent of study.

The preliminary diagnostic study shall include examinations and studies needed to make the determination of eligibility. In all cases, the evaluation shall place primary emphasis upon determining the

individual's potential for achieving a vocational goal.

C. Required evaluations.

The current general health of the individual shall be assessed, based, to the maximum extent possible, on available medical information. In all cases of mental or emotional disorders an examination shall be provided by a physician licensed to diagnose and treat such disorders or a psychologist licensed or certified in accordance with state laws and regulations. If eligibility cannot be determined from medical evidence of record, medical specialist examinations needed to determine eligibility shall be provided.

D. Thorough diagnostic study.

As appropriate in each case, after an individual's eligibility for vocational rehabilitation services has been determined, there shall be a thorough diagnostic study to determine the nature and scope of services needed. This study shall consist of a comprehensive evaluation of pertinent medical, psychological, vocational, educational and other factors relating to the individual's handicap to employment and rehabilitation needs.

This study shall include in all cases, to the degree needed, an appraisal of the individual's personality; intelligence level; educational achievement; work experience; personal, vocational and social adjustment; employment opportunities; and other pertinent data helpful in determining the types and quantity of services needed. The study shall also include, as appropriate for each individual, an appraisal of patterns of work behavior, ability to acquire occupational skills and capacity for successful job performance.

E. Hospitalization for diagnosis may be provided when all of the following conditions are met:

1. This service is required in order to determine eligibility for services or type of services needed, and

2. This service is recommended by a licensed medical doctor.

The maximum period of diagnostic hospitalization shall be three days.

§ 6. Extended evaluation to determine vocational rehabilitation potential.

A. Criteria.

The provision of vocational rehabilitation services under an extended evaluation to determine vocational rehabilitation potential is based only upon:

1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and

Proposed Regulations

2. The department's inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine vocational rehabilitation potential.

B. Duration and scope of services.

Vocational rehabilitation services necessary for determination of rehabilitation potential, including those provided during a thorough diagnostic study, may be provided to a handicapped individual for a period not to exceed 18 months.

C. Other requirements of the extended evaluation:

1. The extended evaluation period shall begin on the date of certification for such evaluation. Only one 18-month maximum period shall be provided during the time that the client is receiving services. If a case has been closed and an individual's needs have later changed, the case may be reopened and a subsequent evaluation of vocational rehabilitation potential may be conducted.

2. Vocational rehabilitation services authorized after the expiration of the extended evaluation period shall be provided only if a certification of eligibility has been executed.

3. The jointly developed Individualized Written Rehabilitation Program (IWRP) for extended evaluation shall be written prior to the applicant receiving services and shall be signed by the applicant, or as appropriate, the applicant's designee. A copy of the IWRP shall be given to the applicant.

4. Goods and services necessary to determine rehabilitation potential may be provided during an extended evaluation. They do not require the establishment of economic need when the services are of a diagnostic nature.

D. Review.

A thorough assessment of the individual's progress shall be made as frequently as necessary but at least once every 90 days during the extended evaluation period. This assessment shall include periodic reports from the facility or person providing the services in order to determine the results of such services and to determine whether the individual may be eligible or ineligible for services.

E. Termination.

At any time before the end of the 18-month extended evaluation period, the extended evaluation shall terminate when:

1. The individual is found eligible for vocational rehabilitation services since there is a reasonable

assurance that the individual can be expected to benefit in terms of employability resulting from vocational rehabilitation services; or

2. The individual is found ineligible for any additional vocational rehabilitation services since it has been determined on the basis of clear evidence that the individual cannot be expected to benefit in terms of employability resulting from vocational rehabilitation services.

§ 7. Certification of eligibility.

A. For vocational rehabilitation services; before or at the same time the applicant is accepted for services the department shall certify that the applicant has met the basic eligibility requirements as specified in § 4 of these regulations.

B. For extended evaluation; as a basis for providing an extended evaluation to determine vocational rehabilitation potential, there shall be certification that the applicant has met the requirements as specified in § 6 of these regulations.

§ 8. Ineligibility.

A. Certification of ineligibility.

When it is determined on the basis of factors as diagnosis, prognosis, or interest that an applicant for or recipient of vocational rehabilitation services is ineligible for services, a certification shall be signed and dated.

Such determination shall be made only after full consultation with the individual or, as appropriate, the parent, guardian, or other representative, or after giving a clear opportunity for this consultation. The department shall provide notification in writing of the action taken and inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the procedures for administrative review and fair hearing. The individual shall be provided with a detailed documented explanation of the availability of the resources within the Client Assistance Program, Department for Rights of the Disabled, and when appropriate, referral shall be made to other agencies and facilities, including, when appropriate, an independent living rehabilitation program.

B. Review of ineligibility determination.

When the department has certified the ineligibility of an applicant for or a recipient of vocational rehabilitation services because of a finding that the individual cannot be expected to achieve a vocational goal, the ineligibility determination shall be reviewed within 12 months. This review need not be conducted in situations where the individual has refused it, the individual is no longer in the Commonwealth, the individual's whereabouts are unknown, or a medical condition is rapidly progressive or terminal.

C. Case closure without eligibility determination.

A case may be closed without any determination of eligibility when an applicant is unavailable during an extended period of time (30 days) to complete an evaluation of vocational rehabilitation potential and the department has made three documented efforts to contact the applicant and to encourage the applicant's participation.

§ 9. Order of selection for services.

In the event vocational rehabilitation services cannot be provided because of unavailable resources, to all persons determined to be eligible, upon recommendation by the Commissioner, an order of selection system may be approved by the board which shall determine those persons for whom services may be purchased. It shall be the policy of the department to encourage referrals and applications of all persons with disabilities and, to the extent resources permit, provide services to all eligible persons.

The following order of selection is implemented when *cost* services cannot be provided to all eligible persons:

Priority I. Person eligible and presently receiving services under an IWRP.

Priority II. Those persons referred and needing diagnostic services to determine eligibility.

Priority III. Persons determined to be severely disabled.

Priority IV. Other persons determined to be disabled, in order of eligibility determination.

In all priorities preference shall be given to providing services to disabled public safety officers disabled in the line of duty.

§ 10. The Individualized Written Rehabilitation Program (IWRP) procedures.

A. General requirements.

1. The IWRP shall be initiated after certification of eligibility for vocational rehabilitation services.

2. The IWRP shall be initiated and periodically updated when information has been received that may necessitate a change, or at least annually. This shall be done for each client and for each applicant being provided services under an extended evaluation to determine rehabilitation potential.

3. Vocational rehabilitation services shall be provided in accordance with the IWRP which shall be developed and updated jointly by the department *counselor or coordinator* and the client, or, as

appropriate, the client's designee.

4. A copy of the IWRP and any amendments shall be provided to the client or, as appropriate, the client's designee and shall advise each client, or designee of all procedures and requirements affecting the development and review of the IWRP.

B. Individualized Written Rehabilitation Program Review.

The IWRP shall be reviewed as often as necessary but at least on an annual basis. The IWRP for extended evaluations must be reviewed at least every 90 days. Each client, or, client's designee shall be given an opportunity to review the IWRP and, if necessary, jointly redevelop the IWRP and show agreement with its terms by signing it.

C. Review of ineligibility determination.

If services are to be terminated under an IWRP because of a determination that the client is not capable of achieving a vocational goal and is therefore no longer eligible, or if in the case of an applicant who has been provided services under an extended evaluation of vocational potential and services are to be terminated because of a determination that the applicant is not eligible, the following conditions and procedures shall be met or carried out:

1. The decision shall be made only with the full participation of the individual, or, as appropriate, parent, guardian or other representative, unless the individual has refused to participate and this is documented, the individual is no longer present in the Commonwealth, the whereabouts are unknown, or medical conditions are rapidly progressive or terminal. When the full participation of the individual or a representative of the individual has been secured in making the decision, the views of the individual shall be recorded in the IWRP;

2. The rationale for such ineligibility decision shall be recorded as an amendment to the IWRP certifying that the provision of vocational rehabilitation services had demonstrated that the individual is not capable of achieving a vocational goal, and a certification of ineligibility is then executed; and

3. There shall be a periodic review, at least annually, of the ineligibility decision in which the individual is given opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services or has refused a periodic review, the individual is no longer in the Commonwealth, the whereabouts are unknown or a medical condition is rapidly progressive or terminal. The first review of the ineligibility decision shall be initiated by the department and be documented. Any subsequent reviews shall be undertaken at the request of the individual.

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§ 11. Individualized Written Rehabilitation Program (IWRP) content.

The IWRP places primary emphasis on the determination and achievement of a vocational goal and shall include, but is not necessarily limited to, statements concerning:

1. The basis on which the determination of eligibility has been made, or the basis on which a determination has been made that an extended evaluation of vocational rehabilitation potential is necessary to make a determination of eligibility;
2. The long-range and intermediate rehabilitation objectives established with the client; or client's designee.
3. The determination of the specific vocational rehabilitation services to be provided in order to achieve the established rehabilitation objectives;
4. The projected date for the initiation of each vocational rehabilitation service, and the anticipated duration of each service;
5. A procedure and schedule for periodic review and evaluation of progress toward achieving rehabilitation objectives based upon objective criteria, and a record of these reviews and evaluations;
6. The views of the client, or, as appropriate, the client's designee, concerning his goals and objectives and the vocational rehabilitation services being provided;
7. The terms and conditions for the provision of vocational rehabilitation services including responsibilities of the client in implementing the IWRP, the extent of client participation in the cost of services if any, the extent to which the client is eligible for ~~similar~~ *comparable services and* benefits under any other programs, and the extent to which these ~~similar~~ *comparable services and* benefits have been used;
8. A documented assurance that the client has been informed of his rights and the means by which he may express and seek remedy for any dissatisfaction, including the opportunity for an *informal* administrative review of state unit action, *or* fair hearing ~~or review by the secretary~~ ;
9. An assurance that the client has been provided a detailed explanation of the availability of the resources within the client assistance program, Department for Rights of the Disabled.
10. The basis on which the client has been determined to be rehabilitated; and

11. Any plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which such plans are developed.

§ 12. Scope of vocational rehabilitation services for individuals.

Under the Federal Rehabilitation Act, the Department of Rehabilitative Services has the discretion to establish reasonable fee schedules and maximum dollar limits and limitations on the duration for particular services. Such schedules and limits shall be designed to ensure the lowest reasonable cost to the program for such a service; not be so low as to effectively deny any client a necessary service, and not be absolute, but permit exceptions so that individual client needs can be addressed.

The Commissioner has the authority, on an individual basis, justified by exceptional need for service, to increase upper limits.

The following vocational rehabilitation services shall be provided only when deemed necessary to the vocational rehabilitation of the client.

1. Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided.
 2. Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship, and referral necessary to help clients secure needed services from other agencies, which may include independent living rehabilitation programs.
- The department shall not purchase vocational counseling and guidance service as a primary service.
3. Physical and mental restoration services necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and when recommended by a licensed practitioner.

a. Services. Physical and mental restoration services are those medical and medically related services which may be expected to remove, or substantially reduce the handicapping effects of a physical or mental condition. These services include but are not limited to:

- (1) Convalescent care, nursing or rest home care;
- (2) Dental treatment;
- (3) Drugs and supplies;
- (4) Hospitalization (both inpatient and outpatient)

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care, and clinic services);

- (5) Medical treatment;
- (6) Nursing services;
- (7) Physical restoration in a rehabilitation facility;
- (8) Physical and occupational therapy;
- (9) Prosthetic and orthotic appliances;
- (10) Psychiatric treatment;
- (11) Speech or hearing therapy;
- (12) Surgical treatment;
- (13) Telecommunications, sensory and other technological aids and devices;
- (14) Treatment of medical complications and emergencies, either acute or chronic, which are associated with, or arise out of the provision of physical restoration services or are inherent in the condition under treatment.

b. Eligibility requirements.

- (1) Stable or slowly progressive.

The physical or mental condition must be stable or slowly progressive. The condition must not be acute or transitory, or of such recent origin that the resulting functional limitations and the extent to which the limitations affect occupational performance cannot be identified.

- (2) Refusal of service.

When a client has a physical or mental disability with resulting limitations that constitute a handicap to employment, and when in the opinion of licensed medical personnel these limitations can be removed by physical or mental restoration services without injury to the individual, they shall not be eligible for any rehabilitation services, except counseling, guidance and placement if they refuse to accept the appropriate physical or mental restoration services. A second opinion may be provided at the client's request. In the event of conflicting medical opinions, the department shall secure a third opinion and the decision shall be made on the two concurring opinions.

c. Provision of physical and mental restoration services. These services are provided only when:

- (1) Recommended by a licensed practitioner;
- (2) Services are not available from another source;

and

(3) They are provided in conjunction with counseling and guidance, and other services, as deemed appropriate.

The department shall not make case expenditures for acute or intermediate medical care except for medical complications and emergencies which are associated with or arise out of the provision of Vocational Rehabilitation (VR) services under an IWRP and which are inherent in the condition under treatment.

d. Convalescent and nursing home care. The department may, when the services are directly related to the vocational rehabilitation objective, pay for convalescent and nursing home care for a client who needs continued medical supervision after department sponsored treatment for their condition. This service must be recommended by the proper medical practitioner before the service is authorized, and be contingent upon the client being able to reengage in the Vocational Rehabilitation Program.

- (1) This service may be provided for 30 days.
- (2) The commissioner or his designee may approve an additional 30 days of service.

e. Services not sponsored by the department. ~~The board, in consultation with appropriate medical resources, shall determine those physical restoration services which shall not be provided by the department. The following circumstances or conditions shall be considered: The board has determined that the following physical restoration services shall not be provided by the department:~~

- (1) Experimental procedures ~~shall not be sponsored~~ ;
- (2) High risk procedures;
- (3) Procedures with limited vocational outcomes;
- (4) Excessively high cost procedures; and
- (5) Procedures with uncertain outcomes.

f. Hospitalization. The department may pay for hospitalization for medical diagnosis, surgical or medical treatment when deemed necessary for the vocational rehabilitation of the client and recommended by a licensed practitioner. Hospitalization shall be provided in hospitals, medically oriented treatment facilities, or continuing care facilities in Virginia or out-of-state, with which the department has a contract. Payment to hospitals, medically oriented treatment facilities, or continuing care facilities shall be made in accordance with the

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department fee schedules.

(1) The maximum period of hospitalization, excluding diagnostic, to be authorized based upon financial resources available to the department shall be 10 days.

(2) Extension of the maximum period of hospitalization shall be allowed when due to acute medical complications and emergencies associated with or arising out of the provision of physical or mental restoration services.

(3) Treatment of acute medical complications or emergencies which impact negatively on the client's progress toward the client's vocational goal, shall be provided.

g. Medication. When medication is to be continuous, e.g., treatment of diabetes or epilepsy, and while the client is receiving vocational ~~training~~, *rehabilitation services* the department may purchase medication during the ~~training service~~ period, and for a period not to exceed 90 days after achieving employment.

~~When counseling, medication and placement are the only services provided, the department may pay for medication for a period not to exceed 90 days. Generic drugs shall be utilized when possible.~~

h. Physical and occupational therapy. The department may pay for physical and occupational therapy when it is prescribed by a Doctor of Medicine.

i. Chiropractic service. The department may pay for chiropractic services after consultation with a Doctor of Medicine.

j. Cardiac exercise therapy. This service ~~shall~~ *may* be sponsored by the department for clients who have had a myocardial infarction or a coronary bypass not more than six months prior to the recommended exercise therapy. A maximum of 24 sessions may be authorized.

k. Prosthetic and orthotic appliances - purchase and repair. The department may purchase an original appliance only upon the recommendation of the medical specialist. When a client has a history of satisfactory appliance use and the general medical examination report indicates no pathological change, this report may be sufficient medical basis for the replacement or repair of the appliance. The department shall purchase prosthetic or orthotic appliances from vendors approved in accordance with the department's vendor approval process.

l. Psychotherapy. Psychotherapy shall be provided by a psychiatrist or psychologist. If the department purchases the psychotherapy from either, they must

be qualified in the area of psychotherapy and be licensed in accordance with the laws of the Commonwealth. The maximum number of sessions to be sponsored shall be 27. If the client needs additional psychotherapy, the department will make an effort to assist the client in securing it.

m. Speech and hearing therapies.

(1) Speech

Speech therapy may be provided to clients when treatment is recommended by a speech pathologist who is licensed in accordance with the laws of the Commonwealth.

(2) Hearing.

Hearing aid orientation and lip reading may be provided when recommended by a specialist in hearing disabilities.

n. Visual services. Services may be provided to a client when their visual disability, as established by an ophthalmological or an optometric examination, is of such severity that their employment opportunities are considerably limited. Visual services shall be provided by the department in accordance with the cooperative agreement established with the department for the visually handicapped. Visual aids may also be provided to clients who are unable to satisfactorily pursue their vocational rehabilitation program due to impaired vision.

o. Osteopathic services. The department shall pay for these services when appropriate.

p. Personnel assistance services. This service may be provided for a maximum of 42 hours during a seven day week if necessary to establish eligibility or achieve a vocational goal and not continue beyond 60 days after employment.

4. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services in institutions of higher education (universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this section unless maximum efforts have been made to secure grant assistance in whole or in part from other sources.

All training services provided shall be related to attainment of the vocational objective or provide for the determination of eligibility for vocational rehabilitation services. Vocational training includes any organized form of instruction which provides the knowledge and skills essential for performing the tasks involved in an occupation. Vocational training may be

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obtained in institutions such as colleges, universities, business schools, nursing schools and trade and technical schools. It may also be obtained by on-the-job training, apprenticeship programs, tutorial training, or correspondence study.

a. Business schools and business colleges, trade and technical schools, and two-year college terminal courses.

The training institution selected shall be approved in accordance with the department's vendor approval process.

b. College and university academic training.

(1) Academic requirements.

The client shall take sufficient academic credit hours based on the requirement of the college attended for classification as a full-time student, unless this is, in the opinion of the department, contraindicated by the client's disability. Courses shall meet the institution's requirement towards the obtainment of the degree or certificate. Continuation of financial assistance by the department shall be dependent upon the client maintaining a "C" average calculated on an academic year. When the client fails to maintain a "C" average, assistance may be discontinued. The department's assistance may be reinstated when the client completes one semester or quarter with a minimum of a "C" average.

Each client shall be advised that failure to provide grades to the department shall be grounds for termination of departmental financial assistance.

(2) Graduate degree program. The department shall assist only clients with severe disabilities in securing a graduate degree and only when it is judged essential to achieving employment.

(3) Virginia colleges and universities. Vocational training, including college or university training, shall be provided by the department in any department approved institution located within the boundaries of the Commonwealth, unless such training is not available within the Commonwealth. Institutions in the areas of Washington, D.C.; Bristol-Johnson City-Kingsport, Tennessee; the city of Bluefield, West Virginia; and other cities where the services may be provided more effectively and economically and shall be treated as if located in Virginia.

(a) It is the policy of the Virginia Department of Rehabilitative Services to sponsor college student clients in Virginia state-supported colleges and universities. The Vocational Rehabilitation Program is permitted to sponsor students at public colleges

and universities and at private colleges and universities in the Commonwealth whose primary purpose is to provide a collegiate or graduate education and not to provide religious training or theological education.

(b) Out-of-state colleges and universities. If the necessary curriculum is not available to the student-client in a Virginia college or university or if there exists other adequate justification for sponsoring a student-client at an out-of-state college or university, the Vocational Rehabilitation Program may sponsor the student-client in a public or nonsectarian private out-of-state college or university. Sponsorship of clients to attend educational institutions outside the Commonwealth require approval of the commissioner or his designee prior to authorization services.

(4) Tuition and mandatory fees. The department may pay tuition for college and university training in an amount not in excess of the highest amount charged for tuition by a state-supported institution or the rate published in the catalog, whichever is less, except where out-of-state college is necessary, published tuition costs may be paid.

Any client enrolling into any college/university course(s) for the primary purpose of course/program certification and not for the purpose of obtaining a degree shall be exempt from the application of the annual maximum tuition rate.

(5) Scholarships and grants. Training services in institutions of higher education shall be paid for with departmental funds only after maximum efforts have been made by the client to secure assistance in whole or in part from other sources; however, any client eligible for vocational rehabilitation training services but not meeting the financial need test of the department may be provided an assistance grant annually in an amount not to exceed the equivalent of one quarter's semester's tuition of a full time community college student ; , so long as such grant is consistent with subdivision 4 b (3) of § 12.

c. Correspondence study. The correspondence study training may be authorized only when:

(1) The client requires specific preliminary training in order to enter a training program; or

(2) Training cannot be arranged by any other method; and

(3) Satisfactory progress is maintained.

d. On-the-job-training. The department may enter into agreements with employers in the private or public sector to provide on-the-job training services.

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The terms and conditions of each individual agreement shall be established by the department.

e. Part-time training. ~~Part-time training may be utilized only when the severity of the client's disability shall not allow the client to pursue training on a full-time basis.~~ Part-time training shall be authorized only at department approved facilities and schools.

f. Work adjustment training. Work adjustment training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

g. Prevocational training. Prevocational training may be provided if needed for the client to engage in subsequent vocational rehabilitation services as indicated by the thorough diagnostic study assessment of medical, vocational, psychological, and other factors. This service may be provided only by the department or approved vendors.

h. Tutorial training. Tutorial training may be provided if needed for the client to achieve a vocational goal as indicated by the thorough diagnostic study assessment of medical, vocational, psychological and other factors. This service may be provided only by the department or approved vendors.

i. Other higher education training concerns.

(1) Required textbooks and supplies. The maximum amount of department financial assistance for required textbooks and supplies ~~(pencils, paper, etc.)~~ shall be *established annually by the board \$400 annually for a normal school year or \$500 if summer school is attended* .

(2) Required training materials. Training materials may be provided when required by the instructor.

5. Maintenance, including payments, not exceeding the estimated cost of subsistence and provided at any time after vocational rehabilitation services have begun through the time when post-employment services are being provided. Maintenance covers a client's basic living expenses, such as food, shelter, clothing, and other subsistence expenses which are necessary to support and derive the full benefit of the other vocational rehabilitation services being provided.

a. Clothes. Clothes are provided when specifically required for participation in a training program or for placement in a specialized job area as determined by the department.

b. Room, board and utilities. The maximum rate paid for room, board and utilities shall be established *at least* annually by the board.

c. Training cases. The maximum amount of department financial assistance for room and board at a training institution (college, vocational school, rehabilitation center facility), when the institution is able to provide room and board, shall not exceed the published room and board rates charged by the institution, or the actual cost, whichever is less.

d. While living at home. Maintenance shall be provided for a client living at home only when the client's income supports the family unit of the client, when it is more cost effective for the department, or when it is in the best interest of the client's vocational rehabilitation program based on mutual agreement of the rehabilitation counselor and the client.

6. Transportation, including necessary travel and related expenses including subsistence during travel (or per diem payments in lieu of subsistence) in connection with transporting clients and their attendants or escorts for the purpose of supporting and deriving the full benefit of the other vocational rehabilitation services being provided. Transportation may include relocation and moving expenses necessary for achieving a vocational rehabilitation objective.

a. Transportation costs. The department shall pay the most economical rate for accessible public transportation.

When public transportation is not available, or the client, because of disability, cannot travel by public transportation, transportation may be provided at a rate, ~~not to exceed \$12 a mile~~ *determined at least annually by the board* .

b. For and during training services. When the client must live at the training location, the department may only pay for a one-way trip from the residence to the training location at the beginning of the training, and a one-way trip from the training location to the residence or job site at the conclusion of the training program. Transportation may be paid to and from the residence in case of emergency (severe illness, or death in family; acute business emergency or prolonged school closing such as Christmas holidays). Local bus fare may be furnished also. When the client's physical condition is such that travel by public conveyance is impossible, taxi fare may be allowed from place of residence to training site and return. When the client lives at home and the training site requires daily transportation, the cost of such transportation may be paid.

7. Services to members of client's family when

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necessary to the vocational rehabilitation of the client. Services to family members of the client may be provided when such services may be expected to contribute substantially to the determination of rehabilitation potential or to the rehabilitation of the client. In order for the department to furnish these services, they shall not be available from any other source.

a. Family member is defined as any relative by blood or marriage living in the same household.

b. Day care services for dependent children. The department may pay up to the amount paid per child, per day, by the local social services department in the locality in which the child is located. When more than one child is involved, rates for the additional children should be lower. When satisfactory accommodations can be secured at a rate lower than that paid by the local social services department, the lower rate shall be paid by the department.

8. Interpreter services and note taking services for the deaf and communication impaired, including tactile interpreting for deaf-blind clients.

a. Upon request of the client or as needed, these services may be provided at any stage during the rehabilitation process. Interpreting may be primarily in the form of sign language (manual method) or oral interpretation (oral method).

b. The department shall pay for interpreting services when these services contribute to the client's vocational rehabilitation program for those clients who meet the department's financial need criteria .

c. The interpreter must be, whenever possible, certified by the National Registry of the Deaf, Virginia Registry of the Deaf, or approved by the Virginia Department for the Deaf and Hard of Hearing.

d. When clients with deafness are in a training program, the department shall arrange for note taking or reader services, unless the client indicates such service is not needed or desired.

9. Telecommunications, sensory and other technological aids and devices when they may be expected to contribute substantially to the vocational rehabilitation of the client.

a. Telecommunications system. Services related to use of a telecommunications system shall meet established federal or state health and safety standards and be consistent with written state policies .

b. Sensory and other technological aids and devices. The department may provide electronic or mechanical pieces of equipment or hardware intended to improve or substitute for one or more of the human senses, or for impaired mobility, or motor coordination.

Services related to use of sensory and other technological aids and devices shall meet established federal or state health and safety standards and be consistent with state law and regulations.

(1) An otological evaluation may be, and an audiological examination is required before the department may purchase a hearing aid.

(2) The department shall purchase hearing aids only for those clients identified as benefiting in terms of employability as a direct result of such aid.

(3) Cross and bicross aids may be purchased only when it is justifiable on the basis of the vocational objective.

(4) Eyeglasses and hearing aids may be purchased only when they are equal in performance in terms of volume and speech discrimination and if the cost is not higher than that of a comparable body aid or a behind the ear aid.

10. Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment. These services shall be provided in accordance with the training criteria set forth in subdivision 4 of § 12.

11. Placement in suitable employment. Placement shall be in accordance with the mutually agreed upon vocational objective and is the responsibility of the client and the department, particularly the rehabilitation counselor.

12. Post-employment services necessary to maintain or regain other suitable employment. Post-employment services are vocational rehabilitation services provided to clients who need such services to maintain or regain other suitable employment after the case of the client has been closed as successfully rehabilitated.

Selection criteria.

Any rehabilitated clients may be considered for post-employment services. The department may evaluate with each client the need for such services.

All of the following criteria shall be met for the selection of clients to receive post-employment services:

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- (1) The client has been determined to be rehabilitated;
- (2) The disabling medical condition shall be stable or slowly progressive;
- (3) Post-employment services are necessary to assist the client in maintaining *or regaining other suitable* employment; and
- (4) Solution of the problem does not require a complex or comprehensive rehabilitation effort, i.e., a new and distinct handicapping condition has not occurred which should be handled as a new case.

If needed services exceed any of the aforementioned conditions the department may take a new application.

13. Transitional employment services which include providing a rehabilitation or other human services agency staff person to assist in job placement, job site training and job follow-along for the disabled employee. Transitional employment services are provided primarily within a program of supported employment.

Supported employment is targeted specifically to those persons with severe disabilities who require job site support to remain employed in work settings which include nondisabled coworkers.

The department's utilization of transitional employment services in a supported employment program for a client is time-limited as determined by the board and requires funding from a source other than the department to pay the cost of providing ongoing support.

The department shall fund job site training and assistance required for a person to obtain paid work and to stabilize in that job.

14. Occupational licenses, including any license, permit or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation or enter a small business, tools, equipment, initial stocks (including livestock) and supplies.

a. Licenses. Licenses required for entrance into selected vocations may be provided. These may be occupational or business licenses as required by the local governing body, state board examinations required by the Department of Commerce, and motor vehicle operator's license.

b. Tools and equipment. Tools and equipment shall be provided for a client when:

- (1) They are required for a job or occupation that

is best suited to the utilization of their abilities and skills;

- (2) The employer does not ordinarily furnish these articles; and

- (3) They are for the exclusive use of the client.

Such articles shall be for the client's own use in the performance of his work and must remain in his possession and under his control as long as he engages in the job or occupation for which they are provided.

If the client alleges that tools and equipment are stolen, the client shall file a stolen property report with the local police.

Computer equipment and software shall be provided either if required as indicated in subparagraph b (1) (2) and (3) above or if it is necessary for vocational training. The department's financial participation in the cost of such equipment and software shall not exceed ~~\$3,500~~ *a rate established at least annually by the board*.

c. Title retention and release. The department shall comply with state law on the retention of title and release of title of equipment to clients.

d. Repossession of tools and equipment. The department shall repossess all occupational tools and equipment to which the department retains title when they are no longer being used for the purposes intended by the client for whom they were purchased.

15. Other goods and services deemed necessary to the vocational rehabilitation objective of the client. These include, but are not limited to, such services as: peer counseling, independent living skills training, ~~attendant~~ *attendant* care and ~~attendant training personal assistance~~ if they can reasonably be expected to benefit a client in terms of employability.

The department's financial participation in the cost of certain goods and services ~~shall be limited as follows~~ *such as* : home modifications ; ~~\$7,500~~ ; and vehicle modifications ; ~~\$7,500~~ *shall be at a rate established at least annually by the board* . The department shall not purchase or participate in the purchase of automotive vehicles.

16. Services to groups. The department may provide services to groups of persons with disabilities when the services may contribute substantially to the needs of the group, although they are not related directly to the IWRP of any one person with a disability.

17. Rehabilitation engineering. Services may be provided to a client when their disability is of such

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severity that their employment or training opportunities are severely limited. The service can only be provided to enable the client to satisfactorily pursue their vocational rehabilitation program.

§ 13. Clients determined to be rehabilitated.

In order to make a determination that a client has been rehabilitated, the minimum requirements to be met shall be that the client was:

1. Determined to be eligible under § 4 of these regulations;
2. Provided an evaluation of vocational rehabilitation potential and counseling and guidance as essential vocational rehabilitation services;
3. Provided appropriate and substantial vocational rehabilitation services in accordance with the individual written rehabilitation program; and
4. Determined to have achieved and maintained a suitable employment goal for at least 60 days.

§ 14. Authorization of services.

Written authorization shall be made, either before or at the same time as the purchase of services. When an oral authorization is given in an emergency situation, there shall be prompt documentation and the authorization shall be confirmed in writing and forwarded to the provider of the services.

§ 15. Standards for facilities and providers of services.

Regulations for this section are under development. Until the regulations are in final draft form for public comment, the Department of Rehabilitative Services will continue to operate under existing policies.

§ 16. *Financial Needs Test:* Participation by the ~~handicapped~~ individuals *with handicaps* in the cost of vocational rehabilitation services.

A. ~~An economic~~ *A financial* need test is established because of the limited resources of the department.

B. ~~An economic~~ *A financial* need test shall be utilized to determine the extent of client participation in the cost of vocational rehabilitation services. Services exempt from consideration for financial participation shall be diagnostic and evaluation, counseling, guidance and referral, job placement, on-the-job training and unpaid work experience. Also excluded from financial participation shall be services necessary to assist in the diagnostic and evaluation process such as transportation, maintenance and interpreter service for the deaf.

Services which require ~~an economic~~ *a financial* need test are: physical and mental restoration; training other

than on-the-job training (OJT); maintenance; transportation; services to family members; ~~interpreter and reader services~~ *rehabilitation engineering services*; telecommunications; recruitment and training services; post-employment; occupational licenses and other goods and services, *unless a member of the group listed below*

C. Groups exempt are:

1. Recipients of General Relief.
2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent.
3. *Recipients of Supplemental Security Income.*
4. *Clients receiving planned vocational rehabilitation services at WWRC notwithstanding subsection D below.*

D. The department shall make an assessment of ~~similar~~ *comparable services* and benefits available to pay for vocational rehabilitation services. The department shall not pay program costs which could otherwise be provided by ~~similar~~ *comparable services and benefits* unless it is documented that securing such benefits would significantly delay the provision of services to the client.

E. *Income and resources of the client will be considered in applying the financial need test.* Income and resources of the family are to be used when the client is a part of the family unit. The client is a part of the ~~parent or legal guardian~~ family unit upon occurrence of either:

1. Dependency of support evidenced on the last federal income tax return of the ~~parent or legal guardian~~ regardless of residency; or
2. When temporarily absent from the home due to illness, school, vacation or military leave.

F. The financial need test shall consider the following income:

1. Annual taxable income (gross income).
2. Annual nontaxable income such as social security, retirement benefits, workmen's compensation, and veteran's benefits.
3. Total cash assets, including checking and savings accounts, certificates, stocks and bonds.

G. The financial need test shall provide for the ~~following~~ *allowances and exclusions as determined at least annually by the board.*

1. ~~The gross income shall be adjusted by the percentage indicated in the table below:~~

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Gross Income Allowance

Under \$10,000	15%
10,000 to 14,999	20%
15,000 to 24,999	25%
25,000 to 34,999	30%
Over 34,999	35%

2. Income shall be excluded from consideration based upon family size using the table below:

Size of Family	Income Exclusion
1	\$10,608
2	\$13,143
3	\$15,678
4	\$18,213
5	\$20,748
6	\$23,283
7	\$25,818
8	\$28,353

For each additional dependent, add \$2,535.

The table above is based upon the federal low income for a family of four. It shall be updated annually by the department.

3. Excluded from income shall be estimated client cost specifically related to the client's disability and not covered by similar benefits:

4. Excluded from cash assets is \$5,000.

5. Individual retirement accounts shall be excluded from income considerations.

Determination of the annual client financial contribution results from an examination of: (i) the number of persons in the family unit; (ii) annual taxable income minus allowances; (iii) annual nontaxable income; (iv) cash assets minus exclusions; and (v) exceptional exclusions based on client cost specifically related to client's disability.

The financial resources to be considered shall be tabulated using the method noted herein. The positive balance (resources exceeding exclusions) shall be determined to be available for participation in the rehabilitation program.

§ 17. Consideration of similar benefits *Consideration of comparable services and benefits .*

A. Consideration shall be given, in all cases, to any similar comparable services and benefits available to a client, or to members of a client's family, under any program to meet, in whole or in part, the cost of any vocational rehabilitation services except the following:

1. Evaluation of vocational rehabilitation potential

except as provided under subsection C4 of § 6;

2. Counseling, guidance, and referral;

3. Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, which are not provided in institutions of higher education;

4. Placement;

5. Post-employment services consisting of the services listed in § 12 of these regulations.

6. Physical and mental restoration services and maintenance, when the similar comparable services and benefits would significantly delay the provision of services to the client; and

7. When they are not adequate and would interfere with achieving the rehabilitation objective of the client.

B. The department shall consider the availability of third party resources to cover part or all of the cost; the availability of the client's resources or the client's family resources to cover part or all of the cost; and the availability of department resources to cover part or all of the cost when other resources are insufficient.

§ 18. Appeal procedures.

When an applicant or client is dissatisfied with any action concerning the furnishing or denial of services from the department, the applicant or client may file a request for an administrative review and a redetermination of that action. *An informal administrative review process may be used if it is likely to result in a timely resolution of disagreements in particular instances, but this process may not be used as a means to delay a more formal hearing before an impartial hearing officer unless the parties jointly agree to a delay.* Assistance is available throughout the appeal process, to all clients, from the Client Assistance Project Program within the Department for Rights of the Disabled. ~~In the event that medical or psychological evidence indicates it is necessary to terminate a cost service, subsection A and B below do not apply.~~

A. Reconsideration step *Informal administrative process .*

When an applicant or client is dissatisfied with an action taken by the department, the applicant or client shall present the disagreement orally or in writing for reconsideration to either the supervisor of the person who took the initial action or to that person's immediate supervisor. ~~, who shall consult with their regional director.~~ The initial action shall be reviewed and the applicant or client shall be informed in writing of the redetermination within seven five working days after the request is received.

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If the Department decides to review its decision, such *The* applicant or client shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision.

B. Administrative review.

1. Any applicant or client who has been unable to satisfactorily resolve the issue(s) at the reconsideration step may obtain an administrative review from a department representative.

2. A request for an administrative review shall be made in writing by the client or client's designee to the rehabilitation counselor within 30 days after the client has been notified of the reconsideration decision. The request shall contain a description of the issue(s) presented for review, the action being requested, and other evidence to support that request.

3. The administrative review shall be conducted by a department representative within 10 working days.

4. The department representative shall afford the client the opportunity to present his dispute orally, if desired.

5. The department representative shall determine whether there was reasonable factual support for the initial action and whether the action was consistent with the department's regulations, policies and practices.

6. The department representative shall notify, in writing, the client or applicant, of the decision within 10 working days of the administrative review based upon consideration of the following:

- a. The needs of the client,
- b. The dispute as presented by the client,
- c. The administrative record, and
- d. Agency regulations and practice which the department representative determines to be pertinent to the issues presented.

7. A client who is dissatisfied with the administrative review decision may request a fair hearing.

C. Expedited administrative review.

1. Whenever the department proposes to terminate a cost service specified in the client's individualized written rehabilitation program, the client shall have the right to an expedited administrative review. If such review is requested in keeping with subsection C paragraph 4, the termination of the service shall not occur until the administrative review is concluded.

2. Clients shall be notified in writing no later than 10 working days prior to the effective date of the proposed termination of a cost service.

3. Clients or client's designee must request in writing prior to the effective date of the termination an expedited administrative review. The request must be made to the client's rehabilitation counselor.

4. The department representative shall conduct the expedited administrative review according to the procedures described in subsection B.

D. B. Formal fair hearing.

1. The request for a fair hearing must be made in writing to the commissioner within 15 days after receipt of the *informal* administrative review decision. The client or the client's designee shall state in detail the objections to the department representative's findings or recommendations.

2. The fair hearing shall:

a. Be conducted by a *an impartial* hearing officer. The hearing officer may be an employee of the department who has not directly participated in the decision under consideration.

b. Be held at a site convenient to the client and conducted within 30 calendar days after the request is received, unless an extension is mutually agreed upon and so documented.

c. Be conducted pursuant to § 9-6.14:11 of the Code of Virginia.

3. All parties to the hearing have the right: (i) to have reasonable notice thereof; (ii) to appear in person or by counsel or other qualified representative before the hearing officer for the informal presentation of factual data, argument, or proof in connection with department's action under review; (iii) to have notice of any contrary factual basis or information in the possession of the department upon which it relied in making an adverse decision; and (iv) to be informed, briefly and in writing, of the recommendation of the hearing officer. *The applicant or client or, if appropriate, the individual's parent, guardian, or other representative, is afforded an opportunity to present additional evidence, information, and witnesses to the impartial hearing officer, to be represented by counsel or other appropriate advocate, and to examine all witnesses and other relevant sources of information and evidence;*

4. The hearing officer may request other department staff such as the assistant commissioner for Community Rehabilitation Services or the chief medical consultant to supply additional information

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within their professional area of expertise. The request and response shall be made in writing. No later than seven working days after the fair hearing, the hearing officer shall submit a recommendation to the commissioner, who shall appoint a fair hearing panel of not less than three persons, who shall review the fair hearing officer's recommendation and make the results of their review to the commissioner. The fair hearing panel shall make their review comments to the commissioner within eight working days of their receipt of the hearing officer's recommendation.

5. No later than 15 working days after the fair hearing, the hearing officer shall submit a recommendation to the commissioner. No later than 10 working days after the fair hearing panel's review has been submitted to the commissioner, the client shall be informed in writing of the commissioner's decision.

6. No later than 10 working days after the report has been submitted, the commissioner shall inform the client in writing of the decision. No later than 10 working days after the report has been submitted, a final decision shall be made in writing by the commissioner and shall include a full report of the findings and the grounds for such decision. When a final decision is made, a copy of such decision shall be provided to such individuals.

The commissioner may not delegate responsibility to make any such final decision to any other officer or employee of the department.

E. Review by the Secretary of the United States Department of Education.

When a client being provided vocational rehabilitation services is dissatisfied with the final decision of the commissioner, the client may request the Secretary of the U. S. Department of Education to review the decision. Such client shall be informed of this right at the time the commissioner renders a final decision.

§ 19. Protection, use and release of personal information.

A. Purpose.

The purpose is to establish policies and procedures for the proper dissemination of information in accordance with the statutes of the Code of Virginia, Virginia Freedom of Information Act, and Virginia Privacy Protection Act. Hereafter clients shall be referred to as data subjects.

B. Application.

This applies to all employees of the department, consultants, affiliates and volunteers.

C. Policies.

The department shall:

1. Comply with state statutes when releasing any information regarding data subjects by:

a. Disclosing information/records to the data subject who is 18 years old, except:

(1) If data subject has been legally declared as incompetent then the right to access information has been granted to the individual or committee which has been appointed as guardian, authorized agent(s) or representative(s).

(2) When the treating physician has written on a mental or medical record: "In my opinion a review of such records by the data subject would be injurious to the data subject's physical or mental health or well being." This does not preclude access to that report by authorized agents or representatives. The treating physician is the only professional who, by statute, has the authority to label and deny access to a mental record by the data subject. Access to other information is not restricted.

b. Disclosing information/records only to the parent or guardian for the data subject who is under 18 years old.

2. Follow procedures which ensure that all records and other personal, identifying data are treated as confidential information, meaning that other than regular access authority and the exceptions which are permitted by code and statutes, no expressed personal or documented information shall be released to a third party without the written, informed consent of the data subject or his authorized agent or by court order;

3. Obtain and document only that information which is necessary to plan and deliver rehabilitation services;

4. Maintain and post the department's access list which designates staff positions of those who have the privilege of reviewing and checking out records;

5. Assign to all individuals as defined in subsection B and acknowledge written requests for information which are identified and occur after a data subject's application for services;

6. Charge for copies of information unless the request is from those who need information to assist data subject in the rehabilitation program. The rate shall be \$.15 per page or the actual cost, whichever is less; and

7. Keep records in offices unless in accordance with a court order, statute or by special authorization from the department representative.

D. Procedures for disclosing information.

1. Handling disclosures.

- a. Each request to disclose information shall be handled during normal business hours.
- b. Each written request shall be responded to within 14 working days.
- c. Before an employee releases information to a person or organization other than those identified on the access list, written, informed consent must be given by data subject or the authorized agent.

When there is need to release information regarding data subjects, informed consent forms should be initiated through the data subject's counselor. Forms are completed prior to releasing information and filed in data subject's record.

- d. Any employee who releases information after informed consent is obtained must document data subject's record with employee's name, date, the purpose for giving specific information and to whom information was given. These statements are also documented when the record has been reviewed by or copied for the data subject.

2. Accessing information for specific situations.

- a. A data subject's request to review personal record.

- (1) When a data subject requests a review of their case records, the individual should be referred to their counselor, or in his absence, the counselor's supervisor. This employee is responsible for confirming the data subject's age, and competency status to access information in his own behalf.

- (2) For those data subjects who are under age 18 or who have been declared incompetent, the department shall explain right to access and assist data subject by coordinating the desired review with parent or authorized agent.

- (3) For data subjects who have the right to access information, the department should obtain the case record and review contents to learn if there are any mental records which a treating physician has identified as not to be reviewed. These are the only reports which can and must be removed before access.

- (4) The department gives data subject their case record and is available throughout the review to interpret reports or to assist the data subject, who may wish to seek additional information regarding contents. The data subject may choose to review their case record without interpretation.

b. Access by parents, guardians or authorized agents.

- (1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, is expected to furnish personal identification and sign a statement regarding their relationship to data subject.

- (2) When a data subject is 18 years or older and there is a parent who wants to review information or accompany data subject to a data subject oriented meeting, the data subject shall sign an "Authorization for Release of Information," form prior to disclosure.

c. Access by "significant others" (other family members or friends).

- (1) When a data subject is a minor or has been legally declared as incompetent, the parent, guardian, or authorized agent, shall give written, informed consent prior to disclosure.

- (2) When a data subject is 18 years or older, he shall give written, informed consent prior to disclosure.

d. Access by third parties.

- (1) Unless required by law, or this department, no disclosure shall be made to third parties without written, informed consent from the data subject or the legally authorized agent. Upon disclosure, third parties shall be advised to maintain confidentiality with no redisclosure of information.

- (2) The following information is either required by law or permitted by mission of the agency and shall be disclosed without the data subject's authorization:

- (a) Within the department, employees shall be given information which is relevant to case management or research requirements.

- (b) The department's medical consultants may release information to another physician for consultation or hospitalization purposes.

(c) For emergencies:

- (1) Telephone and face-to-face disclosure may be made to any person for an emergency when it is reasonable to believe that a delay shall result in serious bodily injury, death or deterioration of the physical or mental condition of data subject. Examples: (i) an emergency admission or commitment to a hospital; (ii) an inquiry from an acute care hospital, data is limited to answers for specific information from the data subject's case record; and (iii) an inquiry by law-enforcement officials regarding an emergency situation.

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Information is limited to that which is necessary to deal with the emergency.

(2) When it becomes necessary to release information in these circumstances, the responsible department party shall enter the following in the data subject's case record: (i) the date the information was released; (ii) the person to whom information was released; (iii) the reason the information was released; (iv) the reason written, informed consent could not be obtained; and (v) the specific information which was released.

(d) For court orders and subpoena, all requests for information by court orders shall be processed by the data subject's counselor unless there is some question about the need for legal advice. In those situations, the department representative shall decide if contact needs to be made with the department representative in the Attorney General's office prior to compliance. This contact shall be made by the commissioner's designee.

(e) The Virginia Department of Social Services shall be given, upon request, information about the location, income, and property of data subjects who have abandoned, deserted, or failed to support children and their caretakers who are receiving public assistance. No other information may be released.

(f) The Virginia Department of Health shall be given access to medical records in the course of an investigation, research, or studies of diseases or deaths which are of public health importance.

(g) The Virginia Department of Health may be provided with abstracts of records of data subjects having malignant tumors or cancers. Such abstracts may include the name, address, sex, race, and any other medical information required by law.

(h) Information may be released as requested for a formal investigation to the Virginia Department of Health, State Medical Examiner.

e. Access by special interest third parties.

(1) Release of information shall include a written, informed consent.

(2) Except for public events, no data other than directory information shall be released to the news media without the written, informed consent of the data subject or the authorized agent.

(3) No information shall be released to law-enforcement officers without the written, informed consent of the data subject or the authorized agent, or without judicial order.

(4) Audio tapes, video tapes, computerized data or other media reproduction are considered as confidential records and shall be treated like written material.

E. Procedure for changing a record.

1. Revoking an authorization of consent.

a. If anyone, such as an attorney, has a data subject sign an authorization which rescinds all prior authorizations, this negates all previous authorizations. The department shall make this a part of the case record.

b. When the revocation clause appears in the record, the department no longer has the authority to disseminate additional information other than to those on the regulation department access list.

c. If the data subject is currently a client, their counselor shall record any authorization which includes a revocation clause. This means that all routines for forwarding reports to those not on department's access list shall be stopped.

d. The rehabilitation counselor shall notify WWRC counselor or sponsor of the situation and inform the data subject of the restriction.

e. The department shall acknowledge and comply with the attorney's request for information. A separate letter shall also advise the attorney that this clause denies access of information to persons or organizations which are responsible for continuing rehabilitation services. The department shall advise attorney of the need to be provided with an additional statement which reinstates communication and correspondence.

2. Reinstating consent. When a satisfactory reinstatement statement and new consent is received from attorney and data subject, the department shall file the additional authorization and inform appropriate department counterparts about the new release.

3. Challenging and correcting a record by the data subject or agent.

a. The data subject or agent has a right to contest the accuracy or completeness of any personal record, except access to challenging or correcting a treating physician's mental record which has been identified as not to be reviewed by the data subject.

b. Data subjects who are currently clients shall be instructed by their counselor that any request to correct, amend, or delete information is to be done in writing, giving specific reasons why information is being contested.

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c. The counselor shall submit this statement to their immediate supervisor.

d. Supervisor shall interview staff, as necessary, examine pertinent records and submit a written recommendation to their regional or center director. This recommendation is to include a statement and rationale to either uphold or to change existing records.

e. When the regional or center director determines that information which is being disputed is, in fact, incomplete, inaccurate, not pertinent, untimely, or unnecessary to be retained, that individual shall instruct the original writer to amend the report in question. If the originator is no longer an employee, the regional or center director or a designee shall prepare the amended report. A copy of the amended report shall be sent to the local office for the client's file.

f. The department shall disseminate the amended version of the report to any previous recipients and as part of the record for all further requests for information.

g. The department shall notify the data subject in writing of the decision. A copy of that notice is to be filed in data subject's local office file.

h. If the investigation does not change the record or resolve the dispute, the data subject may file a statement [] stating what he believes to be an accurate or complete version of that information. This statement becomes a permanent part of the record. The department shall forward a copy to all previous recipients who have access to the information being disputed.

F. Procedures of safeguarding records.

1. Maintaining security of records.

a. Data subject records are the property of the department and are entrusted to personnel who safeguard records from loss, defacement or use by unauthorized persons.

b. No record is to be defaced by marking, underlining or entering notations by anyone other than the originator of any document.

c. When a record is requested, either by court or a directive from the commissioner, a certified copy of the record shall be provided by the counselor.

d. Whoever removes records has the responsibility to assure confidentiality of content while it is out. It must never be left unattended in areas which are accessible to unauthorized individuals.

e. Confidentiality shall be maintained in work areas where casework documents are being prepared, filed or distributed.

2. Violating confidentiality. Individuals who violate security standards or the confidentiality code by releasing information without obtaining or following procedures may be subject to their name being removed from the access list and to discipline under the standards of conduct.

G. Department's access list.

The following have been approved to have access to the case records of clients served by the department:

1. Administrative and supervisory staff engaged in dutiful performance of their job which requires access to individual client files;

2. Service delivery personnel including, but not limited to: rehabilitation counselors, vocational evaluators, psychiatrists; and

3. Clerical personnel as appropriate.

§ 20. Periodic review of extended employment in rehabilitation facilities.

Periodic review and reevaluation shall be conducted at least annually, of the status of those clients who have been placed in extended employment in rehabilitation facilities, to determine the feasibility of their employment or their training for future employment in the competitive labor market. Maximum effort shall be made to place these clients in competitive employment or training for competitive employment whenever feasible.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-08-1. Virginia Energy Assistance Program.

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

Public Hearing Date: June 13, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The amendments propose several changes to the Crisis Assistance Component as a result of a change in the method used to distribute benefit moneys statewide. All local departments of social services would operate the program from October 15 to March 15 of the following year. Providing space heaters for temporary use and providing emergency shelter were previously optional types of assistance but will now be mandatory. The maximum allowed for major

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repairs or replacement of heating equipment will be increased to \$700. Payment of a portion of the electric bill, when electricity is needed to operate the primary heating equipment, will be provided once every five years. The copayment for electricity requirement will be eliminated. Providing blankets or clothing, emergency repairs of dwelling to prevent heat loss, and other services as specified by the locality, will no longer be offered. The definition of "disabled person" is changed to include persons receiving 100% Veterans' Administration disability payments. The purpose of these regulations is to operate a consistent and equitable program that assists eligible households to meet the costs of home energy.

VR 615-08-1. Virginia Energy Assistance Program.

PART I. DEFINITIONS.

§ 1.1. The following words and terms, when used herein, shall have the following meaning unless the context indicates otherwise:

"Department" means the Department of Social Services.

"Disabled person" means a person receiving Social Security disability, Railroad Retirement Disability, 100% Veterans Administration disability, Supplemental Security Income as disabled, or an individual who has been certified as permanently and totally disabled for Medicaid purposes.

"Elderly person" means anyone who is 60 years of age or older.

"Household" means an individual or group of individuals who occupies a housing unit and functions as an economic unit by: purchasing residential energy in common (share heat); or, making undesignated payments for energy in the form of rent (heat is included in the rent).

"Poverty guidelines" means the Poverty Income Guidelines as established and published annually by the Department of Health and Human Services.

"Primary heating system" means the system that is currently used to heat the majority of the house.

"Resources" means cash, checking accounts, savings account, saving certificates, stocks, bonds, money market certificates, certificates of deposit, credit unions, Christmas clubs, mutual fund shares, promissory notes, deeds of trust, individual retirement accounts, prepaid funeral expenses in excess of \$900, or any other similar resource which can be liquidated in not more than 60 days.

"Energy-related, weather-related, or supply shortage emergency" means a household has: no heat or an imminent utility cut-off; inoperable or unsafe heating

equipment; major air infiltration of housing unit; or a need for air conditioning because of medical reasons.

PART II. FUEL ASSISTANCE.

§ 2.1. The purpose of the Fuel Assistance component is to provide heating assistance to eligible households to offset the costs of home energy that are excessive in relation to household income.

A. Eligibility criteria.

1. Income limits. Maximum income limits shall be at or below 150% of the Poverty Guidelines. In order to be eligible for Fuel Assistance, a household's income must be at or below the maximum income limits.

2. Resource limits. The resource limit for a household containing an elderly or disabled person shall be \$3,000. The resource limit for all other households shall be \$2,000. In order to be eligible for Fuel Assistance, a household's resources must be at or below the amount specified.

B. Resource transfer.

Any applicant of fuel assistance shall be ineligible for that fuel season if he improperly transfers or otherwise improperly disposed of his legal or equitable interest in nonexempt liquid resources without adequate compensation within one year of application for Fuel Assistance.

Compensation that is adequate means goods, services or money that approximates the value of the resources.

This policy does not apply if any of the following occur:

1. The transfer was not done in an effort to become eligible for Fuel Assistance;

2. The resource was less than the allowable resource limit;

3. The disposition or transfer was done without the person's full understanding.

§ 2.2. Benefits.

Benefit levels shall be established based on income in relation to household size, fuel type, and geographic area, with the highest benefit given to households with the least income and the highest energy need.

Geographic areas are the six climate zones for Virginia recognized by the National Oceanic and Atmospheric Administration and the United States Department of Commerce. The six climate zones are: Northern, Tidewater, Central Mountain, Southwestern Mountain, Eastern Piedmont, and Western Piedmont.

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Each year, the Division of Energy within the Department of Mines, Minerals and Energy will supply data on the average costs of various fuels.

Each year the benefit amounts for each geographic area shall be determined by the following method:

A. A projection will be made of the number of households who will apply for Fuel Assistance. The projection will be based on the number of households who applied the previous year increased by the additional number of people who applied the year before.

B. An average grant per household will be determined based on the estimated amount of funds that will be available for benefits.

$\frac{\$ \text{ available}}{\text{no. of households}} = \text{average grant}$

C. The benefits for each geographic area will be determined by using the average grant as a base figure and obtaining the highest and lowest benefits by using a ratio for each area based on degree days and the cost of various fuel types.

PART III. CRISIS ASSISTANCE.

§ 3.1. The purpose of the Crisis Assistance component is to assist households with energy-related, weather-related or supply shortage emergencies. This component is intended to meet energy emergencies that cannot be met by the Fuel Assistance component or other local resources.

A. Eligibility criteria.

In order to be eligible for Crisis Assistance, a household shall meet the following criteria:

1. All of the Fuel Assistance criteria as set forth in Part II, § 2.1;
2. Have an energy-related, weather-related or supply shortage emergency as defined in Part I;
3. Other resources cannot meet the emergency (including Fuel Assistance);
4. Did not receive Crisis Assistance during the current federal fiscal year: October 1 - 15 - ~~April 30~~ March 15.

B. Benefits.

An eligible household can receive no more than \$200 for Energy Crisis Assistance during any federal fiscal year, unless the assistance is for the major repair or replacement of heating equipment, in which case the maximum amount of assistance shall be ~~\$500~~ \$700.

The following forms of assistance shall be provided:

1. Repairs or replacement of inoperable or unsafe heating equipment ; .
2. Payment of electricity when it is needed to operate the primary heating equipment. Payment will be limited to a portion of the bill unless the household's income is zero in which case the entire bill will be paid up to the \$200 maximum ; . Assistance may be provided once every five years.
3. A one-time-only payment per fuel type of a heat-related utility security deposit.

The following forms of assistance can be provided at local option:

1. 4. Providing space heaters.
2. Providing blankets or warm clothing.
3. 5. Providing emergency shelter.
4. Emergency repairs of dwelling to prevent heat loss.
5. Other (locality must specify).

PART IV. COOLING ASSISTANCE.

§ 4.1. Cooling Assistance program is an optional component of the Energy Assistance Program that is designed to provide help to persons medically in need of cooling assistance due to the heat.

Local agencies who choose this option will be given a separate allocation that will be based on a percentage of their ECAP crisis allocation and will provide the assistance no earlier than June 15 through no later than August 31.

A. Eligibility criteria.

In order to be eligible for cooling assistance, a household must meet all of the fuel assistance eligibility criteria and must be in critical medical need of cooling.

B. Benefits.

The assistance is limited to: no more than \$200 for repairing or renting a fan or air conditioner, purchasing a fan, or paying an electric bill or security deposit; or no more than \$400 for purchasing an air conditioner.

PART V. ADMINISTRATIVE COSTS.

§ 5.1. Local administrative expenditures for the implementation of the Energy Assistance Program shall not be reimbursed in excess of 7.0% of the program grant allocation.

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Title of Regulation: VR 615-46-01. Adult Protective Services.

Statutory Authority: §§ 63.1-25, 63.1-55.1, and 63.1-55.4 of the Code of Virginia.

Public Hearing Date: July 10, 1989 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

This proposed regulation establishes policy regarding the application for adult protective services, and investigation and disposition of cases of adult abuse, neglect, or exploitation. It establishes requirements for the disclosure of information pursuant to § 63.1-55.4 of the Code of Virginia.

VR 615-46-01. Adult Protective 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:

"Abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement.

"Mental anguish" means a state of emotional pain or distress resulting from activity (verbal or behavioral) of a perpetrator. The intent of the activity is to threaten or intimidate, to cause sorrow or fear, to humiliate or ridicule. There must be evidence that it is the perpetrator's activity which has caused the adult's feelings of pain or distress.

"Unreasonable confinement" means the use of restraints (physical or chemical), isolation, or any other means of confinement without medical orders, when there is no emergency and for reasons other than the adult's safety or well-being, or the safety of others.

"Adult" means any person in the Commonwealth who is abused, neglected, or exploited, or is at risk of being abused, neglected, or exploited; and is 18 years of age or older and incapacitated, or is 60 years of age and older.

"Adult protective services" means services provided or arranged by the local department of public welfare or social services which are necessary to prevent abuse, neglect, or exploitation of an adult. These services consist of the identification, receipt, and investigation of complaints and reports of adult abuse, neglect, and

exploitation for incapacitated persons 18 years of age and over and person 60 years of age and over. This service also includes the provision of social casework and group work in an attempt to stabilize the situation. If appropriate and available, adult protective services may include the provision of or arranging for home based care, transportation, sheltered employment, adult day care, meal service, legal proceedings, placement and other activities to protect the adult.

"Committee" means a person who has been legally invested with the authority, and charged with the duty of managing the estate or making decisions to promote the well-being of a person who has been determined to be totally incapable of taking care of his person or handling and managing his estate because of mental illness or mental retardation. A committee shall be appointed only if the person's inability to care for himself or handle and manage his affairs is total.

"Director" means the director or his delegated representative of the department of public welfare or social services of the city or county in which the person resides or is found.

"Emergency" means that an adult is living in conditions which present a clear and substantial risk of death or immediate and serious physical harm to himself or others.

"Exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage. This includes acquiring a person's resources through the use of that person's mental or physical incapacity; the disposition of the incapacitated person's property by a second party to the advantage of the second party and to the detriment of the incapacitated person; misuse of funds; acquiring an advantage through threats to withhold needed support/care unless certain conditions are met; persuading an incapacitated adult to perform services including sexual acts to which the adult lacks the capacity to consent, such as physical examinations which are not medically indicated and other forms of sexual exploitation.

"Guardian" means a person who has been legally invested with the authority and charged with the duty of taking care of the person and managing his property and protecting the rights of the person who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the person in need of a guardian has been determined to be incapacitated.

"Guardian ad litem" means an attorney appointed by the court to represent the interest of the person for whom a guardian or committee is requested. On the hearing of the petition for appointment of a guardian or committee, the guardian ad litem advocates for the person who is the subject of the hearing, and his duties are usually concluded when the case is decided.

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"Incapacitated person" means any adult who is impaired by reason of mental illness, mental retardation, physical illness or disability, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his or her well-being.

(This definition is for the purpose of establishing an adult's eligibility for adult protective services and such adult may or may not have been found incapacitated through court procedures.)

"Involuntary protective services" means those services authorized by the court for an adult who has been determined to need protective services and who has been adjudicated incapacitated and lacking the capacity to consent to receive the needed protective services.

"Lacks capacity to consent" means a judgment of a local department of social services social worker that an adult is unable to consent to receive needed services for reasons that relate to emotional or psychiatric problems, mental retardation, developmental delay, or other reasons which impair the adult's ability to recognize a substantial risk of death or immediate and serious harm to himself. The lack of capacity to consent may be either permanent or temporary.

"Legally incapacitated" means that the person has been adjudicated incapacitated by a circuit court because of a mental or physical condition which renders him, either wholly or partially, incapable of taking care of himself or his estate.

"Legally incompetent" means a person who has been adjudicated incompetent by a circuit court because of a mental condition which renders him incapable of taking care of his person or managing his estate.

"Legitimate interest" means that a public or private agency or the representative of such an agency has a need for client specific information which is maintained by a local department of social services as a result of an adult protective services report or investigation. The information is needed in order to fulfill a recognized agency function which can reasonably be expected to serve the best interest of the client who is the subject of the information. Agencies who may have a legitimate interest in such information are specified in § 2.4 B of these regulations.

"Mandated reporters" means those persons who are required pursuant to § 63.1-55.3 of the Code of Virginia, to report to the local department of social services when such persons have reason to suspect that an adult is abused, neglected, or exploited. Persons required to make such reports include any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing

full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional, and any law-enforcement officer.

"Neglect" means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided such services as are necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. Neglect includes the failure of a caregiver, or some other responsible person, to provide for basic needs to maintain the adult's physical and mental health and well-being; and it includes the adult's neglect of self. Neglect includes:

"Inadequate clothing" means a lack of clothing considered necessary to protect a person's health.

"Inadequate food" means a lack of food necessary to prevent physical injury or to maintain life, including failure to receive appropriate food for persons with conditions requiring special diets.

"Inadequate shelter" means shelter which is not structurally safe; has rodents or other infestations which may result in serious health problems; does not have a safe and accessible water supply, heat source or sewage disposal. Adequate shelter for a person will depend on the impairments of an individual person; however, the person must be protected from the elements which would seriously endanger his health (rain/cold/heat) and result in serious illness or debilitating conditions.

"Inadequate supervision" means the failure of a designated caregiver (paid or unpaid) to provide the supervision necessary to protect the safety and well-being of adults in his care.

"Medical neglect" means persons who are responsible for caregiving have failed to seek needed medical care or to follow medically prescribed treatment for an adult, or the adult has failed to obtain such care for himself. The needed medical care is believed to be of such a nature as to result in physical or mental injury/illness if it is not provided.

"Self-neglect" means an adult who is not meeting his own basic needs due to mental or physical impairments. Basic needs refer to such things as food, clothing, shelter, health/medical care.

"Report" means an allegation by any person, to a local department of social services, that an adult is in need of protective services. The term "report" shall refer to both reports and complaints of abuse, neglect, and exploitation of adults.

"Voluntary protective services" means those services given to an adult who, after investigation, is determined

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to be in need of protective services and consents to receiving the services so as to mitigate the risk of abuse, neglect, or exploitation.

PART II. POLICY.

§ 2.1. Application.

A. The application process is designed to assure the prompt provision of needed adult protective services including services to adults who are not able to complete and sign a service application.

B. Persons who may complete and sign an application for adult protective services on behalf of an adult who needs the service:

1. The adult who will receive the services or the adult's legally appointed guardian/committee;
2. Someone authorized by the adult; or
3. The local department of social services.

C. The local department of social services which shall assume primary responsibility when more than one local department of social services may have jurisdiction under § 63.1-55.3 of the Code of Virginia is the department:

1. Where the subject of the investigation resides when the place of residence is known and when the alleged abuse, neglect, or exploitation occurred in the city or county of residence;
2. Where the abuse, neglect, or exploitation is believed to have occurred when the report alleges that the incident occurred outside the city or county of residence;
3. Where the abuse, neglect, or exploitation was discovered if the incident did not occur in the city or county of residence or if the city or county of residence is unknown and the place where the abuse, neglect, or exploitation occurred is unknown;
4. Where the abuse, neglect, or exploitation was discovered if the subject of the report is a nonresident who is temporarily in the Commonwealth; or
5. Where the investigation extends across city or county lines, local departments of social services in those cities or counties shall assist with the investigation at the request of the local department of social services with primary responsibility.

§ 2.2. Investigation.

A. This regulation establishes a time frame for beginning the adult protective services investigation and

gives priority to situations believed to be the most critical.

B. Investigations shall be initiated by the local department of social services:

1. Not later than 24 hours from the time the report was received if the situation is an emergency, as defined by § 63.1-55.2 of the Code of Virginia.
2. Not later than five calendar days for all other reports.

§ 2.3. Dispositions.

A. The disposition provides a concise statement of how the report of adult abuse, neglect, or exploitation has been resolved.

B. Possible dispositions.

1. The subject of the report needs protective services. A review of the facts shows convincing evidence that adult abuse, neglect or exploitation has occurred or is occurring or there is reason to suspect that the adult is at risk of abuse, neglect, or exploitation and needs protective services in order to reduce that risk.
2. The need for protective services no longer exists. The subject of the report no longer needs protective services. A review of the facts shows convincing evidence or provides reason to suspect that adult abuse, neglect, or exploitation has occurred. However, at the time the investigation is initiated, or during the course of the investigation the person who is the subject of the report ceases to be at risk of further abuse, neglect, or exploitation.
3. The report is unfounded. A review of the facts shows no reason to suspect that abuse, neglect, or exploitation occurred or that the adult is at risk of abuse, neglect, or exploitation.

C. The investigation shall be completed and a disposition assigned within 45 days of the date the report was received.

§ 2.4. Disclosure of Adult Protective Services Information.

A. This regulation describes the protection of confidential information including a description of when such information must be disclosed, when such disclosure of the information is at the discretion of the local department of social services, what information may be disclosed, and the procedure for disclosing the information.

B. Agencies who have a legitimate interest in confidential information:

1. The following agencies have investigatory authority

and they have a legitimate interest in confidential information when such information is reasonably necessary for the fulfillment of their statutory or regulatory responsibilities and is consistent with the best interest of the client who is the subject of the information:

- a. Department of Social Services, Division of Service Programs, Division of Licensing Programs;
- b. Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Human Rights;
- c. Department for Rights of the Disabled;
- d. Attorney General's Office, Medicaid Fraud Control Program;
- e. Department for the Aging, Office of the State Long Term Care Ombudsman;
- f. Department of Health, Division of Licensure and Certification;
- g. Department of Medical Assistance Services; and
- h. Department of Health Professions.

2. Public/private service providing agencies including Community Services Boards, Area Agencies on Aging, Family Service Agencies and others may have legitimate interest in confidential information. Legitimate interest exists when the agency will provide services as a part of the protective services plan to an adult who is the subject of an adult protective services report or to an adult who has been determined by an adult protective services investigation to be in need of protective services.

C. Local departments of social services may release information to the following persons when the local department has determined the person making the request has legitimate interest and the release of information is in the best interest of the adult:

1. Representatives of agencies requesting disclosure when the agency has legitimate interest as identified in § 2.4 B 1 and 2 of these regulations;
2. Police or other law-enforcement officials who are investigating adult abuse, neglect, or exploitation;
3. A physician who is treating an adult whom he reasonably suspects is abused, neglected, or exploited;
4. A guardian ad litem who has been appointed for an adult who is the subject of an adult protective services report; or
5. A family member who is responsible for the welfare

of an adult who is the subject of an adult protective services report.

D. Local departments of social services are required to disclose information under the following circumstances:

1. When disclosure is ordered by a court;
2. When a person has made an adult protective services report and an investigation has determined the report to be unfounded, the person who made the report shall be notified of the finding pursuant to § 63.1-55.4 of the Code of Virginia; or
3. When a request for access to information is made pursuant to the Privacy Protection Act, § 2.1-381 of the Code of Virginia.

Any individual including alleged abusers, neglectors, or exploiters has the right to review and challenge personal information about himself contained in an adult protective services case record. The individual has a right to review personal information about himself only and may not review other information contained in the case record. The name of the complainant is not disclosed. The individual has a right to challenge, correct, or explain information about him maintained in the adult protective services record. The individual may file a statement of not more than 200 words setting forth his position according to procedures set forth in § 2.1-382(5) of the Code of Virginia.

E. Specific information which may be disclosed at the option of the local department of social services to agencies or persons specified in § 2.4 C of these regulations:

1. Name, address, age, race, sex of the adult who is the subject of the request for information;
2. Description of the incident(s) of abuse, neglect, or exploitation;
3. Description of medical problems;
4. Disposition of the adult protective services report; or
5. The protective service needs of the adult.

F. Agencies or persons who receive confidential information pursuant to subdivisions 1 through 5 of § 2.5 C of these regulations shall provide the following assurances, in writing, to the department:

1. The purposes for which information is requested is related to the adult protective services goal for the client;
2. The information will be used only for the purpose

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for which it is made available; and

3. The information will be held confidential by the agency or individual receiving the information except to the extent that disclosure is required by law.

G. Notification that information has been disclosed.

1. When information has been disclosed pursuant to these regulations, notice of the disclosure shall be given to the person who is the subject of the information or to his legally appointed guardian.

ASSURANCES OF CONFIDENTIALITY

Fips Code	Date of Request
Worker Assigned	Date Information Disclosed
	Date Client Notified

Name of Client _____

Address _____

Name of Agency _____

Address _____

Telephone _____

Person Making Request _____

Purpose for which information is requested: _____

The undersigned agrees to use the information obtained pursuant to Section 63.1-55.4 of the Code of Virginia only for the purpose for which it is made available and to hold the information confidential except to the extent that disclosure is required by law.

(signature)

(Agency)

(Date)

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: VR 275-02-1. Regulations Governing the Edvantage Loan Program.

Statutory Authority: §§ 23-30.42, 23-38.33:1 and 23-38.64(2) of the Code of Virginia.

Effective Date: June 8, 1989

Summary:

Edvantage is a long-term loan program for educational expenses of undergraduate, graduate and professional students. The State Education Assistance Authority administers and guarantees the Edvantage program, insuring these loans against the death, bankruptcy, permanent and total disability or default of the borrower in exchange for a guarantee fee. These regulations establish policies governing the administration of the Edvantage program on the part of participating lenders and institutions of higher education.

Language was (i) added to allow in cases where the borrower is a non-Virginia resident and attending a non-Virginia school, loans can be made if they are obtained through a lender headquartered in Virginia; (ii) added to require that all loan amounts must be in whole dollars; (iii) revised to combine the requirements of satisfactory credit bureau reports of borrowers and lenders documenting any exceptions to the credit criteria; (iv) added to clarify that only verification of a borrower's monthly home mortgage(s) payment obligation is required for borrowers seeking loan approval based on credit criteria; (v) changed to permit disbursement of loan funds up to 30 days before the start of the loan period of the student; and (vi) changed to clarify that, at minimum, lenders must report loan repayment information on the primary borrower.

VR 275-02-1. Regulations Governing the Edvantage Loan 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.

"Bankruptcy" means the judicial action to declare a person insolvent and take his assets, if any, under court administration.

"Borrower" means all comakers on a loan, collectively.

"Cost of attendance" means the cost of tuition and fees related to the loan period reported on the loan application. Costs may also include reasonable education-related expenses for books, supplies, room and board, transportation and personal expenses. Costs may not include the purchase of a motor vehicle. Costs may not include expenses associated with correspondence study.

"Default" means, for the purposes of these regulations, a condition of delinquency that persists for 90 days, or the death, total and permanent disability, or bankruptcy of the borrower.

"Delinquency" means the failure to make an installment payment when due, failure to comply with other terms of the note, or failure to make an interest payment when due.

"Disbursement" means the issuance of proceeds of a loan under the Edvantage program.

"Due diligence" means reasonable care and diligence in processing, making, servicing, and collecting loans.

"Enrollment" means the period during which the student is attending or plans to attend school, as defined by Title IV regulations.

"Forbearance" means a delay of repayment of principal for a short period of time on terms agreed upon in writing by the lender and the borrower.

"Guarantee" means the legal obligation of the SEAA to repay the holder the outstanding principal balance plus accrued interest in case of a duly filed claim for default, bankruptcy, total and permanent disability, or death of the borrower.

"Guarantee fee" means the fee paid to the SEAA in consideration of its guarantee.

"Guaranteed Student Loan (GSL) Program" means the program established under Title IV, Part B, of the Higher Education Act, as amended, to make low-interest loans available to students to pay for their costs of attending eligible post-secondary schools by providing loan insurance. For purposes of these regulations, references applicable to GSL shall incorporate the PLUS and Supplemental Loans

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for Students (SLS) programs administered by the SEAA.

"Interest" means the charge made to the borrower for the use of a lender's money.

"Lender" means any bank, savings and loan association or credit union having a participation agreement with the SEAA, or the Virginia Education Loan Authority.

"Loan" means any loan made under the Edvantage program.

"Loan period" means the period of time during which the student expects to be enrolled, not to exceed 12 months.

"Participation agreement" means the contract setting forth the rights and responsibilities of the lender and the SEAA for the Edvantage program.

"Pell Grant" means the program established under Title IV, Part A of the Higher Education Act, as amended, to provide grants to students attending eligible post-secondary schools.

"Permanent and total disability" means the inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

"Primary borrower" means the borrower on whose income or net worth the lender is making its determination of credit-worthiness.

"Program" means the Edvantage program.

"Promissory note" or "note" means the legally binding contract between the lender and the borrower which contains the terms and conditions of the loan.

"Repayment period" means the period of time from the day the first payment of principal is due to the time a loan is paid in full or a claim is filed due to the borrower's death, total and permanent disability, or discharge in bankruptcy. For the Edvantage program, the repayment period normally begins within 60 days of disbursement, or within 60 days of departure from school for those borrowers electing the in-school interest-only option.

"School" means any post-secondary institution which is eligible to participate in the Edvantage program as specified in these regulations.

"State Education Assistance Authority (SEAA)" means the designated guarantor for the GSL Program in the Commonwealth of Virginia, and the administrator and guarantor of the Edvantage program.

"Title IV" means Title IV of the Higher Education Act

of 1965, as amended.

PART II. PARTICIPATION.

§ 2.1. Borrower eligibility.

A. Requirements.

1. Eligible borrowers are students, parents, legal guardians or other responsible individuals who elect to borrow on behalf of the student. In the event that a parent, legal guardian or other responsible individual is the borrower, the student is required to sign the note as a co-maker.
2. Every borrower must be
 - a) a U.S. citizen or national, or
 - b) an eligible non-citizen as defined by Title IV regulations.
3. The primary borrower on the loan must be a U.S. citizen, national or permanent resident.
4. At least one borrower must be a Virginia resident if the student is attending a non-Virginia school [or the loan must be obtained through a lender headquartered in Virginia].
5. The student must be pursuing an undergraduate, graduate or professional program toward a degree or certificate, or a program designed to lead to teacher certification.
6. At least one borrower or a combination of borrowers on the loan must pass a credit test administered by the lender as defined in these regulations.
7. All borrowers must be free from default on any previous Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan.
8. Incarcerated students are not eligible for the Edvantage program.

B. Rights.

Discrimination on the basis of race, creed, color, sex, age, national origin, marital status, or physically handicapped condition is prohibited in the Edvantage program.

§ 2.2. Lender participation.

A. Eligibility.

An eligible lender is any lender participating in the

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Virginia Guaranteed Student Loan Program administered by the SEAA. An eligible lender may participate in the Edvantage program by executing an Edvantage participation agreement with the SEAA.

B. Program review.

The SEAA reserves the right to conduct periodic program reviews of the lender to determine the lender's adherence to these regulations.

C. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any lender in the Edvantage program under terms consistent with regulations of the SEAA.

2. Any lender under limitation, suspension or termination in the Virginia GSL program will be placed automatically under the same status in the Edvantage program.

D. Default rate.

Should the lender's default rate exceed 3.0%, the SEAA reserves the right to limit, suspend or terminate the lender's participation in the program under terms consistent with regulations of the SEAA. The default rate shall be calculated based on the following formula:

Total cumulative amount of default claims paid by the SEAA on loans disbursed by the lender, divided by total outstanding principal of all loans disbursed by the lender.

§ 2.3. School participation.

A. Eligible Virginia schools.

An eligible school is any post-secondary institution located within Virginia which is eligible to participate in the federal Guaranteed Student Loan and Pell Grant Programs and which is participating in the SEAA GSL program.

B. Eligible non-Virginia schools.

An eligible non-Virginia school must be an accredited degree-granting post-secondary institution located within the United States and eligible to participate in the federal Guaranteed Student Loan and Pell Grant Programs. Non-Virginia school participation is limited to non-profit two- and four-year public and private institutions, graduate and professional schools, and non-graduate health schools.

C. Program review.

The SEAA reserves the right to conduct periodic program reviews of the school to determine the school's adherence to these regulations.

D. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any school in the Edvantage program under terms consistent with regulations of the SEAA.

2. Any school under limitation, suspension or termination in the Virginia GSL program will be placed automatically under the same status in the Edvantage program.

PART III. LOAN TERMS.

§ 3.1. [Loan terms.]

A. Loan amounts.

1. The minimum loan amount is \$1,000. The maximum amount for any one student is \$15,000 per eight month (240 day) period. The aggregate maximum for any one student is \$60,000.

2. Subject to the credit test administered by the lender and defined in these regulations, the borrower may obtain a loan under the program in an amount up to the student's cost of attendance, less other financial aid received by the student.

3. The borrower may apply for a loan in an amount up to the aggregate maximum, within his maximum credit-worthiness, if the school certifies a prepaid tuition amount consistent with the school's prepaid tuition policy. Such prepaid tuition shall represent a discount from payment of tuition annually, and the SEAA shall approve such loan application in advance.

[4. All approved loan amounts must be in whole dollars.]

B. Interest rate.

1. The interest rate may be fixed, or variable no more than once monthly and tied to the stated Prime Rate of the lender. The Prime Rate of the Virginia Education Loan Authority shall be that quoted in The Wall Street Journal.

2. The maximum interest rate charged shall be the Prime Rate of the lender plus two percentage points.

C. Fees.

1. The borrower shall be charged a guarantee fee in an amount specified by the SEAA which shall be deducted from the loan proceeds and remitted to the SEAA.

2. The borrower may, at his option, elect to purchase credit life insurance on the loan.

D. Repayment terms.

1. The borrower shall repay the loan in monthly installments of principal and interest of at least \$50 over a maximum repayment period of 15 years from the date the first payment of principal and interest is due, under the terms described in § 4.3 A.1.

2. While the student is enrolled, the borrower has the option to make monthly payments of interest-only, under the terms described in § 4.3 A.2.

3. New loans will automatically be consolidated with prior loans of the same borrowers. In such cases, the repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due on the consolidated loan.

4. Repayment may not be deferred. In the event of hardship, the borrower may request and the lender may grant a forbearance of principal, and interest-only payments may be accepted for a reasonable and limited period of time.

5. Interest may not be capitalized.

6. There is no penalty for prepayment under this program.

PART IV. LOAN PROCESS.

§ 4.1. School procedures.

A. School requirements.

1. The school shall complete the school section of the Edvantage program application after the borrower sections are completed.

2. The school shall document that it has made maximum effort to utilize all other sources of Title IV aid available to the student that would be less costly to the student (e.g., grant aid, lower cost loans) before certifying the loan application. Documentation indicating the student's ineligibility for other sources of aid, based either on need or other criteria for making the award, shall suffice as demonstration of this effort. Actual application for a specific program is not required; however, such application and a resultant award or denial would also serve as documentation of the school's effort. The school shall report any Pell Grant amount the student is eligible to receive as financial aid, whether or not the student applies for a Pell award.

3. The school shall not collect from applicants any additional fees or charges to cover the cost of originating loans under the program.

4. The school shall report to the lender within 30 days

of the date the school becomes aware of the student's withdrawal from school.

a) Any refund amount shall be determined by the school's stated policy. The refund shall be forwarded, along with notification, to the lender, within 30 days from the date the school became aware of the change in status warranting a refund.

b) Such early termination or withdrawal shall signify the beginning of principal repayment for those borrowers having an in-school deferment of principal.

B. School options.

1. The school has the option, subject to the approval of the SEAA, to serve as co-borrower on any or all loans made for attendance at that school. If the school elects to exercise this option, the school shall file in advance with the SEAA, and receive approval upon, its most recent audited financial statement; and thereafter file its annual audited financial statements with the SEAA showing such loans as a contingent liability.

2. The school has the option to pay all or part of any borrower's payments on the loan.

3. The school has the option to pay the guarantee fee on behalf of any borrower.

C. Certification.

1. The school shall certify the application no later than the last day of the loan period.

2. The signature of the financial aid officer in the school section of the Edvantage program application certifies that the Virginia regulations governing the school's procedures have been met.

3. The certification of the financial aid officer's own loan application, the application of a spouse or dependent of a financial aid officer, or an application where conflict of interest exists, is not sufficient. In any of these cases, the application shall be accompanied by certification of the immediate supervisor of the financial aid officer.

D. Disbursement.

1. Any loan proceeds remaining after the school has subtracted the amount owed to it for the loan period may be disbursed to the borrower or retained on account at the written request of the borrower.

2. The school shall return undisbursed loan proceeds to the lender within 30 days of receipt of such proceeds.

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§ 4.2. Lender procedures - origination.

A. Lender responsibilities.

In making and collecting loans under the program, the lender shall treat the loan as if there were no guarantee.

B. Credit criteria.

The lender shall obtain credit information from each applicant on the lender's credit application(s) and evaluate the credit of the primary borrower and any co-borrowers on whose income or net worth the lender is making the credit-worthiness determination, by performing:

1. Employment and income verification.
2. Verification of a minimum of two years' credit history.
3. Assessment of satisfactory credit bureau reports [or lender documentation to report exception to derogatory items].
4. Verification of [~~home mortgage debt~~ monthly debt obligation of home mortgage(s) and, in cases where credit worthiness is determined on net worth criteria, verification of home mortgage debt].

[~~5. Verification of absence of outstanding derogatory items of public record, or lender documentation to support exceptions.]~~

[~~6. 5.] Assessment of the most recent federal income tax return or most recent financial statement of self-employed applicants.~~

[~~7. 6.] a. Assessment of monthly debt obligation as a percentage of monthly gross income no greater than 45%, including the obligation on the loan applied for under this program; or~~

~~b. Assessment of net worth no less than 10 times the amount of the loan applied for under this program.~~

Documented exceptions to the debt or net worth test may be made only with the prior written approval of the SEAA.

In addition, for all applicants, the lender shall satisfy the absence of default on any Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan.

C. Disbursement.

1. a. Loan proceeds for a student borrower shall be disbursed in a check or checks made co-payable to the borrower and the school and mailed to the financial aid office of the school named on the

application.

b. Loan proceeds for a parent or other non-student borrower shall be disbursed in a check or checks payable to the non-student borrower and mailed to the borrower's address as listed on the application.

2. Disbursement may be made in single or multiple installments at the option of the lender.

3. Loan proceeds may be disbursed by other funds transfer method approved by the SEAA.

4. Loan proceeds shall not be disbursed more than [~~15~~ 30] days before the start of the loan period.

D. Guarantee fee.

1. The guarantee insures the lender against loss due to death, bankruptcy, total and permanent disability, or default of the borrower. At present the guarantee fee is 4.0% of the loan amount, but may be raised or lowered from time to time with 90 days written notice by the SEAA to the lender.

2. The lender shall deduct the guarantee fee from the loan proceeds at disbursement.

3. The lender shall remit to the SEAA [, at minimum monthly,] the amount of guarantee fees charged on all disbursements.

4. The guarantee fee will be rebated if the loan check is returned uncashed to the lender, or if the loan is repaid in full within 120 days of disbursement by a check or funds transfer drawn on the institution in cases where the loan check was originally made co-payable.

E. The lender may offer and charge a reasonable fee, if the borrower agrees, for death or disability insurance on the loan.

F. Credit bureau reporting.

The lender shall report loan repayment information on [, at minimum,] the primary borrower to one or more credit bureau organization.

§ 4.3. Lender procedures - active loan.

A. Repayment.

1. Immediate repayment option.

Repayment of the loan shall begin within 60 days of disbursement. Repayment shall be over a maximum period of 15 years, in monthly installments of at least \$50. The repayment period shall be extended to a maximum of 20 years only if necessary to amortize total interest, as determined by upward adjustments in

the interest rate. If 20 years becomes insufficient to amortize the loan fully at the original monthly payment amount, the monthly payment shall increase. There will be no penalty for prepayment.

2. In-school principal deferment option.

While the student is enrolled, the borrower has the option to make monthly payments of interest-only for a maximum of 48 months. When this option is selected, the lender shall collect interest monthly from the borrower from the date of disbursement, beginning within 60 days of disbursement. Interest shall not be capitalized. Repayment of principal and interest shall begin within 60 days of the lender's receipt of notice of the student's withdrawal or graduation from school, or at the expiration of the maximum 48 months' interest-only option. The repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due, and shall be consistent with the minimum payment and maximum term described in § 4.3 A.1 above. If, after conversion to repayment of principal because of the student's withdrawal or graduation from school, the student re-enrolls at an eligible school, repayment of principal may again be deferred, provided that the cumulative deferment does not exceed 48 months.

3. The lender shall notify the borrower of any interest rate changes.

B. Forbearance.

1. Forbearance may be considered, at the lender's option, for circumstances such as family illness, financial hardship, unemployment or temporary disability. If during such a period the borrower is unable to make regular principal and interest payments, the lender may forbear principal payments; interest payments may be neither forborne nor capitalized.

2. Payment of the regular monthly installment must be sought from all borrowers on the loan before forbearance is granted.

3. All borrowers on the loan must be eligible for forbearance before a forbearance may be granted.

4. Forbearance may be granted for a maximum of six months at a time, but only when necessary to prevent default. If the borrower requests it, forbearance may be extended, but may not exceed a total of 12 months during the repayment period.

5. The SEAA reserves the right to require approval in advance of all forbearances.

6. The SEAA reserves the right to disallow any forbearance.

C. Reporting and forms.

1. The lender shall provide the SEAA on at least a monthly basis, in a format mutually agreeable to both parties, loan application data and the guarantee fees relating to its disbursements.

2. The lender shall provide the SEAA, on at least a monthly basis, reports of the outstanding balances on all loans.

3. The lender shall provide the SEAA, on at least a monthly basis, a report of any forbearances granted during the period, unless the SEAA has given approval in advance for such forbearances.

4. The lender shall use the standard promissory note, applications and brochures for the program unless otherwise agreed in writing by the SEAA.

5. The SEAA shall provide the lender, on at least a monthly basis, a report of all loans guaranteed during the period.

6. The SEAA shall perform student status verification.

7. The SEAA shall provide the lender with periodic listings of schools approved for the program. The SEAA shall advise the lender, in writing, of any school for which approval has been revoked. Such revocation shall not affect the guarantee fee on loans previously committed.

PART V. CLAIMS.

§ 5.1. General.

Claims may be filed only after the lender has determined that all borrowers meet the conditions for a claim.

§ 5.2. Default claims.

A. Due diligence.

The SEAA guarantee is contingent on the lender's due diligence. The lender shall attempt to collect delinquent loans using every effort short of litigation that it would use on a conventional loan in the ordinary course of business. If the lender so desires, it may take legal action, but this is not required. Due diligence for default claims requires the following actions:

1. Sending written notice to the primary borrower when the loan is 5 to 10 days delinquent.

2. Sending written notice to the borrower and any co-makers when the loan becomes 20 to 30 days delinquent. Such letters should warn the borrower that, if the delinquency is not cured, the lender will assign

Final Regulations

the loan to the SEAA, which in turn will report the default to a credit bureau, thereby damaging the borrower's credit rating, and may bring suit against the borrower to compel repayment of the loan. In addition, telephone calls shall be made to the borrower, parents, references, or employers, as necessary to collect on the loan or locate the borrower. All information available to the lender shall be pursued.

3. Requesting preclaims assistance from the SEAA when the loan becomes 30 to 40 days delinquent.

4. Continuing all written correspondence and telephone calls to appropriate persons when the loan is 30 to 60 days delinquent.

5. Sending final demand letter to borrower when the loan is 60 days delinquent.

6. Preparing and submitting a claim to SEAA when the loan is 90 days delinquent; however, the lender may attempt collection on the loan for up to 120 days if the lender can document in writing its reasonable expectation that an additional 30 days of collection will prevent a default.

Minimum due diligence shall be five letters. In addition to these requirements, within 10 days of its receipt of information indicating it does not know the borrower's current address, the lender must diligently attempt to locate the borrower through the use of standard skip-tracing techniques. These efforts shall include, but not be limited to, contacting the co-maker(s), relatives, references, and any other individuals and entities identified in the borrower's loan file. In order to file a default claim at the conclusion of the 90 to 120 day period, the lender must complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments, where applicable, and proof of due diligence by the lender.

B. Credit bureau notification.

In the event of default, the SEAA shall report the default of all borrowers on the loan to one or more credit bureau organizations.

§ 5.3. Death or disability insurance.

If the borrower has purchased death or disability insurance, the lender may not file a death or disability claim with the SEAA without first exhausting the opportunity for reimbursement from the insurer. If the borrower has not purchased such insurance, in the event of death or disability, the SEAA, after reimbursing the lender, may file a claim against the borrower or the

borrower's estate.

§ 5.4. Death claims.

To receive payment in the event of the death of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), a certified copy of the death certificate, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish.

§ 5.5. Total and permanent disability claims.

To file a claim arising from the total and permanent disability of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish. In addition, the lender shall submit an affidavit from a qualified physician (either an M.D. or D.O.) certifying that the borrower is unable to engage in any gainful activity or employment due to a medical impairment that is expected to continue indefinitely or result in death; the date the borrower became unable to be employed or otherwise qualified for a total and permanent disability claim; and providing a description of the diagnosis.

§ 5.6. Bankruptcy claims.

A. Chapter 7 bankruptcy.

The lender determines that a borrower has filed bankruptcy petition on the basis of a notice received from the bankruptcy court of the first meeting of creditors. Upon receiving such notice, the lender shall:

1. Notify the SEAA by telephone of the impending bankruptcy.

2. Immediately cease collection efforts on the loan.

3. If the loan has not been in repayment for a least five years (exclusive of any applicable suspension of the repayment period) on the date the lender receives notice of the first meeting of creditors, and the lender has no knowledge that the borrower has filed a hardship petition, the lender must hold the loan and not attempt collection until the bankruptcy action has concluded. The lender shall treat the loan as if it is in forbearance from the date of the borrower's filing of the bankruptcy petition until the date the lender is notified that the bankruptcy action is concluded. For Chapter 7 bankruptcies in which the loan has been in repayment for more than five years, or when the borrower has filed a hardship petition, the lender

shall follow the procedures listed in § 5.6 B, below.

4. Once the bankruptcy action has concluded, if the loan has not been discharged, the lender must resume collection efforts. The borrower is responsible for the interest that has accrued during the automatic stay period. The lender should proceed through a standard 90-day due diligence period as with any other loan. The automatic stay period is not included in the 90-day due diligence period.

B. All other bankruptcies.

When the lender receives notice from bankruptcy court of any other bankruptcy, the lender shall immediately file a bankruptcy claim with the SEAA if:

1. The borrower has filed a petition for relief under Chapter 13 of the Bankruptcy Code;
2. The borrower has filed a petition for relief under Chapter 7 of the Bankruptcy Code and the loan has been in repayment for more than five years (exclusive of any applicable suspension of the repayment period); or
3. The borrower has filed a hardship petition.

The bankruptcy claim shall include the appropriate completed SEAA form, the notice of bankruptcy, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any support documents the lender may be able to furnish, as well as any other information that may help the SEAA form the basis for an objection or an exception to the bankruptcy discharge.

§ 5.7. Interest.

The SEAA will pay interest for no more than 15 days from the date that the lender is officially notified of the death, total and permanent disability or bankruptcy, or no more than 15 days from the 90th day of delinquency in the event of default, or from the 120th day in the event that the lender has elected to pursue an additional 30 days of collection as outlined in § 5.2 A (6) above. No interest is paid for the period of time during which an incomplete claim has been returned to the lender. In addition, the SEAA pays interest on the claim for the number of days required for review by the SEAA claims staff plus 10 days for check processing.

PART VI. ASSIGNMENT TO SERVICER OR SECONDARY MARKET.

§ 6.1. Servicing.

The lender may negotiate the servicing of loans under

this program with a servicing agency. The SEAA must approve the use of any servicer. The servicer will be regarded as the lender's agent, and the lender will continue to be bound by the terms of these regulations.

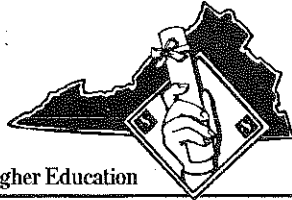
§ 6.2. Secondary market.

The lender may negotiate the sale of these loans to a secondary market. The lender must obtain SEAA approval of the use of any secondary market, and no loan may be sold to any entity that is not party to a guarantee agreement with the SEAA except with the written permission of the SEAA. The lender shall notify the SEAA promptly of the assignment of any loans to a secondary market.

Final Regulations

EdvantageSM Loan Application

Virginia's Family Loan Program for Higher Education



Lender:
Virginia Education Loan Authority
737 North Fifth Street
Richmond, VA 23219
(804) 786-4090
Toll-Free in Virginia (800) 552-7622
Toll-Free outside Virginia (800) 446-5252

Type or use ball point pen on the application. Press hard.

PART A — Primary Borrower	1. SOCIAL SECURITY NUMBER		2. NAME: (last, first, mi)			3. BIRTHDATE: (mo/day/yr)	
	4. PERMANENT HOME ADDRESS: Number & Street, Apt # City State Zip				5. STATE OF PERM. RESIDENCE	6. AREA CODE/TELEPHONE NUMBER ()	
	7. CITIZENSHIP STATUS: () a. U.S. Citizen or National () b. Permanent Resident () c. Neither (a) nor (b)			8. Alien Registration # if 7(b) is checked		9. PERSON COMPLETING PART A IS THE: () Student () Parent () Other	
	10. LOAN PERIOD FROM: (mo/yr) TO: (mo/yr)		11. LOAN AMOUNT REQUESTED		12. ESTIMATED GRADUATION DATE (mo./yr)	13. REPAYMENT CHOICE () Principal and Interest () Interest Only	
14. HAVE YOU EVER DEFAULTED ON A STUDENT LOAN? () NO () YES If yes, give details on a separate sheet of paper including what arrangements, if any, have been made to repay this debt.				15. I understand and agree to the Borrower Certification Statement printed on the instruction page of this application. BORROWER SIGNATURE _____ DATE _____			
PART B — Co-Borrower	16. SOCIAL SECURITY NUMBER		17. NAME: (last, first, mi)			18. BIRTHDATE: (mo/day/yr)	
	19. PERMANENT HOME ADDRESS: Number & Street, Apt # City State Zip				20. STATE OF PERM. RESIDENCE	21. AREA CODE/TELEPHONE NUMBER ()	
	22. CITIZENSHIP STATUS: () a. U.S. Citizen or National () b. Permanent Resident () c. Neither (a) nor (b)			23. Alien Registration # if 22(b) is checked		24. PERSON COMPLETING PART B IS THE: () Student () Parent () Other	
	25. HAVE YOU EVER DEFAULTED ON A STUDENT LOAN? () NO () YES If yes, give details on a separate sheet of paper including what arrangements, if any, have been made to repay this debt.				26. I understand and agree to the Borrower Certification Statement printed on the instruction page of this application. CO-BORROWER SIGNATURE _____ DATE _____		
PART C — Co-Borrower	27. SOCIAL SECURITY NUMBER		28. NAME: (last, first, mi)			29. BIRTHDATE: (mo/day/yr)	
	30. PERMANENT HOME ADDRESS: Number & Street, Apt # City State Zip				31. STATE OF PERM. RESIDENCE	32. AREA CODE/TELEPHONE NUMBER ()	
	33. CITIZENSHIP STATUS: () a. U.S. Citizen or National () b. Permanent Resident () c. Neither (a) nor (b)			34. Alien Registration # if 33(b) is checked		35. PERSON COMPLETING PART C IS THE: () Student () Parent () Other	
	36. HAVE YOU EVER DEFAULTED ON A STUDENT LOAN? () NO () YES If yes, give details on a separate sheet of paper including what arrangements, if any, have been made to repay this debt.				37. I understand and agree to the Borrower Certification Statement printed on the instruction page of this application. CO-BORROWER SIGNATURE _____ DATE _____		
PART D — School	38. SCHOOL OE #	39. STUDENT'S GRADE LEVEL	40. ANTICIPATED GRAD. DATE (mo/day/yr)	41. School Name; Address, City, State, Zip, Telephone Number			
	42. LOAN PERIOD FROM (mo/day/yr) TO (mo/day/yr)		43. ESTIMATED COST OF ATTENDANCE FOR LOAN PERIOD		44. ESTIMATED FINANCIAL AID FOR LOAN PERIOD		
	45. COST LESS AID		46. FEE DUE DATES (mo/day/yr)		1st	2nd	3rd
	47. My signature certifies that I have read and agree to the School Certification printed on the reverse of the school copy of this application. SIGNATURE OF SCHOOL OFFICIAL _____ PRINT OR TYPE NAME AND TITLE _____ DATE _____						
	48. Lender Name; Address; City; State; Zip; Telephone Number						
PART E — Lender	49. Disbursement Amounts & Dates (mo./day/yr)		50. LENDER #		51. Estimated Income		
	\$.00 / /						
	\$.00 / /						
Total Amount Approved \$.00		52. () PRINCIPAL & INTEREST () INTEREST ONLY		53. FEE AMOUNT			
54. SIGNATURE OF LENDING OFFICIAL _____ PRINT OR TYPE NAME AND TITLE _____ DATE _____							

Edvantage
Virginia's Family Loan Program
for Higher Education
Immediate Repayment Note



LENDER:
Virginia Education Loan Authority
737 North Fifth Street
Richmond, VA 23219
(804) 786-4090
Toll-Free in Virginia 1-800-552-7622
Toll-Free outside Virginia 1-800-446-5252

Maker's Name: _____ SSN: _____
Co-Maker's Name: _____ SSN: _____
Co-Maker's Name: _____ SSN: _____

NOTICE: In this Note the words "I", "me", "my", "you" and "your" mean each and all of those who sign it.

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS
The cost of your credit as a yearly rate, which may change	The dollar amount the credit will cost you	The amount of credit provided to you or on your behalf	The amount you will have paid after you have made all payments as scheduled
_____ %	\$ _____	\$ _____	\$ _____

Your payment schedule will be:

NUMBER OF PAYMENTS	AMOUNT OF PAYMENTS	WHEN PAYMENTS ARE DUE
	\$ _____	On the _____ day of each month beginning on _____

Variable Rate: The ANNUAL PERCENTAGE RATE may increase during the term of this transaction if the Prime Rate, as quoted in The Wall Street Journal, increases. The rate will not increase more than once every month. There is no ceiling on this rate. Any increase will take the form of more payments of the same amount or higher payment amounts. For example, if your loan were for \$15,000 at 11% for a 15-year repayment term and the rate increased to 12% in the second year, you would have to make 32 additional payments.

Late Charges: If any payment has not reached the lender within 10 days after its due date, you may be charged a late charge that may not exceed five cents for each dollar of the payment due.

Prepayment: If you pay off early, you will not have to pay a penalty.

See this contract document for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

Itemization of Amount Financed of \$ _____

\$ _____ Amount given to you directly

\$ _____ Amount paid on your account

\$ _____ Prepaid finance charge

I, (a) PROMISE TO PAY: I, the undersigned, promise to pay the lender or any eligible holder of this Note the sum of \$ _____ plus interest as set forth in Section II on the reverse.

CAUTION: TERMS OF THE PROMISSORY NOTE CONTINUE ON THE REVERSE SIDE OF THIS NOTE. IT IS IMPORTANT THAT YOU READ THE ENTIRE NOTE BEFORE YOU SIGN IT.

I UNDERSTAND THIS IS A PROMISSORY NOTE WHICH IS A LEGAL OBLIGATION TO REPAY THE AMOUNT BORROWED. BY SIGNING AND DATING THIS NOTE, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND RECEIVED A COPY OF THIS CONTRACT AND DISCLOSURE STATEMENT.

I, (b) _____

Maker's (Borrower) Signature	Date	Co-Maker's Signature(s)	Date	Co-Maker's Signature(s)	Date
_____	_____	_____	_____	_____	_____
Maker's (Borrower) Address	Co-Maker's Address	Co-Maker's Address			
_____	_____	_____			

- ii. **INTEREST:** I agree to pay interest on the unpaid principal of this Note. I agree that the interest rate will be the Prime Rate plus 1 1/2 percent, but in no case will the interest rate exceed the maximum rate permitted by law. The Prime Rate is that rate quoted in The Wall Street Journal on the last business day of each calendar month. I understand and agree that the interest rate will change within 30 days after the lender sends me notice of such new rate. The interest rate is variable monthly. Interest will begin to accrue on the date the loan proceeds are disbursed.
- iii. **GUARANTEE FEE:** I will pay a guarantee fee in the amount stated on the reverse side of this Note and designated as the Prepaid Finance Charge. The lender will forward the fee to the State Education Assistance Authority (SEAA) to pay for its guarantee of this Note. The lender will deduct the guarantee fee from the loan amount at the time of disbursement. I am not entitled to a refund of any part of this fee.
- iv. **LATE CHARGES:** If any payment has not reached the lender within 10 days after its due date, the lender may bill me for a late charge that may not exceed five cents for each dollar of the late installment.
- v. **PREPAYMENT:** I may, at my option and without penalty, prepay all or any part of the principal of this loan at any time.
- vi. **REPAYMENT:** The principal amount of this loan and any unpaid interest is payable, in monthly installments, according to the payment schedule on the reverse side of this Note and subject to the following: a) The maximum period is 15 years, unless repayment must be extended due to an increase in the interest rate on this loan. In such case, my repayment period may be extended up to 20 years; b) The minimum payment on this loan is \$50 per month; c) An increase or decrease in interest rate may change my monthly payment amount or the length of my repayment period as permitted under (a) above; and d) all Edvantage loans I receive from the lender may be combined into one repayment schedule if all of the loans have the same co-maker(s).
- vii. **DEFAULT:** If I default on this loan, the lender, at its option and without demand or notice to me of any kind, may declare the unpaid balance of this loan, including interest, immediately due and payable. Default means: (i) my failure to make any scheduled payment, together with any late charge due, within 10 days of its due date; (ii) my failure to perform any other obligation evidenced by this Note; (iii) my breach of any representation, warranty, promise or undertaking made to the lender or the SEAA in connection with this loan; (iv) the filing of a petition in bankruptcy by or against me; or (v) if I die or become totally and permanently disabled. If I do not honor my repayment obligation, the lender will request the SEAA to purchase this loan. The SEAA will then make every effort to collect the loan from me, which may include instituting legal action against me. I hereby waive presentment, demand, protest and notices of dishonor and protest with regard to the obligation evidenced by this Note.

- viii. **COLLECTION COSTS:** I agree to pay reasonable amount permitted by law, including attorney's fees of 30% and court costs, which the lender incurs in collecting an amount I owe under this Note which is not paid when due. If this loan is referred for collection to an agency that is subject to the Fair Debt Collection Practices Act, I will pay those collection costs which do not exceed 25% of unpaid principal and accrued interest.
- ix. **CREDIT BUREAU NOTIFICATION:** Information about the amount of my loan and its repayment will be reported to one or more credit bureau organizations. If I default on the loan, the lender or the SEAA may report the default to credit bureau organizations. This may significantly and adversely affect my credit rating.
- x. **ADDITIONAL AGREEMENTS:** 1) I agree that this Note is guaranteed by the SEAA in Richmond, Virginia, and consent to be sued in the appropriate court in the City of Richmond in any action to enforce its provisions; 2) I will use the proceeds solely to pay the cost of attendance at the school named in the application; 3) I will send written notice to the lender, or any subsequent holder of this Note, within 10 days of any change in my name, address, or the school enrollment status of the student on whose behalf the loan was borrowed; 4) Any notice required to be given to me will be effective when mailed first class mail to the latest address as shown for me in the lender's records; 5) The lender's failure to enforce or insist that I comply with an term of this Note is not a waiver of the lender's rights. No provision of this Note can be waived or modified except in writing; 6) If the SEAA is required under its guarantee to buy my loan(s) because I have defaulted, the SEAA will become the holder of this Note and as my creditor will have all the rights of the original lender to enforce this Note; 7) I must repay this Note even though I may be under 18 years of age; 8) All the information furnished in the application or other documents required for this loan is true; 9) I will answer promptly and truthfully all communication forwarded to me by the lender or the SEAA; 10) If I am a student borrowing on my own behalf, I authorize the lender to disburse the proceeds of this loan to the school named on the application, payable jointly to me and the school; 11) In case of an overpayment of the student educational costs due to availability of other funds, or due to the student's withdrawal from school, I authorize the school to issue a refund payable directly to the lender, up to the amount received from the lender, to be applied to my outstanding loan balance; 12) This Note will be returned to me only when the underlying obligation, and any subsequent Note executed for payment of that obligation is paid in full; 13) This Note may be assigned by the lender to another eligible holder; 14) The invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other provision; 15) Virginia law shall govern this Note; 16) Neither the lender nor the SEAA warrants or vouches for the quality or suitability of the educational programs offered by eligible institutions. Loan repayment is not conditioned upon the student's completion of education or obtaining employment in his or her field of major, but is my legal obligation.

NOTICE TO CO-MAKER

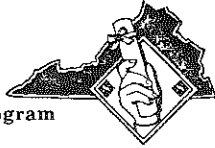
You are being asked to guarantee this debt. Think carefully before you do. If the maker (borrower) does not pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the maker (borrower) does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The lender can collect this debt from you without first trying to collect from the maker (borrower). The lender can use the same collection methods against you that can be used against the maker (borrower), such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of your credit record.

This Notice is not the contract that makes you liable for the debt.

EdvantageSM
Virginia's Family Loan Program
for Higher Education
Deferred Principal Repayment Note



LENDER:
 Virginia Education Loan Authority
 737 North Fifth Street
 Richmond, VA 23219
 (804) 786-4090
 Toll-Free in Virginia 1-800-552-7622
 Toll-Free outside Virginia 1-800-446-5252

Maker's Name: _____ SSN: _____
 Co-Maker's Name: _____ SSN: _____
 Co-Maker's Name: _____ SSN: _____

NOTICE: In this Note the words "I", "me", "my", "you" and "your" mean each and all of those who sign it.

ANNUAL PERCENTAGE RATE		AMOUNT FINANCED
The cost of your credit as a yearly rate, which may change		The amount of credit provided to you or on your behalf
_____ % Before Principal Repayment Begins	_____ % After Principal Repayment Begins	\$ _____

Variable Rate: The ANNUAL PERCENTAGE RATE may increase during the term of this transaction if the Prime Rate, as quoted in *The Wall Street Journal*, increases. The rate will not increase more than once every month. There is no ceiling on this rate. Any increase will take the form of more payments of the same amount or higher payment amounts. The monthly payment must be sufficient to pay the monthly accrued interest.

Late Charges: If any payment has not reached the lender within 10 days after its due date, you may be charged a late charge that may not exceed five cents for each dollar of the payment due.

Prepayment: If you pay off early, you will not have to pay a penalty.

See this contract document for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

Itemization of Amount Financed of \$ _____

\$ _____ Amount given to you directly

\$ _____ Amount paid on your account

\$ _____ Prepaid Finance Charge

I, (a) PROMISE TO PAY: I, the undersigned, promise to pay the lender or any eligible holder of this Note the sum of \$ _____ plus interest as set forth in Section II on the reverse.

CAUTION: TERMS OF THE PROMISSORY NOTE CONTINUE ON THE REVERSE SIDE OF THIS NOTE. IT IS IMPORTANT THAT YOU READ THE ENTIRE NOTE BEFORE YOU SIGN IT.

I UNDERSTAND THIS IS A PROMISSORY NOTE WHICH IS A LEGAL OBLIGATION TO REPAY THE AMOUNT BORROWED. BY SIGNING AND DATING THIS NOTE, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND RECEIVED A COPY OF THIS CONTRACT AND DISCLOSURE STATEMENT.

I, (b)

Maker's (Borrower) Signature	Date	Co-Maker's Signature(s)	Date	Co-Maker's Signature(s)	Date
_____	_____	_____	_____	_____	_____

Maker's (Borrower) Address	Co-Maker's Address	Co-Maker's Address
_____	_____	_____

- ii. **INTEREST:** I agree to pay interest on the unpaid principal of this Note. I agree that the interest rate will be the Prime Rate plus 1 1/2 percent, but in no case will the interest rate exceed the maximum rate permitted by law. The Prime Rate is that rate quoted in *The Wall Street Journal* on the last business day of each calendar month. I understand and agree that the interest rate will change within 30 days after the lender sends me notice of such new rate. The interest rate is variable monthly. Interest will begin to accrue on the date the loan proceeds are disbursed.
- iii. **GUARANTEE FEE:** I will pay a guarantee fee in the amount stated on the reverse side of this Note and designated as the Prepaid Finance Charge. The lender will forward the fee to the State Education Assistance Authority (SEAA) to pay for its guarantee of this Note. The lender will deduct the guarantee fee from the loan amount at the time of disbursement. I am not entitled to a refund of any part of this fee.
- iv. **LATE CHARGES:** If any payment has not reached the lender within 10 days after its due date, the lender may bill me for a late charge that may not exceed five cents for each dollar of the late installment.
- v. **PREPAYMENT:** I may, at my option and without penalty, prepay all or any part of the principal of this loan at any time.
- vi. **REPAYMENT:** During the period in which I am eligible to defer repayment of principal, I agree to pay interest, on a monthly basis, on the principal amount of my loan under the terms outlined in Section II, Interest, above, in accordance with the payment schedule set forth in the monthly statement I will receive from the lender. I understand that my ability to defer repayment of principal by paying accrued interest only is subject to the following: a) The monthly payment cannot be less than the accrued interest and an increase or decrease in the interest rate will change the monthly payment amount; b) conversion to repayment of principal and interest will begin on the earlier of (i) the end of the 48th month after the date the first payment of interest is due, or (ii) the date on which the student on whose behalf this loan was borrowed ceases to be enrolled at any eligible school; c) upon conversion to repayment of principal and interest, I agree to execute a new promissory note for the amount of principal and the unpaid and outstanding hereunder, and to repay such outstanding balance and interest thereon in monthly installments of not less than \$50 within 15 years from the date of the new note. Interest on the outstanding balance of the new note shall be charged in accordance with Section II, Interest, above; d) after conversion to repayment of principal and interest because the student on whose behalf this loan is borrowed has ceased to be enrolled at an eligible school, I may again be eligible to defer repayment of principal on the same terms as the initial deferment if the student on whose behalf this loan is borrowed re-enrolls at an eligible school, provided that in no event may I defer repayment of principal for more than a total of 48 months exclusive of any intervening time periods during which the student on whose behalf the loan was borrowed was not enrolled at an eligible school, and e) all Edvantage loans may be combined into one repayment schedule if all of the loans have the same co-maker(s).
- vii. **DEFAULT:** If I default on this loan, the lender, at its option and without demand or notice to me of any kind, may declare the unpaid balance of this loan, including interest, immediately due and payable. Default means: (i) my failure to make any scheduled payment, together with any late charge due, within 10 days of its due date, (ii) my failure to perform any other obligation evidenced by this Note; (iii) my breach of any representation, warranty, promise or

- undertaking made to the lender or the SEAA in connection with this loan; (iv) the filing of a petition in bankruptcy by or against me; or (v) if I die or become totally and permanently disabled. If I do not honor my repayment obligation, the lender will request the SEAA to purchase this loan. The SEAA will then make every effort to collect the loan from me, which may include instituting legal action against me. I hereby waive presentment, demand, protest and notices of dishonor and protest with regard to the obligation evidenced by this Note.
- viii. **COLLECTION COSTS:** I agree to pay reasonable amounts permitted by law, including attorney's fees of 30% and court costs, which the lender incurs in collecting any amount I owe under this Note which is not paid when due. If this loan is referred for collection to an agency that is subject to the Fair Debt Collection Practices Act, I will pay those collection costs which do not exceed 25% of unpaid principal and accrued interest.
- ix. **CREDIT BUREAU NOTIFICATION:** Information about the amount of my loan and its repayment will be reported to one or more credit bureau organizations. If I default on this loan, the lender or the SEAA may report the default to credit bureau organizations. This may significantly and adversely affect my credit rating and the credit rating.
- x. **ADDITIONAL AGREEMENTS:** 1) I agree that this Note I guarantee by the SEAA in Richmond, Virginia, and consent to be sued in the appropriate court in the City of Richmond in any action to enforce its provisions. 2) I will use the proceeds solely to pay the cost of attendance at the school named in the application. 3) I will send written notice to the lender, or any subsequent holder of this Note, within 10 days of any change in my name, address, or the school enrollment status of the student on whose behalf the loan was borrowed. 4) Any notice required to be given to me will be effective when mailed first class mail to the latest address as shown for me in the lender's records. 5) The lender's failure to enforce or insist that I comply with any term of this Note is not a waiver of the lender's rights. No provision of this Note can be waived or modified except in writing. 6) If the SEAA is required under its guarantee to buy my loan(s) because I have defaulted, the SEAA will become the holder of this Note and as my creditor will have all the rights of the original lender to enforce this Note. 7) I must repay this Note even though I may be under 18 years of age. 8) All the information furnished in the application or other document required for this loan is true. 9) I will answer promptly and truthfully all communications forwarded to me by the lender or the SEAA. 10) If I am a student borrowing on my own behalf, I authorize the lender to disburse the proceeds of the loan to the school named on the application, payable jointly to me and the school. 11) In case of an overpayment of the student's educational costs due to availability of other funds or due to the student's withdrawal from school, I authorize the school to issue a refund payable directly to the lender, up to the amount received from the lender, to be applied to my outstanding loan balance. 12) This Note will be returned to me only when the underlying obligation, and any subsequent note executed for payment of that obligation, is paid in full. 13) This Note may be assigned by the lender to another eligible holder. 14) The invalidity or unenforceability of any provision of this Note shall not affect the validity or enforceability of any other provision. 15) Virginia law shall govern this Note. 16) Whether the lender or the SEAA warrants or vouches for the quality or suitability of the educational programs offered by eligible institutions. Loan repayment is not conditioned upon the student's completion of education or obtaining employment in his or her field of major, but is my legal obligation.

NOTICE TO CO-MAKER

You are being asked to guarantee this debt. Think carefully before you do. If the maker (borrower) does not pay the debt, you will be liable to pay it. Be sure you can afford to pay if you have to, and that you want to accept this responsibility. You may have to pay up to the full amount of the debt if the maker (borrower) does not pay. You may also have to pay late fees or collection costs, which increase this amount. The lender can collect this debt from you without trying to collect from the maker, co-maker. The lender also has the right to sue you for the debt, but you can be sued against the maker (borrower), such as suing your former employer, if that person is in default. This debt is your legal obligation and a part of your credit record.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: ~~VR 355-41-01.~~ VR 355-34-03.
Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells.

Statutory Authority: §§ 32.1-164 and 32.1-176.4 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

An owner who applies for a permit to construct an onsite sewage disposal system on his property shall pay a \$50 application fee at the time of filing. If he applies for a permit to construct a private well he shall pay a \$25 application fee at the time of filing. The requirement for the fee will be waived if the owner is applying for a construction permit for a pit privy, or if the owner is applying for a construction permit to repair a failing sewage disposal system or for the replacement of a private well or if the owner's income is below the federal poverty guidelines. An owner will be allowed a refund of his application fee, if the department denies the permit for land on which the owner seeks to construct his principal place of residence.

VR 355-34-03. Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells.

PART I. DEFINITIONS.

§ 1. Definitions.

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

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

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Construction of private wells" means acts necessary to construct private wells, including the location of private wells, the boring, digging, drilling, or otherwise excavating a well hole and installing casing with or without well screens, or well curbing.

"Department" means the Virginia Department of Health.

"Dewatering well" means a driven well constructed for the sole purpose of lowering the water table and kept in operation for a period of 60 days or less. Dewatering wells

are used to allow construction in areas where a high water table hinders or prohibits construction and are always temporary in nature.

"Family" means the economic unit which shall include the owner, the spouse of the owner, and any other person actually and properly dependent upon or contributing to the family's income for subsistence.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support, shall be considered separate family units.

The family unit which is based on cohabitation is considered to be a separate family unit for determining if an application fee is waivable. The cohabitating partners and any children shall be considered a family unit.

"Income" means total cash receipts of the family before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses.) They include regular payments from public assistance (including Supplemental Security Income), social security or railroad retirement, unemployment and worker's compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions, and regular insurance or annuity payment; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts. These receipts further include funds obtained through college work study programs, scholarships, and grants to the extent said funds are used for current living costs. Income does not include the value of food stamps, WIC checks, fuel assistance, money borrowed, tax refunds, gifts, lump sum settlements, inheritances or insurance payments, withdrawal of bank deposits, earnings of minor children, money received from the sale of property. Income also does not include funds derived from college work study programs, scholarships, loans, or grants to the extent such funds are not used for current living costs.

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

"Owner" means any person who owns, leases, or proposes to own or lease a private well or an onsite sewage disposal system, or both.

"Person" means the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or

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any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system, treatment works or private well.

"Principal place of residence" means the dwelling unit, single family dwelling, or mobile home where the owner lives.

"Private well" means any water well constructed for a person on land which is owned or leased by that person and is usually intended for household, groundwater source heat pump, agricultural use, industrial use, use as an observation or monitoring well, or other nonpublic water well. A dewatering well, for the purposes of these regulations, is not a private well.

"Repair of a failing onsite sewage disposal system" means the construction of an onsite sewage disposal system or parts thereof to correct an existing and failing sewage disposal system for an occupied structure with indoor plumbing.

"Replacement of a private well" means the construction of a private well to be used in lieu of an existing private well.

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

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

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

"Well" means any artificial opening or artificially altered natural opening, however made, by which groundwater is sought or through which groundwater flows under natural pressure or is intended to be artificially drawn; provided this definition shall not include wells drilled for the purpose of exploration or production of oil or gas, for building foundation investigation and construction, elevator shafts, grounding of electrical apparatus, or the modification or development of springs.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Sections 32.1-164 and 32.1-176.4 of the Code of Virginia provide that the State Board of Health has the power to prescribe a reasonable fee to be charged for filing an application for an onsite sewage disposal system permit and a reasonable fee to be charged for filing an application for a private well construction permit.

§ 2.2. Purpose of regulations.

The board has promulgated these regulations to:

1. Establish a fee for filing an application for a permit to construct an onsite sewage disposal system or for the construction of a private well; and
2. Establish a procedure for the waiver of fees for an owner whose income of his family is at or below the federal poverty guidelines established by the United States Department of Health and Human Services, or when the application is for a pit privy, the replacement of a private well, or the repair of a failing onsite sewage disposal system.

§ 2.3. Compliance with the Administrative Process Act.

The provisions of the Virginia Administrative Process Act (§ 9-6.14:1 et. seq. of the Code of Virginia) shall govern the promulgation and administration of these regulations and shall be applicable to the appeal of any case decision based upon these regulations.

§ 2.4. Powers and procedures of regulations not exclusive.

The Commissioner may enforce these regulations through any means lawfully available.

§ 2.5. Effective date of regulations.

The effective date of this regulation is July 1, 1989.

PART III. FEES.

§ 3.1. Application fees.

A. A fee of \$50 shall be charged to the owner for filing an application for an onsite sewage disposal system permit with the department. The fee shall be paid to the Virginia Department of Health by the owner or his agent at the time of filing the application and the application shall not be processed until the fee has been collected. Applications shall be limited to one site specific proposal. When site conditions change, or the needs of an applicant change, or the applicant proposes and requests another site be evaluated, and a new site evaluation is conducted, a new application and fee is required.

B. A fee of \$25 shall be charged to the owner for filing an application for the construction of a private well with

the department. The fee shall be paid to the Virginia Department of Health by the owner or his agent at the time of filing the application and the application shall not be processed until the fee has been collected. Applications shall be limited to one site specific proposal. When site conditions change, or the needs of an applicant change or the applicant proposes and requests another site be evaluated, and a new site evaluation is conducted, a new application and fee is required.

C. A person seeking revalidation of a construction permit for an onsite sewage disposal system shall file a completed application and shall pay a fee of \$50.

D. A person seeking revalidation of a permit for the construction of a private well shall file a completed application and shall pay a fee of \$25.

§ 3.2. Waiver of fees.

A. An owner whose income of his family is at or below the 1988 Poverty Income Guidelines For All States (Except Alaska and Hawaii) and The District of Columbia established by the Department of Health and Human Services, 53 Fed. Reg. 4213(1988), or any successor guidelines, shall not be charged a fee for filing an application for an onsite sewage disposal system permit or a private well construction permit.

B. Any person applying for a permit to construct a pit privy shall not be charged a fee for filing the application.

C. Any person applying for a permit to construct an onsite sewage disposal system to repair a failing onsite sewage disposal system shall not be charged a fee for filing the application.

D. Any person applying for a construction permit for the replacement of a private well shall not be charged a fee for filing the application.

§ 3.3. Refunds of application fee.

An application fee shall be refunded to the owner (or agent, if applicable) if the department denies a permit on his land on which the owner seeks to construct his principal place of residence. Such fee shall not be refunded by the department until final resolution of any appeals made by the owner from the denial.

PART IV. ELIGIBILITY DETERMINATION FOR WAIVER.

§ 4.1. Determining eligibility.

A. An owner seeking a waiver of an application fee shall request the waiver on the application form. The department will require information as to income, family size, financial status and other related data. The department shall not process the application until final resolution of the eligibility determination for waiver.

B. It is the owner's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine eligibility for a waiver of an application fee. The owner shall be required to provide written verification of income such as check stubs, written letter from an employer, W-2 forms, etc., in order to provide documentation for the application.

C. The proof of income must reflect current income which is expected to be available during the next 12-month period. Proof of income must include: Name of employer, amount of gross earnings, pay period for stated earnings. If no pay stub, a written statement must include the name, address, telephone number and title of person certifying the income.

MARINE RESOURCES COMMISSION

NOTICE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: VR 450-01-0054. Pertaining to the Use of Patent Tongs.

Statutory Authority: §§ 28.1-23 and 28.1-100 of the Code of Virginia.

Effective Date: April 5, 1989

Preamble:

This regulation prohibits the use of patent tongs on certain Baylor Survey grounds within the tidal waters of the Commonwealth. This regulation is promulgated in the interest of conservation and the shellfish industry.

VR 450-01-0054. Pertaining to the Use of Patent Tongs.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-100 of the Code of Virginia.

B. No prior regulations pertain to the use of patent tongs on Baylor Survey grounds in the James River.

C. The effective date of this regulation is April 5, 1989.

§ 2. Purpose.

The purpose of this regulation is to conserve and protect the Baylor Survey grounds in the James River.

§ 3. Description of area.

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This regulation shall include all of the Baylor Survey in the James River above the James River bridge, west of the James River bridge.

§ 4. Violations.

It shall be unlawful for any person, firm or corporation to use or operate patent tongs in any manner on any Baylor Survey in the James River, above the James River bridge, west of the James River bridge.

§ 5. Penalty.

As set forth in §§ 28.1-23 and 28.1-100 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner
Date: April 4, 1989

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-42-1. Foster Care - Guiding Principles.

Statutory Authority: §§ 63.1-25 and 63.1-55 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

This regulation provides guiding principles to strengthen foster care policy which will promote consistency in service delivery statewide.

The final regulation has been revised to incorporate minor language changes suggested by public comment respondents and the State Board of Social Services.

VR 615-42-1. Foster Care - Guiding Principles.

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:

"Agency" means a local Department of Public Welfare/Social Services.

"Department" means the Virginia Department of Social Services.

"Foster child" means a person less than 18 years of age when [~~they are~~ he is committed or] entrusted to a local

board of social services for foster care placement or a person who continues to receive foster care services after 18 years of age provided [~~they were~~ he is] committed or entrusted to a local board of social services before 18 years of age.

"Foster care services" means services which are provided for a planned period of time in order to prevent foster care placement and to provide a full range of casework and other treatment and community services for a child entrusted or committed or for whom aftercare supervisory responsibility has been delegated to a local board and his family according to § 63.1-55.8.

"Foster family placement" means placement of a child with a family which has been approved by the agency to provide substitute care for children until a permanent placement can be achieved.

["~~Independence~~" means the preparation of youth for transition into adulthood.]

"Independent living services" means services provided to foster children to prepare them for transition into adulthood.

"Partnership" means shared responsibility for achieving a foster care goal.

"Prior custodian" means the person with whom the child resided, other than the birth parent(s), before custody was transferred to the agency.

["~~Training program~~" means programs designed to provide skills training.]

"Treatment program" means programs designed to provide services for physical, mental, and emotional problems.]

PART II. POLICY.

§ 2.1. Guiding principles.

To achieve permanency for children [~~through in~~] foster care, service provision shall be timely and based on the following principles:

1. The welfare of the child is of paramount interest;
2. Children have the right to a safe, stable, and permanent home;
3. Children have a right to be reared by their families when [~~they their~~ parents and relatives] are able to do so in an adequate manner;
4. Families can be empowered to assume responsibilities to provide adequate care for their children;

5. Planned appropriate services will assist families in improving their capacity to nurture, carry out and resume their responsibilities [in relation to their children];

6. The preferred foster family placement for a child is one of the same race, ethnic, or cultural background, whenever possible, but none of these factors shall be the sole criterion [of for] placement;

7. Recognizing that some families are unable or unwilling to resume their [parenting] responsibilities, services should be provided to ensure a safe, stable, and permanent home. This should be done by placement [of the child] with relatives [through accompanied by] transfer of [legal] custody; by adoption; or by placement in permanent foster care when foster parents are willing to assume permanent parental responsibility as long as the child is in the custody of the agency;

8. Independent living services should be provided to all youth in foster care, as appropriate, in order that transition to adult living is successful;

9. Partnership and teamwork among the child, the birth family or prior custodian, foster parent and local agency are essential to permanent planning for each child in foster care; and

10. Children and their families have the right to be treated with respect, sensitivity and fairness. They also have the right to know and understand, as [much well] as possible, what [is happening to them and why it is happening.] services are being provided, the purpose of the services, their rights and obligations.]

* * * * *

Title of Regulation: VR 615-42-3. Foster Care - Assessing the Client's Service Needs.

Statutory Authority: §§ 16.1-281, 16.1-283 and 63.1-25 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

This regulation provides for assessing the needs of foster children and the circumstances of their birth families or prior custodians within 60 days of acceptance of custody and every six months thereafter for as long as the child remains in foster care. In addition, the policy requires that when a child's goal is changed to adoption, the agency must file a petition with the court within 30 days to terminate parental rights, if termination of parental rights is necessary. This regulation is intended to reduce the length of time children remain in temporary foster care situations.

This regulation promotes consistency between Child Protective Services Regulations and Adoption Regulations. Both Child Protective Services and Adoption Regulations require assessments of the client's needs. This regulation promotes consistency between these policies as it provides a continuum of services for the client.

The final regulation has been revised to incorporate minor language changes suggested by public comment respondents, the Department of Planning and Budget and the State Board of Social Services. These changes are not substantive to affect the original intent of the original regulation.

VR 615-42-3. Foster Care - Assessing the Client's Service Needs.

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:

"Agency" means a local Department of Public Welfare/Social Services.

"Adoptive placement plan" means a written plan for finding a permanent adoptive placement for a child.

"Adoptive Resource Exchange of Virginia" means the registry and photo-listing of children and families waiting for adoption which is maintained by the department.

"Assessment" means an initial evaluation of the situation of the child and family to identify services needed.

"Department" means the Virginia Department of Social Services.

"Foster family placement" means placement of a child with a family who has been approved by the agency to provide substitute care for children until a permanent placement can be achieved.

["Independence" means the preparation of youth for transition into adulthood.]

"Independent living services" means services provided to foster children to prepare them for transition into adulthood.

"Partnership" means shared responsibility for achieving a foster care goal.

"Prior custodian" means the person with whom the child resided, other than the birth parent(s), before custody was transferred to the agency.

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"Reassessment" means evaluation of the situations of the child and family completed after the initial assessment to identify changes in services needed.

"Service plan" means a written document which outlines the services needed and those which will be provided to a foster child and his family.

["Training program" means programs designed to provide skills training.]

"Treatment program" means programs designed to provide services for physical, mental, and emotional problems.

PART II. POLICY.

§ 2.1. Assessment.

The needs of the child and the circumstances of the birth family or prior custodian shall be assessed within 60 days of acceptance of custody and every six months [thereafter from the date of custody] for as long as the child remains in foster care.

The initial assessment shall be completed to determine the service needs of the child and family.

1. The initial assessment shall:

- a. Be written and must be completed within 60 days of acceptance of the child;
- b. Be a separate identifiable part of the case record;
- c. Be signed by the worker and the supervisor;
- d. Include but [is] not [be] limited to the following minimum criteria:

- (1) Identifying information about the child;
- (2) Circumstances which [~~lead~~ led] to the transfer of the child's custody to the agency [and where applicable, incorporate reasons/circumstances indicated in the child protective services risk assessment];
- (3) Background history about the child;
- (4) Background history about the family or prior custodian;
- (5) Agency or other community agency involvement with the child and family;
- (6) Summary of the child's and family's needs; and
- (7) Conditions or circumstances parent or prior

custodians must address for the child to return home.

2. The initial assessment will result in the selection of a [specific foster care] goal.

§ 2.2. Reassessment.

The reassessment shall be completed every six months to determine whether additional efforts and services are needed by the child and family to achieve the selected goal or whether another permanency goal should be selected for the child.

1. The reassessment shall:

- a. Be prepared on state approved forms; and
- b. Be completed, when appropriate, with the participation of [either the foster parents and] the child's birth family or prior custodian(s) [~~and foster parents~~].
- c. Include the following at minimum:
 - (1) A description of the services which were offered to the child and family;
 - (2) A description of the birth family or prior custodian's current situation;
 - (3) A description of the child's current situation and adjustment to placement;
 - (4) A discussion of the reasons for retaining the child in care, including efforts to return the child home;
 - (5) The responsibilities of the parent or prior custodians [included in the prior assessment and service plan]; and
 - (6) A review of the goal previously selected for the child.

§ 2.3. Assessment or reassessment resulting in goal change to adoption.

A. When the assessment or reassessment results in a decision to select [or change the child's adoption as the] goal [~~to adoption~~ for the child], the agency shall:

1. Develop an adoptive placement plan which shall include:
 - a. A statement and documentation that the goal of adoption is in the best interest of the child;
 - b. The reasons for selecting the goal of adoption;
 - c. The responsibilities of the parents or prior

custodians [included in the prior assessment and service plan] and whether they have or have not met them;

d. The specific action planned to identify and select an adoptive family;

e. The specific services to be provided to find and prepare the child for an adoptive family; and

f. The specific services to be provided to the child and [adoptive] family after adoptive placement.

2. Within 30 days of [~~changing the child's goal to selecting~~] adoption [; as the goal for the child, the agency shall] file a petition with the court to terminate parental rights, if termination of parental rights is necessary [; .]

B. The adoptive placement plan shall be:

1. Submitted to the court with the petition for termination of parental rights;

2. Submitted to the Adoption Resource Exchange of Virginia at the time of registration; and

3. Monitored by the department.

* * * * *

Title of Regulation: VR 615-43-1. Agency Placement Adoptions - Guiding Principles.

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

Effective Date: July 1, 1989

Summary:

Adoption services provided by public social service agencies have changed significantly during the last decade. These changes have resulted from the recognition that the majority of children in foster care waiting for adoptive homes are children who have special needs. These special needs are related to age, race, the need for placement with siblings, and individual circumstances of the child including physical, mental, and emotional disabilities. These children are different from the healthy, white infants that are traditionally associated with adoption services. In the past, adoption services were focused on finding children for infertile couples. Because of the increase in the number of families wanting to adopt healthy, white infants and the decrease in the number of infants needing adoptive placement, adoption services today are focused on finding families for the waiting children. These waiting children are mostly children with special needs.

As the population of children needing adoptive homes

has changed, the types of families applying for adoption have also changed. It is evident that traditional adoption services are not meeting the needs of the waiting children and that special efforts have to be made to facilitate adoption for waiting children. The changing populations of children and families receiving adoption services have resulted in the need to reassess traditional attitudes and beliefs about adoption and to resolve key issues unique to the adoption of special needs children.

As a result of these changes, a common philosophical base for the provision of adoption services is needed. These regulations provide this common philosophical base.

The final policy has been changed as a result of public comments. The final policy includes a recognition of the importance of placing sibling groups in the same adoptive home and of considering foster parents with whom the child has developed emotional ties as a primary adoptive resource. These statements were included in the fourth guiding principle.

VR 615-43-1. Agency Placement Adoptions - Guiding Principles.

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:

"Adoption" means a legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Adult adoptee" means anyone 18 years of age or older who has been adopted.

"Agency" means a local Department of Public Welfare/Social Services.

"Agency placement adoption" means an adoption in which a child is placed in an adoptive home by an agency or child placing agency which has custody of the child.

"Child" means any person under 18 years of age.

"Foster care" means substitute care and supervision provided to a child who has been entrusted or committed to an agency until the child can be returned home, placed with relatives, placed in permanent foster care, or adopted.

"Finalization of the adoption" means the court process of sanctioning the adoption which begins with the filing of

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a petition and ends with the entry of the final order of adoption.

PART II. POLICY.

§ 2.1. Guiding principles.

To achieve permanency for children through adoption, the agency shall provide services that are based on the best interest of the child and adhere to the following principles:

1. Legal adoption offers a child greater permanence and security than foster care;
2. Every child who cannot be returned home is adoptable, regardless of disabilities, age, race or other special needs;
3. The child is the client and services shall be focused on finding families for children, rather than on finding children for families;
4. Continuity of nurturing relationships is critical to a child's growth and development [; .] Therefore, adoptive planning shall reflect the child's need to be in a permanent placement as soon as possible; [shall recognize the importance of placing siblings in the same adoptive home; and shall consider foster parents with whom the child has developed emotional ties as a primary adoptive resource for the child;]
5. The preferred adoptive family for a child is one of the same race, ethnic or cultural background, whenever possible, but none of these factors shall be the sole criterion of placement;
6. Adoptive planning is not limited to children for whom adoptive families are readily available, but is provided for all children through adequate, effective recruitment efforts;
7. Adoption does not necessarily require complete severance of contacts with birth relatives, foster parents, or other people with whom the child has a significant relationship;
8. Subsidy helps achieve the permanency of adoption for children who might otherwise remain in long term foster care;
9. In assessing prospective adoptive families, the most important criteria is the family's ability to parent a child not born to them. Marital status, income level, education, age, health, and other factors are to be considered only in terms of their relationship to the applicant's ability to parent an adopted child;
10. Beyond its legal definition, adoption is a life-long process; therefore, services which meet the unique

needs of adoptive families should be provided before and after finalization of the adoption;

11. The number of children in a family is not a determining factor in approving a family for adoption or in considering an approved family for placement; rather, casework practice and service provision shall be focused on assessing the parent's ability to meet the needs of the specific child as well as the needs of the whole family unit;

12. Adult adoptees have the right to full disclosure of information from their records except that which would reveal the identity of their family of origin;

13. Prior to placement, adoptive parent(s) have the right to full factual information about the child and the child's birth family, except that which would reveal the identity of the child's family of origin.

* * * * *

Title of Regulation: VR 615-43-2. Agency Placement Adoptions - Preplacement Services.

Statutory Authority: §§ 16.1-283 and 63.1-25 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

These regulations should result in a reduction in the length of time children remain in foster care. They require a reassessment of the child's needs and of the circumstances of the family with whom the child was residing at the time of removal. This reassessment must occur 12 months after the child enters care. When this 12-month reassessment results in a decision to change the child's goal to adoption, these regulations require the agency to file a petition for termination of parental rights and to develop a plan for achieving an adoptive placement for the child.

The final policy incorporates changes to clarify that the adoptive placement plan is a planning tool rather than a mandate to implement services. The adoptive placement plan should help workers think through the impact of terminating parental rights and identify services needed to achieve the goal of adoption.

VR 615-43-2. Agency Placement Adoptions - Preplacement Services.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

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context clearly indicates otherwise:

"Adoption" means a legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Adoptive placement plan" means a written plan for finding a permanent adoptive placement for a child.

"Agency" means a local Department of Public Welfare/Social Services.

"Agency placement adoption" means an adoption in which a child is placed in an adoptive home by an agency or child placing agency which has custody of the child.

"AREVA" means the Adoption Resource Exchange of Virginia which maintains a registry and photo-listing of children and families waiting for adoption.

"Child" means any person under 18 years of age.

["Department" means the Virginia Department of Social Services.]

"Foster care" means substitute care and supervision provided to a child who has been entrusted or committed to an agency until the child can be returned home, placed with relatives, placed in permanent foster care, or adopted.

PART II. POLICY.

§ 2.1. Preplacement services.

A. Planning for adoptive placement.

When a child has been in foster care for 12 months, the agency shall reassess the needs of the child and the circumstances of birth family or prior custodian. If the 12 month reassessment [or any other assessment] results in a decision to change the child's goal to adoption, the agency shall file a petition with the court to terminate parental rights within 30 days of the reassessment. An adoptive placement plan shall be developed and filed with the petition.

1. The adoptive placement plan shall include:

- a. A statement and documentation that the goal of adoption is in the best interest of the child;
- b. The reasons for selecting the goal of adoption;
- c. The responsibilities of the parents or prior custodians that have or have not been met;
- d. The specific services that will be provided [after termination of parental rights] to find and prepare

the child for an adoptive family [; .]

[e. The specific services that will be provided to the child and family after the child's placement in the adoptive home.]

2. The adoptive placement plan shall be submitted to:

a. The court at the time the petition for termination of parental rights is filed; and

b. AREVA, upon registration of the child. [Upon submission to AREVA, the plan shall be updated and include the specific services that will be provided to the child and family after the child's placement in the adoptive home.]

3. The adoptive placement plan shall be monitored by the department.

B. Presenting child information to prospective adoptive parents.

Full, factual information that the agency has about the child and the child's birth family, except that which would reveal the identity of the child's birth family, shall be provided to prospective adoptive parents. The information provided shall include complete medical and psychological reports.

* * * * *

Title of Regulation: VR 615-43-6. Agency Placement Adoptions - AREVA.

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

Effective Date: July 1, 1989

Summary:

These regulations are intended to facilitate adoption for children and families by requiring early registration with the Adoption Resources Exchange of Virginia. They also require that children be featured in the photo listing book upon registration with AREVA, unless an adoptive placement is pending, they expand agency responsibilities with regard to AREVA, and they establish powers and duties of AREVA regarding resource utilization.

There are no changes in the final policy.

VR 615-43-6. Agency Placement Adoptions - AREVA.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these

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regulations, shall have the following meaning, unless the context clearly indicates otherwise:

“Adoption” means a legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

“Adoptive placement plan” means a written plan for finding a permanent adoptive placement for a child.

“Agency” means a local Department of Public Welfare/Social Services.

“Agency placement adoption” means an adoption in which a child is placed in an adoptive home by an agency or child placing agency which has custody of the child.

“AREVA” means the Adoption Resource Exchange of Virginia which maintains a registry and photo-listing of children and families waiting for adoption.

“Child” means any person under 18 years of age.

“Child placing agency” means any agency licensed to place children in foster homes or adoptive homes.

“Child with special needs” means any child in the custody of an agency or child placing agency who is legally free for adoption; and

1. For whom it has been determined that the child is unlikely to be adopted within a reasonable period of time due to one or more factors including, but not limited to:

a. Physical, mental, or emotional condition existing prior to adoption;

b. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability;

c. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings or foster parents.

2. For whom the above conditions were present at the time of adoption, but not diagnosed until after entry of the final order of adoption, and no more than one year has elapsed since the diagnosis.

PART II. POLICY.

§ 2.1. The Adoption Resource Exchange of Virginia.

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children.

A. Services provided by AREVA shall include:

1. Maintaining a registry of children awaiting adoption and a registry of approved families waiting for adoption;

2. Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;

3. Providing information and referral services for children who have special needs to link agencies with other adoption resources;

4. Providing on-going recruitment for waiting children;

5. Providing consultation and technical assistance to agencies in finding adoptive families for waiting children; and

6. Monitoring agency compliance with:

a. Legal requirements for adoption;

b. State board policy on registering children and families; and

c. Submission and completion of the Adoptive Placement Plan.

B. Registration requirements.

1. Registration of children.

a. All children shall be registered with AREVA within 90 days following selection of the goal of adoption 30 days of termination of parental rights if:

(1) The goal is adoption;

(2) The child is legally free for adoption;

(3) The agency has the authority to place for adoption; and

(4) Adoptive placement has not occurred.

b. A copy of the plan for adoptive placement and the court commitment or permanent entrustment agreements shall be submitted by the agency with the child's registration forms.

2. Registration of families.

a. Approved families shall be registered within 30 days after the date of approval if they are willing to accept hard to place children or children six years of age or older expressing interest in adopting children who are:

(1) Six years of age and over;

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- (2) Members of sibling groups;
- (3) Physically, mentally, or emotionally disabled; or
- (4) Black, biracial, or members of other minority races.

b. Approved families expressing interest in adopting healthy white children up to the age of six may be registered with AREVA upon request of the family.

C. Photo-listing procedures.

1. Local agencies may request a 60 day deferment from the photo-listing for children and families when:

a. A local placement including adoption by the foster parents is anticipated. A family has been identified, including foster parents, and placement is pending.

b. The child or family shall be featured in the photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed.

2. AREVA staff shall make the determination about which children and families to feature in the photo-listing. The decision will be based on the needs of waiting children and on the types of families waiting for placement.

D. Agency responsibilities.

1. The agency shall be responsible for local recruitment of prospective adoptive families.

2. The agency registering the child or family shall inform AREVA immediately of:

- a. Changes in the status of the child or family;
- b. Placements for adoptive purposes;
- c. Withdrawals of the child or family from AREVA.

3. The agency shall provide families selected for a particular child with full factual information that the agency has on the child and the child's birth family, except that which would reveal the identity of the child's birth family. The information provided shall include complete medical and psychological reports.

4. The agency shall explore with the family selected for a particular child the family's ability to fully or partially meet financial costs related to any special needs the child may have. If it is determined that the child has special needs and is eligible for subsidy, the agency shall inform the adoptive parents of the child's eligibility for subsidy.

5. The agency shall obtain the consent of the Commissioner of Social Services prior to placing a child out of state.

E. Resource utilization.

When indicated, AREVA shall consult with the agency regarding the need to explore additional resources.

1. AREVA staff may recommend referral of a child to a specialized adoption agency.

2. AREVA staff shall routinely register a child with the national adoption exchange after the child has been in the photo-listing for 60 days, unless a placement is pending.

3. AREVA shall be responsible for statewide recruitment of prospective adoptive families.

* * * * *

Title of Regulation: VR 615-43-8. Agency Placement Adoptions - Subsidy.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

Adoption practices and services have changed significantly in the last decade. These changes have resulted from the changing needs of children waiting for adoptive homes. Children waiting for adoption in today's foster care system are, for the most part, children who have special needs. These special needs include age, race, the need to be placed in an adoptive home with siblings, and individual circumstances of the child such as physical, mental, and emotional disabilities. In order to increase adoption opportunities for children who have special needs, special efforts must be made. Experience has proven that subsidized adoption is the most effective method of achieving adoption for special needs children.

These regulations are intended to facilitate adoption for special needs children by requiring agencies to provide an adoption assistance agreement for all children who have special needs and who have been determined eligible for subsidy. Under these regulations, adoptive parents will also be reimbursed for nonrecurring expenses related to finalization of the adoption. The regulations address determination of the child's eligibility for subsidy and, if eligible, the type of subsidy for which he is eligible; determination of types of payment to be made; procedures for applying for subsidy; maintenance of the subsidy; and termination of the subsidy agreement.

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The final regulations clarify the following:

1. Use of conditional subsidy agreements;
2. Responsibilities of the adoptive parents and the agency or child placing agency;
3. Procedures for applying for subsidy for a child whose eligibility is established after legal adoption;
4. Timeframes within which subsidy agreements must be negotiated;
5. Determination of the amount of the maintenance payment by negotiation with the adoptive family; and
6. Approval of the amount of the negotiated maintenance payment by the department.

VR 615-43-8. Agency Placement Adoptions - Subsidy.

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:

“ADC” means the Aid to Dependent Children Program.

“Adoption” means a legal process in which a person’s rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

“Adoption assistance agreement” means a written agreement between the agency and adoptive parents that is binding on both parties. An adoption assistance agreement may be for a federal/state/local subsidy, a state/local subsidy, or a conditional subsidy.

“Agency” means a local Department of Public Welfare/Social Services.

“Agency placement adoption” means an adoption in which a child is placed in an adoptive home by an agency or child placing agency which has custody of the child.

“AREVA” means the Adoption Resource Exchange of Virginia which maintains a registry and photo-listing of children and families waiting for adoption.

“Child” means any person under 18 years of age.

“Child placing agency” means any agency licensed to place children in foster homes or adoptive homes.

“Child with special needs” means any child in the custody of an agency or child placing agency who is

legally free for adoption:

1. For whom it has been determined that the child is unlikely to be adopted within a reasonable period of time due to one or more factors including, but not limited to:

a. Physical, mental, or emotional condition existing prior to adoption;

b. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability;

c. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings or foster parents.

2. For whom the above conditions were present at the time of adoption, but not diagnosed until after entry of the final order of adoption, and no more than one year has elapsed since the diagnosis.

[“Department” means the Virginia Department of Social Services.]

“Finalization of the adoption” means the court process of sanctioning the adoption which begins with the filing of a petition and ends with the entry of the final order of adoption.

“Maintenance payments” means payments made to adoptive parents on behalf of a child with special needs to help with daily living expenses.

“Nonrecurring expenses” means expenses of adoptive parents directly related to the adoption of a child with special needs including, but not limited to, attorney fees directly related to the finalization of the adoption; transportation; court costs; and reasonable and necessary fees of child placing agencies.

“Special service payments” means payments or services provided to help in meeting the child’s physical, mental, emotional, or dental needs.

“SSI” means Supplemental Security Income.

“Subsidy/adoption assistance” means a money payment or services provided to adoptive parents on behalf of a child with special needs.

PART II. POLICY.

§ 2.1. Subsidy.

An adoption assistance agreement shall be executed by the agency or child placing agency for all children who have been determined eligible for subsidy.

A. Determining the child's eligibility for subsidy.

1. In determining the child's eligibility for subsidy before legal adoption, the agency or child placing agency shall:

a. Determine that the child is a child with special needs. A special needs child is any child in the custody of an agency or child placing agency who is free for adoption, but unlikely to be adopted within a reasonable time due to one or more of the following conditions including, but not limited to:

(1) Physical, mental, or emotional condition existing before legal adoption;

(2) Hereditary tendency, congenital problem or birth injury that could lead to a future disability;

(3) Is six years of age or older;

(4) Is a member of a minority or mixed racial heritage;

(5) Is a member of a sibling group that should not be separated;

(6) Has significant emotional ties with foster parents with whom the child has resided for at least 12 months; when the adoption is in the best interest of the child and when the subsidy is necessary to consummate the adoption by these foster parents.

b. Make reasonable efforts to first place the child with appropriate adoptive parents without subsidy. A reasonable effort:

(1) Shall be made except when it would be against the best interest of the child because of factors such as the existence of significant emotional ties with foster parents;

(2) Shall be considered made if:

(a) Local recruitment efforts have been undertaken and documented; or

(b) Requirements for registration with AREVA have been met; and

(c) The child has been featured in the AREVA photo-listing for a period of 30 days or other special recruitment efforts have been undertaken by AREVA and an appropriate family has not been identified for the child.

2. In order for a child to be eligible after legal adoption:

a. The child must have a physical, mental or emotional condition that was present at the time of

adoptive placement; or

b. The need for subsidy results from a hereditary tendency, congenital problem, or birth injury; and

c. In either a or b no more than one year has elapsed since the diagnosis was made.

B. Determining the type of agreement for which the child is eligible.

The types of subsidy for which a child can be eligible are:

1. A federal/state subsidy:

This type of subsidy is used for children whose foster care expenses are paid from federal and state funds. A federal/state subsidy agreement shall be executed for any special needs child who meets eligibility requirements for ADC or SSI.

2. A state subsidy:

This type of subsidy is used for children whose foster care expenses are paid from state and local funds.

3. A conditional subsidy:

a. Shall be [~~used~~ provided] for any child with special needs, whose foster care expenses are paid from state and local funds, when payments and services are not needed at the time of placement but may be needed later. It is [~~used~~ granted upon the request of the adoptive parents] when a child:

(1) Has a physical, mental or emotional disability at the time of placement;

(2) Has a hereditary tendency, congenital problem or birth injury;

(3) Could develop emotional or other problems resulting from separation from birth parents, placement in foster care, or adoption;

(4) May need help later with daily living expenses.

b. Does not involve money payments or services. It is an agreement that allows the adoptive parent(s) to apply for a state/local subsidy after the final order of adoption;

c. Does not require that reasonable efforts first be made to place the child with an appropriate family without subsidy;

d. Commits the agency to providing a state subsidy when the adoptive parent(s) apply, if it is determined that the need is related to one of the conditions described in subdivision 3.a above;

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e. Does not require annual certification.

C. Determining the types of payment to be made.

There are three types of payment which shall be made on behalf of a child who is eligible for subsidy. The amount of payments made and services provided shall not exceed what would have been paid or provided had the child remained in foster care. The types of payment include:

1. Maintenance payments:

a. A maintenance payment shall be approved for all children who are eligible for subsidy, except those for whom a conditional subsidy will be provided, unless the adoptive parent(s) indicate that a payment is not needed.

b. The amount of the payment shall be [the amount of the foster care payment being made for the child at the time of adoptive placement, negotiated with the adoptive parents taking into consideration the needs of the child and circumstances of the adoptive parents.]

[c. The negotiated maintenance rate shall be approved by the department prior to signing the Adoption Assistance Agreement.]

[e. d.] Maintenance payments shall not be reduced lower than the amount specified in the initial subsidy agreement, unless requested by the adoptive parents.

[d. e.] Increases in the amount of payment shall be made when:

(1) A child reaches a higher age grouping, as specified in foster care policy for maintenance payments;

(2) Statewide increases are approved for foster care maintenance payments.

[e. f.] Payments shall be made directly to the adoptive parent(s) on a monthly basis.

2. Special service payments:

a. A special service payment is used to help in meeting the child's physical, mental, emotional, or dental needs.

b. [Expenses that may be paid include, but are not limited to: Types of expenses that are appropriate to be paid include:]

(1) Medical, surgical, or dental;

(2) Equipment such as prosthetics, braces, crutches,

hearing aids, eyeglasses, etc.;

(3) Individual tutoring or remedial educational sessions, books or equipment;

(4) Psychological and psychiatric evaluations and treatment;

(5) Speech, physical, and occupational therapy;

(6) Premiums for a major medical insurance policy for a child, if the child is not covered by a family policy; and

(7) Special services provided directly to the child by the adoptive parents. These are services provided by the parent to meet the special needs of a child. They are distinct from basic maintenance and supervision. The parents shall be qualified by experience or specific training to perform such services. This item may be paid in addition to a maintenance payment.

c. Special service payments may be provided, at the discretion of the agency, for other services needed to maintain the same level of service that the child received in foster care.

d. A special service payment may be used for children eligible for Title XIX and the Social Services Block Grant (SSBG) to supplement expenses not covered by medicaid or when SSBG funds are not available or do not provide adequate coverage.

e. Payments for special services are negotiated with the adoptive parents taking into consideration;

(1) The special needs of the child;

(2) Alternative resources available to fully or partially defray the cost of meeting the child's special needs; and

(3) The circumstances of the adoptive family. In considering the family's circumstances, income shall not be the sole factor.

f. Special service payments may be made directly to the providers of service or through the adoptive parents. A bill or receipt shall be submitted before payment. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the service was rendered.

g. Providers shall be approved according to requirements for purchase of service specified by the Department of Social Services.

3. One time only payments:

Adoptive parents shall be reimbursed, upon request, for the nonrecurring expenses of adopting a special needs child.

a. Nonrecurring expenses shall include:

(1) Attorney fees directly related to the finalization of the adoption, not to exceed a reasonable rate set by the Department of Social Services;

(2) Transportation and other expenses incurred by adoptive parents related to placement of the child. Expenses may be paid for more than one visit;

(3) Court costs related to filing an adoption petition; and

(4) Reasonable and necessary fees of adoption child placing agencies, not to exceed a reasonable rate set by the Department of Social Services.

b. An adoption assistance agreement shall be signed and shall specify the services to be provided under this section.

c. Payment of nonrecurring expenses may begin as soon as the adoption assistance agreement has been signed and the child is placed in the adoptive home. Payment may be made directly to providers of service or to the adoptive parents for expenses they have incurred.

d. A bill or receipt shall be submitted before payment can be made. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the expense was incurred.

D. Applying for subsidy.

1. Procedures for the child whose eligibility is established before legal adoption.

a. The adoption assistance agreement:

[(1) Shall be executed within 90 days of receipt of the application for adoption assistance;]

[~~(1)~~ (2)] Shall be signed before entry of the final order of adoption;

[~~(2)~~ (3)] Shall specify the amount of payment and the services to be provided, including Title XIX and SSBG services;

[~~(3)~~ (4)] May be adjusted with the concurrence of the adoptive parents, in the event of changes in the needs of the child;

[~~(4)~~ (5)] Shall remain in effect regardless of the state of which the adoptive parents are residents at

any given time; and

[~~(5)~~ (6)] The interests of the child shall be protected through the Interstate Compact on Adoption and Medical Assistance, should the adoptive parents and child move to another state while the agreement is effective.

[2. Procedures for the child whose eligibility is established after legal adoption.

The application procedures are the same as for the child whose eligibility is established before adoption except:

a. The application shall be submitted within one year of the diagnosis;

b. The application shall be for a state subsidy.]

E. Maintaining responsibility [after adoption].

[After the entry of the final order of adoption:]

1. The adoptive parent(s) shall:

a. Submit annually to the agency or child placing agency an affidavit which certifies that:

(1) The child for whom they are receiving subsidy remains in their care;

(2) They are legally responsible for supporting the child; and, if applicable,

(3) The child's condition requiring subsidy continues to exist.

b. Submit copies of all bills or receipts for special service payments made directly to the adoptive parents.

2. The agency or child placing agency shall:

a. Inform prospective adoptive parents of the child's eligibility for subsidy. This shall include a full disclosure of the services and payments for which the child is or may be eligible;

b. Notify adoptive parent(s) who are receiving subsidy that the annual affidavit is due. The notification shall be sent to the adoptive parent(s) two months before the affidavit is due;

c. Inform adoptive parent(s), in writing, that they have the right to appeal decisions relating to the child's eligibility for subsidy and decisions relating to payments and services to be provided.

F. Terminating the subsidy agreement.

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The Adoption Assistance Agreement:

1. Shall be terminated when the child reaches the age of 18 unless the child has:

- a. A physical or mental disability; or
- b. An educational delay resulting from a physical or mental disability. This shall include educational delays resulting from a child's foster care circumstances.
- c. If a child has one of the conditions in a and b above, the agreement shall be continued until the child reaches the age of 21;

2. Shall not be terminated before the child's 18th birthday without the consent of the adoptive parents unless;

- a. It is determined that the child is no longer receiving financial support from the adoptive parents; or
- b. The adoptive parent(s) are no longer legally responsible for the child; or
- c. The child's condition requiring subsidy no longer exists. [If the child's condition improves but could deteriorate again, the agreement may be suspended without a payment, rather than terminated.]

[3. Shall not be terminated if the child's condition improves but could deteriorate again. In this case, the agreement shall be suspended without a payment, rather than terminated.]

* * * * *

Title of Regulation: VR 615-43-9. Agency Placement Adoptions - Appeals.

Statutory Authority: §§ 63.1-23 and 63.1-238.5 of the Code of Virginia.

Effective Date: July 1, 1989

Summary:

With the implementation of Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980, states were required to provide adoptive applicants and adoptive parents the right to a fair hearing. These regulations provide adoptive applicants and adoptive parents with the right to appeal agency decisions regarding the provision of information and services.

The final policy specifies where the appeal process can be located in written form.

VR 615-43-9. Agency Placement Adoptions - Appeals.

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:

"Adoption" means a legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Agency" means a local Department of Public Welfare/Social Services.

"Child" means any person under 18 years of age.

"Subsidy/adoption assistance" means a money payment or services provided to adoptive parents on behalf of a child with special needs.

PART II POLICY.

§ 2.1. The right to appeal.

A. Adoptive applicants and adoptive parents shall have the right to appeal service and policy related issues including, but not limited to:

1. Failure of the agency to provide full, factual information that the agency has about the child and the child's birth family, except information that would reveal the identity of the child's family of origin;
2. Failure of the agency to inform the parents of the child's eligibility for subsidy;
3. Agency decisions related to the child's eligibility for subsidy;
4. Agency decisions related to subsidy payments and services;
5. Agency decisions related to changing or terminating a subsidy agreement; and
6. Agency decisions related to approval of the family as a prospective adoptive home.

B. Appeals shall be processed in accordance with procedures established by the Virginia Board of Social Services. [These procedures are found in Volume VII, of the Virginia Department of Social Services Manual.]

DEPARTMENT OF SOCIAL SERVICES (BOARD OF) AND CHILD DAY-CARE COUNCIL

Title of Regulation: VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

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

Effective Date: July 1, 1989

Summary:

This regulation describes the rights and responsibilities of licensees and the Department of Social Services during the licensing process. The following issues are addressed in the regulation:

The license, the licensing process, allowable variances, informal appeal process, complaint investigation, revocation and denial, licensing office locations and schedule of fees.

Several changes for clarity were made to the regulation; several substantial changes were made in response to public comments.

VR 615-30-01, VR 175-03-01. General Procedures and Information for Licensure.

PART I. LICENSING STANDARDS.

§ 1.1. Through the administration of the licensing program, the Department of Social Services assumes responsibility to ensure that licensed facilities and agencies provide children and adults with at least a minimum level of care in accordance with standards prescribed by the State Board of Social Services and Child Day-Care Council. The department also has the responsibility to investigate accusations that a facility/agency subject to licensure is operating without a license. The Virginia Code requires the State Board of Social Services to adopt standards and regulations for the licensure of the following categories of facilities/agencies:

1. Adult day care centers
2. Homes for adults
3. Child placing agencies
4. Child caring institutions
5. Independent foster homes
6. Family day care homes
7. Family day care systems.

The Virginia Code requires the Child Day-Care Council

to adopt standards and regulations for the licensure of child care centers.

§ 1.2. The State Board of Social Services has adopted a set of standards for each category listed above except for child care centers for which the Child Day-Care Council has adopted the standards. The definition of each category and requirements for licensure are contained in each set of standards.

§ 1.3. Standards development/revision process.

A. In developing or revising standards for licensed facilities/agencies, the Department of Social Services, acting as agent for the State Board of Social Services and Child Day-Care Council, adheres to the requirements of the Administrative Process Act (§ 9-7.14:1 of the Code of Virginia) and the public participation process.

B. The department solicits input from licensees, associations of licensees, experts in related fields, and advocacy organizations in the development or revision of licensing standards through informal and formal comment periods and public hearings.

C. The department is committed to conducting periodic reviews and, when necessary, comprehensive revisions of each set of standards to assure that its standards continue to protect vulnerable children and adults in out-of-home care while considering the interests of both providers and consumers of care.

PART II. THE LICENSE.

§ 2.1. A license to operate a facility or agency is issued to a specific person or organization to provide out-of-home care to children or adults. An organization may be a partnership, association [,] or corporation.

§ 2.2. A license is not transferable when there is a change in the ownership or location of the facility/agency to which the license has been issued.

EXCEPTION: Licenses issued for child placing agencies and family day care systems are transferable when agencies change location.

[§ 2.3. A child care center located in a building constructed or under construction prior to 1978 shall have an inspection for the presence of asbestos prior to the issuance of a license. The inspection shall be conducted in compliance with the state standards for asbestos inspections of licensed child care centers.]

[§ 2.4. § 2.3.] The department may issue a conditional license to a new facility/agency in order to permit the applicant to demonstrate compliance with specified standards. A conditional license may be effective for any period not to exceed six consecutive months. When this period expires, the facility/agency must substantially meet

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the standards or be denied a license. Conditional licenses may be used only for new facilities/agencies.

EXCEPTION: With the approval of the [State appropriate] fire marshal, a second conditional license may be issued to a licensee to permit the licensee additional time to comply with fire safety standards when the licensee has purchased an existing licensed facility for adults.

[~~§ 2-5~~ § 2.4.] An annual license is issued when the activities, services, facilities, and the applicant's financial responsibility substantially meet the requirements for a license that are set forth by standards adopted by the State Board of Social Services or the Child Day-Care Council and any additional requirements that may be specified by the Virginia Code. The annual license is effective for 12 months unless it is revoked or surrendered prior to the expiration date.

[§ 2-6 § 2.5.] When an annual license expires and the applicant is temporarily unable to comply with the requirements of the standards, the department may issue a provisional license for any period not to exceed six months. A provisional license shall not be issued to a facility/agency which holds a conditional license. When a period of six consecutive months of a provisional license expires, the facility/agency must [substantially] meet [~~substantially~~] the standards and requirements or be denied a license.

EXCEPTION: With the approval of the appropriate fire marshal, a second provisional license may be issued to a facility for adults to permit the licensee additional time to comply with fire safety standards.

[§ 2-7 § 2.6.] Terms of the license.

A. A facility/agency shall operate within the terms of its license.

B. The terms of any license include:

1. The operating name of the facility/agency;
2. The name of the individual, partnership, association, or corporation sponsoring the facility/agency;
3. The physical location of the facility/agency;
4. The maximum number of children/adults who may be in care at any time;
5. The period of time for which the license is effective; and
6. For child care facilities/agencies, the age range of children for whom care may be provided.

C. The terms of a license may include other limitations which the department may prescribe within the context of

the standards for any facility/agency.

D. The provisional license cites the standards with which the licensee is not in compliance.

E. The conditional license cites the standards with which the licensee must demonstrate compliance when operation begins, and also any standards with which the licensee is not in compliance.

F. Prior to changes in operation which would affect the terms of the license, the licensee shall secure a modification to the terms of the license from the department. (See [§ 2-7 § 3.8])

PART III. THE LICENSING PROCESS.

§ 3.1. Preapplication consultation.

Upon request, the department's licensing representative will provide consultation to any person(s) seeking information about obtaining a license. The purpose of such consultation is:

1. To explain standards and the licensing process;
2. To help the potential applicant explore the operational demands of a licensed facility/agency;
3. To provide assistance in locating other sources of information;
4. To alert the potential applicant to the value of assessing the need for a facility/agency in the area to be served;
5. To review the potential applicant's proposed program plans, forms, etc., as they relate to standards; and
6. To alert the potential applicant regarding the need to meet other state and local ordinances, such as health, fire and building codes, where applicable.

§ 3.2. The initial application.

A. Upon request, the Virginia Department of Social Services will provide an application form for a license to operate a facility/agency. The location, telephone number and areas served by each office, central and regional, are provided in Attachment I of this document.

B. The department shall consider an application complete when the application fee and all the required information is submitted in the form required by the department. The schedule of fees for licenses is provided in Attachment II of this document. If the department finds the application incomplete, the applicant will be notified within 15 days of receipt of the incomplete application.

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C. The applicant shall complete and submit the application to the department at least 60 days prior to a planned opening date to allow the department time to act on the application.

D. The applicant may at any time withdraw a request for a license.

§ 3.3. Applications [involving or prospective applications for] the issuance of a new or changed Use Group certificate of occupancy.

A valid certificate of occupancy is one prerequisite for licensure. When an application [will involve is for] licensure of a building which has not previously been [in service under used for] the type of license or Use Group being sought, the department must approve functional design features of the building in accordance with applicable department regulations [before the building official may issue a certificate of occupancy signifying compliance with both these functional design requirements and with other requirements of the applicable building codes] . Functional design refers to [buildings and grounds] design functions [; of building and grounds] not regulated by the Building Code, necessary for particular activities and operations of a facility subject to licensure by the Department of Social Services. The procedures are as follows:

1. Prior to beginning construction or renovation, the prospective operator shall submit to the department floor plans [drawn] to scale and other plans for compliance with all [functional design] requirements [for the building, use of space, and bathroom facilities] contained in the applicable regulations.

(NOTE: Prospective operators are urged to present their plans for [constructing, renovating, or converting structures compliance with departmental regulations] to the department as early as possible and before entering into contracts in order to assure that the building can be [approved preapproved] as meeting the department's regulations. Architects, contractors, or building officials may not be thoroughly familiar with these additional requirements, and costly errors can be avoided through early review by the department. [The plan for structures must be a drawing to scale but does not need to be an architectural drawing.])

2. The department will notify the applicant [or prospective operator] within [15 five working] days of receipt if the plans [for compliance to comply] are incomplete, identifying the information [still] needed before the request can be [reviewed considered complete] .

3. [Within 30 days of receipt of a complete plan for compliance, When a complete plan is received,] the department will issue a Preliminary [Inspection Statement, indicating that the plan for compliance is approved, Approval Statement] or a letter indicating

disapproval of the plan and the reasons for disapproval.

[a. The department's time frame for day care facilities is 20 working days from receipt of a complete plan.

b. The department's time frame for residential facilities is 30 working days from receipt of a complete plan.]

(NOTE: A Preliminary [Inspection Approval] Statement does not imply that the department will approve the application for licensure since [other] factors [in addition to those under consideration] will affect issuance decisions.)

4. All Preliminary [Inspection Approval] Statements are conditional upon there being no change in the proposal or the circumstances affecting them and upon approval of all required fire, health, or building officials.

5. The department will forward a copy of the Preliminary [Inspection Approval] Statement to the appropriate building official.

6. [Before issuing a Certificate of Occupancy, that building official will verify that the plan for compliance which was the basis for the Preliminary Inspection Statement has been followed in the construction or equipping of the building, conferring with the department if necessary to assure that functional design requirements have been met in accordance with the plan approved in the department's statement. After construction or renovation, Department of Social Services staff will make an on-site inspection to evaluate compliance with the functional design requirements of the applicable regulations. Findings of this on-site inspection will be forwarded to the applicant and the local building official.]

§ 3.4. The investigation.

A. Inspections and reports of other agencies/departments.

EXCEPTION: Section 3.4 A does not apply to child placing agencies or family day care systems.

1. When the initial application is received, and at least annually thereafter, the department will, as applicable, request the local health department to provide an inspection and report of the environmental health conditions of the facility. This will include a request for approval of the water supply, sewage disposal system and food service operation [;] which serves the facility.

2. When the initial application is received, and at least

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annually thereafter, the department will, as applicable, request an inspection and report of the fire safety conditions of the facility from the local fire official or state fire official.

3. When applicable, a copy of or a Certificate of Occupancy is required as indication of the approval of the local building official.

[~~4. When applicable, a copy of approval by the administrator for any local ordinance regulating human care facilities is required.~~]

B. The department's representative shall make an on-site inspection of the proposed facility/agency and an investigation of the proposed services, as well as an investigation of the character, reputation and financial responsibility of the applicant. Compliance with all standards will be determined [by the Department of Social Services].

C. The department's representative may inspect the facility's/agency's books and records [; ; and] interview its agents, employees, residents/participants [,] and any person under its custody, control, direction [,] or supervision.

D. After the on-site inspection the licensing representative shall discuss the findings of the investigation with the administrator/licensee. As applicable, the applicant shall submit an acceptable plan for correcting any areas of noncompliance following these discussions.

[E. During the inspection or afterwards, an applicant/licensee may request an allowable variance to any standard which creates a special hardship. (See Part IV. Allowable Variance.)]

§ 3.5. Notice to the applicant of issuance or denial of a license.

A. When the investigation is completed, the department shall notify the applicant in writing of its decision regarding the issuance of a license.

B. When the decision is to issue a license, a letter accompanying the license shall cite any areas of noncompliance with standards or areas where compliance cannot be determined, as well as any limitations on the license. The letter may also contain recommendations which are optional and offered for the licensee's consideration.

C. [If When] the department intends to deny the license, the [applicant will receive department shall send] a letter stating the reasons for this action and the applicant's right to an administrative hearing. (See Part VII.)

§ 3.6. Determination of continued compliance (monitoring visits).

In order to determine continued compliance with standards during the effective dates of the license, the department's licensing representative shall make announced and unannounced visits to the facility/agency during the hours of its operation. State law requires at least one unannounced visit per year [(See subsection B of § 63.1-210 of the Code of Virginia)]. The department's representative may also make such visits to any homes/facilities that are approved by the licensee for the placement or care of children as one of the licensed services of the agency.

[§ 3.7. Problem-solving conferences.

Licensing staff may initiate a request for problem-solving conferences with applicants or licensees when the need arises.]

[~~§ 3.7.~~ § 3.8.] Modification.

A. The licensee may request a modification of the terms of a license at any time during the period of the license. The request must be submitted in writing to the department's representative.

The department will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

Examples of such changes are: changes in the number of children/adults to be served, staff responsibilities, availability and use of the physical plant [,] and changes in program focus or needs of the population to be served.

B. If a modification can be granted under the standards, the department shall respond with a transmittal letter and the modified license. In the event that a new application is needed, the licensee shall receive written notification of such. When the modification cannot be granted, the licensee shall also be advised by letter.

[~~§ 3.8.~~ § 3.9.] Early compliance (replacement of a provisional or conditional license with an annual license).

A. A provisional or conditional license may be voided and an annual license issued when all of the following conditions exist:

1. The facility/agency complies with all standards listed on the face of the provisional or conditional license well in advance of the expiration date of the provisional or conditional license, and the facility/agency is in substantial compliance with all other standards.

2. Compliance has been verified by an on-site observation by the department's licensing representative or, when applicable, by written

evidence provided by the licensee.

B. The licensee shall make a written request to the licensing representative for replacement of a provisional or conditional license with an annual license.

C. When the request is approved by the department, the effective date of the new annual license shall be the same as the beginning date of the voided license.

When the request is not approved, the reasons for this action shall be confirmed to the licensee in writing.

D. Early compliance shall not be considered once a renewal application has been filed by the facility/agency.

[~~§ 3.9.~~ § 3.10.] Renewal process.

A. The Department of Social Services shall send an application for renewal of the license to the licensee [120 days] prior to the expiration date of the license.

B. The licensee shall submit the completed application form along with any required attachments and the application fee [60 days] prior to the expiration of the current license. It is the applicant's responsibility to complete and return the application [60 days] prior to the expiration of the current license [~~or as soon as feasible after its receipt~~] to assure timely processing. [Should a current license expire before a new license is issued, the current license shall remain in effect provided that the completed application was filed within the aforementioned 60 days and a decision for licensure is pending.]

C. The department shall follow the procedure for investigation and notice to the applicant previously outlined in §§ 3.4 and 3.5.

PART IV. ALLOWABLE VARIANCE.

§ 4.1. An allowable variance may be: (i) permission to meet the intent of a standard by some means other than as specified by the standard, (ii) the suspension of enforcement of a particular standard or portion of the standard for a stated time period.

§ 4.2. Allowable variances are used for one or more of the following:

1. To allow the department some degree of flexibility in the enforcement of requirements, given the rapid and ever changing nature of programs and their unique settings;

2. To allow for greater development of innovative and pilot programs, which were not anticipated in the regulations; and

3. To promote equity across all programs by allowing

for variable compliance methods when a regulation places special hardship on a particular facility.

§ 4.3. Conditions for initiating a request.

A licensee/applicant may request an allowable variance when he believes that the existing regulations pose a special hardship and when he believes that either an alternative method of compliance with the intent of the regulation which is causing the hardship, or the actual suspension of all or part of that regulation, would neither endanger the safety or well-being of persons in care nor create a violation of statutes or of the requirements of another regulatory agency.

§ 4.4. Process.

A. Consideration of an allowable variance is initiated when a written request to the issuing office is received from the applicant/licensee. The department's licensing representative may provide consultation to the applicant/licensee in the development of the written request and throughout the allowable variance process.

1. The licensee/applicant shall make a written request for an allowable variance which describes the special hardship(s) to the existing program or to a planned innovative/pilot program caused by the enforcement of the requirement(s).

2. When possible, the licensee/applicant shall propose alternatives to meet the purpose of the requirement which will ensure the protection and well-being of persons in care.

3. The licensee/applicant should obtain, when requested by the department, the opinions of professionals in the field or documented research, or both, that the proposed activities, facilities [,] or equipment are not injurious to persons in care.

4. The department can authorize allowable variances only to its own licensing standards, not to regulations of another agency or to any requirement in federal, state [,] or local laws.

B. The department's representative shall notify the petitioning applicant/licensee of the receipt of his request for an allowable variance and send a recommendation to the person delegated decision-making authority by the department.

C. Decision authority for approval or denial of a request for an allowable variance shall be defined by the commissioner through a formal delegation of authority for licensing actions. The decision is transmitted in writing to the petitioning applicant/licensee with a copy to the department's licensing representative.

D. Approval.

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1. The designated authority may attach conditions to the granting of the allowable variance in order to protect persons in care.

2. Allowable variances are conditional upon there being no change in the circumstances which were the basis for the approval. Any allowable variance may be rescinded or modified if conditions change [; ;] additional information becomes known which alters the basis for the original decision [; ;] the applicant/licensee fails to meet any conditions attached to the allowable variance [;] or results of the allowable variance jeopardize the safety, comfort, or well-being of persons in care.

3. Allowable variances expire automatically when there is a change in the facility's location or a change in the sponsorship of the facility/agency.

EXCEPTION: Allowable variances issued to child placing agencies and family day care systems are transferable when agencies change location.

4. The department's licensing representative shall review each allowable variance at least annually. At minimum, this review shall address the impact if the allowable variance on persons in care, adherence to any conditions attached, and the continuing need for the allowable variance.

E. Denial.

1. When the decision is to deny a request for an allowable variance, the reason(s) shall be provided in writing to the applicant/licensee.

2. When a request for an allowable variance is denied, it may be reconsidered if the applicant/licensee submits another written request and provides new or additional supporting information.

3. When a request for an allowable variance is denied by the designated decision-maker and if the petitioner believes that decision was unreasonable, arbitrary, or capricious, the petitioner may request a desk review of that decision. The following shall apply when a desk review is requested:

a. The petitioner shall request this desk review, in writing, within 15 days of the denial's issuance and shall include such information as necessary to explain the belief that the decision was unreasonable, arbitrary or capricious.

b. The desk review shall be conducted by the person who supervises the designated decision-maker, unless a different person has been assigned desk review responsibility in accordance with the commissioner's formal delegation of authority.

c. The decision of the reviewer shall be reported in writing to the petitioner within 30 days of receiving a complete request for a desk review.

d. The reviewer's decision shall be final and not appealable.

F. When an allowable variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed.

G. The applicant/licensee may at any time withdraw a request for an allowable variance.

PART V. INFORMAL APPEAL PROCESS.

§ 5.1. When an applicant/licensee has concerns about licensing procedures, interpretation of standards, or the actions of licensing personnel that cannot be [~~satisfactorily~~] resolved in discussion with the assigned licensing representative, the informal appeal steps outlined in [~~this article~~ Part V] are available.

§ 5.2. The applicant/licensee may request either a desk review by [;] or a meeting with [,] the assigned licensing representative's immediate supervisor.

A. If the request stems from a desire to contest the findings or conclusions of an inspection, the following procedures shall apply:

1. The applicant/licensee shall make the request within 15 days of receiving the compliance plan.

2. The request shall specify the contested finding or conclusion and shall specify whether a desk review or conference is being requested.

3. The request shall include the applicant's/licensee's reasons or other evidence supporting the request for a review or a conference.

B. The first step [informal desk] review [or conference] will be held at the supervisor's office unless the supervisor designates a different location. The following procedures shall apply:

1. The supervisor shall report the findings of a desk review in writing within 10 days of receiving the request and supporting materials or shall hold the requested conference within 30 days of receipt of such request and materials.

2. When the request was for a conference, the supervisor shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by the supervisor.

§ 5.3. If [after the first step review,] the

applicant/licensee believes that the laws, regulations, or departmental policies have been applied or interpreted in a manner that was unreasonable, arbitrary or capricious, he may request a second step review by program supervisory personnel as assigned by the Director of Licensing Programs according to the provisions of this article.

A. A second step [informal] review shall not be requested to challenge the content of an established law, regulation, or policy. [However, the application of a law, regulation, or policy may be challenged.]

B. When second step [informal] appeals are made, the request must be in writing and must specify whether the applicant/licensee is requesting a desk review or a conference. Conferences shall be held in the region [, appropriate district office,] or in Richmond as designated by the director [: ; the designated location shall be as close to the operation as possible.]

C. The second [informal] step appeal request shall:

1. Be made within 15 days of the date of the first step response;
2. Specify the reason for requesting the second step [informal] review and include such information, explanation [,] or additional materials as necessary to support the applicant's/licensee's belief that the decision reached at the first step was unreasonable, arbitrary or capricious; and
3. Include a copy of relevant materials and correspondence developed at the first step of the informal appeal process.

D. [~~The~~ Within 30 days of receipt of this request, the] director's office shall respond in writing or schedule the conference [within 30 days of receipt of such request].

E. When the request was for a conference, the designated program management staff shall, within 10 days following the conference, confirm to the applicant/licensee in writing the results of the conference and any subsequent decisions made by program management staff.

§ 5.4. Nothing in this article shall prohibit the Department of Social Services from exercising its responsibility and authority to enforce the disputed regulation during the informal appeal process, including proceeding directly to denial or revocation of a license, or recommending petitions for injunction when, in the judgment of the Direction, Division of Licensing Programs, there is sufficient risk to persons in care to do so whether or not the steps available in the informal appeal process have been exhausted.

[§ 5.5. Licensing staff may initiate a request for problem-solving conferences with applicants or licensees when the need arises.]

PART VI. COMPLAINT INVESTIGATION.

§ 6.1. A complaint is an accusation that a licensed facility/agency is not in compliance with the licensing standards or statute or an accusation that the children/adults in the care of a licensed facility/agency are being abused, neglected, or exploited. Complaints may be received in written or oral form and may be anonymous.

§ 6.2. The department has the responsibility to investigate any complaints regarding alleged violations of the standards or statute and complaints of the abuse and neglect of persons in care.

§ 6.3. Whenever licensing staff become aware of or suspect adult/child abuse, neglect, or exploitation in a facility/agency, the local department of social services, in the locality of the licensed facility/agency, shall be notified immediately.

When staff of the local department of social services receive a complaint of adult/child abuse, neglect, or exploitation in a licensed facility, the appropriate licensing unit shall be notified immediately.

Through separate or joint investigations, the local department of social services worker determines whether or not abuse, neglect or exploitation has occurred within applicable law and policies while the licensing representative determines whether or not the facility/agency has violated the licensing standard(s) or statute.

§ 6.4. When the investigation is completed, the licensee shall be notified of the findings of the investigation. Any necessary corrective action will be identified.

PART VII. REVOCATION AND DENIAL.

§ 7.1. Revocation is the act of withdrawing permission to operate during the effective dates of the license. Denial is the act of refusing to grant a license after receipt of an original or renewal application. The process for revocation or denial is the same.

§ 7.2. The following reasons may be considered by the department for revocation or denial:

1. Failure to demonstrate or maintain compliance with the applicable standards or for violations of the provisions of the Code of Virginia;
2. Permitting, aiding [,] or abetting the commission of any illegal act in the licensed facility/agency;
3. Engaging in conduct or practices which are in violation of statutes and standards related to abuse, neglect [,] or exploitation of children/adults; or

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4. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the department, or failure to correct such deviations within a specified time, or both.

§ 7.3. Process.

A. The applicant/licensee will receive a notice of the department's intent to deny or revoke a license. This notice shall describe the reasons for the revocation or denial.

B. Upon receipt of the notice of intent to revoke or deny, the applicant/licensee has the right to appeal the decision in accordance with the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia). The procedure for requesting an administrative hearing shall be outlined in the notice.

C. In the event the applicant/licensee does not request an administrative hearing, the facility/agency shall cease to operate or shall modify the operation such that it is no longer subject to licensure.

D. If a facility/agency continues to operate in violation of the statute after the date the revocation/denial is final, the department shall initiate appropriate legal action.

§ 7.4. Appeals.

A. If an administrative hearing is requested, the applicant/licensee has the right to be represented by counsel at the hearing.

B. The hearing shall be conducted by an individual appointed from a roster of attorneys, approved to serve as hearing officers, which is maintained by the Supreme Court of Virginia.

C. Once the hearing is completed, the hearing officer shall submit written findings of fact and conclusions of law and recommendations to the Commissioner of the Department of Social Services.

D. The commissioner may authorize continued licensure in the final order.

If the commissioner authorizes revocation or denial of the license, the time frame in which operation is to cease shall be included in the final order. The licensee may appeal this decision to the appropriate Circuit Court under the provisions of §§ 63.1-180 and 63.1-213 of the Code of Virginia.

ATTACHMENT I.

An application form to operate a child placing agency may be obtained from the following office:

Division of Licensing Programs

Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229
Telephone: (804) 662-9025

An application form to operate a licensed facility, excluding a child placing agency, may be obtained from the following offices:

OFFICE

Lynchburg Regional Office
926 Commerce Street
Lynchburg, Virginia 24504
Telephone: (804) 528-6601

AREA SERVED

Lynchburg Regional Office

Serving Counties of: Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Lunenburg, Mecklenburg, Nottoway, Prince Edward.

Serving Cities of: Bedford, Lynchburg, South Boston.

OFFICE

Northern Virginia Regional Office
11166 Main Street, Suite 300
Fairfax, Virginia 22030
Telephone: (703) 359-6700

AREA SERVED

Northern Virginia Regional Office

Serving Counties of: Arlington, Caroline, Culpeper, Fauquier, King George, Loudoun, Madison, Manassas, Manassas Park, Orange, Prince William, Rappahannock, Spotsylvania, Stafford.

Serving Cities of: Alexandria, Fairfax, Falls Church, Fredericksburg.

OFFICE

Richmond Regional Office
Wythe Building
1604 Santa Rosa Road
Richmond, Virginia 23229-8699
Telephone: (804) 662-9743

AREA SERVED

Richmond Regional Office

Serving Counties of: Charles City, Chesterfield, Dinwiddie, Essex, Gloucester, Goochland, Greensville, Hanover, Henrico, King and Queen, King William, Lancaster,

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Mathews, Middlesex, New Kent, Northumberland, Powhatan, Prince George, Richmond, Surry, Sussex, Westmoreland.

Serving Cities of: Colonial Heights, Emporia, Hopewell, Petersburg, Richmond.

OFFICE

Roanoke Regional Office
Commonwealth of Virginia Building
210 Church Avenue, S.W., Suite 100
Roanoke, Virginia 24011-1779
Telephone: (703) [~~982-7920~~ 857-7920]

AREA SERVED

Roanoke Regional Office

Serving Counties of: Allegheny, Botetourt, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, [*] Pittsylvania, Pulaski, Roanoke.

Serving Cities of: Clifton Forge, Covington, [*] Danville, [*] Martinsville, Radford, Roanoke, Salem.

[* Programs for children are handled by the Lynchburg Regional Office.]

OFFICE

Southwest Regional Office
190 Patton Street
Abingdon, Virginia 24210
Telephone: (703) 628-5171

AREA SERVED

Southwest Regional Office

Serving Counties of: Bland, Buchanan, Carroll, Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe.

Serving Cities of: Bristol, Galax, Norton.

OFFICE

Tidewater Regional Office
Pembroke Office Park
Pembroke IV Office Building
Suite 300
Virginia Beach, Virginia 23462
Telephone: (804) 473-2100

AREA SERVED

Tidewater Regional Office

Serving Counties of: Accomac, Isle of Wight, James City, Northampton, Southampton, York.

Serving Cities of: Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg.

OFFICE

Valley Regional Office
Post Office Box 350
Verona, Virginia 24482
Telephone: (703) 248-8900

AREA SERVED

Valley Regional Office

Serving Counties of: Albemarle, Bath, Clarke, Fluvanna, Frederick, Greene, Highland, Louisa, Nelson, Page, Rockbridge, Rockingham, Shenandoah, Staunton, Augusta, Warren.

Serving Cities of: Buena Vista, Charlottesville, Harrisonburg, Lexington, Waynesboro, Winchester.

ATTACHMENT II SCHEDULE OF FEES

These fees are adopted under the sole authority of the State Board of Social Services (§ 63.1-196.5 of the Code of Virginia).

The regulation, entitled "Fee Requirements for Processing Applications," follows:

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses. (§§ 63.1-174.01 and 63.1-196.5 of the Code of Virginia).

Fees will be charged to process all new or renewal applications for facilities or agencies for adults or children subject to licensure solely by the Department of Social Services; however, no fee will be charged to process a renewal application for an annual license directly following the issuance of a conditional license.

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

Schedule of Fees

<u>Children's Facilities</u>	<u>Fees</u>
Independent Foster Homes	\$10 (flat fee)
Family Day Care Homes	\$10 (flat fee)
Family Day Care Systems	\$50 (flat fee)
Child Placing Agencies	\$50 (flat fee)

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Child Care Centers

Capacity 10 - 50	\$25
Capacity 51 - 100	\$50
Capacity 101 - 175	\$75
Capacity 176 & up	\$100

Child Care Institutions

Capacity 1 - 24	\$25
Capacity 25 - 49	\$50
Capacity 50 - 74	\$75
Capacity 75 & up	\$100

Adult Facilities Fees

Home for Adults

Capacity 4 - 24	\$25
Capacity 25 - 49	\$50
Capacity 50 - 74	\$75
Capacity 75 & up	\$100

Adult Day Care Centers

Capacity 4 - 24	\$25
Capacity 25 - 49	\$50
Capacity 50 - 74	\$75
Capacity 75 & up	\$100

The fee shall be mailed with the application for a license. No application for a license will be deemed complete unless it is accompanied by the correct fee.

The fee shall be paid by personal check, money order, or certified check, made payable to "Treasurer of Virginia."

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to an applicant. Otherwise, no fee will be returned or refunded for any reason.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-3.1110. Coverage of Prosthetic Services.

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

Effective Date: July 1, 1989 through June 30, 1990

DECISION BRIEF FOR: The Honorable Gerald L. Baliles, Governor

SUBJECT: Emergency Regulation for Coverage of Prosthetic Services

SUMMARY

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Coverage of Prosthetic Services. Presently, the Department only covers prosthetics for persons receiving intensive rehabilitation services. This will provide for a more equitable coverage of services and allow individuals to remain in their homes.
2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action concerning Coverage of Prosthetic Services. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1 as soon as possible.

/s/ Bruce U. Kozlowski, Director
Date: April 7, 1989

3. CONCURRENCES:

Concur

/s/ Eva S. Teig
Secretary of Health and Human Resources
Date: April 10, 1989

4. GOVERNOR'S ACTION:

Approve

/s/ Gerald L. Baliles
Governor
April 17, 1989

5. FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: April 21, 1989 - 9:10 a.m.

DISCUSSION

6. **BACKGROUND:** The existing State Plan language

provides coverage of prosthetic devices only for recipients receiving approved Medicaid intensive rehabilitation services. The Governor's executive budget, as approved by the 1989 General Assembly, provided funds for the coverage of prosthetic devices (basically artificial arms and legs).

Prosthetic devices under the suggested State Plan change shall mean artificial arms and legs and supportive devices prescribed by physicians or other licensed practitioners of the healing arts within the scope of their professional licenses as defined by state law. Suppliers of prosthetic devices will be restricted to those who meet state requirements and have a valid provider agreement with the Department.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, 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 adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

The Code of Federal Regulations § 440.120(c) provides for the Department's coverage of prosthetic devices.

Without this emergency regulation, amendments to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. The Department has been funded to cover this service effective July 1, 1989.

8. **FISCAL/BUDGETARY IMPACT:** No increase in the number of eligible recipients is expected. Based upon the experience of another state's Medicaid agency, it is expected that an additional 642 Medicaid eligible persons will require the service annually at an approximate total cost of \$180,340 (NGF \$90,675 and GF \$89,665) in FY 1990. This funding has been approved in the Department's 1989 appropriations.
9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective July 1, 1989. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to cover prosthetic services for all eligible Medicaid recipients.

10. **APPROVAL SOUGHT FOR VR 460-03-3.1110.**

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Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

NARRATIVE FOR THE AMOUNT, DURATION AND SCOPE OF SERVICES

A. 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; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

A. Non-legend 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.

B. Legend drugs, with the exception of anorexant drugs prescribed for weight loss, are covered.

C. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

D. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia (1950), as amended, 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 certifies in his/her own handwriting "brand necessary" for the prescription to be dispensed as written.

12b. Dentures.

A. Not provided.

12c. Prosthetic devices.

~~Not provided.~~

Prosthetic devices (artificial arms and legs, and necessary supportive devices) are provided when prescribed by a physician or other licensed practitioner of the healing arts within the scope of their professional licenses as defined by state law. This service, when provided by an authorized vendor, must be preauthorized and medically necessary.

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.

13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

A. Not provided.

13b. Screening services.

A. Not provided.

13c. Preventive services.

A. Not provided.

13d. Rehabilitative services.

A. Medicaid covers intensive inpatient rehabilitative services as defined in § 2.1 in the 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.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-26. Aid to Dependent Children - Deprivation Due to the Incapacity of a Parent.

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

Effective Dates: April 12, 1989 through April 11, 1990.

Preamble:

The Aid to Dependent Children (ADC) program is a federal program, funded from federal and state funds, established under Title IV, Part A, of the Social Security Act to provide financial assistance and services to needy families with children. This program is administered statewide by the Department of Social Services through 124 local departments of social services.

Pursuant to federal law at 406(a) of the Social Security Act and 45 Code of Federal Regulations § 233.90(a), in order to be eligible to receive benefits under the Aid to Dependent Children (ADC) program, a child must meet certain federal requirements. One such requirement is that a child must be deprived of parental support or care by reason of death, continued

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absence from the home, or physical or mental incapacity of a parent. A finding of deprivation due to incapacity is made in accordance with 45 CFR § 233.90(c)(1)(iv) when one parent has a physical or mental defect, illness, or impairment. These regulations require that the incapacity be supported by a competent medical testimony and be of such a debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for the otherwise eligible child, and must last at least 30 days. Further, in determining the incapacitated parent's ability to support, the limited employment opportunities of handicapped individuals must be taken into account. On October 28, 1988, a civil complaint was filed in the United States District Court for the Western District of Virginia against the Department of Social Services by Client Centered Legal Services of Southwest Virginia, Inc. The complaint, filed on behalf of a family in Buchanan County, Virginia, alleges that Aid to Dependent Children (ADC) assistance was improperly denied the applicant and her family due to the Department's promulgation and application of a definition of parental incapacity that is unlawful according to 45 CFR § 233.90(c)(1)(iv). At issue is the absence in state ADC policy of the federal requirement that "the limited employment opportunities of handicapped individuals must be taken into account" in determining whether a child is deprived due to incapacity for purposes of the Aid to Dependent Children (ADC) program.

To assure Virginia's ADC policy comports with federal regulations at 45 CFR § 233.90(c)(1)(iv), and minimize further litigation against the Commonwealth on this issue, the Attorney General's Office has advised the Department to take immediate action to amend ADC policy to require that, in determining the incapacitated parent's ability to support, limited employment opportunities of handicapped individuals are taken into account. In addition, a definition of the term "handicapped" will be provided in the amended state policy. Once in effect, evaluation of this requirement will be completed on an individual case-by-case basis by local departments of social services based upon medical information of diagnosis, prognosis, and probable duration of the parent's illness, defect, or impairment and other information that may be known to the local agency related to the individual's employment opportunities in the area. In any case in which the applicant or recipient disagrees with the agency's decision, an appeal may be filed to have the decision evaluated at the higher level.

Due to the absence of current state policy to fully reflect the requirements of 45 CFR § 233.90(c)(1)(iv), the Department finds that this situation necessitates immediate promulgation of an emergency regulation. The emergency precludes the promulgation of said regulation from the public participation requirements of the Administrative Process Act, § 9-6.14:4.1 of the Code of Virginia.

Emergency approval of the Governor is needed to allow the Department to implement amended regulations immediately. The inability of the Department to promulgate such regulations will result in a delay in the implementation of federal requirements, and Virginia's ADC policy will continue to be administered out of compliance with federal regulations. Without the regulation amended, the full intent of the federal requirement is not expressed in state ADC program policies and may result in the inappropriate denial or termination of assistance to needy Virginia families. Further, until state ADC policy can be amended, any appeals of denials or terminations must be decided based upon existing ADC policy even though, according to federal requirements, the family may be eligible for ADC. Failure to comply with federal regulations at 45 CFR § 233.90(c)(1)(iv) may also result in federal fiscal sanctions if cases in which this requirement has to be applied correctly are identified through the ADC Quality Control process. Additionally, the inability to promulgate the proposed regulation will allow for increased legal action against the Commonwealth.

Immediately following approval and publication of the emergency regulation in the Virginia Register of Regulations, the Department of Social Services will initiate action to develop final regulations as required in the Administrative Process Act, § 9-6.14:4.1 of the Code of Virginia. Although the requirement to be added is mandated by federal regulations, the state has flexibility in developing guidelines and in its definition of the term "handicapped." Therefore, this amendment will be processed through the full administrative process requirements. At that time, the Department will receive, consider and respond to any petitions to reconsider or revise the emergency regulation contained herein which may be filed by interested persons or groups prior to the regulation's expiration.

During the period of July 1988 - December 1988, there were an average of 2,576.5 cases added monthly to the Aid to Dependent Children (ADC) program. Also, based on the Department of Social Services' "Characteristics of ADC Recipients/Families" report for May 1988 and January 1989 it has been determined that of that number there were an average of 113.5 cases, or 4.4%, approved monthly due to parental incapacity as currently defined by department regulations.

Department statistics also indicate that from July 1988 to December 1988 there were an average of 75 cases denied assistance monthly due to the lack of deprivation including, but limited to parental incapacity. The Department does not maintain records on the number of cases denied because of parental incapacity; however, we believe the number to be very low. Based on this, the implementation of this regulation will have a minimal impact (less than

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\$50,000 general fund) on the cost of benefits and can be absorbed within the current appropriation. This regulation will not result in additional administrative costs. It is expected that the increased number of ADC cases will result in a similar increase in Medicaid expenditures; however, no estimate is available at this time.

Summary:

Pursuant to § 63.1-25 of the Code of Virginia, the State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for operation of public assistance programs in Virginia.

The Department of Social Services, in conjunction with the Attorney General's Office, is proposing to amend state ADC policy in the area of deprivation due to the incapacity of a parent. Amended policy will require that in evaluating the incapacitated individual's ability to provide support to his children, consideration must be given to the limited employment opportunities of handicapped individuals. The revision reflects language in federal regulations at 45 CFR § 233.90(c)(1)(iv) and is necessary to assure that Virginia's ADC program is in compliance with federal regulations.

VR 615-01-26. Aid to Dependent Children - Deprivation Due to the Incapacity of a Parent.

PART I. DEFINITIONS.

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

"Handicapped individual" means any person who has a physical or mental impairment that results in a substantial deterrent to employment.

"Incapacity" means having a physical or mental disability that substantially limits activities, such as employment.

"Support" means the provision of a basis for subsistence.

PART II. PHYSICAL OR MENTAL INCAPACITY OF A PARENT.

§ 2.1. A child is deprived of parent support or care if either parent has a physical or mental defect, illness, or disability and that incapacity substantially reduces or prevents the parent providing support or care. Incapacity may be total or partial, permanent or temporary, but must be expected to last for a period of at least 30 days. In making the determination of ability to support, the agency must take into account the limited employment opportunities of handicapped individuals. The applicant or

recipient must establish the existence of an impairment that substantially limits employment.

/s/ Larry D. Jackson
Commissioner
Date: March 15, 1989

Approved: /s/ Gerald L. Baliles
Governor
Date: April 10, 1989

Filed: /s/ Joan W. Smith
Registrar of Regulations
Date: April 12, 1989 - 9:11 a.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: VR 385-01-3. Rules and Regulations Governing Relocation Assistance.

Statutory Authority: § 33.1-12 of the Code of Virginia.

Effective Dates: April 17, 1989 through April 16, 1990.

Summary:

The changes to the Department of Transportation's rules and regulations concerning Relocation Assistance are made to carry out the statutory changes enacted by the 1989 General Assembly. The changes include: (i) a new moving cost entitlement is set out whereby farmers, nonprofit organizations, and small businesses can receive payments to be reestablished as a result of public construction projects; (ii) a number of definitions have been amended; (iii) the method for computing additional payments for interest has been standardized rather than having two methods; and (iv) the moving costs payment schedule has been updated to reflect inflation and other higher costs. These regulations are on file at the Department of Transportation and at the office of the Registrar of Regulations.

* * *

This regulation is being submitted for Emergency Action to satisfy a federal mandate imposed in March of 1989. These regulations do not differ substantially from regulations required by federal law and, as such, are exempt from the APA process. However, they are still subject to the Virginia Register Act, and this emergency action will eliminate the 30-day waiting period of that process.

Submitted by:

/s/ Ray D. Pethtel
Commissioner
Date: April 13, 1989

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Concur:

/s/ William H. Leighty for
Vivian E. Watts
Secretary of Transportation and Public Safety
Date: April 14, 1989

Approved:

/s/ Gerald L. Baliles
Governor
Date: April 14, 1989

Filed:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: April 17, 1989 - 8:41 a.m.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

Division of Securities and Retail Franchising

APRIL 19, 1989

NOTICE OF PROPOSED RULES AND RULE CHANGES

The STATE CORPORATION COMMISSION OF VIRGINIA will consider adopting the proposed changes to its SECURITIES ACT RULES formulated by its Division of Securities and Retail Franchising. The proposed changes will affect broker-dealers, agents, investment advisors and investment advisor representatives. The proposed changes are:

(1) To add Rule 403, which will specify the requirements for registration statements filed pursuant to Code § 13.1-508 ("Registration by Notification") relating to nonissuer distributions of securities.

(2) To add paragraph E to Rule 701, which will exempt from compliance with Rule 701 those registrants whose securities are registered under Rule 403.

(3) To repeal Rule 501, which specifies the standard securities manuals for purposes of the registration exemption contained in Code § 13.1-514(b)(2).

(The foregoing changes are required because of the repeal, effective July 1, 1989, of Code § 13.1-514(b)(2), the registration exemption for the securities of issuers included in a standard securities manual.)

(4) To clarify when a surety bond is required under Rule 307.

(5) To add to Rule 309 appropriate language so that the phrase "clerical and ministerial services" is defined for purposes of Code § 13.1-504.2 (this section specifies when certain credit union employees need not register under the Act as agents).

(6) To reorganize Article II of the Rules, which deals with the registration and regulation of broker-dealers and agents, by repealing the existing Rules that comprise Article II and adopting rearranged and renumbered Rules.

(7) To incorporate by reference in Rule 503, the Uniform Limited Offering Exemption, three SEC releases governing Regulation D.

(8) To conform the voting rights provisions of Rule 504, the NASDAQ/NMS Exemption, to those adopted by the SEC in Release No. 34-25891 and to clarify the NASD's responsibilities under Rule 504.

(9) To clarify the type of financial data investment advisors are required to file under Rule 1003.

(10) To add Rule 1106, which will require applicants for registration as investment advisor representatives to pass the Uniform Investment Advisor Law Examination, Series 65.

(11) To enlarge the investment advisor record keeping requirements under Rule 1202.

(12) To add Rule 1206, which will define dishonest and unethical practices in the investment advisory business.

It is anticipated that the foregoing proposals will become effective on July 1, 1989. Copies of the proposed changes are available from the Division of Securities and Retail Franchising, P.O. Box 1197, Richmond, Virginia 23209, (804) 786-7751. Written comments are invited. Any interested person who files objections to the proposed changes will, if so requested, be afforded an opportunity to present evidence and be heard. Comments and requests must be received by May 19, 1989. They should be sent to the State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216, and should make reference to Case No. SEC890040. Interested persons who file comments and request to be heard will be notified of the date, time and place of the hearing.

* * *

ARTICLE II.

BROKER-DEALERS, BROKER-DEALER AGENTS AND AGENTS OF THE ISSUER.

Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations/Qualification, Financial Statements and Reports.

BROKER-DEALERS.

Rule 200. Application for Registration as a Broker-Dealer.

A. Application for registration as a broker-dealer shall be filed with the Commission at its Division of Securities and Retail Franchising and/or such other entity designated by the Commission on and in full compliance with forms prescribed by the Commission and shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer unless the following executed forms, fee and information are submitted to the Commission:

- 1. Form BD (adopted by Rule 800).*
- 2. Statutory fee payable to the Treasurer of Virginia in the amount of \$200.00 pursuant to § 13.1-505 F of the Act.*
- 3. All items included on the Virginia Supplemental Sheet to Form BD.*

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4. A signed and executed Agreement for Inspection of Records form.

5. A copy of the firm's written supervisory procedures. Sole proprietorships are excluded.

6. Financial statements required by Rule 207.

7. Evidence of exam requirements for principals required by Rule 206.

8. Any other information the Commission may require.

C. The Commission shall either grant or deny each application for registration within thirty (30) days after it is filed, but this period may be extended if additional time is required for formal hearing on the application.

Rule 201. Expiration.

A broker-dealer's registration, and any renewal thereof, shall expire annually at midnight on the thirty-first day of December, unless renewed in accordance with Rule 202.

Rule 202. Renewals.

A. To renew its registration, a NASD member broker-dealer will be billed by the NASAA/NASD Central Registration Depository the statutory fee of \$200.00 prior to the annual expiration date. A renewal of registration shall be granted as of course upon payment of the proper fee together with any surety bond that the Commission may, pursuant to Rule 307, require unless the registration was, or the renewal would be, subject to revocation under § 13.1-506.

B. Any other broker-dealer shall file with the Commission at its Division of Securities and Retail Franchising the following items at least thirty (30) days prior to the expiration of registration.

1. Application for Renewal of a Broker-Dealer's Registration (Form S.A.2) accompanied by the statutory fee of \$200.00.

2. Financial Statements:

(a) The most recent certified financial statements prepared by an independent accountant in accordance with generally accepted accounting principles, as promulgated by the American Institute of Certified Public Accountants. "Certified Financial Statements," "Financial Statements" and "Independent Accountant" shall have the same definition as those terms are defined under subsection B.1, 2, and 3 of Rule 207.

(b) If the most recent certified financial statements precede the date of renewal by more than 120 days, the registrant must submit:

(1) The certified financial statements required by subsection B.2.(a) of this Rule within sixty (60) days after the date of the financial statements, and;

(2) A copy of the most recent Part II or Part II A filing of Form X-17A-5 prepared in accordance with Securities Exchange Act Rule 12a-5 (17 CFR 240.17a.5), as amended.

(c) Whenever the Commission so requires, an interim financial report shall be filed as of the date and within the period specified in the Commission's request.

Rule 203. Updates and Amendments.

A. A NASD member broker-dealer shall update its Form BD as required by Form BD instructions and shall file all such amendments on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system and in full compliance with the RULES prescribed by the Commission.

B. Any other broker-dealer shall update its Form BD as required by Form BD instructions and shall file all such amendments with the Commission at its Division of Securities and Retail Franchising.

C. If registrant changes its name or address a newly executed Agreement for Inspection of Records form must be submitted to the Commission.

Rule 204. Termination of Registration.

A. When a NASD member broker-dealer desires to terminate its registration, it shall file Form BDW in compliance with all requirements of the NASAA/NASD Central Registration Depository system and in full compliance with the RULES prescribed by the Commission.

B. Any other broker-dealer shall file a Form BDW with the Commission at its Division of Securities and Retail Franchising.

Rule 205. Broker-dealer Merger or Consolidation.

When there is a merger or consolidation of two or more registrants, the surviving or new corporation shall amend or file, as the case may be, Form BD (the filing of a Form BD requires the payment of a \$200.00 fee) and shall file a copy of the certificate of merger or consolidation, the plan of merger or consolidation, the amended or new charter and by-laws, any documents or explanation, Agreement for Inspection of Records, the current financial statements of the surviving or new corporation and surety bond, if necessary. Such amendment and/or filing shall be made immediately after the merger or consolidation becomes effective, except that the required financial statements shall be filed within thirty (30) calendar days of the effective date of the merger or consolidation. The

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registration of the surviving or new corporation usually will be granted by the Commission on the same date that the merger or consolidation becomes effective. Each agent of the non-surviving or new corporation shall comply with Rule 208 before registration as an agent with his new employer becomes effective. Every other agent of the defunct corporation(s) shall comply with Rule 208 or Rule 212, whichever may be applicable.

Rule 206. Examinations/Qualifications.

A. Broker-Dealers Registered Pursuant to Section 15 of the Securities Exchange Act of 1934.

1. All principals of an applicant for registration as a broker-dealer must provide the Commission with evidence of a minimum passing grade of 70% on the Uniform Securities Agent State Law Examination - Series 63 (USASLE-Series 63).

2. In lieu of meeting the examination requirement described in subsection A.1 of this Rule, at least two principals of an applicant may provide evidence of having passed the General Securities Principal Qualification Exam (Series 24). For the purposes of this subsection A, the term "principal" means any person associated with a broker-dealer who is engaged directly (i) in the management, direction or supervision on a regular or continuous basis on behalf of such broker-dealer of the following activities: sales, training, research, investment advice, underwriting, private placements, advertising, public relations, trading, maintenance of books or records, financial operations; or (ii) in the training of persons associated with such broker-dealer for the management, direction, or supervision on a regular or continuous basis of any such activities.

3. Subsection A of this Rule is applicable only to principals of broker-dealers that are, or intend to forthwith become, registered pursuant to Section 15 of the Securities Exchange Act of 1934.

B. Broker-Dealers Not Registered Pursuant to Section 15 of the Securities Exchange Act of 1934.

1. All principals of an applicant for registration as a broker-dealer must provide the Commission with evidence of a minimum passing grade of 70% on:

a. The Uniform Securities Agent State Law Examination - Series 63 (USASLE -Series 63);

b. Any additional securities-related examination(s) that the Commission deems appropriate in light of the business in which the applicant proposes to engage.

2. Subsection B of this Rule is applicable only to principals of broker-dealers that are not, or do not intend to forthwith become, registered pursuant to

Section 15 of the Securities Exchange Act of 1934.

Rule 207. Financial Statements and Reports.

A. All financial statements required for registration of broker-dealers shall be prepared in accordance with generally accepted accounting principals, as promulgated by the American Institute of Certified Public Accountants.

B. Definitions:

1. "Certified Financial Statements" shall be defined as those financial statements examined and reported upon with an opinion expressed by an independent accountant and shall include at least the following information:

a. Date of report, manual signature, city and state where issued, and identification without detailed enumeration of the financial statements and schedules covered by the report;

b. Representations as to whether the audit was made in accordance with generally accepted auditing standards and designation of any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which may have been omitted, and the reason for their omission; nothing in this Rule however shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit for the purpose of expressing the opinions required under this Rule;

c. Statement of the opinion of the accountant in respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein, and as the consistency of the application of the accounting principles, or as to any changes in such principles which would have a material effect on the financial statements;

d. Any matters to which the accountant takes exception shall be clearly identified, the exemption thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

2. "Financial Statements" shall be defined as those reports, schedules and statements, prepared in accordance with generally accepted accounting principles and which contain at least the following information unless the context otherwise dictates:

a. Statement of Financial Condition or Balance Sheet;

b. Statement of Income;

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c. *Statement of Changes in Financial Position;*

d. *Statement of Changes in Stockholder's/Partner's/Proprietor's Equity;*

e. *Statement of Changes in Liabilities Subordinated to Claims of General Creditors;*

f. *Schedule of the Computation of Net Capital Under Rule 15c3-1 of the Securities Exchange Act of 1934 (17 CFR 240.15c3-1), as amended;*

g. *Schedule of the Computation for Determination of the Reserve Requirements under Exhibit A of Rule 15c3-3 and Information Relating to the Possession and Control Requirements under Rule 15c3-3 of the Securities Exchange Act of 1934 (17 CFR 240.15c3-3), as amended.*

3. "Independent Accountant" shall be defined as any certified public accountant in good standing and entitled to practice as such under the laws of the accountant's principal place of business or residence, and who is, in fact, not controlled by, or under common control with, the entity or person being audited; for purposes of this definition, an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates in which, during the period of the accountant's professional engagements to examine the financial statements being reported on or at the date of the report, the accountant or the firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest; or in which, during the period of the accountant's professional engagement to examine the financial statements being reported on, at the date of the report or during the period covered by the financial, the accountant or the firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated himself from the person and its affiliates covering any period of employment by the person. For partners in the firm participating in the audit or located in an office of the firm participating in a significant portion of the audit; and in determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

4. "Review of Financial Statements" shall be defined as those financial statements prepared by an

independent accountant, and shall include at least the following:

a. Date of report, manual signature, city and state where issued, and identification without detailed enumeration of the financial statements and schedules covered by the report;

b. Representations that the review was performed in accordance with standards established by the American Institute of Certified Public Accountants;

c. Representations that the accountant is not aware of any material modification that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles, other than those modifications, if any, indicated in the accountant's report.

5. "Unaudited Financial Statements" shall be defined as those financial statements prepared in a format acceptable to the Commission not accompanied by the statements and representations as set forth in subsection B.1 or B.4 of this Rule, and shall include an oath or affirmation that such statement or report is true and correct to the best knowledge, information, and belief of the person making such oath or affirmation; such oath or affirmation shall be made before a person authorized to administer such oath or affirmation, and shall be made by an officer of the entity for whom the financial statements were prepared.

C. Requirements for Broker-Dealers.

1. Every broker-dealer applicant, unless exempted under subsection C.2 or C.3 of this Rule, shall file financial statements as of a date within ninety (90) days prior to the date of filing its application for registration, which statements need not be audited provided that the applicant shall also file audited financial statements as of the end of the most recent fiscal year end.

2. Those broker-dealer applicants which have been in operation for a period of time less than twelve (12) months, and for which audited financial statements have not been prepared or are not available, shall be permitted to file unaudited financial statements provided the following conditions are met:

a. Such financial statements are as of a date within thirty (30) days prior to the date of filing an application for registration;

b. Such financial statements are prepared in accordance with the provisions of subsections B.2, B.5, and C.2 of this Rule;

c. Such applicant is a member of the National Association of Security Dealers, Inc.

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3. Those broker-dealer applicants which have been in operation for a period of time less than twelve (12) months, and for which unaudited financial statements have been prepared or are not available, and which are not registered with the Securities and Exchange Commission, a national securities association or a national securities exchange shall be permitted to file a review of financial statements prepared by an independent accountant provided the following conditions are met:

a. Such financial statements shall be as of a date within thirty (30) days prior to the date of filing an application for registration;

b. Such financial statements shall be prepared by an independent accountant as defined under subsection B.3 and in accordance with subsections B.2, B.4, and C.3.

BROKER-DEALER AGENTS.

Rule 208. Application for Registration as a Broker-Dealer Agent.

A. Application for registration as a NASD member broker-dealer agent shall be filed on and in compliance with all requirements of the NASAA/NASD Central Registration Depository system and in full compliance with the RULES prescribed by the Commission. The application shall include all information required by such forms.

B. An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 (adopted by Rule 800).
2. The statutory fee in the amount of \$30.00. The check must be made payable to the NASD.
3. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE", Series 63 exam. (Rule 214).
4. Any other information the Commission may require.

C. Application for registration for all other broker-dealer agents shall be filed on and in compliance with all requirements and forms prescribed by the Commission.

D. An application shall be deemed incomplete for purposes of applying for registration as a broker-dealer agent unless the following executed forms, fee and information are submitted:

1. Form U-4 (adopted by Rule 800).
2. The statutory fee in the amount of \$30.00. The

check must be made payable to the Treasurer of Virginia.

3. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE", Series 63 exam. (Rule 214).

4. Any other information the Commission may require.

E. The Commission shall either grant or deny each application for registration within thirty (30) days after it is filed, but this period may be extended if additional time is required for formal hearing on the application.

Rule 209. Expiration.

The registration, and any renewals thereof, of a broker-dealer agent shall expire annually at midnight on the thirty-first day of December unless renewed in accordance with Rule 210.

Rule 210. Renewals.

A. To renew the registration(s) of its broker-dealer agent(s), a NASD member broker-dealer will be billed by the NASAA/NASD Central Registration Depository the statutory fee of \$30.00 per broker-dealer agent. A renewal of registration(s) shall be granted as of course upon payment of the proper fee(s) unless the registration was, or the renewal would be, subject to revocation under § 13.1-506.

B. Any other broker-dealer shall file with the Commission at its Division of Securities and Retail Franchising the following items at least thirty (30) days prior to the expiration of registration.

1. Agents to be Renewed (Form S.D.4(a)) accompanied by the statutory fee of \$30.00 for each agent whose registration is to be renewed. The check must be made payable to the Treasurer of Virginia.
2. If applicable, Agents to be Canceled with clear records (Form S.D.4(b)).
3. If applicable, Agents to be Canceled without clear records (Form S.D.4(c)).

Rule 211. Updates and Amendments.

A broker-dealer agent shall amend or update his/her Form U-4 as required by the "Amendment Filings" provisions set forth under "How to Use Form U-4." All filings shall be made with the NASAA/NASD Central Registration Depository system for NASD member firm agents or with the Commission for all other broker-dealer agents.

Rule 212. Termination of Registration.

When a broker-dealer agent terminates a connection with a broker-dealer, or a broker-dealer terminates connection with an agent, the broker-dealer shall file notice of such termination on Form U-5 within 30 calendar days of the date of termination. All filings shall be made with the NASAA/NASD Central Registration Depository system for NASD member firm agents or with the Commission for all other broker-dealer agents.

Rule 213. Changing Connection from One Broker-Dealer to Another.

A broker-dealer agent who changes connection from one broker-dealer to another shall comply with Rule 208.

Rule 214. Examination/Qualification.

An individual applying for registration as a broker-dealer agent shall be required to show evidence of passing the Uniform Securities Agent State Law Examination (USASLE-Series 63) with a minimum grade of 70%.

AGENTS OF THE ISSUER.

Rule 215. Application for Registration as an Agent of the Issuer.

A. Application for registration as an agent of the issuer shall be filed on and in compliance with all requirements and forms prescribed by the Commission.

B. An application shall be deemed incomplete for purposes of applying for registration as an agent of the issuer unless the following executed forms, fee and information are submitted:

1. Form U-4.
2. The statutory fee in the amount of \$30.00. The check must be made payable to the Treasurer of Virginia.
3. Completed Agreement for Inspection of Records Form.
4. Provide evidence in the form of a NASD exam report of obtaining a minimum passing grade of 70% on the Uniform Securities Agent State Law Exam, "USASLE", Series 63 exam. (Rule 221).
5. Any other information the Commission may require.

C. The Commission shall either grant or deny each application for registration within thirty (30) days after it is filed, but this period may be extended if additional time is required for formal hearing on the application.

Rule 216. Expiration.

The registration, and any renewals thereof, of an agent of the issuer shall expire annually at midnight on the

thirty-first day of December unless renewed in accordance with Rule 217.

Rule 217. Renewals.

An issuer, on behalf of its agent(s), shall file with the Commission at its Division of Securities and Retail Franchising at least thirty (30) days prior to the expiration of registration an Agents to be Renewed Form (Form S.D.4(a)) accompanied by the statutory fee of \$30.00 for each agent whose registration is to be renewed. The check must be made payable to the Treasurer of Virginia.

Rule 218. Updates and Amendments.

An agent of the issuer shall amend or update his/her Form U-4 as required by the "Amendment Filings" provisions set forth under "How to Use Form U-4." Filings shall be made with the Commission.

Rule 219. Termination of Registration.

When an agent of the issuer terminates a connection with an issuer, or an issuer terminates connection with an agent, the issuer shall file notice of such termination on Form U-5 within 30 calendar days of the date of termination. Filings shall be made with the Commission.

Rule 220. Changing Connection from One Issuer to Another.

An agent of the issuer who changes connection from one issuer to another shall comply with Rule 215.

Rule 221. Examination/Qualification.

An individual applying for registration as an agent of the issuer shall be required to provide evidence in the form of a NASD exam report of passing the Uniform Securities Agent State Law Examination (USASLE-Series 63) with a minimum grade of 70%.

* * *

Rule 307. Net Worth.

A. The term "net worth" as used in § 13.1-505 B of the Act shall be computed as total assets minus total liabilities, excluding liabilities of the broker-dealer which are subordinated to the claims of creditors pursuant to a satisfactory subordination agreement as defined in Appendix D of Rule 15c3-1 under the Securities Exchange Act of 1934 (17 CFR 240.15c3-1d), as amended.

B. If a broker-dealer applicant or registrant cannot demonstrate and maintain a net worth in excess of \$25,000, the Commission shall require the filing of a surety bond on the form prescribed under Rule 800. The amount of the penal sum of the surety bond can be determined according to the following table:

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NET WORTH (Rounded to nearest \$1)	PENALTY AMOUNT OF SURETY BOND
\$ Less than \$5,000	\$25,000
5,001 - 10,000	20,000
10,001 - 15,000	15,000
15,001 - 20,000	10,000
20,001 - 25,000	5,000

C. If a broker-dealer registrant's net worth plus the penal sum of the registrant's surety bond drops below \$25,000, the registrant must so notify the Division of Securities and Retail Franchising in writing within three (3) business days and immediately take action to establish a net worth in excess of \$25,000.

* * *

Rule 309. Clerical or Ministerial Services.

The phrase "clerical or ministerial services," as used in § 13.1-504.1 and 13.1-504.2 of the Act, shall mean any or all of the following:

A. Distributing to customers of the savings and loan association, ~~or~~ savings bank or credit union literature that describes the services available from the registered broker-dealer.

B. Providing to customers of the savings and loan association, ~~or~~ savings bank or credit union the broker-dealer's account applications and assisting customers in completing such applications.

C. Assisting customers of the savings and loan association, ~~or~~ savings bank or credit union in contacting the registered broker-dealer.

D. Assisting customers of the savings and loan association, ~~or~~ savings bank or credit union in effecting the transfer of funds into or out of the customers' accounts maintained at such association, ~~or~~ such bank or credit union.

E. Assisting customers of the savings and loan association, ~~or~~ savings bank or credit union in transmitting securities and related documents to the registered broker-dealer, and providing the materials necessary for such transmittal.

* * *

Rule 403. Requirements for Registration Statements Relating to Nonissuer Distributions.

A. The requirements for a registration statement filed pursuant to § 13.1-508 of the Act relating to securities to be offered and sold pursuant to a nonissuer distribution (i.e., "secondary trading") are:

1. The registration statement shall contain the issuer's most recent 10-K Annual Report and 10-Q Quarterly Report filed with the United States Securities and Exchange Commission ("SEC") pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

2. If within 12 months of the date of filing the registration statement any 8-K Current Report has been filed with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, then a copy of each such report shall be filed with the registration statement.

3. If within 12 months of the date of filing the registration statement any Form 10 general form for registration of securities has been filed with the SEC pursuant to Section 12(d) or (g) of the Securities Exchange Act of 1934, then a copy of each such form shall be filed with the registration statement.

4. If within 12 months of the date of filing the registration statement a registration statement has been filed with the SEC pursuant to Section 6 of the Securities Act of 1933, then a copy of each such registration statement shall be filed with this registration statement.

B. For purposes of this Rule, the word "registered" as used in Section 13.1-508(a)(2)(i) of the Act shall mean registered pursuant to this Act, the Securities Act of 1933 or the Securities Exchange Act of 1934.

C. The requirement for delivery of a prospectus under Section 13.1-508(d) of the Act, with respect to securities registered pursuant to this Rule, shall be met by compliance with Rule 305 A 19.

* * *

Rule 503. Uniform Limited Offering Exemption.

PRELIMINARY NOTES.

1. Nothing in this exemption is intended to relieve, or should be construed as in any way relieving, issuers or persons acting on their behalf from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of the Act.

2. In view of the objective of this Rule and the purpose and policies underlying the Act, this exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Rule.

3. Nothing in this Rule is intended to exempt registered broker-dealers or agents from the due diligence standards otherwise applicable to such registered persons.

4. Nothing in this Rule is intended to exempt any person from the broker-dealer or agent registration requirements of the Act.

RULE.

For the purpose of the limited offering exemption referred to in § 13.1-514(b)(14) of the Act, the following securities are determined to be exempt from the securities registration requirements of the Act:

A. Any securities offered or sold in compliance with Securities Act of 1933, Regulation D ("Reg. D"), Rules 230.501-230.503 and 230.505 or 230.506 as made effective in Release No. 33-6389 and as amended in Release Nos. 33-6437; 33-6663 and 33-6758 and which satisfy the following further conditions and limitations:

1. The issuer and any person acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that all persons who offer or sell securities subject to this Rule are registered in accordance with § 13.1-505 of the Act.

2. No exemption under this Rule shall be available for the securities of any issuer if any of the persons described in Securities Act of 1933, Regulation A, Rule 230.252(c), (d), (e) or (f):

a. Has filed a registration statement which is subject of a currently effective stop order entered pursuant to any state's securities law within five years prior to the commencement of the offering.

b. Has been convicted within five years prior to the commencement of the offering of any felony or misdemeanor in connection with the purchase or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

c. Is currently subject to any state's administrative order or judgment entered by that state's securities administrator within five years prior to the commencement of the offering or is subject to any state's administrative order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years prior to the commencement of the offering.

d. Is currently subject to any state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

e. Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining,

or is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five years prior to the commencement of the offering, permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state.

f. The prohibitions of paragraphs a, b, c and e above shall not apply if the party subject to the disqualifying order, judgment or decree is duly licensed or registered to conduct securities related business in the state in which the administrative order, judgment or decree was entered against such party.

g. Any disqualification caused by this subsection is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification, or the Commission, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption under this Rule be denied.

3. The issuer shall file with the Commission no later than 15 days after the first sale in this state from an offering being made in reliance upon this exemption:

a. A notice on Form D (17 CFR 239.500).

b. An undertaking by the issuer to promptly provide, upon written request, the information furnished by the issuer to offerees.

c. An executed consent to service of process appointing the Clerk of the State Corporation Commission, unless a currently effective consent to service of process is on file with the Commission.

d. A filing fee of \$250.00.

4. In all sales to nonaccredited investors, the issuer and any person acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that the investment is suitable for the purchaser as to his/her other security holdings and financial situation and needs.

5. The Commission may, upon request, waive the examination requirements of Rule 221 for an agent of the issuer offering and/or selling securities exempted by this Rule upon a showing of good cause; provided, however, that the agent has not participated in more than two securities offerings during the 18 months prior to the request for waiver.

6. Offers and sales of securities which are exempted by this Rule may not be combined with offers and sales of securities exempted by any other Rule or section of the Act; however, nothing in this limitation

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shall act as an election. The issuer may claim the availability of any other applicable exemption should, for any reason, the securities or persons fail to comply with the conditions and limitations of this exemption.

7. In any proceeding involving this Rule, the burden of proving the exemption or any exception from a definition or condition is upon the person claiming it.

B. The exemption authorized by this Rule shall be known and may be cited as the "Uniform Limited Offering Exemption."

* * *

Rule 504. NASDAQ/National Market System Exemption.

In accordance with Virginia Code § 13.1-514(a)(13), any security designated on the National Association of Securities Dealers Automated Quotations National Market System (NASDAQ/National Market System) is exempt from the securities registration requirements of the Act if the system has at least the following criteria are met :

1. The issuer has a class of securities currently registered under Section 12 of the Securities Exchange Act of 1934 or in the case of an American Depository Receipt issued against the equity securities of a foreign issuer, such equity securities are registered pursuant to Section 12 of the Act.

2. The issuer, or in the case of an American Depository Receipt, the foreign issuer of the underlying equity securities, has been subject to the reporting requirements of Section 13 of the Securities Exchange Act of 1934 for the preceding 180 days and is current in its filings.

3. The National Association of Securities Dealers (NASD) shall require at least the following standards to be met for designation of securities of an issuer on the quotation system:

	<u>Alt. No. 1</u>	<u>Alt. No. 2</u>
Net Tangible Assets ¹	\$4,000,000	\$12,000,000
Public Float	500,000	1,000,000
Pre-Tax Income	750,000	--
Net Income	400,000	--
Shareholders ²	800/400	800/400
Market Value of Float	3,000,000	15,000,000
Minimum Bid	\$5/Share	--
Operating History	--	3 Years

The rules of the NASD shall require at least two authorized market makers for each issuer.

¹ "Net Tangible Assets" is defined for purposes of this Rule to include the value of patents, copyrights, and

trademarks but to exclude the value of good will.

² The minimum number of shareholders under each alternative is 800 for companies with 500,000 to 1,000,000 shares publicly held and 400 for companies with over 500,000 shares publicly held and daily trading volume in excess of 2,000 shares per day for six months.

4. The NASD shall require at least the following minimum corporate governance standards for its domestic issuers :

a. Distribution of Annual and Interim Reports.

i. Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with the NASD at the time it is distributed to shareholders.

ii. Each issuer which is subject to SEC Rule 13a-13 shall make available to shareholders copies of quarterly reports including statements of operating results either prior to or as soon as practicable following the company's filing its Form 10-Q with the SEC. If the form of such quarterly report differs from the Form 10-Q, both the quarterly report and the Form 10-Q shall be filed with the NASD. The statement of operations contained in quarterly reports shall disclose, as a minimum, any substantial items of an unusual or nonrecurrent nature, net income, and the amount of estimated federal taxes.

iii. Each issuer which is not subject to SEC Rule 13a-13 and which is required to file with the SEC or another federal or state regulatory authority interim reports relating primarily to operations and financial position shall ~~distribute~~ *make available* to shareholders reports which reflect the information contained in those interim reports. Such reports shall be ~~distributed~~ *made available* to shareholders either before or as soon as practicable following filing with the appropriate regulatory authority. If the form of the interim report ~~provided~~ *made available* to shareholders differs from that filed with the regulatory authority, both the report to shareholders and the report to the regulatory authority shall be filed with the NASD.

b. Independent Directors. Each issuer shall maintain a minimum of two independent directors on its board of directors. For purposes of this section, "independent director" shall mean a person other than an officer or employee of the issuer or its subsidiaries or any other individual having a relationship which, in the opinion of the board of

directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

c. Audit Committee. Each issuer shall establish and maintain an audit committee, a majority of the members of which shall be independent directors.

d. Shareholder Meetings. Each issuer shall hold an annual meeting of shareholders and shall provide notice of such meeting to the NASD.

e. Quorum. Each issuer shall provide for a quorum as specified in its by-laws for any meeting of the holders of common stock; provided, however, that in no case shall such quorum be less than 33 1/3% of the outstanding shares of the issuer's common voting stock.

f. Solicitation of Proxies. Each issuer shall solicit proxies and provide proxy statements for all meetings of shareholders and shall provide copies of such proxy solicitation to the NASD.

g. Conflicts of Interest. Each issuer shall conduct an appropriate review of all related party transactions on an ongoing basis and shall use the issuer's audit committee or a comparable body for the review of potential conflict of interest situations where appropriate.

h. Shareholder Approval Policy. Each issuer shall require shareholder approval of the issuance of securities in connection with the following:

i. Options plans or other special remuneration plans for directors, officers, or key employees.

ii. Actions resulting in a change in control of the issuer.

iii. The acquisition, direct or indirect, of a business, a company, tangible or intangible assets, or property or securities representing any such interests:

(1) From a director, officer, or substantial security holder of the issuer (including its subsidiaries and affiliates), or from any company or party in which one of such persons has a direct or indirect interest;

(2) Where the present or potential issuance of common stock or securities convertible into common stock could result in an increase in outstanding common shares of 25% or more.

5. Voting Rights.

a. The NASD rules shall provide that no rule, stated policy, practice, or interpretation shall permit the authorization for designation on the NASDAQ/National Market System (authorization), or

the continuance of the authorization, of any common stock or equity security of a United States domestic issuer if, on or after September 1, 1988, the issuer issues any class of security or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per-share voting rights of holders of all of an outstanding class or classes of common stock of such issuer registered pursuant to Section 12 of the Securities Exchange Act of 1934.

b. The following securities may be excluded from these voting rights requirements:

i. Any class of securities having a preference over the issuer's common stock as to dividends, interest payments, redemption, or payments in liquidation, if the voting rights of such securities only become effective as a result of specified events, not relating to an acquisition of the issuer's common stock, which reasonably can be expected to relate to the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

ii. Any class of securities created as part of a merger or acquisition or a recapitalization or modification of voting rights within an existing single class of voting equity security if such merger, acquisition, recapitalization, or modification receives prior approval by a majority of the votes eligible to be cast by the issuer's independent, disinterested directors¹ and by a majority of the votes eligible to be cast by the issuer's public shareholders.

iii. Any securities of an issuer distributed pro rata among the issuer's existing common stock shareholders.

¹ For those NASDAQ/National Market System issuers that do not currently have independent directors, an exception will be provided until such time as they are required to have independent directors, as provided by Schedule D Part III Section 5(J) of the NASD Manual. See paragraph 1812 CCH NASD Manual.

iv. Securities outstanding at the time an issuer first had a class of securities held by 500 shareholders.

v. Any class of securities issued through a public offering with voting rights not greater than the per-share voting rights of any outstanding class of the issuer's common stock.

d. The following terms shall have the following meanings for purposes of this Section, and the NASD rules shall include such definitions for purposes of the prohibition in paragraph a of this Section:

i. "Common stock" is any security of an issuer designated as common stock and any security of an

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issuer, however designated, which by its terms is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

ii. "Equity security" is any equity security defined as such pursuant to Rule 3a11-1 under the Securities Exchange Act of 1934 (17 C.F.R. Section 240.3a11-1 as amended or superseded).

iii. "Public shareholders" are beneficial owners of the issuer's voting equity securities who are not directors, officers, or members of their immediate families or their affiliates, or affiliates of the issuer.

a. The NASD rules shall provide as follows: No rule, stated policy, practice, or interpretation shall permit the authorization for designation on the NASDAQ/National Market System ("authorization"), or the continuance of authorization, of any common stock or other equity security of a domestic issuer, if, on or after July 1, 1989, the issuer of such security issues any class of security, or takes other corporate action, with the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock of such issuer registered pursuant to Section 12 of the Securities Exchange Act of 1934.

b. For the purposes of paragraph (a) of this Section, the following shall be presumed to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of an outstanding class or classes of common stock:

(1) Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial or record holder based on the number of shares held by such beneficial or record holder;

(2) Corporate action to impose any restriction on the voting power of shares of the common stock of the issuer held by a beneficial or record holder based on the length of time such shares have been held by such beneficial or record holder;

(3) Any issuance of securities through an exchange offer by the issuer for shares of an outstanding class of the common stock of the issuer, in which the securities issued have voting rights greater than or less than the per share voting rights of any outstanding class of the common stock of the issuer;

(4) Any issuance of securities pursuant to a stock dividend, or any other type of distribution of stock, in which the securities issued have voting rights

greater than the per share voting rights of any outstanding class of the common stock of the issuer.

c. For the purpose of paragraph (a) of this Section, the following, standing alone, shall be presumed not to have the effect of nullifying, restricting, or disparately reducing the per share voting rights of holders of an outstanding class or classes of common stock:

(1) The issuance of securities pursuant to an initial registered public offering;

(2) The issuance of any class of securities, through a registered public offering, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer;

(3) The issuance of any class of securities to effect a bona fide merger or acquisition, with voting rights not greater than the per share voting rights of any outstanding class of the common stock of the issuer;

(4) Corporate action taken pursuant to state law requiring a state's domestic corporation to condition the voting rights of a beneficial or record holder of a specified threshold percentage of the corporation's voting stock on the approval of the corporation's independent shareholders.

d. Definitions. The following terms shall have the following meanings for purposes of this Section, and the rules of the NASD shall include such definitions for the purposes of the prohibition in paragraph (a) of this Section:

(1) The term "common stock" shall include any security of an issuer designated as common stock and any security of an issuer, however designated, which, by statute or by its terms, is a common stock (e.g., a security which entitles the holders thereof to vote generally on matters submitted to the issuer's security holders for a vote).

(2) The term "equity security" shall include any equity security defined as such pursuant to Rule 3a11-1 under the Securities Exchange Act of 1934.

(3) The term "domestic issuer" shall mean an issuer that is not a "foreign private issuer" as defined in Rule 3b-4 under the Securities Exchange Act of 1934.

(4) The term "security" shall include any security defined as such pursuant to Section 3(a)(10) of the Securities Exchange Act of 1934, but shall exclude any class of security having a preference or priority over the issuer's common stock as to dividends,

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interest payments, redemption or payments in liquidation, if the voting rights of such securities only become effective as a result of specified events, not relating to an acquisition of the common stock of the issuer, which reasonably can be expected to jeopardize the issuer's financial ability to meet its payment obligations to the holders of that class of securities.

6. Maintenance Criteria. After authorization for designation of a security on the NASDAQ/National Market System, the issuer of such security must meet the following criteria in order for such designation to continue in effect:

- a. The issuer of the security has net tangible assets of at least:
 - i. \$2,000,000 if the issuer has sustained losses from continuing operations and/or net losses in two of its three most recent fiscal years; or
 - ii. \$4,000,000 if the issuer has sustained losses from continuing operations and/or net losses in three of its four most recent fiscal years;
- b. There are at least 200,000 publicly held shares;
- c. There are at least 400 shareholders or at least 300 shareholders of round lots;
- d. The aggregate market value of publicly held shares is at least \$1,000,000 ; or .
- e. ~~The issuer has complied with all NASD policies and procedures relating to the maintenance criteria for the NASDAQ/National Market System exemption.~~

7. The Commission may vacate this order pursuant to its authority under section 13.1-523, thereby revoking this rule, if the Commission determines that the requirements of the NASDAQ/National Market System have been so changed or insufficiently applied so that the protection of investors is no longer afforded.

8. The Commission shall have the authority to deny or revoke the exemption created by this Rule as to a specific issue or category of securities.

9. The NASD shall promptly notify the Commission when an issue of securities is removed from NASDAQ/National Market System designation.

* * *

ARTICLE VII. REPORTS.

Rule 700. Registrants whose securities are registered pursuant to Code Section 13.1-509 must file any amended

prospectus that is filed with the Securities and Exchange Commission.

Rule 701. Registrants whose securities are registered pursuant to Code §§ 13.1-508 and 13.1-510 must file the following reports:

A. A report of any material changes regarding the issuer or the terms of the offering.

B. A copy of the issuer's unaudited financial statements for the period beginning on the date of the certified balance sheet or the certified financial statements and ending on such a date as the Commission may require.

C. The reports must be filed six months after the registration statement is effective and continue to be filed at six month intervals so long as the registration statement remains effective.

D. The issuer may incorporate the reports into the prospectus being utilized and submit the document to the Commission.

E. *Registrants whose securities are registered pursuant to Rule 403 are exempt from compliance with this Rule 701.*

* * *

ARTICLE X. INVESTMENT ADVISOR REGISTRATION, EXPIRATION, RENEWAL, UPDATES AND AMENDMENTS, TERMINATION AND MERGER OR CONSOLIDATION.

Rule 1003. Updates and Amendments.

A. An investment advisor shall update its Form ADV as required by the "Updating" provisions of Item 7 of Form ADV Instructions and shall file all such information with the Commission at its Division of Securities and Retail Franchising.

B. *An investment advisor shall file the balance sheet as prescribed by Part II, Item 14 of Form ADV, unless excluded from such requirement, with the Commission at its Division of Securities and Retail Franchising within 90 days of the investment advisor's fiscal year end.*

* * *

Rule 1106. Examination/Qualification.

An individual applying for registration as an investment advisor representative on or after July 1, 1989, shall be required to provide evidence of passing the Uniform Investment Adviser Law Examination, Series 65, with a minimum grade of 70%.

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ARTICLE XII. INVESTMENT ADVISOR AND INVESTMENT ADVISOR REPRESENTATIVE REGULATIONS.

Rule 1202. Record-Keeping Requirements for Investment Advisors.

A. Every investment advisor registered or required to be registered under the Act shall make and keep *current* the following books, ledgers and records:

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entities in any ledger.
2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.
3. A memorandum of each order given by the investment advisor for the purchase or sale of any security, of any instruction received by the investment advisor from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. Such memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment advisor who recommended the transaction to the client and the person who placed such order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.
4. All check books, bank statements, cancelled checks and cash reconciliations of the investment advisor.
5. All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment advisor as such.
6. All trial balances, financial statements, and internal audit working papers relating to the business of such investment advisor.
7. Originals of all written communications received and copies of all written communications sent by such investment advisor relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, and (iii) the placing or execution of any order to purchase or sell any security; provided, however, (a) that the investment advisor shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment advisor, and (b) that if the investment advisor sends any notice, circular or other

advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment advisor shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if such notice, circular or advertisement is distributed to persons named on any list, the investment advisor shall retain with a copy of such notice, circular or advertisement a memorandum describing the list and the source thereof.

8. A list or other record of all accounts in which the investment advisor is vested with any discretionary power with respect to the funds, securities or transactions of any client.
9. All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment advisor, or copies thereof.
10. All written agreements (or copies thereof) entered into by the investment advisor with any client or otherwise relating to the business of such investment advisor as such.
11. (a) A copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication recommending the purchase or sale of a specific security, which the investment advisor circulates or distributes, directly or indirectly, to 10 or more persons (other than investment advisory clients or persons connected with such investment advisor), and if such notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication does not state the reasons for such recommendation, a memorandum of the investment advisor indicating the reasons therefor.

(b) All of their advertisements and all records, worksheets, and calculations necessary to form the basis for performance data in their advertisements.
12. (a) A record of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the

investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(b) An investment advisor shall not be deemed to have violated the provisions of this paragraph 12 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

13. (a) Notwithstanding the provisions of paragraph 12 above, where the investment advisor is primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients, a record must be maintained of every transaction in a security in which the investment advisor or any investment advisor representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisor representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. Such record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. Such record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisor representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(b) An investment advisor is "primarily engaged in a business or businesses other than advising registered investment companies or other advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment advisor derived, on an unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

(c) An investment advisor shall not be deemed to have violated the provisions of this paragraph 13 because of his failure to record securities

transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

14. A copy of each written statement and each amendment or revision thereof, given or sent to any client or prospective client of such investment advisor in accordance with the provisions of Rule 1205 and a record of the dates that each written statement, and each amendment or revision thereof, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

B. If an investment advisor subject to subsection A of this Rule has custody or possession of securities or funds of any client, the records required to be made and kept under subsection A above shall include:

1. A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to such accounts.

2. A separate ledger account for each such client showing all purchases, sales, receipts and deliveries of securities, the date and price of each such purchase and sale, and all debits and credits.

3. Copies of confirmations of all transactions effected by or for the account of any such client.

4. A record for each security in which any such client has a position, which record shall show the name of each such client having any interest in each security, the amount or interest of each such client, and the location of each such security.

C. Every investment advisor subject to subsection A of this rule who renders any investment advisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment advisor, make and keep true, accurate and current:

1. Records showing separately for each such client the securities purchased and sold, and the date, amount and price of each such purchase and sale.

2. For each security in which any such client has a current position, information from which the investment advisor can promptly furnish the name of each such client, and the current amount or interest of such client.

D. Any books or records required by this rule may be maintained by the investment advisor in such manner that the identity of any client to whom such investment advisor renders investment advisory services is indicated by

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numerical or alphabetical code or some similar designation.

E. 1. All books and records required to be made under the provisions of subsections A to C.1, inclusive, of this Rule shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such record, the first two years of such period in the office of the investment advisor.

2. Partnership articles and any amendments thereto, articles of incorporation, charters, minute books, and stock certificate books of the investment advisor and of any predecessor, shall be maintained in the principal office of the investment advisor and preserved until at least three years after termination of the enterprise.

F. An investment advisor subject to subsection A of this Rule, before ceasing to conduct or discontinuing business as an investment advisor shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Rule for the remainder of the period specified in this Rule, and shall notify the Commission in writing of the exact address where such books and records will be maintained during such period.

G. All books, records or other documents required to be maintained and preserved under this Rule may be stored on microfilm, microfiche, or an electronic data processing system or similar system utilizing an internal memory device provided a printed copy of any such record is immediately accessible.

H. Any book or record made, kept, maintained, and preserved in compliance with SEC Rules 17a-3 [17 C.F.R. 240.17a-3] and 17a-4 [17 C.F.R. 240.17a-4] under the Securities Exchange Act of 1934, which is substantially the same as the book, or other record required to be made, kept, maintained, and preserved under this Rule shall be deemed to be made, kept, maintained, and preserved in compliance with this Rule.

* * *

ARTICLE XII. INVESTMENT ADVISOR AND INVESTMENT ADVISOR REPRESENTATIVE REGULATIONS.

Rule 1206. Dishonest or Unethical Practices.

I. An investment advisor is a fiduciary and has a duty to act primarily for the benefit of its clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor and its clients and the circumstances of each case, an investment advisor shall not engage in unethical practices, including the following:

A. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor after reasonable examination of the client's financial records.

B. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

C. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

D. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

E. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

F. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor, or a financial institution engaged in the business of loaning funds or securities.

G. Loaning money to a client unless the investment advisor is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment advisor.

H. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

I. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor without disclosing that fact. This prohibition does not apply to a situation where the advisor uses published research reports or statistical analyses to render advice or where an advisor orders such a report in the normal course of providing service.

J. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisors providing essentially the same services.

K. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

1. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

2. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the advisor or its employees.

L. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

M. Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940.

N. Disclosing the identity, affairs, or investments of any client to any third party unless required by law to do so, or unless consented to by the client.

O. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor has custody or possession of such securities or funds, when the investment advisor's action is subject to and does not comply with the safekeeping requirements of Rule 1200.

P. Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor and that no assignment of such contract shall be made by the investment advisor without the consent of the other party to the contract.

The conduct set forth above is not inclusive. Engaging in other conduct such as non-disclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice.

II. An investment advisor representative is a fiduciary and has a duty to act primarily for the benefit of his/her clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor representative and his/her clients and the circumstances of each case, an investment advisor representative shall not engage in unethical practices, including the following:

A. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor representative after reasonable examination of the client's financial records.

B. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

C. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

D. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

E. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

F. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor representative, or a financial institution engaged in the business of loaning funds or securities.

G. Loaning money to a client unless the investment advisor representative is engaged in the business of loaning funds or the client is an affiliate of the investment advisor representative.

H. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

I. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor who the investment advisor representative is employed by or associated with without disclosing that fact. This prohibition does not apply to a situation where the investment advisor uses published

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research reports or statistical analyses to render advice or where an investment advisor orders such a report in the normal course of providing service.

J. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisor representatives providing essentially the same services.

K. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor representative which could reasonably be expected to impair the rendering of unbiased and objective advice including:

1. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and

2. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment advisor representative.

L. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

M. Publishing, circulating or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisors Act of 1940.

N. Disclosing the identity, affairs, or investments of any client to any third party unless required by law to do so, or unless consented to by the client.

O. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor representative has custody or possession of such securities or funds, when the investment advisor representative's action is subject to and does not comply with the safekeeping requirements of Rule 1200.

P. Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor representative and that no assignment of such contract shall be made by the investment advisor representative without the consent of the other party to the contract.

The conduct set forth above is not inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice.

* * * * *

Bureau of Insurance

March 29, 1989

Administrative Letter 1989-4

TO: All Companies Licensed to Write Automobile Insurance In Virginia

RE: VA CP-19 (7/89) and VA CP-20 (7/89) 1989 Virginia Auto Insurance Consumer's Guide

Effective July 1, 1989, pursuant to House Bill No. 73, Virginia's Minimum Financial Responsibility Laws (found in Title 46.2, Article 17, § 46.2-472 formerly § 46.1-504 of Title 46.1), are changed as follows:

The Property Damage Liability Split Limit is increased from \$10,000 to \$20,000.

The Bodily Injury Liability Split Limit of \$25,000/\$50,000 remains unchanged.

The \$60,000 minimum Combined Single Limit of Liability is increased to \$70,000.

As a result of the changes to § 46.2-472, the minimum Uninsured Motorists limits are changed as follows:

The Property Damage Uninsured Motorists Split Limit is increased from \$10,000 to \$20,000.

The Bodily Injury Uninsured Motorists Split Limit of \$25,000/\$50,000 remains unchanged.

The \$60,000 minimum Combined Single Limit Uninsured Motorists Limit is increased to \$70,000.

Attached are amended Competitive Pricing forms VA CP-19 (7/89) and VA CP-20 (7/89). The forms should be reproduced for future use since they are required to be completed and filed with the Bureau of Insurance on all private passenger automobile rate filings.

The Bureau of Insurance is in the process updating the Virginia Auto Insurance Consumer's Guide which includes a Sample Automobile Insurance Rate Table. All companies writing private passenger automobile insurance must submit a Revised Competitive Pricing form for use with Consumer's Guide. Due to time constraints, the revised form must reflect rates in effect as of April 1, 1989, as well as accommodate the changes displayed on the amended Competitive Pricing forms VA CP-19 (7/89) and VA CP-20 (7/89). For the purposes of calculating these revised Competitive Pricing forms, refer to Exhibit I which displays appropriate Uninsured Motorists rates for private passenger automobiles.

THESE REVISED FORMS, ALONG WITH THE ENCLOSED TRANSMITTAL FORM, MUST BE SUBMITTED ON OR BEFORE MAY 1, 1989.

Insurers should review their rate filing to determine if there is a need to amend their personal and commercial rates accordingly. If an insurer is a member/subscriber of a Rate Service Organization and has authorized the Rate Service Organization to file rules on its behalf, the insurer does not need to make an independent filing.

/s/ Steven T. Foster
Commissioner of Insurance

Exhibit I

Private Passenger
Uninsured Motorists Rates

Transmittal Form

Date: _____

* Rates Effective: _____

Company Name: _____

NAIC No.: _____

RE: VA CP-19 (7/89) and VA CP-20 (7/89)
1989 Virginia Auto Insurance Consumer's Guide

Please return the completed VA CP-19 (7/89) and/or VA CP-20
(7/89) NO LATER THAN MAY 1, 1989 to:

JoAnne Goodman Scott
Principal Research Analyst
Bureau of Insurance
State Corporation Commission
P. O. Box 1157
Richmond, VA 23209
(804) 786-4600

* Use the effective date of your rates currently on file with the
Bureau of Insurance.

The Uninsured Motorists rates for limits of liability of
\$25,000/50,000 bodily injury and \$20,000 property damage are:

\$17.00	First Automobile
\$15.00	Each Additional Automobile

The Uninsured Motorists rates for a single limit of liability of
\$70,000 are:

\$16.50	First Automobile
\$14.50	Each Additional Automobile

State Corporation Commission

Company DOES DOES NOT write Special Package Automobile Policy
 (line out Inapplicable phrase)
 COMPANY
 VIRGINIA SPECIAL PASSENGER AUTOMOBILE POLICY INSURANCE RATES
 RATES EFFECTIVE

TERRITORY AND CLASSIFICATION	SPECIAL PACKAGE AUTOMOBILE POLICY	UNINSURED MOTORISTS	COMPREHENSIVE	COLLISION	TOTAL
<u>Alexandria</u>					
Married Adult-Age 45					
Unmarried Male-Age 20					
Unmarried Female-Age 20					
<u>Norfolk</u>					
Married Adult-Age 45					
Unmarried Male-Age 20					
Unmarried Female-Age 20					
<u>Richmond</u>					
Married Adult-Age 45					
Unmarried Male-Age 20					
Unmarried Female-Age 20					
<u>Roanoke</u>					
Married Adult-Age 45					
Unmarried Male-Age 20					
Unmarried Female-Age 20					
<u>Charlotte County</u>					
Married Adult-Age 45					
Unmarried Male-Age 20					
Unmarried Female-Age 20					

(See Reverse Hereof for Instructions)
 (Complete both sides)

VA CP-19 (7/89)

INSTRUCTIONS:

Report ANNUAL rates for minimum Special Package Automobile Policy liability coverage, including uninsured motorists coverage, required by Virginia's financial responsibility laws. SPAP=\$70,000 Single Limit with \$2,000 Medical Services and \$1,000 Death Benefit. Uninsured Motorists coverage at minimum limits. Report ANNUAL Special Package Automobile Policy physical damage rates for a new, standard performance intermediate class car (Symbol 8, Age Group 1), with Bumper Discount, where applicable. Report Comprehensive rates with a \$50 deductible. Report Collision rates with a \$100 deductible.

Report rates for risks who are owners or principal operators, who are accident and conviction free for the preceding three years, who have had driver training, who do not use their vehicles for business, who drive 9,000 miles a year, and who drive to or from work 9 miles each way. Also report married adult rates for a risk whose vehicle is customarily operated by no one other than the Insured or spouse. Do not apply any other rating rules or procedures.

Include, by separate attachment, an example of the method of calculation used to compute these rates. The example should include all the steps necessary to compute the final premium, such as rounding, application of factors, etc.

Note: If company did not provide the specific coverage requested, please clearly note this fact and report the rate charged for the policy most nearly comparable to the one for which rate data is requested. For example, if the company does not offer a \$50 deductible comprehensive, report your rates for the most comparable deductible.

Form completed by: _____ Signature _____ Date Completed: _____
 _____ Title _____ Phone: _____

VA CP-19 (7/89)

State Corporation Commission

COMPANY
 VIRGINIA PRIVATE PASSENGER AUTOMOBILE INSURANCE RATES
 RATES EFFECTIVE

TERRITORY AND
 CLASSIFICATION

<u>Alexandria</u>	<u>Bodily Injury</u>	<u>Property Damage</u>	<u>Medical Payments</u>	<u>Uninsured Motorists</u>	<u>Comprehensive</u>	<u>Collision</u>	<u>Total</u>
Married Adult-Age 45							
Unmarried Male-Age 20							
Unmarried Female-Age 20							
<u>Norfolk</u>							
Married Adult-Age 45							
Unmarried Male-Age 20							
Unmarried Female-Age 20							
<u>Richmond</u>							
Married Adult-Age 45							
Unmarried Male-Age 20							
Unmarried Female-Age 20							
<u>Rosnoke</u>							
Married Adult-Age 45							
Unmarried Male-Age 20							
Unmarried Female-Age 20							
<u>Charlotte County</u>							
Married Adult-Age 45							
Unmarried Male-Age 20							
Unmarried Female-Age 20							

(See Reverse Hereof for Instructions)
 (Complete both sides)

VA CP-20 (7/89)

INSTRUCTIONS:

Report ANNUAL rates for minimum liability coverage, including uninsured motorists coverage, required by Virginia's financial responsibility laws. Bodily injury limits of \$25,000/\$50,000. Property Damage limits of \$20,000. Uninsured Motorists coverage at minimum limits. Medical Payments coverage of \$500. Report ANNUAL physical damage rates on a new, standard performance intermediate class car (Symbol 8, Age Group 1) with Bumper Discount, where applicable. Report comprehensive rates with a \$50 deductible. Report Collision rates with a \$100 deductible.

Report rates for risks who are owners or principal operators, who are accident and conviction free for the preceding three years, who have had driver training, who do not use their vehicles for business, who drive 9,000 miles a year, and who drive to or from work 9 miles each way. Also report married adult rates for a risk whose vehicle is customarily operated by no one other than the insured or spouse. Do not apply any other rating rules or procedures.

Include, by separate attachment, an example of the method of calculation used to compute these rates. The example should include all the steps necessary to compute the final premium, such as rounding, application of factors, etc.

Note: If company did not provide the specific coverage requested, please clearly note this fact and report the rate charged for the policy most nearly comparable to the one for which rate data is requested. For example, if the company does not offer a \$50 deductible comprehensive or split limit coverage, report your rates for the most comparable deductible or limit.

Form completed by: _____ Signature Date Completed: _____
 _____ Title Phone: _____

VA CP-20 (7/89)

March 31, 1989

Administrative Letter 1989-5

TO: All Licensed Insurance Companies

RE: Insurance Company Expenses

It is the position of the State Corporation Commission Bureau of Insurance that one time non-repetitive expenses may not be recouped in prospective rate filings. Virginia Code Section 38.2-1904 prescribes that only expenses relevant to business conducted in the Commonwealth may be utilized in developing rates. In the event that a company's Virginia specific data is insufficient, countrywide, regional or other state data, or a credible estimate of the expenses for conducting such business is allowed.

The cost of the lobbying efforts in the recent California initiatives, for example, clearly does not belong in the Virginia rate making process. To ensure that such expenses are not included in Virginia rates, each insurer should be prepared to indicate the method by which such costs have been excluded from the rate making process and the specific dollar amounts being excluded in developing the proposed rates for use in the Commonwealth.

Please acknowledge your receipt and intent to comply with the terms of this letter by having an appropriate company officer sign below. Return the signed form to JoAnne G. Scott, Bureau of Insurance, Box 1157, Richmond, Virginia 23209. A separate form must be returned for each insurer.

Signed:

Print Name:

Title:

Insurer:

NAIC No.:

Date:

/s/ Steven T. Foster
Commissioner of Insurance

GOVERNOR

PROCLAMATION

In accordance with the provisions of Section 6 of Article IV and Section 5 of Article V of the Constitution, which empower the Governor to convene a special session of the General Assembly when, in his opinion, the interest of the Commonwealth may require;

I, **Gerald L. Baliles, Governor of Virginia**, do hereby summon the members of the Senate and House of Delegates, constituting the General Assembly of Virginia, to meet in special session in their respective chambers in the Capitol at Richmond at twelve o'clock noon on Monday, the twenty-fourth day of April, 1989, for the purpose of considering legislation which I shall propose.

Given under my hand and under the lesser seal of the Commonwealth, at Richmond, this 14th day of April, in the year of our Lord, one thousand nine hundred eighty-nine, and in the two hundred and thirteenth year of the Commonwealth.

/s/ Gerald L. Baliles
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-03-2.6150. Burial Exclusion: State Plan for Medical Assistance.**

Governor's Comment:

This proposal is well-written and adequately documented. I have no objection to the proposed regulations. My final assessment will be contingent upon a review of the comments from the public received during the comment period.

/s/ Gerald L. Baliles
Date: April 17, 1989

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

Title of Regulation: **VR 647-01-01. Public Participation Guidelines.**

Governor's Comment:

I have no substantive objection to the proposed public participation guidelines as presented. I would, however, request that the Commission: (1) adopt the clarifications of the guidelines recently recommended by the Department

of Planning and Budget; and (2) utilize these procedures fully in the development of VASAP policies and procedures that it is currently undertaking.

/s/ Gerald L. Baliles
Date: April 13, 1989

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider promulgating, amending or repealing regulations entitled: **VR 125-01-1 through VR 125-01-7. Regulations of the Virginia Alcoholic Beverage Control Board.** The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending or repealing the board's regulations.

Notice to the Public

Pursuant to its Public Participation Guidelines contained in § 5.1 of VR 125-01-1, the board intends to consider proposals to amend, repeal or develop regulations as set forth below and will conduct a public meeting on such proposals as indicated below:

1. § 1.3 of VR 125-01-1 - Hearings Before Hearing Officers/Attorneys.

a. Subject of Proposal - To eliminate the requirement that a corporation must be represented by an attorney at an initial hearing with respect to matters involving legal conclusions, examination of witnesses, preparation of briefs or pleadings.

b. Entities Affected - Manufacturers, bottlers, importers, wholesalers and retail licensees.

c. Purpose of Proposal - To comply with HB1203 which will become law on July 1, 1989.

d. Issues Involved - The amendment ensures that the regulation does not conflict with statutory law.

e. Applicable Laws or Regulations - §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b) and Chapter 1.1:1 (§§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

2. § 2.2 of VR 125-01-1 - Hearings Before the Board/Attorneys.

a. Subject of Proposal - To eliminate the requirement that a corporation must be represented by an attorney at an appeal hearing with respect to matters involving legal conclusions, examination of witnesses or preparation of briefs or pleadings.

b. Entities Affected - Manufacturers, bottlers, importers, wholesalers and retail licensees.

c. Purpose of Proposal - To comply with HB1203 which will become law on July 1, 1989.

d. Issues Involved - The amendment ensures that the regulation does not conflict with statutory law.

e. Applicable Laws or Regulations - §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b) and Chapter 1.1:1 (§§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

3. § 3.1 of VR 125-01-1 - Wine and Beer Franchise Act/Complaint.

a. Subject of Proposal - To provide correct statutory citations.

b. Entities Affected - Manufacturers, importers and wholesalers of wine.

c. Purpose of Proposal - To change references from Chapter 2.2 (which was repealed February 18, 1989) of Title 4 of the Code to Chapter 2.3.

d. Issues Involved - To comply with Chapter 2.3 of Title 4.

e. Applicable Laws or Regulations - §§ 4-7(j), (k) and (l), 4-10, 4-11(a), Chapter 2.1 (§§ 4-118.3 et seq.), Chapter 2.3 (§§ 4-118.42 et seq.) of Title 4 and Chapter 1.1:1 (§§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

4. § 2 of VR 125-01-2 - Advertising; Interior; Retail Licensees; Show Windows.

a. Subject of Proposal - To permit the interior advertisement of alcoholic beverages by the retail licensee through the use of printed paper and cardboard matter which is obtained from sources other than manufacturers, bottlers or wholesalers; to provide the correct regulation citation.

b. Entities Affected - Retail licensees; all licensees of the board.

c. Purpose of Proposal - To allow more interior advertising; to change § 9 F of VR 125-01-3 to § 8 F of VR 125-01-3.

d. Issues Involved - The amount of interior advertising to be permitted in retail establishments;

General Notices/Errata

this amendment ensures that the correct regulation subsection is cited.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-60(i), 4-69, 4-69.2, 4-98.10(w) and 4-98.14 of the Code of Virginia.

5. **§ 6 of VR 125-01-2** - Advertising; Novelties and Specialties.

a. **Subject of Proposal** - To cite the correct regulation subsection.

b. **Entities Affected** - All licensees of the board.

c. **Purpose of Proposal** - To change § 9 F of VR 125-01-3 to § 8 F of VR 125-01-3.

d. **Issues Involved** - This amendment ensures that the correct regulation subsection is cited.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-98.10(w) and 4-98.14 of the Code of Virginia.

6. **§ 8 of VR 125-01-3** - Inducement to Retailers; Tapping Equipment, Bottle or Can Openers; Banquet Licensees; Cut Case Cards; Clip-Ons and Table Tents.

a. **Subject of Proposal** - To allow the sale of ice and the cleaning and servicing of equipment as currently specified in § 4-79 (c) and (e) of the Code of Virginia.

b. **Entities Affected** - Manufacturers, bottlers, importers, wholesalers and retail licensees.

c. **Purpose of Proposal** - To include all exceptions to §§ 4-79 and 4-79.1 in the regulations.

d. **Issues Involved** - This amendment ensures that the regulations cover all exceptions to §§ 4-79 and 4-79.1 of the Code of Virginia.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69.2, 4-79(f) and (h), 4-79.1 and 4-98.14 of the Code of Virginia.

7. **§ 16 of VR 125-01-5** - Happy Hour and Related Promotions; Definitions; Exceptions.

a. **Subject of Proposal** - To limit the amount of alcoholic beverages (1 1/2 oz. of distilled spirits, 5 oz. of wine, or 12 oz. of beer) that may be served in a drink during happy hour.

b. **Entities Affected** - Retail licensees and the general public.

c. **Purpose of Proposal** - To treat all alcoholic beverages the same. Presently there are greater

restrictions on distilled spirits than on wine and beer. The misconception has been, and continues, that wine and beer are safer products than distilled spirits. A 12 ounce serving of beer has the same alcohol content as 1 1/2 ounces of 80 proof liquor or a 5 ounce glass of wine.

Some establishments are presently circumventing the intent of the A.B.C. regulations to limit drinks to two per customer at any one time. These establishments are serving beer in 32 ounce glasses.

d. **Issues Involved** - Establishing specified serving sizes for alcoholic beverage drinks during Happy Hour.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-69, 4-69.2, 4-98.10, 4-98.14 and 4-103(b) of the Code of Virginia.

f. Submitted by the Tidewater Council on Alcoholism.

8. **§ 9 of VR 125-01-7** - Records to be kept by Licensees Generally, Additional Requirements for Certain Retailers; "Sale" and "Sell" Defined; Gross Receipts; Reports.

a. **Subject of Proposal** - To change licensee record keeping requirements for beer and 3.2 beverages to two years.

b. **Entities Affected** - Manufacturers, bottlers, importers, wholesalers and retailers of beer and 3.2 beverages.

c. **Purpose of Proposal** - To comply with § 4-136 of the Code of Virginia.

d. **Issues Involved** - The amendment ensures that the regulation is not in conflict with statutory law.

e. **Applicable Laws or Regulations** - §§ 4-7(1), 4-11(a), 4-44, 4-98.6, 4-98.7, 4-98.14 and 4-103(b) of the Code of Virginia.

9. **§ 13 of VR 125-01-7** - Special Mixed Beverage Licensees; Locations; Special Privileges; Taxes on Licenses.

a. **Subject of Proposal** - To permit the 45% sales figure for special mixed beverage licensees to be determined by reference to the combined sales of all places primarily engaged in the sale of meals within the same structure.

b. **Entities Affected** - All special mixed beverage licensees with retail establishments located on United States owned property which is used as a port of entry or egress to and from the United States.

c. **Purpose of Proposal** - To accommodate the Metropolitan Washington Airports Authority.

d. **Issues Involved** - How the 45% sales figure should be determined.

e. **Applicable Laws or Regulations** - §§ 4-98.2, 4-98.14 and 7.1-21.1 of the Code of Virginia.

10. Regulations are adopted by the board pursuant to authority contained in §§ 4-7(1), 4-11(a), 4-98.14, 4-103(b), 4-6.14 and 9-6.4:1 et seq. of Title 9 of the Code of Virginia.

11. The board requests that all persons interested in the above described subjects please submit comments in writing by **10 a.m. May 25, 1989, to the undersigned, P.O. Box 27491, Richmond, Virginia 23216** or attend the public meeting scheduled below.

12. The board will hold a public meeting and receive the comments or suggestions of the public on the above subjects. The board may also consider any other proposals that may be presented at the public meeting. The meeting will be in the First Floor Hearing Room at 2901 Hermitage Road, Richmond, Virginia, at 10 a.m. on May 25, 1989.

13. Regarding the proposals as set forth above, all references to existing regulations that may be the subject of amendment or repeal, all references to proposed numbers for new regulations or to applicable laws or regulations are for purposes of information and guidance only, and are not to be considered as the only regulations or laws that may be involved or affected when developing draft language to carry-out the purposes of any proposal. This notice is designed, primarily, to set forth the subject matter and objectives of each proposal. In developing draft language, it may be necessary to amend or repeal a number or existing regulations and/or adopt new regulations as may be deemed necessary by the board, and the references set forth above are not intended to be all inclusive.

Statutory Authority: §§ 4-7(1), 4-11, 4-36, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103(b) and 9-6.14:1 et seq. of the Code of Virginia.

Written comments may be submitted until 10 a.m., May 25, 1989.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0616 or SCATS 367-0616

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 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.

General Notices/Errata

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)

DEPARTMENT OF LABOR AND INDUSTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Labor and Industry intends to consider promulgating regulations entitled: **Local Government Certification of Boiler and Pressure Vessel Operators.** The purpose of the proposed regulations is to establish standards for certification to be used by local jurisdictions in evaluating the ability, proficiency and qualifications of boiler and pressure vessel operators.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Written comments may be submitted until June 8, 1989.

Contact: John J. Crisanti, Policy Analyst, Division of Planning and Policy Analysis, Department of Labor and Industry, 205 N. Fourth St., P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

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 amending regulations entitled: **Covered Nutrition Providers.** The purpose of the proposed action is to expand the qualifications that dietitians may have to enroll as service providers of Expanded Prenatal Care Services.

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

Written comments may be submitted until 4:30 p.m. on May 22, 1989, to David Austin, Manager, Division of Health Services Review, 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 amending regulations entitled: **Nursing Home Interest Rate Upper Limit Modification.** The purpose of the proposed action is to modify the standard used for interest rate upper limits.

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

Written comments may be submitted until 4:30 p.m. on May 22, 1989, to William Blakely, Acting Director, Division of Provider Reimbursement, 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 amending regulations entitled: **Nursing Home Rent/Leases.** The purpose of the proposed action is to promulgate existing policies as regulation.

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

Written comments may be submitted until 4:30 p.m., May 12, 1989, to Norma Pappas, Division of Provider Reimbursement, 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 rulemaking; 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: Eugina K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, VA 23229-5005, telephone (804) 662-9925

Notice of Intended Regulatory

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 464-04-01. Regulations Governing the Practice of**

Respiratory Therapy Practitioner. The purpose of the proposed regulations is to promulgate the regulations for the certification of respiratory therapy practitioners issued on December 2, 1985, as emergency regulations.

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

Written comments may be submitted until 2 p.m., May 24, 1989.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing intends to consider amending regulations entitled: **VR 495-01-1. Board of Nursing Regulations.** The purpose of the proposed action is to prescribe minimum standards for programs that entitle professional nurses to be registered as clinical nurse specialist and amend regulations to provide for other aspects of a registry of clinical nurse specialists as provided in the 1989 amendment to § 54.1-3005 of the Code of Virginia.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until May 24, 1989.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

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 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.

General Notices/Errata

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)

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.

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

GENERAL NOTICES

DEPARTMENT FOR THE AGING

† General Notice

Notice of Public Comment Period on 1989-91 State Plan for Aging Services

Notice is hereby given that the Department for the Aging will accept comments on the proposed State Plan for Aging Services developed pursuant to Title III of the Older Americans Act, as amended. Interested persons may submit data, views, and arguments, either orally or in writing, to the department.

The State Plan for Aging Services will (i) identify the Virginia Department for the Aging as the sole state agency designated to develop and administer Title III programs in Virginia; (ii) identify the geographic boundaries of each Planning and Service Area in Virginia and the Area Agency on Aging designated for each Planning and Service Area; (iii) include a plan for the distribution and proposed use of Title III funds within Virginia; (iv) set forth statewide program objectives to implement the requirements of Title III; and (v) provide prior federal fiscal year information related to low-income minority and rural older persons in Virginia. The Plan is for the two-year period from October 1, 1989, through September 30, 1991. The department anticipates submitting the Plan to the federal Administration on Aging in August, 1989.

Five public hearings will be held on the Plan. Persons who testify at the hearings are encouraged to provide a written copy of their comments to the hearing officer. An interpreter for the hard-of-hearing will be provided upon request.

July 11, 1989
J. Sargeant Reynolds Community College
1651 Parham Road
Richmond, Virginia
7 p.m. - 9 p.m.

July 12, 1989
Norfolk State University
2401 Corprew Avenue
Norfolk, Virginia
7 p.m. - 9 p.m.

July 14, 1989
Northern Virginia Community College
6901 Sudley Road
Manassas, Virginia
10 a.m. - 12 p.m.

July 18, 1989
Virginia Highlands Community College
Room 605
Abingdon, Virginia
10 a.m. - 12 p.m.

July 19, 1989
Central Virginia Community College
3506 Wards Road South
Lynchburg, Virginia
10 a.m. - 12 p.m.

Written comments on the Plan may be submitted until 5 p.m. on July 21, 1989. Comments should be sent to: Mr. E. H. Spindle, Fiscal Director, Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219-2327.

To receive copies of the proposed State Plan and to obtain further information, write to the Department for the Aging at the address above or call 804-225-2271 or toll-free in Virginia 1-800-552-4464.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Announcement

S. Mason Carbaugh, Commissioner of the Virginia Department of Agriculture and Consumer Services, in the Virginia Cooperative Gypsy Moth Suppression Program, under authority of the Virginia Pest Law, specifically Virginia Code § 3.1-188.21, is delegating additional authority to the counties of Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Prince William, Shenandoah, and Warren.

On October 5, 1988, the Virginia Board of Agriculture and Consumer Services adopted the policy changes which, based upon input from the localities, were designed to allow for greater locality flexibility as they develop their cooperative gypsy moth suppression program.

Notice

Pursuant to the Virginia Code § 3.1-188.21, S. Mason Carbaugh, Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS) has delegated to members of the Board of Supervisors of Arlington, Clarke, Fairfax, Faurquier, Frederick, Loudoun, Prince William, Shenandoah, and Warren Counties, and the counties have accepted, authority as follows:

"WHEREAS, I, S. Mason Carbaugh, Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS), am charged by the Virginia Pest Law, Virginia Code § 3.1-188.20 through § 3.1-188.31:2 (1983), with the duty of protecting the interests of the state from plant pests and the authority to suppress and eradicate pests throughout the Commonwealth; and

WHEREAS, Virginia Code § 3.1-188.21 authorizes me to delegate any authority provided for in the Virginia Pest Law to any person;

General Notices/Errata

I HEREBY DELEGATE to the members of the Board of Supervisors in the counties listed above the authority to engage in a program of gypsy moth suppression, within their respective county, in cooperation with VDACS. The authority granted to the members of the Board of Supervisors shall be as follows:

1. That authority granted to local governments in the Guidelines for Cooperative Gypsy Moth Suppression Program dated October 12, 1988 and any revisions thereof;
2. That authority granted to local government in the policy revision adopted by the Board of Agriculture and Consumer Services on October 5, 1988.
3. That authority granted to the counties by the Cooperative Agreement to be executed annually by and between VDACS and the counties.

The foregoing documents are incorporated herein and made a part of this document."

The documents referenced in the delegation of authority may be inspected at the Clerk's Office in each County or the office of the Secretary of the Board of Agriculture and Consumer Services, Room 210, 1100 Bank Street, Richmond, Virginia, or by writing the Gypsy Moth Coordinator, P.O. Box 1163, Richmond, Virginia 23209.

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

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

Title of Regulation: VR 672-01-01. Public Participation Guidelines.

Publication: 5:13 VA.R. 1632 March 27, 1989

Correction to the final regulation:

§ 1. Mailing list.

The Board of for Professional Soil Scientists...

* * * * *

Title of Regulation: VR 672-02-01. Board for Professional Soil Scientists Regulations.

Publication: 5:13 VA.R. 1633-1642 March 27, 1989

Correction to the final regulation:

§ 1.2. Procedural requirements.

G. ...qualification for practice, a the board may require...

§ 2.5. Examination.

A. A board-approved examination...

§ 4.2. Grounds for ~~suspensions~~ *suspension*, revocation, denial of application, renewal or other disciplinary action.

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

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

† June 27, 1989 - 9:30 a.m. - Open Meeting
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. ☒

Semi-annual meeting will include a report of recent program activities, and a discussion of the future direction of the program.

Contact: Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☎ , toll-free 1-800-552-3402/TDD ☎ or SCATS 225-2271

BOARD OF AGRICULTURE AND CONSUMER SERVICES

† May 17, 1989 - 9 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☒

This meeting will include two public hearings beginning at 10 a.m. These hearings will cover (i) a proposed amendment to VR 115-04-04 (Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law) and (ii) a proposed amendment to VR 115-04-01 (Rules and Regulations for Enforcement of the Endangered Plant and Insect Species Act). Following the hearings, other topics of public interest will be discussed and presented.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 210, Richmond, VA 23219, telephone (804) 786-3501 or SCATS 786-3501

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

May 17, 1989 - 10 a.m. - Public Hearing

NOTE: CHANGE OF LOCATION

State Capitol, Capitol Square, House Room 4, 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

NOTE: CHANGE OF LOCATION

State Capitol, Capitol Square, House Room 4, 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

Calendar of Events

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. ☒

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

† **May 30, 1989 - 7:15 p.m. – Open Meeting**
Handley Library Auditorium, Winchester, Virginia. ☒
(Interpreter for deaf provided if requested.)

A meeting to allow public comments on a permit application from Insulated Building Systems, Inc. to construct and operate an expanded polystyrene insulation products manufacturing/fabrication facility at the Stonewall Industrial Park, Winchester, Va. The meeting will be preceded by a presentation of facts concerning the proposed facility, which will commence at 6:45 p.m.

Contact: W. N. Millward, Northern Virginia Region, Department of Air Pollution Control, Springfield Towers, 6320 Augusta Drive, Suite 502, Springfield, VA 22150, telephone (703) 644-0311

ALCOHOLIC BEVERAGE CONTROL BOARD

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 Architects

† **June 2, 1989 - 1:30 p.m. – Open Meeting**
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from March 31, 1989, meeting; (ii) review correspondence; (iii) review applications; 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

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

† May 25, 1989 - 5 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A regular board meeting.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling
Hills Dr., Richmond, VA 23229-5005, telephone (804)
662-9111

BOARD FOR BARBERS

May 22, 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) review
regulations; (v) and consider routine board 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)

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† May 19, 1989 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd
Floor, Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested.)

A meeting to (i) consider requests for interpretation of
the Virginia Uniform Statewide Building Code; (ii)
consider appeals from the rulings of local appeal
boards regarding application of the Virginia Uniform
Statewide Building Code; and (iii) approve minutes of
previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, VA
23219, telephone (804) 786-4752

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

May 8, 1989 - 7 p.m. - Public Hearing
Walnut Hill Elementary School, Petersburg, Virginia

May 11, 1989 - 7 p.m. - Public Hearing
Rappahannock Community College, Glens Campus, Glens,
Virginia

May 16, 1989 - 7 p.m. - Public Hearing
Nandua High School, Onley, Virginia

May 18, 1989 - 7 p.m. - Public Hearing
Marshall-Wythe School of Law, Williamsburg, Virginia

May 24, 1989 - 7 p.m. - Public Hearing
Rappahannock Community College, Warsaw Campus,
Warsaw, Virginia

May 25, 1989 - 7 p.m. - Public Hearing
General District Court Room, Fredericksburg, Virginia

May 30, 1989 - 7 p.m. - Public Hearing
General Assembly Building, Capitol Square, Senate Room
B, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Chesapeake Bay Local
Assistance Board intends to adopt regulations entitled:
VR 173-02-00. Chesapeake Bay Preservation Area
Designation and Management Regulations. This
proposed regulation provides criteria for local
government designation and management of
Chesapeake Bay Preservation Areas as required by the
Chesapeake Bay Preservation Act of 1988.

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code
of Virginia.

Written comments may be submitted until 5 p.m., June 23,
1989.

Contact: Scott Crafton, Regulatory Assistance Coordinator,
Chesapeake Bay Local Assistance Department, 701 Eighth
Street Office Bldg., Richmond, VA 23219, telephone (804)
371-7503 or SCATS 371-7503

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

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

† May 11, 1989 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building, 8007
Discovery Drive, Conference Rooms A and B, Richmond,
Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss issues, concerns, and programs
that impact licensed child care centers.

Contact: Arlene Kasper, Program Development Supervisor,
Division of Licensing Programs, Department of Social
Services, 8007 Discovery Dr., Richmond, VA 23229-8669,

Calendar of Events

telephone (804) 662-9034 or SCATS 662-9034

DEPARTMENT FOR CHILDREN

Children's Legislative Information Committee (CLIC)

† May 25, 1989 - 10 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor, Conference Room, Richmond, Virginia. ☒

A regular business meeting open to the public for the purpose of reviewing legislative issues that pertain to addressing the policies, programs, and services affecting children.

Contact: Phyllis Moyer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-5507 or SCATS 786-5507

Consortium on Child Mental Health

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

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

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 OF COMMERCE

† May 15, 1989 - 10:30 a.m. - Public Hearing

The Hotel Roanoke, 19 North Jefferson Street, Roanoke, Virginia. ☒

† May 17, 1989 - 10:30 a.m. - Public Hearing
Mary Washington College, Campus Center, College Avenue, Red Room, Fredericksburg, Virginia. ☒

A subcommittee of the board will conduct a public hearing on issues relating to the need for regulation of commercial testers of radon gas. Issues include determining if the public health and safety and welfare require that such testers be licensed and regulated, and if the public needs protection against incompetent and fraudulent testers and vendors of testing kits.

† May 16, 1989 - 11 a.m. - Public Hearing
Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

A subcommittee of the board will conduct a public hearing on issues relating to the need for certifying arborists. Issues include measures to promote preservation of trees: knowledge and skills required to trim or remove trees without endangering citizens or property.

† June 5, 1989 - 10:30 a.m. - Public Hearing
Mary Washington College, Campus Center, College Avenue, Red Room, Fredericksburg, Virginia. ☒

† June 6, 1989 - 10:30 a.m. - Public Hearing
The Hotel Roanoke, 19 North Jefferson Street, Roanoke, Virginia. ☒

A subcommittee of the board will conduct a public hearing on issues relating to the need to license and regulate the practice of "estheticians" in Virginia. The term refers to a person who engages in the commercial practice of using cosmetic preparations, makeups, antiseptics, tonics, lotions, creams or chemicals to massage, cleanse, stimulate, manipulate, exercise, beautify or groom the face, neck, arms and hands of other persons.

June 22, 1989 - 11 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

An open business meeting of the board. Agenda may include (i) report of the director; (ii) discussions of results of public hearings that will have been held in connection with occupational studies on radon gas testers and mitigators, estheticians, and arborists; (iii) discussions of need to assign a subcommittee to review regulations for contractors; and (iv) discussion of need for subcommittee to assess probability that a regulatory program for real estate appraisers may become federally-mandated.

Contact: Alvin D. Whitley, Secretary to the Board,

Calendar of Events

Department of Commerce, 3600 W. Broad St., 5th Fl.,
Office of the Director, Richmond, VA 23230, telephone
(804) 367-8564, toll-free 1-800-552-3016 or SCATS 367-8519

STATE BOARD FOR COMMUNITY COLLEGES

† May 17, 1989 - 2 p.m. - Open Meeting
† May 18, 1989 - 9 a.m. - Open Meeting
Lord Fairfax Community College, Middletown, Virginia

A board meeting. The agenda is unavailable at this time.

Contact: Joy Graham, State Board for Community Colleges,
Richmond, VA, telephone (804) 225-2126

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

† June 7, 1989 - 10:30 a.m. - Open Meeting
Virginia Beach Pavilion, Director's Conference Room,
Virginia Beach, Virginia. ☒

A meeting to discuss proposals from localities
requesting matching grant funds from the board.

Contact: Jack E. Frye, Shoreline Programs Manager, P.O.
Box 1024, Gloucester Point, VA 23062, telephone (804)
642-7121 or SCATS 842-7121

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Goose Creek Scenic River Advisory Board

May 8, 1989 - 2 p.m. - Open Meeting
Groveton Farm, Routes 734 and 733, Middleburg, Virginia

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program
Manager, 203 Governor St., Suite 326, Richmond, VA 23219,
telephone (804) 786-4132 or SCATS 786-4132

Outdoor Recreation Advisory Board

† May 11, 1989 - 10 a.m. - Open Meeting
Bernard's Landing at Smith Mountain Lake, Route 940
near terminus of Route 616, Board Room, Moneta,
Virginia. ☒

A business meeting to review statewide recreation
matters.

Contact: Art Buehler, Director, Division of Planning and
Recreation Resources, 203 Governor St., Suite 326,
Richmond, VA 23219, telephone (804) 786-5046 or SCATS
786-5046

Virginia Soil and Water Conservation Board

† May 17, 1989 - 7 p.m. - Open Meeting
Holiday Inn-Chesapeake, 725 Woodlake Drive, Chesapeake,
Virginia

A regular bi-monthly meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206,
Richmond, VA 23219, telephone (804) 786-4356

Upper James River Advisory Board

† May 10, 1989 - 7:30 p.m. - Open Meeting
Eagle Rock Community Center, Route 43 across from the
Methodist Church, Eagle Rock, Virginia

Review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program
Manager, 203 Governor St., Suite 326, Richmond, VA 23219,
telephone (804) 786-5046 or SCATS 786-5046

BOARD FOR CONTRACTORS

† May 17, 1989 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond,
Virginia. ☒

A special meeting of the board 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, and (iv) review and render case decisions
on matured complaints against licensees. The meeting
is opened to the public; however, a large portion of
the board business will be discussed in Executive
Session. The board meeting will be followed by a
meeting of the Complaints Committee of the board to
review complaints filed with the department.

Contact: Florence R. Brassier, Deputy Director for
Regulatory Programs, 3600 W. Broad St., Richmond, VA
23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

NOTE: CHANGE OF MEETING DATE

† June 9, 1989 - 10 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Fifth Floor,
Board Room One, Richmond, Virginia. ☒

The Board for Contractors will meet to conduct a
formal hearing: Board for Contractors v. Robert A.
Sumerlin, t/a Rocket Construction Co.

† June 20, 1989 - 11 a.m. - Open Meeting
Sterling Public Library, 120 Enterprise Street, Sterling,
Virginia

The Board for Contractors will meet to conduct a
formal hearing:

Calendar of Events

Board for Contractors v. Independent Construction Company.

Contact: Gayle Eubank, Hearings Coordinator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

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

May 17, 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

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

May 15, 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 board 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)

CRIMINAL JUSTICE SERVICES BOARD

Virginia Juvenile Justice and Delinquency Prevention Advisory Committee

† May 18, 1989 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to discuss matters related to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

Contact: Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

May 18, 1989 - 3 p.m. - Open Meeting
Municipal Building, Conference Room, Second Floor, Danville, Virginia. ☒

Local Committee, SARA Title III. Hazardous Material Community Right-to-Know.

Contact: C. David Lampley, Chairman, Local Emergency Planning Committee, 297 Bridge St., Danville, VA 24541, telephone (804) 799-5228

STATE BOARD OF EDUCATION

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

STATE EDUCATION ASSISTANCE AUTHORITY

Board of Directors

† May 16, 1989 - 10 a.m. - Open Meeting
State Education Assistance Authority, 6 North Sixth Street, Board Room, Richmond, Virginia. ☒

Calendar of Events

A regular business meeting open to the public, to evaluate VELA lending and collection practices and other general business purposes.

† **June 13, 1989 - 10 a.m.** – Open Meeting
State Education Assistance Authority, 6 North Sixth Street,
Board Room, Richmond, Virginia. ☒

A meeting to review agency budget, wage and salary scale and for other general business.

Contact: Lynette Hammond, Executive Assistant, 6 N. Sixth St., Suite 300, Richmond, VA 23219, telephone (804) 786-2035, toll-free 1-800-792-LOAN or SCATS 786-2035

STATE BOARD OF ELECTIONS

† **June 27, 1989 - 3 p.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A meeting to ascertain the results of the June 13, 1989, Primary Elections.

Contact: Susan H. Fitz-Hugh, Secretary, 101 Ninth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6551, toll-free 1-800-552-8745

LOCAL EMERGENCY PLANNING COMMITTEE FOR FAIRFAX COUNTY, THE CITY OF FAIRFAX AND THE TOWNS OF HERNDON AND VIENNA

May 11, 1989 - 10:30 a.m. – Open Meeting
Chemtrec, 2501 M Street, N.W., Washington, D.C.

Open meeting to carry out the provisions of the Superfund Amendments and Reauthorization Act of 1986.

Contact: Eileen McGovern, 4031 University Dr., Suite 400, Fairfax, VA 22030, telephone (703) 246-2331

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

May 8, 1989 - 6 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia

A committee meeting of the board's legislative committee to discuss proposed legislation for the 1990 Virginia General Assembly. This will be a working dinner meeting.

May 16, 1989 - 3:30 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia

Preneed Committee to review preneed legislation that

was passed by the 1989 Virginia General Assembly. (Working session only.)

May 17, 1989 - 9 a.m. – Open Meeting
Regency Suites and Inn, Parham and Quioccasin Roads, Richmond, Virginia

This will be a general board meeting. The Virginia State Board of Examinations for funeral services will be administered. A discussion on proposed regulations and a formal hearing may be held.

May 18, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rollings Hills Drive, Richmond, Virginia

Informal Fact Finding Conferences.

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 12, 1989 - 9:30 a.m. – Open Meeting
James Monroe Building, 1 North 14th Street, Conference Room B, Richmond, Virginia. ☒

The advisory board will discuss issues, concerns and 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

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: Georgette 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

Calendar of Events

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

DEPARTMENT OF HEALTH (STATE BOARD OF)

May 23, 1989 - 10 a.m. - Public Hearing
Department of Health, Main Floor Conference Room, South Wing, James Madison Building, 109 Governor Street, Richmond, Virginia. ☐

† **June 22, 1989 - 2 p.m. - Public Hearing**
Virginia Highlands Community College, Room 605, Abingdon, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to adopt regulations entitled: **VR 355-33-02. Regulations Governing Licensure of Home Health Agencies and Hospices.** The proposed regulation prescribes minimum standards of organization and operation and procedures to be followed to secure required home health agency and hospice licensure from the Virginia Department of Health, Division of Licensure and Certification.

Statutory Authority: §§ 32.1-162.5 and 32.1-162.12 of the Code of Virginia.

Written comments may be submitted until 4:30 p.m., June 23, 1989.

Contact: Mary V. Francis, Director, Department of Health, Division of Licensure and Certification, 1013 James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 225-2081 or SCATS 225-3717

DEPARTMENT OF HEALTH PROFESSIONS

† **May 11, 1989 - 10 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☐

The department, board and the Administration and Budget Committee will meet to review the biennial budget for the Department of Health Professions.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **May 23, 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

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **May 16, 1989 - 10 a.m. - Open Meeting**
13 South 13th Street, Richmond, Virginia. ☐

A meeting to review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, VA 23219, telephone (804) 782-1986

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† **June 16, 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 Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-01-0001. Rules and Regulations; VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments; VR 400-02-0002. Procedures, Instructions and Guidelines for Single Family Housing Developments; VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; VR 400-02-0004. Procedures, Instructions and Guidelines for Home Rehabilitation Loans; VR 400-02-0005. Procedures, Instructions and Guidelines for Energy Loans; VR 400-02-0006. Procedures, Instructions and Guidelines for Section 8 Existing Housing Assistance Payments Program.** The proposed amendments incorporate the authority's Procedures, Instructions and Guidelines into its Rules and Regulations.

STATEMENT

Purpose: To incorporate the authority's Procedures, Instructions and Guidelines into its Rules and Regulations.

Basis: Section 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: Pursuant to its Rules and Regulations, the authority has previously adopted Procedures, Instructions and Guidelines to set forth the requirements and procedures for its programs. The use by the authority of both its Rules and Regulations and its Procedures, Instructions and Guidelines with respect to the authority's programs has, in certain instances, resulted in unnecessary duplication of provisions and may have created confusion as to applicable procedures and requirements.

The proposed amendments will adopt and incorporate the provisions of the authority's Procedures, Instructions and Guidelines into its Rules and Regulations. The amendments also include certain changes for clarification and technical correction of existing provisions in the Rules and Regulations and the Procedures, Instructions and Guidelines.

Impact: The proposed amendments will have no impact on the authority's programs. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments.

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Written comments may be submitted until June 16, 1989.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, VA 23219, telephone (804) 782-1986

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

May 15, 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 adopt regulations entitled: **VR 394-01-106. Single and Multiple Production Loan Program.** The proposed regulation establishes program guidelines for low interest loans.

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

Written comments may be submitted until May 15, 1989.

Contact: Pamela R. Coaxum, Manager, Department of Housing and Community Development, 205 North Fourth St., Richmond, VA 23219, telephone (804) 786-1575

COUNCIL ON INFORMATION MANAGEMENT

† May 12, 1989 - 9 a.m. – Open Meeting
Virginia Polytechnic Institute and State University, Burruss Hall, Room 400-D, Blacksburg, Virginia. ☒

A regular bi-monthly meeting of the council.

Contact: Linda Hening, Office Manager, Washington Bldg., Suite 1100, Richmond, VA 23219, telephone (804) 225-3622 or SCATS 225-3622

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
Town Council Chambers, Wytheville Municipal Offices, 150 East Monroe Street, Wytheville, Virginia.

An oral presentation regarding the Town of Wytheville - Wythe County Settlement Agreement.

May 23, 1989 - 7:30 p.m. – Public Hearing
George Wythe High School, Auditorium, 1500 West Pine Street, 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

VIRGINIA LONG-TERM CARE COUNCIL

† June 1, 1989 - 9:30 a.m. – Open Meeting
Ninth Street Office Building, Cabinet Conference Room, Room 622, Richmond, Virginia. ☒

Meeting of Virginia's Long-Term Care Council. Business pertains to developing increased long-term care services for disabled or chronically ill people of all ages.

Local Long-Term Care Coordinating Committees

† June 5, 1989 - 9:30 a.m. – Open Meeting
Southwest Virginia, Johnson Memorial Hospital, Abingdon, Virginia. ☒

† June 8, 1989 - 9:30 a.m. – Open Meeting
Virginia Health Care Association, Innsbrook, Richmond, Virginia. ☒

Calendar of Events

† June 9, 1989 - 9:30 a.m. - Open Meeting
Tidewater, Riverside Hospital, Newport News, Virginia. ☒

† June 19, 1989 - 9:30 a.m. - Open Meeting
Virginia Baptist Hospital, Lynchburg, Virginia. ☒

† June 20, 1989 - 9:30 a.m. - Open Meeting
Northern Virginia, Fairfax Hospital Association, Fairfax, Virginia. ☒

Regional meetings of the local long-term care coordinating committees provide the opportunity for coordination with the State Long-Term Care Council. Long-Term Care legislation, public guardianship and updates on local activities will be discussed.

Contact: Thelma E. Bland, Deputy Commissioner, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271/TDD ☎, toll-free 1-800-552-4464 or SCATS 225-2271

STATE LOTTERY BOARD

† May 24, 1989 - 10 a.m. - Open Meeting
State Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia. ☒

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on the agenda which have not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433 or SCATS 367-9433

MARTINSVILLE - HENRY COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

May 11, 1989 - 9:30 a.m. - Open Meeting
Martinsville Municipal Building, Martinsville, Virginia

June 8, 1989 - 9:30 a.m. - Open Meeting
Henry County Administration Building, Collinsville, Virginia. ☒

Open meeting to carry out the provisions of the Superfund Amendments and Reauthorization Act of 1986.

Contact: Benny Summerlin, Public Safety Director, Henry County Administration Bldg., P.O. Box 7, Collinsville, VA 24078, telephone (703) 638-5311, ext. 256

BOARD OF MEDICAL ASSISTANCE SERVICES

May 9, 1989 - 5 p.m. - Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

Standing committee meetings.

May 10, 1989 - 9 a.m. - Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

A meeting to discuss amendments to the State Plan and other business pertinent to the board.

Contact: Jacqueline Fritz, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

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.

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,

Calendar of Events

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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June 28, 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 460-02-191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care, VR 460-02-192. Methods and Standards for Establishing Payment Rates - Other Types of Care, and VR 460-02-194. Methods and Standards for Establishing Payment Rates - Long-Term Care.** These proposed regulations regulate the reimbursement of nonenrolled service providers.

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

Written comments may be submitted until 4:30 p.m., June 28, 1989, to Malcolm O. Perkins, Division of Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

BOARD OF MEDICINE

† **June 1, 1989 - 9 a.m.** – Open Meeting
† **June 2, 1989 - 9 a.m.** – Open Meeting
† **June 3, 1989 - 9 a.m.** – Open Meeting
Tysons Corner Marriott, 8028 Leesburg Pike, Vienna, Virginia. ☐

A formal hearing to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia.

Contact: Eugenia Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

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† **July 7, 1989 - 2 p.m.** – Public Hearing
Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Board of Medicine intends to adopt regulations entitled: **VR 465-04-01. Regulations Governing the Practice of Certified Respiratory Therapy Practitioners.** The purpose of this action is to amend and promulgate regulations effective December 2, 1985, as emergency regulations for voluntary certification of Respiratory Therapy Practitioners.

STATEMENT

Statement of purpose: The emergency regulations, promulgated December 2, 1985, established the requirements governing the practice of certified respiratory therapy practitioners in the Commonwealth of Virginia. They set forth voluntary requirements for education and examination for the practice of respiratory therapy as a certified respiratory therapy practitioner.

The proposed regulations have been stated with specificity, clarity, and understandability. These regulations reflect the least burdensome requirements for practice as a certified respiratory therapy practitioner. Only those practitioners who elect to meet certification standards are affected by these regulations.

This statement required by the Administrative Process Act (§ 9-6.14:9 B of the Code of Virginia) estimates the impact of only those regulations that increase the regulatory burden. The "Index of the Emergency Regulations" and all other relevant documents are available to the public through the Board of Medicine, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005, (804) 662-9908.

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

Written comments may be submitted until 2 p.m., July 7, 1989.

Contact: Eugenia Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

June 9, 1989 - 2 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to review and discuss information obtained from visit to the Pennsylvania College of Optometry and discuss any other items which may come before this committee.

Executive Committee

June 9, 1989 - 9:30 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond,

Calendar of Events

Virginia. ☒

A meeting to review and act upon disciplinary cases, (ii) review cases closed by Executive Director and (iii) discuss any other items which may come before the Executive Committee.

Informal Conference Committee

† **May 11, 1989 - 9:30 a.m.** – Open Meeting
Hampton Inn, 2310 William Street, Fredericksburg, Virginia. ☒

† **May 12, 1989 - 10 a.m.** – Open Meeting
Patrick Henry Inn and Conference Center, York and Page Streets, Williamsburg, Virginia. ☒

† **May 16, 1989 - 10:30 a.m.** – Open Meeting
Holiday Inn - Fanny's, I-64 and West Broad Street, Richmond, Virginia. ☒

Informal conferences and formal hearings 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.

Legislative Committee

June 23, 1989 - 10 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

A meeting to review and discuss proposed regulation which relates to misleading and deceptive advertising, petition for rulemaking relative to Straight Chiropractic Academic Standards Association, Inc. (SCASA), Special Purpose Examination (SPEX) and discuss any other items which may come before the Legislative Committee.

Advisory Board on Physical Therapy

† **June 16, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, Board Room 2, 2nd Floor, Richmond, Virginia. ☒

The purpose of this meeting is to (i) receive reports; (ii) review by-laws and procedural manuals; (iii) review regulations, specifically §§ 5.3 F, 7.2 and 8.1; and (iv) discuss any other items which may come before this advisory board.

Respiratory Therapy Committee

May 16, 1989 - 10 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 2, Richmond, Virginia. ☒

The purpose of this meeting is to elect officers, draft legislation and discuss any other items which 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

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **May 24, 1989 - 9:30 a.m.** – Open Meeting
Cumberland Mountain Community Service Board, Cedar Bluff, Virginia. ☒

A regular monthly meeting. The agenda will be published on May 17 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, P.O. Box 1797, Richmond, Virginia 23214, telephone, (804) 786-3921

VIRGINIA MUSEUM OF FINE ARTS

Accessions Committee

† **May 17, 1989 - 2 p.m.** – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Library Reading Room, Richmond, Virginia. ☒

A meeting to consider gifts and purchases of art objects for the collection.

Board of Trustees

† **May 18, 1989 - 11:30 a.m.** – Open Meeting
Virginia Museum Auditorium, Boulevard and Grove Avenue, Richmond, Virginia. ☒

The annual meeting of the board. Reports and special reports will be presented by all committees and staff.

Finance Committee

† **May 18, 1989 - 10:30 a.m.** – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, The Payne Room of the Members' Dining Room, Richmond, Virginia. ☒

A regularly scheduled meeting to review financial statements and museum budgets.

Contact: Emily G. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553

BOARD OF NURSING

May 22, 1989 - 9 a.m. - Open Meeting
May 23, 1989 - 9 a.m. - Open Meeting
May 24, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and the matters under the jurisdiction of the board. On Wednesday, May 24, 1989, at 8:30 a.m., the board will consider comments on intended regulatory action and propose new and amended regulations related to educational programs for and the registration of clinical nurse specialists.

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

† **June 20, 1989 - 9:30 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

Four formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Special Conference Committee

† **June 13, 1989 - 8:30 a.m. - Open Meeting**
† **June 23, 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

BOARD OF PHARMACY

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.

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

† **June 18, 1989 - 3:30 p.m. - Open Meeting**
The Cavalier, Oceanfront at 42nd Street, Virginia Beach, Virginia

Drug law and board regulation review for graduating pharmacy students and interested pharmacists.

Contact: Jack B. Carson, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

VIRGINIA PORK INDUSTRY BOARD

† **July 14, 1989 - 3 p.m. - Open Meeting**
Blacksburg Marriott, Blacksburg, Virginia. ☒

A meeting to consider (i) general business; (ii) committee reports; and (iii) election of officers.

Contact: John H. Parker, Program Director, 801 Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-7092 or SCATS 786-7092

BOARD OF PROFESSIONAL COUNSELORS

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, VA 23229-5005, telephone (804) 662-9912

† **May 22, 1989 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Suite 200, Richmond, Virginia. ☒

Scope of Practice Committee meeting to discuss the definition of professional counseling.

Contact: Stephanie A. Sivert, Executive Director, or Joyce D. Williams, Administrative Assistant, Board of

Calendar of Events

Professional Counselors, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912

BOARD OF PSYCHOLOGY

† **May 24, 1989 - 1 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting of the oral examination committee to devise questions for the July oral examinations.

† **May 25, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) discuss possible revisions to the regulations governing technical assistance and residency requirements for applicants from out-of-state; (iii) review proposals for possible legislation; and (iv) review applications for licensure, residency, and registration as Technical Assistants.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9912

VIRGINIA RACING COMMISSION

† **May 16, 1989 - 3 p.m.** – Open Meeting
† **May 16, 1989 - 7 p.m.** – Public Hearing
Northern Virginia Community College, Loudoun Campus, 1000 Harry Flood Byrd Highway, Sterling, Virginia. ☒

† **May 17, 1989 - 3 p.m.** – Open Meeting
† **May 17, 1989 - 7 p.m.** – Public Hearing
College of William and Mary, Marshall-Wythe School of Law, South Henry Street, Route 132 North, Williamsburg, Virginia. ☒

The purpose of this meeting is to hear from the horse industry and interested citizens their perspective on the operation of horse racing in Virginia.

Contact: Pat Green, Office Manager, 1204 E. Main St., P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363 or SCATS 371-7363

RADIATION ADVISORY BOARD

† **June 2, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

The Radiation Advisory Board will hold their annual meeting to discuss issues concerning the radiation control programs.

Contact: Leslie P. Foldesi, Director, Radiological Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-5932 or toll-free 1-800-468-0138

REAL ESTATE BOARD

† **May 16, 1989 - 10 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☒

The Real Estate Board will meet to conduct a formal hearing for: The Real Estate Board v. Richard T. McCray

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

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

† **June 5, 1989 - 11 a.m.** – Open Meeting
Department of Social Services, Pembroke Office Park, Pembroke IV, Suite 300, Conference Room A, Virginia Beach, Virginia.

The Real Estate Board will meet to conduct a formal hearing: Real Estate Board v. Eleanor MacRae

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

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June 5, 1989 - 2 p.m. – Public Hearing
Location to be announced.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **VR 585-01-1. Virginia Real Estate Board Licensing Regulations.**

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

Written comments may be submitted until July 1, 1989.

Contact: Joan L. White, Assistant Director, Real Estate Board, 3600 W. Broad St., 5th Floor, Richmond, VA 23230,

Calendar of Events

telephone (804) 367-8552, toll-free 1-800-552-3016 or SCATS 367-8552

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

† July 12, 1989 - 2 p.m. - Public Hearing
William N. Neff Vocational Center, Route 8, Abingdon,
Virginia

† July 12, 1989 - 2 p.m. - Public Hearing
George Mason University School of Law, Metro Center
Campus - Downtown Arlington, 3401 North Fairfax Drive,
Arlington, Virginia

† July 12, 1989 - 2 p.m. - Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh
Avenue, Conference Room, Richmond, Virginia

† July 12, 1989 - 6 p.m. - Public Hearing
Norfolk City Hall, City Hall Building, Council Chambers,
810 Union Street, 11th Floor, Norfolk, Virginia

Notice is hereby given that the Department of Rehabilitative Services will meet to consider the **State Plan Preprint for the State Vocational Rehabilitation Services Program and the State Supported Employment Services Program**. This State Plan outlines activities of the department under the State Vocational Rehabilitation Services program and the State Supported Employment Services Program covering Fiscal Years 1989, 1990 and 1991.

STATEMENT

Title I of the Rehabilitation Act of 1973, as amended, authorizes a grant-in-aid program, vocational rehabilitation, to support services to individuals with handicaps to assist them in obtaining suitable employment. Title VI, Part C of the Act also authorizes a grant-in-aid program, supported employment, to provide training and traditionally time limited post-employment services leading to supported employment for individuals with severe handicaps. In order for a state to participate in both of these programs, it must submit to the Rehabilitation Services Administration (RSA) an approvable Title I State Plan and Title VI, Part C supplement to the Title I State Plan for a three-year period, covering Fiscal Years 1989, 1990, and 1991, with revisions as warranted.

The three-year Title I State Plan and its Title VI, Part C supplement reflect the Commonwealth of Virginia's commitment to carry out these two formula grant programs in a manner consistent with the basic assurances articulated in the plan and its supplement, and also the Commonwealth's planning and activities related to a variety of administrative and operational dimensions associated with these programs. As such, the plan and its supplement will serve as key elements in RSA's monitoring of the Commonwealth's performance in carrying out the

assurances to which it commits itself in submitting the plan and its supplement.

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 or SCATS 367-6379

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† July 12, 1989 - 2 p.m. - Public Hearing
William N. Neff Vocational Center, Abingdon, Virginia

† July 12, 1989 - 6 p.m. - Public Hearing
Norfolk City Hall, Council Chambers, Norfolk, Virginia

† July 12, 1989 - 2 p.m. - Public Hearing
George Mason School of Law, 3401 North Fairfax Drive,
Arlington, Virginia

† July 12, 1989 - 2 p.m. - Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh
Avenue, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Rehabilitative Services intends to amend regulations entitled: **VR 595-01-2. Provision of Vocational Rehabilitation Services**. The purpose is to amend certain portions to comply with federal regulations and to expand the service capabilities of the department.

STATEMENT

Purpose: The purpose of the proposed amendments is to meet the requirements of new federal regulations, to give consumers of services a better understanding of service rationales, including duration and types of service, to provide more flexibility in setting dollar limits and, generally, to expand the department's service capability.

Basis: These proposed regulation amendments are issued under authority granted by the Federal Rehabilitation Act of 1973 as amended; Federal Vocational Rehabilitation regulations, and Chapter 5 of Title 51.5 of the Code of Virginia.

Impact: In addition to providing the consumer more accessibility and involvement in establishing the cost limitations on services to be provided, the greatest impact will be in the easing of restrictions previously contained in the Financial Needs Test utilized by the department to determine the extent of participation by the client in the cost of services. While there is virtually no change in the impact upon small businesses and organizations, the potential dollar impact on the department's resources can be substantial, since all clients who receive Supplemental

Calendar of Events

Security Income and those who will be served at Woodrow Wilson Rehabilitation Center will no longer be required to participate in the cost of services, regardless of individual or family income and resources.

Statutory Authority: § 51.5-5 of the Code of Virginia.

Written comments may be submitted until July 8, 1989, to Charles H. Merritt, Assistant Commissioner, Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, Department of Rehabilitative Services, P.O. Box 11045, 4901 Fitzhugh Ave., Richmond, VA 23230-1045, telephone (804) 367-6446, toll-free 1-800-552-5019/TDD ☎ or SCATS 367-6446

ROANOKE VALLEY LOCAL EMERGENCY PLANNING COMMITTEE

† **May 16, 1989 - 9 a.m.** – Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ☒

A meeting to receive (i) public comment; (ii) report from community coordinators; and (iii) the report from standing committees.

Contact: Warren E. Trent, Emergency Services Coordinator, 215 Church Ave., Roanoke, VA 24011, telephone (703) 981-2425

SAFETY AND HEALTH CODES BOARD

Task Force on Certifying of Boiler and Pressure Vessel Operators

† **May 18, 1989 - 10 a.m.** – Open Meeting
Department of Labor and Industry, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☒

A Task Force appointed by the Safety and Health Codes Board will meet to discuss the development of a standard for certification of boiler and pressure vessel operators.

Contact: Jim Hicks, Boiler Chief Inspector, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-3160 or SCATS 786-3160

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **May 31, 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

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

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 Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9081

† June 13, 1989 - 10 a.m. - Public Hearing Department of Social Services, 8007 Discovery Drive, Blair Building, Conference Rooms A and B, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: VR 615-08-1. Virginia Energy Assistance Program. The proposed amendments affect the Crisis Assistance Component. The amendments will provide: (i) uniformity to the types of assistance available in each locality; (ii) greater client accessibility to the program statewide, and (iii) ensure all localities equal access to funds designated for crisis benefits.

STATEMENT

Subject and substance: The amendments are being proposed for a 60-day comment period. The amendments to the program are as follows:

In the Crisis Assistance Component:

A. Application period would begin October 15 and end March 15 of the following year.

B. All localities will provide the same types of services with the following changes:

- 1. Repairs or replacement of inoperable or unsafe heating equipment, or the purchase of heating

equipment if none exists, not to exceed a maximum amount of \$700;

2. Payment of a portion of the electric bill when it is needed to operate the primary heating equipment. Assistance may only be provided once every five years beginning with the 1988-89 program year. No copayment by the client will be required;

3. Providing space heaters for temporary use when the primary heating equipment is being repaired or replaced and there is no heat in the house will be offered;

4. Providing emergency shelter will be mandatory.

C. The following types of assistance will no longer be offered:

- 1. Providing blankets or warm clothing;
- 2. Emergency repairs of dwelling to prevent heat loss;
- 3. Other (locality must specify).

Basis: Section 63.1-25 of the Code of Virginia provides the statutory basis for the promulgation of regulations relative to the Energy Assistance Program.

Purpose: The proposed amendments affect the Crisis Assistance Component. The amendments will provide: (i) uniformity to the types of assistance available in each locality; (ii) greater client accessibility to the program statewide, and (iii) ensure all localities equal access to funds designated for crisis benefits.

Estimated impact: The proposed amendments will affect all of the 9,000 households statewide who apply for crisis assistance yearly. There are no projected costs to the public, recipients, or vendors of the program. Local departments of social services cost impact will be minimal.

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

Written comments may be submitted until June 22, 1989, to Charlene H. Chapman, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, Bureau of Governmental Affairs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

† July 10, 1989 - 2 p.m. - Public Hearing Department of Social Services, 8007 Discovery Drive, Conference Room A, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: VR

Calendar of Events

615-46-01. Adult Protective Services. The above regulation increases consistency of practice in adult protective services and establishes policy for disclosure of information by local departments of social services pursuant to § 63.1-55.4 of the Code of Virginia.

STATEMENT

Basis: This regulation is issued under authority granted by the Code of Virginia, §§ 63.1-25, 63.1-55.1, and 63.1-55.4. These sections grant the Board of Social Services the authority to promulgate regulations to carry out the purpose and intent of Title 63.1.

Purpose: The purpose of the regulation is twofold: (i) to further statewide consistency in adult protective services practice; (ii) to share confidential information with persons who have a legitimate interest in the information pursuant to § 63.1-55.4 of the Code of Virginia.

Substance: This regulation places requirements on local departments of social services to collect basic information on adults who are subjects of adult protective services investigations and to disclose confidential information under specific circumstances.

Issues: The regulation specifies who may sign an application for adult protective services, which local department of social services has responsibility for the case, a time-frame for initiating an investigation and dispositions to be made upon completion of an investigation. This regulation identifies who has a legitimate interest in confidential information maintained in adult protective service records. It also identifies when disclosure of information is required, when disclosure is at the discretion of the local department of social services, what information may be disclosed and what assurances must be provided by agencies requesting confidential information.

Estimated impact: The fiscal impact of this regulation on the Department of Social Services includes the cost of developing, warehousing, and the initial distribution of a form which is needed to implement the regulation. The total cost is estimated at \$252. This form has been developed to implement the emergency regulation which is now in effect. The form will continue to be used.

Fiscal impact on local departments of social services includes cost of duplicating and mailing information. The annual statewide cost of this is estimated at \$350.

The number of requests for disclosure of information is expected to show an increase over the next 10 years. This expected increase is related to a projected increase in the number of adult protective services reports which in turn is related to an increasing older adult population.

In addition to the Department of Social Services, others affected will include:

- interested persons who will have access to information;
- owner/administrators of caregiving facilities about which complaints are received;
- persons who are perpetrators of abuse; and
- adults who are the subject of the information being disclosed.

Statutory Authority: §§ 63.1-25, 63.1-55.1 and 63.1-55.4 of the Code of Virginia.

Written comments may be submitted until July 10, 1989, to Joy Duke, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9182 or SCATS 662-9182

COMMONWEALTH TRANSPORTATION BOARD

† **May 18, 1989 - 10 a.m.** – Open Meeting
Radisson Hotel, Lynchburg, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting of the Commonwealth Transportation Board 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, telephone (804) 786-9950

BOARD OF VETERINARY MEDICINE

† **June 14, 1989 - 8:30 a.m.** – Open Meeting
Holiday Inn - Koger South, 1021 Koger Center Boulevard, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

General board business, formal hearing, informal conferences, discussion of proposed changes in regulations.

Contact: Terri H. Behr, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915

Calendar of Events

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

NOTE: CHANGE IN HEARING DATE

May 30, 1989 - 9 a.m. - Public Hearing
Old City Hall, 1001 East Broad Street, Richmond, Virginia

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 May 30, 1989.

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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NOTE: CHANGE IN HEARING DATE

May 30, 1989 - 9 a.m. - Public Hearing
Old City Hall, 1001 East Broad Street, Richmond, Virginia

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 May 30, 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 MILITARY INSTITUTE

Board of Visitors

May 19, 1989 - 8 a.m. - Open Meeting
Virginia Military Institute, Smith Hall, Board Room, Lexington, Virginia. ☒

A regular meeting to (i) consider committee reports; (iii) approve awards, distinctions, and diplomas; (iii) discuss personnel changes; and (iv) elect president pro tem.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

VIRGINIA RESOURCES AUTHORITY

† May 9, 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 April 11, 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

BOARD FOR THE VISUALLY HANDICAPPED

May 11, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget.

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 ☎

DEPARTMENT FOR THE VISUALLY HANDICAPPED

† May 15, 1989 - 2 p.m. - Public Hearing
Department of Social Services, 190 Patton Street, Conference Room, Abingdon, Virginia

† May 23, 1989 - 2 p.m. - Public Hearing

Calendar of Events

Virginia Rehabilitation Center for the Blind, 401 Azalea Avenue, Assembly Room, Richmond, Virginia

A meeting to seek public input in the development of the State Plan to Provide Vocational Rehabilitation Services by the Department for the Visually Handicapped.

Contact: James G. Taylor, 397 Azalea Ave., Richmond, VA 23227

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

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

STATE WATER CONTROL BOARD

May 8, 1989 - 7 p.m. - Public Hearing
Town Council Chambers, Municipal Building, Cross Street at Prince George Street, 2nd Floor, Urbanna, Virginia. ☒

The State Water Control Board will hold a public hearing to receive comments on the proposed issuance of Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0026263 for the Town of Urbanna, P.O. Box 179, Urbanna, Virginia 23175. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

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.

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

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.

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

May 18, 1989 - 7 p.m. - Open Meeting
Fries Combined School, Church Street, Fries, Virginia

The State Water Control Board will hold a second public hearing to receive comments on the proposed issuance or denial of a Virginia Pollutant Discharge Elimination System (VPDES) permit for the City of Galax Sewage Treatment Plant, 123 N. Main St., Galax, Virginia 24333. The purpose of the hearing is to receive comments on the proposed permit, the issuance or denial of the permit, and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

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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 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(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

Calendar of Events

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.

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.

Statutory Authority: § 62.1-44.15(3a) 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.

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.

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: Elleanore 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

June 5, 1989 - 7 p.m. - Public Hearing
Culpeper General District Courtroom, 135 West Cameron Street, 2nd Floor, Culpeper, Virginia

The State Water Control Board will hold a public hearing to receive comments on the proposed VPDES permit for South Wales Utility, Inc., Routes 229 and 211, Culpeper County the issuance or denial of the permit, and the effect of the proposed discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

Calendar of Events

COLLEGE OF WILLIAM AND MARY

Board of Visitors

June 23, 1989 - 8 a.m. – Open Meeting
College of William and Mary, Jamestown Road, Campus Center, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to act on those resolutions that are presented by the administration of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Office of University Relations, James Blair Hall, College of William and Mary, Room 308, Williamsburg, VA 23185, telephone (804) 253-4226

COUNCIL ON THE STATUS OF WOMEN

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

VIRGINIA WORLD TRADE COUNCIL

† **May 22, 1989 - 3 p.m. – Open Meeting**
† **May 23, 1989 - 9 a.m. – Open Meeting**
Center for Innovative Technology, Herndon, Virginia

A meeting to discuss activities associated with the state government exporting projects.

Contact: Donna F. Wheeler, Secretary, Executive Offices, World Trade Center, Suite 6000, Norfolk, VA 23510, telephone (804) 683-2949 or toll-free 1-800-553-3170

LEGISLATIVE

JOINT LEGISLATIVE SUBCOMMITTEE ON BLOCK GRANT FUNDING

May 9, 1989 - 2 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The committee will conduct a public hearing on the Alcohol, Drug Abuse and Mental Health Block Grant for FY 1989. This application was prepared by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services and is used to support community alcohol, drug abuse and mental health services in Virginia.

Contact: Charline Davidson, Director, Planning and Policy, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3904

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

LONG-TERM CARE JOINT SUBCOMMITTEE

† **May 10, 1989 - 1 p.m. – Open Meeting**
House Appropriations Committee Room, General Assembly Building, Capitol Square, 9th Floor, Richmond, Virginia. ☒

A meeting to discuss current long-term care system in Virginia. SJR 214

Contact: Linda Ladd, House Appropriations Committee,
General Assembly Bldg., 9th Floor, Richmond, VA 23219,
telephone (804) 786-1837

CHRONOLOGICAL LIST

OPEN MEETINGS

May 8

Alcoholic Beverage Control Board
Conservation and Historic Resources, Department of
- Goose Creek Scenic River Advisory Board
Funeral Directors and Embalmers, Board of

May 9

Medical Assistance Services, Board of
† Virginia Resources Authority

May 10

† Conservation and Historic Resources, Department of
- Upper James River Advisory Board
† Long-Term Care Joint Subcommittee
Medical Assistance Services, Board of
Water Control Board, State

May 11

† Child Day-Care Council
Code Commission, Virginia
† Conservation and Historic Resources, Department of
- Outdoor Recreation Advisory Board
Fairfax County, The City of Fairfax, and the Towns of
Herndon and Vienna, Local Emergency Planning
Committee for
† Health Professions, Department of
Martinsville - Henry County Local Emergency Planning
Committee
† Medicine, Board of
Visually Handicapped, Board for the

May 12

Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for
Code Commission, Virginia
Cosmetology, Board for
General Services, Department of
- Division of Consolidated Laboratory Services
† Information Management, Council on
† Medicine, Board of

May 15

Agricultural Council, Virginia
† Commerce, Board of
Cosmetology, Board for

May 16

† Commerce, Board of

† Education Assistance Authority, State
- Board of Directors

Funeral Directors and Embalmers, Board of

† Housing Development Authority, Virginia

† Medicine, Board of

- Informal Conference Committee

- Respiratory Therapy Committee

† Racing Commission, Virginia

† Real Estate Board

Water Control Board, State

May 17

† Agriculture and Consumer Services, Board of

† Commerce, Board of

† Community Colleges, State Board for

† Conservation and Historic Resources, Department of
- Soil and Water Conservation Board

† Contractors, Board for

Corrections, Board of

Funeral Directors and Embalmers, Board of

† Museum of Fine Arts, Virginia

- Accessions Committee

† Racing Commission, Virginia

† Roanoke Valley Local Emergency Planning
Committee

Social Services, Board of

May 18

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for

- Board for Land Surveyors

† Community Colleges, State Board for

† Criminal Justice Services, Department

- Juvenile Justice and Delinquency Prevention
Advisory Committee

Danville Local Emergency Planning Committee

Funeral Directors and Embalmers, Board of

† Museum of Fine Arts, Virginia

- Board of Trustees

- Finance Committee

† Safety and Health Codes Board

- Task Force on Certifying of Boiler and Pressure
Vessel Operators

† Transportation Board, Commonwealth

May 19

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for

† Building Code Technical Review Board, State

Correctional Education, Board of

Virginia Military Institute

- Board of Visitors

May 22

Alcoholic Beverage Control Board

Barbers, Board for

Health, State Board of

Local Government, Commission on

Nursing, Board of

† Professional Counselors, Board of

† World Trade Council, Virginia

Calendar of Events

May 23

- † Health Services Cost Review Council, Virginia
- Local Government, Commission on
- Nursing, Board of
- Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of
- Related Services to Handicapped Children
- Women, Council on the Status of
- † World Trade Council, Virginia

May 24

- Gloucester Local Emergency Planning Committee
- † Lottery Board, State
- † Mental Health, Mental Retardation and Substance
- Abuse Services Board, State
- Nursing, Board of
- † Psychology, Board of
- Women, Council on the Status of

May 25

- † Audiology and Speech Pathology, Board of
- † Children, Department for
- Children's Legislative Information Committee
- Education, State Board of
- † Psychology, Board of

May 26

- Education, State Board of

May 30

- † Air Pollution Control, Department of

May 31

- † Sewage Handling and Disposal Appeals Review
- Board, State

June 1

- Chesterfield County, Local Emergency Planning
- Committee of
- † Long-Term Care Council, Virginia
- † Medicine, Board of

June 2

- † Architects, Board for
- † Medicine, Board of
- † Radiation Advisory Board
- Real Estate Board

June 3

- † Medicine, Board of

June 5

- † Commerce, Board of
- † Long-Term Care Coordinating Committee
- † Real Estate Board

June 6

- † Commerce, Board of

June 7

- Children, Department for

- Consortium on Child Mental Health

- † Conservation and Development of Public Beaches,
- Board on

June 8

- † Long-Term Care Coordinating Committee
- Martinsville - Henry County Local Emergency Planning
- Committee

June 9

- Children, Coordinating Committee for
- Interdepartmental Licensure and Certification of
- Residential Facilities for
- † Contractors, Board for
- † Long-Term Care Coordinating Committee
- Medicine, Board of
- Ad Hoc Committee on Optometry
- Executive Committee

June 12

- Alcoholic Beverage Control Board

June 13

- † Education Assistance Authority, State
- Board of Directors
- † Nursing, Board of
- Special Conference Committee

June 14

- Social Services, Board of
- † Veterinary Medicine, Board of

June 16

- † Medicine, Board of
- Advisory Board of Physical Therapy

June 18

- † Pharmacy, Board of

June 19

- † Long-Term Care Coordinating Committee

June 20

- † Contractors, Board for
- † Long-Term Care Coordinating Committee
- † Nursing, Board of

June 22

- Commerce, Board of

June 23

- Medicine, Board of
- Legislative Committee
- † Nursing, Board of
- Special Conference Committee
- William and Mary, College of
- Board of Visitors

June 26

- Alcoholic Beverage Control Board

Calendar of Events

June 27

- † Aging, Department for the
- Long-Term Care Ombudsman Program Advisory
Council
- † Elections, State Board of

July 14

- † Pork Industry Board, Virginia

June 13

- † Social Services, Department of

June 22

- † Health, Department of

June 26

- Water Control Board, State

July 10

- † Social Services, Department of

July 12

- † Rehabilitative Services, Department of

PUBLIC HEARINGS

May 8

- Chesapeake Bay Local Assistance Board
Water Control Board, State

May 9

- Block Grant Funding, Joint Legislative Subcommittee
on

May 11

- Chesapeake Bay Local Assistance Board
† Visually Handicapped, Department for the

May 16

- Chesapeake Bay Local Assistance Board
† Racing Commission, Virginia

May 17

- Agriculture and Consumer Services, Department of
† Racing Commission, Virginia

May 18

- Chesapeake Bay Local Assistance Board
Water Control Board, State

May 23

- Health, Department of
Local Government, Commission on
† Visually Handicapped, Department for the
Water Control Board, State

May 24

- Chesapeake Bay Local Assistance Board
Water Control Board, State

May 25

- Chesapeake Bay Local Assistance Board

May 30

- Chesapeake Bay Local Assistance Board
Virginia Alcohol Safety Action Program, Commission
on
Water Control Board, State

May 31

- Water Control Board, State

June 5

- Real Estate Board
Water Control Board, State

Calendar of Events
