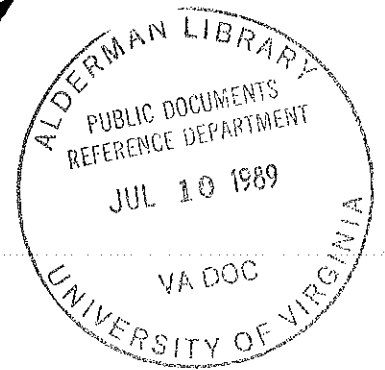


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THE VIRGINIA REGISTER

OF REGULATIONS

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July 3, 1989

1989

Pages 2783 Through 2968

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. 1:3 VA.R. 75-77 November 12, 1984 refers to Volume 1, Issue 3, pages 75 through 77 of the *Virginia Register* issued on November 12, 1984.

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July 1989 through September 1990

MATERIAL SUBMITTED BY **PUBLICATION DATE**
 Noon Wednesday

June 14	July 3
June 28	July 17
July 12	July 31
July 26	Aug. 14
Aug. 9	Aug. 28
Aug. 23	Sept. 11
Sept. 6	Sept. 25
Final Index - Volume 5	

Volume 6 - 1989-90

Sept. 20	Oct. 9
Oct. 4	Oct. 23
Oct. 18	Nov. 6
Nov. 1	Nov. 20
Nov. 15	Dec. 4
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Mar. 7	Mar. 26
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PROPOSED REGULATIONS

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Symbol Key

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

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

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

Public Hearing Date: September 6, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The regulation amendments concern provisions covering documents incorporated by reference. The amendments update Appendix M which lists all of the nonstatutory documents (those other than federal and state laws and regulations) and the primary federal regulations incorporated by reference. This list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from which it may be obtained. The amendments also update Rule 5-5 and Rule 6-1 which contain the list of federally promulgated New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) being incorporated by reference.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Documents Incorporated by Reference.

PART V. ENVIRONMENTAL PROTECTION AGENCY STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (RULE 5-5).

§ 120-05-0501. General.

The U.S. Environmental Protection Agency Regulations on Standards of Performance for New Stationary Sources (40 CFR Part 60) designated in § 120-05-0502 are incorporated by reference into these regulations amended by the word or phrase substitutions given in § 120-05-0503. The complete text of the subparts in § 120-05-0502 incorporated herein by reference is contained in 40 CFR Part 60 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-05-0502 identify the specific provisions of the subpart incorporated by reference.

§ 120-05-0502. Designated standards of performance.

Subpart A - General Provisions.

40 CFR 60.1, 40 CFR 60.2, 40 CFR 60.7, 40 CFR 60.8, 40 CFR 60.11, 40 CFR 60.13 through 40 CFR 60.15, 40 CFR 60.18

(applicability, definitions, notification and record keeping performance tests, compliance, monitoring requirements, modification, and reconstruction, and general control device requirements)

Subpart D - Fossil-Fuel Fired Steam Generators for which Construction is Commenced after August 17, 1971.

40 CFR 60.40 through 40 CFR 60.46

(fossil-fuel fired steam generating units of more than 250 million Btu per hour heat input rate and fossil-fuel fired and wood-residue fired steam generating units capable of firing fossil fuel at a heat input rate of more than 250 million Btu per hour)

Subpart Da - Electric Utility Steam Generating Units for which Construction is Commenced after September 18, 1978.

40 CFR 60.40a through 40 CFR 60.49a

(electric utility steam generating units capable of combusting more than 250 million Btu per hour heat input of fossil fuel (either alone or in combination with any other fuel); electric utility combined cycle gas turbines capable of combusting more than 250 million Btu per hour heat input in the steam generator)

Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

40 CFR 60.40b through 40 CFR 60.49b

(industrial-commercial-institutional steam generating units which have a heat input capacity from combusted fuels of more than 100 million Btu per hour)

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54

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- (units of more than 50 tons per day charging rate)
- Subpart F - Portland Cement Plants.
- 40 CFR 60.60 through 40 CFR 60.64
- (kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)
- Subpart G - Nitric Acid Plants.
- 40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)
- Subpart H - Sulfuric Acid Plants.
- 40 CFR 60.80 through 40 CFR 60.85
- (sulfuric acid production units)
- Subpart I - Hot Mix Asphalt Facilities.
- 40 CFR 60.90 through 40 CFR 60.93
- (dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)
- Subpart J - Petroleum Refineries.
- 40 CFR 60.100 through 40 CFR 60.106
- (fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)
- Subpart K - Storage Vessels for Petroleum Liquids Constructed after June 11, 1973 and Prior to May 19, 1978.
- 40 CFR 60.110 through 40 CFR 60.113
- (storage vessels with a capacity greater than 40,000 gallons)
- Subpart Ka - Storage Vessels for Petroleum Liquids Constructed after May 18, 1978.
- (storage vessels with a capacity greater than 40,000 gallons)
- Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
- 40 CFR 60.110b through 40 CFR 60.117b
- (storage vessels with capacity greater than or equal to 8,790 gallons)
- Subpart L - Secondary Lead Smelters.
- 40 CFR 60.120 through 40 CFR 60.123
- (pot furnances of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)
- Subpart M - Secondary Brass and Bronze Production Plants.
- 40 CFR 60.130 through 40 CFR 60.133
- (reverberatory and electric furnaces of 2,205 lb or greater production capacity and blast (cupola) furnaces of 550 lb per hr or greater production capacity)
- Subpart N - Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973: Primary Emissions.
- 40 CFR 60.140 through 40 CFR 60.144
- (basic oxygen process furnace)
- Subpart Na - Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983: Secondary Emissions.
- 40 CFR 60.140a through 40 CFR 60.145a
- (facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs.)
- Subpart O - Sewage Treatment Plants.
- 40 CFR 60.150 through 40 CFR 60.154
- (incinerators that combust wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2,205 lb per day municipal sewage sludge (dry basis))
- Subpart P - Primary Copper Smelters.
- 40 CFR 60.160 through 40 CFR 60.166
- (dryer, roaster, smelting furnace and copper converter)
- Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176

(roaster and sintering machine)

Subpart R - Primary Lead Smelters.

40 CFR 60.180 through 40 CFR 60.186

(sintering machine, sintering machine discharge end, blast furnace, dross reverberatory furnace, electric smelting furnace and converter)

Subpart S - Primary Aluminum Reduction Plants.

40 CFR 60.190 through 40 CFR 60.195

(potroom groups and anode bake plants)

Subpart T - Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

40 CFR 60.200 through 40 CFR 60.204

(reactors, filters, evaporators and hotwells)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214

(evaporators, hotwells, acid sumps and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224

(reactor, granulators, dryers, coolers, screens and mills)

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234

(mixers, curing belts (dens), reactors, granulators, dryers, cookers, screens, mills and facilities which store run-of-pile triple superphosphate)

Subpart X - Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

40 CFR 60.240 through 40 CFR 60.244

(storage or curing piles, conveyors, elevators, screens and mills)

Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254

(plants which process more than 200 tons per day: thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems and coal transfer and loading systems)

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266

(electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

Subpart AA - Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974 and on or before August 17, 1983.

40 CFR 60.270 through 40 CFR 60.276

(electric arc furnaces and dust-handling equipment)

Subpart AAa - Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983.

40 CFR 60.270a through 40 CFR 60.276a

(facilities in steel plants that produce carbon, alloy, or specialty steels: electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems)

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285

(digester system, brown stock washer system, multiple effect evaporator system, black liquor oxidation system, recovery furnace, smelt dissolving tank, lime kilns, condensate stripper and kraft pulping operations)

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296

(glass melting furnace)

Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304

(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading)

Proposed Regulations

stations, railcar unloading stations, railcar loading stations, grain dryers and all grain handling operations)

Subpart EE - Metal Furniture Surface Coating Operations.

40 CFR 60.310 through 40 CFR 60.316

(metal furniture surface coating operations in which organic coatings are applied)

Subpart FF - (Reserved)

Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335

(stationary gas turbines with a heat input at peak load equal to or greater than 10 million Btu per hour, based on the lower heating value of the fuel fired)

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344

(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374

(lead-acid battery manufacturing plants that produce or have the design capacity to produce in one day (24 hours) batteries containing an amount of lead equal to or greater than 6.5 tons: grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and other lead-emitting operations)

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386

(each crusher and screen in open-pit mines; each crusher, screen, bucket elevator, conveyor belt transfer point, thermal dryer, product packaging station, storage bin, enclosed storage area, truck loading station, truck unloading station, railcar loading station, and railcar unloading station at the mill or concentrator with the following exceptions. All facilities located in underground mines are exempted from the provisions of this subpart. At uranium ore processing plants, all facilities subsequent to and including the beneficiation of uranium ore are exempted from the provisions of this subpart)

Subpart MM - Automobile and Light Duty Truck Surface Coating Operations.

40 CFR 60.390 through 40 CFR 60.397

(prime coat operations, guide coat operations, and top-coat operations)

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404

(phosphate rock plants which have a maximum plant production capacity greater than 4 tons per hour: dryers, calciners, grinders, and ground rock handling and storage facilities, except those facilities producing or preparing phosphate rock solely for consumption in elemental phosphorous production)

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424

(ammonium sulfate dryer within an ammonium sulfate manufacturing plant in the caprolactum by-product, synthetic, and coke oven by-product sectors of the ammonium sulfate industry)

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435

(publication rotogravure printing presses, except proof presses)

Subpart RR - Pressure Sensitive Tape and Label Surface Coating Operations.

40 CFR 60.440 through 40 CFR 60.447

(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456

(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating Operations.

40 CFR 60.460 through 40 CFR 60.466

(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the

finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacturing.

40 CFR 60.470 through 40 CFR 60.474

(each saturator and each mineral handling and storage facility at asphalt roofing plants; and each asphalt storage tank and each blowing still at asphalt processing plants, petroleum refineries, and asphalt roofing plants)

Subpart VV - Equipment Leaks of Volatile Organic Compounds in the Synthetic Organic Chemicals Manufacturing Industry.

40 CFR 60.480 through 40 CFR 60.489

(all equipment within a process unit in a synthetic organic chemicals manufacturing plant)

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

(beverage can surface coating lines: each exterior base coat operation, each overvarnish coating operation, and each inside spray coating operation)

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506

(total of all loading racks at a bulk gasoline terminal which deliver product into gasoline tank trucks)

Subparts YY through ~~EEE~~ ZZ - (Reserved)

Subpart AAA - New Residential Wood Heaters.

40 CFR 60.530 thru 40 CFR 60.539b

(each wood heater manufactured on or after July 1, 1988, or sold at retail on or after July 1, 1990)

Subpart BBB - Rubber Tire Manufacturing Industry.

40 CFR 60.540 thru 40 CFR 60.548

(each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation)

Subparts CCC thru EEE - (Reserved)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585

(each rotogravure printing line used to print or coat flexible vinyl or urethane products)

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593

(each compressor, valve, pump pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service)

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604

(each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year)

Subpart III - (Reserved)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625

(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity equal to or greater than 84 pounds: petroleum solvent dry cleaning, dryers, washers, filters, stills, and settling tanks)

Subpart KKK - Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

40 CFR 60.630 through 40 CFR 60.636

(each compressor in VOC service or in wet gas service; each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service or in wet gas service, and any device or system required by this subpart)

Subpart LLL - Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

40 CFR 60.640 through 40 CFR 60.648

(facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit)

Subpart MMM through NNN - (Reserved)

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Subpart 000 - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676

(facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station)

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685

(each rotary spin wool fiberglass insulation manufacturing line)

Subparts QQQ thru SSS - (Reserved)

Subpart TTT - Industrial Surface Coating: Surface Coating of

Plastic Parts for Business Machines.

40CFR 60.720 thru 40 CFR 60.726

(each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats)

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Method 5 - Determination of particulate emissions from stationary sources.

Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

Method 5H - Determination of particulate emissions from wood heaters from a stack location.

Method 6 - Determination of sulfur dioxide emissions from stationary sources.

Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

Method 7 - Determination of nitrogen oxide emissions from stationary sources.

Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion colorimetric method.

Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

Method 9 - Visual determination of the opacity of emissions from stationary sources.

Alternate Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

Method 10 - Determination of carbon monoxide emissions from stationary sources.

Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries.

Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

Method 12 - Determination of inorganic lead emissions from stationary sources.

Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.

Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

Method 16B - Determination of total reduced sulfur emissions from stationary sources.

Method 17 - Determination of particulate emissions from stationary sources (in-stack filtration method).

Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates and electric utility steam generators.

Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

Method 21 - Determination of volatile organic compounds leaks.

Method 22 - Visual determination of fugitive emissions from material processing sources and smoke emissions from flares.

Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

Method 28 - Certification and auditing of wood heaters.

Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

Appendix B - Performance specification.

Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring system in stationary sources.

Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

Appendix C - Determination of Emission Rate Change.

Appendix F - Quality Assurance Procedures.

Procedure 1 - quality assurance requirements for

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gas continuous emission monitoring systems used for compliance determination.

Appendix I - Removable label and owner's manual.

§ 120-05-0503. Word or phrase substitutions.

In all the standards designated in § 120-05-0502 substitute:

- A. Owner or other person for owner or operator.
- B. Board for Administrator.
- C. Board for U.S. Environmental Protection Agency (except in references).
- D. § 120-05-03 for § 60.8.
- E. § 120-05-05 C of § 60.7(c).

PART VI.
ENVIRONMENTAL PROTECTION AGENCY
NATIONAL EMISSION STANDARDS FOR
HAZARDOUS AIR POLLUTANTS (RULE 6-1).

§ 120-06-0101. General.

The Environmental Protection Agency (EPA) Regulations on National Emission Standards for Hazardous Air Pollutants (40 CFR Part 61) designated in § 120-06-0102 are, unless indicated otherwise, incorporated by reference into these regulations as amended by the word or phrase substitutions given in § 120-06-0103. The complete text of the subparts in § 120-06-0102 incorporated herein by reference is contained in 40 CFR Part 61 (see Appendix M). The 40 CFR section numbers appearing under each subpart in § 120-06-0102 identify the specific provisions of the subpart incorporated by reference.

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

40 CFR 61.01 through 40 CFR 61.02 and 40 CFR 61.12 through 40 CFR 61.15

(applicability, definitions, compliance, emission tests, monitoring, modification)

Subpart B - Radon-222 Emissions from Underground Uranium Mines.

40 CFR 61.20 through 40 CFR 61.28

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

Subpart H - Radionuclide Emissions From Department of Energy (DOE) Facilities.

40 CFR 61.90 through 40 CFR 61.98

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart I - Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission (NRC) and Federal Facilities Not Covered by Subpart H.

40 CFR 61.100 through 40 CFR 61.108

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.

40 CFR 61.110 through 40 CFR 61.112

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

40 CFR 61.120 through 40 CFR 61.126

(NOTE: Authority to enforce the above standard is being retained by EPA and it is not incorporated by reference into these regulations.)

Subpart L - (Reserved)

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR 61.156

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

40 CFR 61.180 through 40 CFR 61.186

Subparts N through U Q through U- (Reserved)

Subpart V - Equipment Leaks (Fugitive Emission Sources).

40 CFR 61.240 through 40 CFR 61.247

Subpart W - Radon-222 Emissions from Licensed Uranium Mill Tailings.

40 CFR 61.250 through 40 CFR 61.252

Appendix B - Test Methods.

Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

Method 103 - Beryllium screening method.

Method 104 - Determination of beryllium emissions from stationary sources.

Method 105 - Determination of mercury in wastewater treatment plant sewage sludges.

Method 106 - Determination of vinyl chloride from stationary sources.

Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

Method 111 - Determination of polonium-210 emissions from stationary sources.

(NOTE: Authority to enforce the above test method

is being retained by EPA and it is not incorporated by reference into these regulations.)

Appendix C - Quality assurance procedures.

Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

§ 120-06-0103 Word or phrase substitutions.

In all of the standards designated in § 120-06-0102 substitute:

A. Owner or other person for owner or operator.

B. Board for Administrator.

C. Board for U.S. Environmental Protection Agency (except in references).

D. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.

E. § 120-06-03 for § 61.14.

APPENDIX M. DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.

2. Code of Virginia.

3. Code of Federal Regulations.

4. Federal Register.

5. Technical and scientific reference documents.

Additional information on key federal regulations and non-statutory documents incorporated by reference and their availability may be found in Section II.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(1987)~~ (1988) in effect July 1, ~~1987~~ 1988. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part

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35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this appendix any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this appendix may be examined by the public at the headquarters office of the State Air Pollution Control Board, in Room 825, Ninth Street Office Building, Richmond, Virginia between 8:30 a.m. and 4:30 p.m. of each business day.

II. Specific documents.

A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, ~~1987~~ 1988 are incorporated herein by reference.

a. 40 CFR Part 40 - National Primary and Secondary Ambient Air Quality Standards.

(1) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(2) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(3) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(4) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(5) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(6) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(7) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(8) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(9) Appendix J - Reference Method for the Determination of Particulate Matter as PM10 in the Atmosphere.

(10) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

b. 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

c. 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

(1) Subpart A - General Provisions.

(a) § 60.1 - Applicability.

(b) § 60.2 - Definitions.

(c) § 60.7 - Notification and record keeping.

(d) § 60.8 - Performance tests.

(e) § 60.11 - Compliance with standards and maintenance requirements.

(f) § 60.13 - Monitoring requirements.

(g) § 60.14 - Modification.

(h) § 60.15 - Reconstruction.

(i) § 60.18 - General control device requirements.

(2) Subpart D - Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.

(3) Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.

(4) Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.

(5) Subpart E - Standards of Performance for Incinerators.

(6) Subpart F - Standards of Performance for Portland Cement Plants.

(7) Subpart G - Standards of Performance for Nitric Acid Plants.

(8) Subpart H - Standards of Performance for Sulfuric Acid Plants.

(9) Subpart I - Standards of Performance for Hot

Mix Asphalt Facilities.

(10) Subpart J - Standards of Performance for Petroleum Refineries.

(11) Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After June 11, 1973 and Prior to May 19, 1978.

(12) Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After May 18, 1978.

(13) Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984.

(14) Subpart L - Standards of Performance for Secondary Lead Smelters.

(15) Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.

(16) Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

(17) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

(18) Subpart O - Standards of Performance for Sewage Treatment Plants.

(19) Subpart P - Standards of Performance for Primary Copper Smelters.

(20) Subpart Q - Standards of Performance for Primary Zinc Smelters.

(21) Subpart R - Standards of Performance for Primary Lead Smelters.

(22) Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.

(23) Subpart T - Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

(24) Subpart U - Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

(25) Subpart V - Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

(26) Subpart W - Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

(27) Subpart X - Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

(28) Subpart Y - Standards of Performance for Coal Preparation Plants.

(29) Subpart Z - Standards of Performance for Ferroalloy Production Facilities.

(30) Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

(31) Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

(32) Subpart BB - Standards of Performance for Kraft Pulp Mills.

(33) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

(34) Subpart DD - Standards of Performance for Grain Elevators.

(35) Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.

(36) Subpart GG - Standards of Performance for Stationary Gas Turbines.

(37) Subpart HH - Standards of Performance for Lime Manufacturing Plants.

(38) Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.

(39) Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.

(40) Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

(41) Subpart NN - Standards of Performance for Phosphate Rock Plants.

(42) Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.

(43) Subpart QQ - Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

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(44) Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

(45) Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.

(46) Subpart TT - Standards of Performance for Metal Coil Surface Coating.

(47) Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

(48) Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

(49) Subpart WW - Standards of Performance for the Beverage Can Surface Coating Industry.

(50) Subpart XX - Standards of Performance for Bulk Gasoline Terminals.

(51) *Subpart AAA - Standards of Performance for New Residential Wood Heaters.*

(52) *Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.*

~~(51)~~ (53) Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

~~(52)~~ (54) Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

~~(53)~~ (55) Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.

~~(54)~~ (56) Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.

~~(55)~~ (57) Subpart KKK - Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

~~(56)~~ (58) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

~~(57)~~ (59) Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.

~~(58)~~ (60) Subpart PPP - Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.

(61) *Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.*

~~(59)~~ (62) Appendix A - Reference Methods.

(a) Method 1 - Sample and velocity traverses for stationary sources.

(b) Method 2 - Determination of stack gas velocity and volumetric flow rate (type S pitot tube).

(c) Method 2A - Direct measurement of gas volume through pipes and small ducts.

(d) Method 2B - Determination of exhaust gas volume flow rate from gasoline vapor incinerators.

(e) Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.

(f) Method 3A - Determination of oxygen and carbon dioxide concentrations in emissions from stationary sources (instrumental analyzer procedure).

(g) Method 4 - Determination of moisture content in stack gases.

(h) Method 5 - Determination of particulate emissions from stationary sources.

(i) Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.

(j) Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.

(k) Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.

(l) Method 5G - Determination of particulate emissions from wood heaters from a dilution tunnel sampling location.

(m) Method 5H - Determination of particulate emissions from wood heaters from a stack location.

~~(4)~~ (n) Method 6 - Determination of sulfur dioxide emissions from stationary sources.

~~(m)~~ (o) Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.

~~(n)~~ (p) Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.

~~(o)~~ (q) Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).

~~(p)~~ (r) Method 7 - Determination of nitrogen oxide

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emissions from stationary sources.

~~(q)~~ (s) Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.

~~(r)~~ (t) Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).

~~(s)~~ (u) Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.

~~(t)~~ (v) Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion chromatographic method.

~~(u)~~ (w) Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).

~~(v)~~ (x) Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.

~~(w)~~ (y) Method 9 - Visual determination of the opacity of emissions from stationary sources.

~~(x)~~ (z) Alternative Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.

~~(y)~~ (aa) Method 10 - Determination of carbon monoxide emissions from stationary sources.

~~(bb)~~ Method 10A - Determination of carbon monoxide emissions in certifying continuous emission monitoring systems at petroleum refineries

~~(z)~~ (cc) Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.

~~(aa)~~ (dd) Method 12 - Determination of inorganic lead emissions from stationary sources.

~~(bb)~~ (ee) Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.

~~(ee)~~ (ff) Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.

~~(dd)~~ (gg) Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.

~~(ee)~~ (hh) Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide

emissions from stationary sources.

~~(ff)~~ (ii) Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.

~~(gg)~~ (jj) Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).

~~(kk)~~ Method 16B - Determination of total reduced sulfur emissions from stationary sources.

~~(hh)~~ (ll) Method 17 - Determination of particulate emissions from stationary sources (in-stack filtration method).

~~(ii)~~ (mm) Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.

~~(jj)~~ (nn) Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates from electric utility steam generators.

~~(kk)~~ (oo) Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.

~~(ll)~~ (pp) Method 21 - Determination of volatile organic compounds leaks.

~~(mm)~~ (qq) Method 22 - Visual determination of fugitive emissions from material sources and smoke emissions from flares.

~~(nn)~~ (rr) Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.

~~(oo)~~ (ss) Method 24A - Determination of volatile matter content and density of printing inks and related coatings.

~~(pp)~~ (tt) Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.

~~(qq)~~ (uu) Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.

~~(rr)~~ (vv) Method 25B - Determination of total gaseous organic concentration using a nondispersive infrared analyzer.

~~(ss)~~ (ww) Method 27 - Determination of vapor tightness of gasoline delivery tank using pressure-vacuum test.

~~(xx)~~ Method 28 - Certification and auditing of wood heaters.

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(yy) Method 28A - Measurement of air to fuel ratio and minimum achievable burn rates for wood-fired appliances.

~~(60)~~ (63) Appendix B - Performance Specifications.

(a) Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

(b) Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

(c) Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

(d) Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

(e) Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring systems in stationary sources.

(f) Performance Specification 6 - Specifications and test procedures for continuous emission rate monitoring systems in stationary sources.

~~(61)~~ (64) Appendix C - Determination of Emission.

~~(62)~~ (65) Appendix F - Quality Assurance Procedures.

Procedure 1 - Quality assurance requirements for gas continuous emission monitoring systems used for compliance determination.

(66) Appendix I - Removable label and owner's manuel.

d. 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

(1) Subpart A - General Provisions.

(a) § 61.01 - Applicability.

(b) § 61.02 - Definitions.

(c) § 61.12 - Compliance with standards and maintenance requirements.

(d) § 61.13 - Emission tests and waiver of emission tests.

(e) § 61.14 - Monitoring requirements.

(f) § 61.15 - Modification.

(2) Subpart C - National Emission Standard for Beryllium.

(3) Subpart D - National Emission Standard for Beryllium Rocket Motor Firing.

(4) Subpart E - National Emission Standard for Mercury.

(5) Subpart F - National Emission Standard for Vinyl Chloride.

(6) Subpart J - National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.

(7) Subpart M - National Emission Standard for Asbestos.

(8) Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

(9) Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

(10) Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

~~(8)~~ (11) Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

(12) Subpart W - National Emission Standard for Radon-222 Emissions from Licensed Uranium Mill Tailings.

~~(9)~~ (13) Appendix B - Test Methods.

(a) Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - air streams.

(b) Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

(c) Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants - hydrogen streams.

(d) Method 103 - Beryllium screening method.

(e) Method 104 - Determination of beryllium emissions from stationary sources.

(f) Method 105 - Determination of mercury in wastewater treatment plant sewage sludge.

(g) Method 106 - Determination of vinyl chloride from stationary sources.

(h) Method 107 - Determination of vinyl chloride content of inprocess wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

(i) Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

~~(10)~~ (14) Appendix C - Quality Assurance Procedures.

(a) Procedure 1 - Determination of adequate chromatographic peak resolution.

(b) Procedure 2 - Procedure for field auditing GC analysis.

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

B. U.S. Environmental Protection Agency.

1. The documents specified below from the U.S. Environmental Protection Agency are incorporated herein by reference.

a. Guideline on Air Quality Models (revised), EPA-450/2-78-027R, OAQPS No. 1.2-080, July 1986, as amended by Supplement A, July 1987.

b. Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. 999-AP-13, PB190235, 1965.

2. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1972 1987, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-006 and 002-005-00176-0, respectively 041-001-00-314-2).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

D. American Society for Testing and Materials (ASTM).

1. The documents specified below from the American

Society for Testing and Materials are incorporated herein by reference.

a. D323-82, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

b. ~~D97-66 (reapproved 1978)~~ D97-87, "Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the ~~1985~~ 1989 Annual Book of ASTM Standards.

2. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (215) 299-5400.

E. American Petroleum Institute (API).

1. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Second Edition, February 1980 Third Edition, 1989.

2. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

F. American Conference of Governmental Industrial Hygienists (ACGIH).

1. The following document from the ACGIH is incorporated herein by reference: ACGIH Handbook - Threshold Limit Values [®] ¶ for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for ~~1987-1988~~ 1988-1989.

2. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211; phone (513) 661-7881.

G. National Fire Prevention Association (NFPA).

1. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

a. NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

b. NFPA 30, Flammable and Combustible Liquids Code, 1984 1987 Edition.

c. NFPA 30A, Automotive and Marine Service Station Code, 1984 1987 Edition.

2. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

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BOARD FOR BRANCH PILOTS

Title of Regulation: VR 535-01-01. Branch Pilot Regulations.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Public Hearing Date: September 7, 1989 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulation continues the current requirement for all Branch Pilots and Limited Branch Pilots to be licensed and to meet certain apprenticeship and examination requirements before becoming licensed. All pilots must apply annually for license renewal and appear before the board or a board committee where they must present evidence of a recent satisfactory physical examination, of appropriate federal licenses and of continued competence to pilot the waters authorized by their license in order to qualify for continued licensure. Branch Pilots may pilot vessels only in those waters specified on their licenses. All pilots must comply with specific standards of conduct requirements.

The proposed regulation has been reorganized from its current two parts (License and Professional Conduct, and Maintenance of Complement, Penalties and Notices Procedures) to four parts (Initial, License, License Renewal, Change of License, and Standards of Conduct) to add to clarity and ease of reference.

Part IV, Standards of Conduct, has added new and strengthened current provisions concerning penalties for criminal conviction; for failing to inform the board of criminal convictions, of disciplinary actions taken by the United States Coast Guard or the National Transportation Safety Board, or of violations of statutes relating to piloting; and for performing pilot duties while under the influence of alcohol or drugs. Licensees are required to submit to a medical test to determine whether they are under the influence of drugs within 24 hours after a collision, grounding or other incident involving personal injury, death, environmental hazard or damage to a vessel in excess of \$100,000. The results of said test must be reported in writing to the board and a finding of pilot impairment may result in license suspension or revocation.

VR 535-01-01. Branch Pilot Regulations.

PART I.

INITIAL LICENSE AND PROFESSIONAL CONDUCT .

§ 1.1. Initial licensing.

1.1.1 Each pilot to whom a State branch has been issued

shall also procure and maintain a valid United States pilot license for the same waters as his branch.

1.1.2 Evidence of the United States pilot license shall be immediately filed with the Clerk of the BOARD.

1.1.3 Any pilot failing to comply with 1.1.2 above shall be prohibited from performing any of the duties of his office.

A. Any person wishing to obtain a license as a Limited Branch Pilot shall meet the following qualifications:

1. Satisfactorily complete a two year apprenticeship in a program approved by the board;

2. Satisfactorily complete a comprehensive examination which shall be approved by the board and administered by the examining committee of the board. The examination shall be in two parts:

a. Written

b. Practical oral examination;

3. Satisfactory performance by complying with the board's regulations and Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia; and

B. Any limited branch pilot wishing to obtain a full branch pilot license shall meet the following qualifications:

1. Satisfactorily complete a five year apprenticeship in a program approved by the board;

2. Hold a limited branch pilot license in good standing;

3. Pass a practical examination approved by the board and administered by the board's Examining Committee;

4. Hold an unrestricted, unlimited Inland Masters License and a First Class Pilot License issued by the United States Coast Guard. A copy of this license shall be filed with the clerk of the board immediately; and

5. Qualify in accordance with § 54.1-905 of the Code of Virginia.

§ 1.2. License renewal.

1.2.1. Each pilot to whom a branch is issued or renewed shall, within fifteen day of the date thereof, appear before the clerk of the appropriate circuit court and shall qualify in accordance with Article 3, Chapter 16, Title 54 of the Code of Virginia.

1.2.2. Evidence of such qualification required by 1.2.1 shall be immediately filed with the Clerk of the BOARD.

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1.2.3. Any pilot who fails to comply with 1.2.2 above shall be prohibited from performing any duties of his office.

§ 1.3. Physical qualifications for licensing.

1.3.1. The BOARD reserves the right to require any pilot to whom a branch has been issued, or any pilot seeking renewal of a branch, to submit evidence to the BOARD that the pilot is free of any physical, emotional, or psychological impairments which may affect his ability to perform the duties of his office.

1.3.2. Any pilot attaining the age of 72 years shall, at the time of his compliance with Section 54-538 of the Code, file with the BOARD a certificate of one or more physicians attesting to his physical condition to perform the duties of his office.

§ 1.4. Qualifying for license renewal.

1.4.1. Each pilot to whom a branch is issued shall make a minimum of two trips inbound from Cape Henry and two trips outbound to Cape Henry. These trips are to be made during the twelve month period for which the branch is issued.

1.4.2. Each pilot to whom a branch is issued for the James the Potomac, or the York River shall, in addition to 1.4.1 above, make at least one trip up and one trip down the river(s) for which the branch is issued. These trips are to be made during the twelve month period for which the branch issued.

1.4.3. Each pilot to whom a branch is issued for Cape Charles shall, in addition to 1.4.1 above, make at least one trip from Cape Henry to Cape Charles and one trip from Cape Charles to Cape Henry.

1.4.4. Such trips as required by 1.4.1, 1.4.2, and 1.4.3 above shall be made as a pilot of ships or sounding trip.

1.4.5. Upon the showing of good cause, the BOARD may waive the requirements of 1.4.2 and 1.4.3 when in its judgment the pilot is otherwise qualified.

§ 1.5. No pilot shall at any time perform any of the duties of his office whether ashore or afloat while under the influence of alcohol, or while under the influence of any narcotic drug or other self-administered intoxicant or drug of any nature.

§ 1.6. In addition to the responsibilities imposed by Section 54-536 of the Code of Virginia, each pilot shall at all times, whether ashore or afloat, be accountable to the BOARD for any action or personal conduct which may bring or tend to bring discredit to the Commonwealth or to the service of piloting.

§ 1.7.

1.7.1. Each pilot shall properly represent his turn, and when ordered, he shall report to the location at the time specified in the order.

1.7.2. Failure to respond to an order and/or tardiness in reporting to ships or shore locations shall be deemed an infraction of these regulations.

§ 1.8. Each pilot shall, as soon as possible under the circumstances, report his finishing time and other required information relating to the particulars of the ship.

§ 1.9. Each pilot shall immediately file with the BOARD a complete account of any violation of the statutes of Virginia or the United States relating to pilotage. Each pilot shall also report all collisions, groundings, other maritime mishaps of any description that may occur during the discharge of the pilot's duties.

PART II.

MAINTENANCE OF COMPLEMENT, PENALTIES, AND NOTICE PROCEDURES LICENSE RENEWAL

§ 2.1. There shall at all times be maintained a sufficient complement of pilots, whether ashore or afloat, to provide expedient and competent pilotage service in the Commonwealth.

§ 2.1. License renewal.

Each pilot seeking renewal of license shall complete a renewal application, comply with the following regulations and appear before the board or its License Renewal Committee which shall determine if he possesses the qualifications to be renewed.

A. Limited branch pilot license renewal.

1. Possess a valid Federal Pilot License issued for the same waters as his limited branch; and

2. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 12 months.

B. Full branch pilot license renewal.

1. Possess a valid unlimited Federal Inland Masters License;

2. Furnish to the board evidence of a satisfactory physical examination conducted within the immediately preceding 12 months;

3. Furnish to the board evidence that he has transited the waters embraced by his license during the 12 month period for which the license is issued;

4. Upon the showing of good cause, the board may

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waive the requirements of subdivision 3 above when in its judgment the pilot is otherwise qualified; and

5. Qualify in accordance with § 54.1-906 of the Code of Virginia.

§2.2 The board shall be notified of all violations of Virginia statutes or rules about which any license is informed.

§2.3 Whenever it is alleged that a pilot has violated any of the provisions of Chapter 16 of Title 54 of the Code of Virginia, or of these regulations, that pilot may, in accordance with Sections 54-520 and 54-534 of the Code of Virginia, be fined an amount not to exceed \$1,000.00; or his branch may be suspended and/or revoked entirely.

§2.4 Whenever these rules require notice to be given to the BOARD, any pilot shall be deemed in compliance when the notice is filed with the President, Vice President, or Clerk of the BOARD.

PART III. CHANGE OF LICENSE.

§ 3.1. Change of license.

In order to extend a license, an applicant must satisfactorily complete 12 or more round trips with a currently licensed pilot of the branch for which the applicant seeks licensure, receive a Federal First Class Pilot License for that additional area and pass a practical examination approved by the board and administered by the board's Examination Committee.

PART IV. STANDARDS OF CONDUCT.

§ 4.1. Grounds for denial of licensure, denial of renewal, or discipline.

The board shall have the authority to deny initial licensure, deny an extension of license, or deny renewal as well as to discipline existing licensees, whether limited or not, for the following reasons:

1. Having been convicted or found guilty regardless of adjudication in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude there being no appeal pending therefrom or the time for appeal having been elapsed. Any plea of nolo contendere shall be considered conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction;

2. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being

convicted or found guilty of any felony or of a misdemeanor involving moral turpitude;

3. Failing to report to the board in writing the results of any disciplinary action taken by the United States Coast Guard or the National Transportation Safety Board within 30 days of that action;

4. Refusing or in any other way failing to carry out an order from the pilot officers for reasons other than the public's health safety, and welfare;

5. Negligence in the performance of duties;

6. Violating or cooperating with other in violating any provision of Chapter 9 (§ 54.1-900 et seq.) of the Title 54.1 of the Code of Virginia, as amended, or any regulation of the board;

7. Failing to, as soon as possible under the circumstances, report to the pilot officers his finishing time and other required information relating to the particulars of the ship;

8. Failing to file immediately with the board a complete written account of any violation of the statutes of Virginia or of the United States relating to piloting or failing to report in writing to the board a complete account of all collisions, groundings, or other maritime mishaps of any description that may occur during the discharge of the pilot's duties;

9. Failing to submit evidence to the board within 30 days after the board's request that the licensee is free of any physical, emotional, or psychological impairments which may affect his ability to perform the duties of a pilot;

10. Failing to submit to the board within 14 days the written results of an appropriate medical test which shows the licensee to be free of the influence of alcohol or any medication (controlled substance or otherwise) and which was accomplished within 24 hours after any vessel which a Virginia licensed pilot was piloting was involved in a collision, grounding or other incident involving personal injury, death, environmental hazard or damage to a vessel in excess of \$100,000;

11. Performing or attempting to perform any of the duties of his office while under the influence of alcohol, or any medication (controlled substance or otherwise) to the extent that he is unfit for the performance of the duties of his office; or

12. An indication of impairment on a test furnished under subdivision 10 above.

All previous regulations of the Board for Branch Pilots are repealed upon the effective date of these regulations.

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The proposed regulations shall be effective November 30, 1989.

STATE BOARD FOR CONTRACTORS

Title of Regulation: VR 220-01-2. Rules and Regulations for the Board of Contractors.

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Public Hearing Dates:

August 7, 1989 - 7:30 p.m.

August 8, 1989 - 7:30 p.m.

August 9, 1989 - 7:30 p.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulation has been reorganized to place entry requirements before renewal, list fees at appropriate places, and to separate standards of practice from standards of conduct. In addition, in accordance with changes made by the Code Commission to Title 54.1, Chapter 11 on the regulation of contractors, the term "registration" has been added in the appropriate places. The proposed regulations also change some of the conditions for licensure, add the requirement for licensure of an individual Class A contractor for every licensed Class A firm, delete the requirement for board-administered examinations for certain specialty classifications, and substitute the requirement of a master certification from the Department of Housing and Community Development in those specialties. In addition, the regulations require assurance of continued competence for renewal or reinstatement of a license or registration and require some additional documentation of contractual agreements, record keeping and reporting to the Board.

VR 220-01-2. Rules and Regulations for the Board of Contractors.

PART I.

Part I GENERAL DEFINITIONS.

§ 1.1. Class A license specialty classifications - (§§ 54-1-28 and 54-120.1 of the Code of Virginia).

Definitions. - The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

A. "Building contractors" are those whose contracts include construction on real property owned, controlled or leased by another person for others of commercial, industrial, and or institutional buildings and or single or multiple-family residential buildings, including accessory

use structures and the remodeling, repair or improvement of any size building.

B. "Highway/heavy contractors" are those whose contracts include construction of roads, streets, bridges, railroads, public transit systems, runways, dams, parking lots, demolition, clearing, grading, excavating, paving, pile driving, foundations and miscellaneous drainage structures. Also included are those whose contracts include the installation or maintenance of power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter; the installation or maintenance of telephone, telegraph or signal systems for public utilities; and the installation of water, gas, and sewer lines, pumping stations, and treatment plants.

C. "Services contractors" are those whose contracts are for specialty services which do not substantially fall within the scope of any other classification within these regulations.

D. "Special services - electrical contractors" are those whose contracts include construction which falls within the provisions of the National Electrical Code.

E. "Special services - plumbing contractors" are those whose contracts include the installation, maintenance, extension, or alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary or storm drainage facilities; the venting system and the public or private water supply systems within or adjacent to any building, structure or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of storm-water, liquid waste, or sewerage, and water supply systems of any premises to their connection with any point of public disposal or other acceptable terminal.

F. "Special services - HVAC contractors" are those whose work includes the installation of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, and mechanical refrigeration systems.

G. "Special services - HVAC (refrigeration) contractors" are those whose work includes the installation, alteration, or repair of mechanical refrigeration systems.

§ 1.2. Renewal of license

A. All licenses expiring on January 31, 1985, for individuals licensed as a Class A Contractor, and all licenses expiring on December 31, 1985, for individuals licensed as a Class B Contractor, will be renewed in a manner to implement a staggered renewal system whereby approximately an equal number of licenses will be renewed each month during a biennium. (§ 54-131)

1. Licenses expiring on these dates will be renewed for a period of time ranging from 6 to 30 months

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based on a random selection.

2. Renewal notices will be mailed approximately 45 days prior to the expiration of these licenses and these notices will indicate the amount of fee due and the next expiration date. The amount of fees charged to each licensee will be determined based on the following schedule. (This fee schedule is to be used on a one-time basis only.)

<u>Expiration Date</u>	<u>Amount of Fee</u>	<u>Expiration Date</u>	<u>Amount of Fee</u>
Class A		Class B	
July 31, 1985	\$ 23	July 31, 1986	\$ 6
August 31, 1985	26	August 31, 1986	7
September 30, 1985	30	September 30, 1986	8
October 31, 1985	34	October 31, 1986	9
November 30, 1985	38	November 30, 1986	10
December 31, 1985	41	December 31, 1986	11
January 31, 1986	45	January 31, 1987	12
February 28, 1986	49	February 28, 1987	13
March 31, 1986	53	March 31, 1987	14
April 30, 1986	56	April 30, 1987	15
May 31, 1986	60	May 31, 1987	16
June 30, 1986	64	June 30, 1987	17
July 31, 1986	68	July 31, 1987	18
August 31, 1986	71	August 31, 1987	19
September 30, 1986	75	September 30, 1987	20
October 31, 1986	79	October 31, 1987	21
November 30, 1986	83	November 30, 1987	22
December 31, 1986	86	December 31, 1987	23
January 31, 1987	89	January 31, 1988	24
February 28, 1987	94	February 28, 1988	25
March 31, 1987	98	March 31, 1988	26
April 30, 1987	101	April 30, 1988	27
May 31, 1987	105	May 31, 1988	28
June 30, 1987	109	June 30, 1988	29

3. Thereafter, all Class A licenses expiring on or after July 31, 1985, and all Class B licenses expiring on or after July 31, 1986, will be renewed for a two-year period. The amount of renewal fee will be \$80 for a Class A license and \$20 for a Class B license. (§ 54-131)

4. Beginning on July 1, 1984, all new licenses will be issued in a manner to expire two years from the last day of the month in which they were issued. (§ 54-131)

B. The Department of Commerce will mail a renewal notice to the licensee outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the license may be submitted with the required fee. (§ 54-131)

C. For any licensee failing to renew the license within one month following the date it expires, a penalty fee of \$80 for Class A Contractors and \$20 for Class B Contractors will be required in addition to the regular renewal fee. Any licensee failing to renew their license within six months after it expires must apply for

reinstatement for the license, as no renewals will be accepted. (§ 54-131)

D. The date a fee is received by the Department of Commerce, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license is applicable for each fee received. (§ 54-131)

§ 1.3. Fee payments.

Each check or money order shall be made payable to the Treasurer of Virginia. All fees are nonrefundable. (§§ 54-120.1 and 54-120.3 of the Code of Virginia)

§ 1.4. Class A fee.

The fee for a Class A license (initial license) shall be \$100. (§ 54-120.1)

§ 1.5. Class B fee.

The fee for a Class B license (initial license) shall be \$100. (§ 54-120.3)

§ 1.6. Examination fee.

The examination fee shall be \$25 per examinee for each examination. (§ 54-120.1)

PART II. ENTRY.

§ 2.1. Class A license - (§§ 54-28, 54-1.119 and 54-120.1 of the Code of Virginia)

Applicants for licensure must submit an application completed in accordance with the application instructions, and meet or exceed the following criteria prior to licensure:

§ 2.1. Requirements for Class B registration.

Applicants for Class B registration shall complete an affidavit including but not limited to information on any criminal convictions or pleas of nolo contendere to criminal charges other than a minor traffic violation.

§ 2.2. Requirements for licensure as a Class A sole proprietorship, partnership, association or corporation.

Every sole proprietorship, partnership, association or corporation seeking a Class A license shall complete an application furnished by the Department of Commerce and shall meet or exceed the requirements set forth below prior to issuance of the license.

A. No Class A license will be issued to any sole proprietorship, partnership, association or corporation unless there is in responsible charge a Class A licensed individual who is a principal of that firm.

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B. The applicant shall be in good standing as a licensed contracting business in every jurisdiction where licensed and shall not have had a license as a contracting business suspended, revoked or surrendered in connection with a disciplinary action in any jurisdiction within five years prior to applying for licensure in Virginia.

C. Applicants will be required to provide information including but not limited to past-due debts, judgments, outstanding state or federal tax obligations, and refusals or denials of bonds. (Evidence of a pattern of failure to pay debts or to comply with contractual obligations sufficient to warrant the conclusion that the contracting business applying for a license is not likely to meet the financial responsibilities of a contractor shall be a basis for the denial of a license.)

D. Should the information submitted on the application fail to provide sufficient evidence that the firm can meet the financial responsibilities of a contractor, the board may require the firm to submit on a form provided by the board, a current balance sheet showing the assets, liabilities, and capital of the firm.

§ 2.3. Additional requirements for firms seeking a Class A license in a specialty classification.

Every firm seeking a Class A license for a specialty classification shall employ an individual holding a current master's certification from the Virginia Department of Housing and Community Development for that specialty classification.

§ 2.4. On or before July 1, 1990 any sole proprietorship, partnership, association, or corporation holding a Class A license at the time of the effective date of these regulations must submit to the board the name of a proposed individual Class A licensee who is in responsible charge of the firm. This individual will only be required to meet the standards set forth in §§ 2.5.A and 2.5.B below.

§ 2.5. Requirements for an individual Class A license.

Every individual seeking a Class A license shall complete an application furnished by the Department of Commerce and shall meet or exceed the requirements set forth below prior to the issuance of the license.

A. The individual shall be in good standing as a licensed contractor in every jurisdiction where licensed and shall not have had a license suspended, revoked or surrendered in connection with a disciplinary action in any jurisdiction within five years prior to applying for licensure in Virginia.

B. The individual shall not have been convicted in any jurisdiction of a misdemeanor involving lying, cheating or stealing; or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this paragraph. The record of a conviction authenticated in

such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

C. Beginning January 1, 1991, applicants will be required to provide information including but not limited to past-due debts, judgments, outstanding state or federal tax obligations, and refusals or denials of bonds. (Evidence of a pattern of failure to pay debts or to comply with contractual obligations sufficient to warrant the conclusion that the individual applying for a license is not likely to meet the financial responsibilities of a contractor shall be a basis for the denial of a license or registration.)

D. Should the information submitted on the application fail to provide sufficient evidence that the individual can meet the financial responsibilities of a contractor, the board may require the individual to submit, on a form provided by the board, a current balance sheet showing the assets, liabilities and capital of the individual.

E. Examination required for individual Class A license.

Beginning January 1, 1991, every individual seeking a Class A license shall attain a passing grade established by the board on an examination on the regulations of the board and on other knowledge necessary to manage the contracting activities of the licensed firm. The examination shall be approved by the board and provided by the board or by a testing service acting on behalf of the board.

1. Attainment of a passing grade on the appropriate examination when an examination is required by these regulations. (§ 54-120.1)

2. Three current satisfactory credit references from suppliers of building materials on a form prescribed by the board. (§ 54-120.1)

3. Three current satisfactory experience references from persons familiar with the knowledge, skills and abilities of the applicant, relating to the performance of contracting services to the public, on a form prescribed by the board. (§ 54-120.1)

4. One current satisfactory reference from the bank which maintains the applicant's depository account, on a form prescribed by the board. (§ 54-120.1)

5. A financial statement dated not more than 15 months prior to application evidencing a net worth of at least \$25,000 for an individual or partnership, excluding any jointly owned residence, or a net equity of at least \$25,000 for a corporation. (§ 54-120.1)

a. Financial statements dated more than 90 days prior to application must be accompanied by an affidavit certifying that the current financial condition is substantially as good as or better than that shown on the financial statement furnished. (§

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54-120.1)

§ 2.2. Temporary Class A license.

The board may issue a temporary license for a specific project if the project's owner requests such action in writing and the application demonstrates to the board's satisfaction that the applicant is able to complete satisfactorily the contract to be undertaken under authority of the temporary license. (§ 54-120.2 of the Code of Virginia)

§ 2.3. Class B license.

Applicants for licensure must submit an application stating the name, place of business, place of residence, name of the registered agent, and evidence of holding a current local license pursuant to local ordinances adopted under authority of § 54-145.2 of the Code of Virginia. (§ 54-120.3 of the Code of Virginia)

§ 2.4. Examinations required for Class A "Special services" classifications - (§§ 54-28, 54-110 and 54-120.1 of the Code of Virginia):

A. The electrical examination shall be administered by the board; shall be open book and based upon the pertinent provisions of the National Electrical Code. (§ 54-120.1)

B. The plumbing examination shall be administered by the board; shall be closed book and based upon the pertinent provisions of the BOCA Basic Plumbing Code, BOCA Mechanical Code, National Level Gas Code and NFPA No. 54, 1074, and includes five questions on gas fitting. (§ 54-120.1)

C. The HVAC examination shall be administered by the board; shall be open book and based upon the pertinent provisions of the BOCA Basic Mechanical Code. (§ 54-120.1)

D. The refrigeration examination shall be administered by the board; shall be open book and based upon the pertinent provisions of the BOCA Basic Mechanical Code. (§ 54-120.1)

§ 2.5. Waiver of examination by reciprocity.

The board may waive examination by reciprocity to any person holding a license in good standing in any jurisdiction of the United States, or any foreign country, provided, that the applicant satisfactorily demonstrates to the board that the examination passed in the other licensing jurisdiction is at least equal to the examination required to obtain licensure from this board. (§ 54-120.1 of the Code of Virginia)

§ 2.6. Qualifications for individual Class A license by reciprocity.

Applicants for individual Class A license by reciprocity shall meet the requirements set forth in §§ 2.5A, 2.5B, 2.5C, and shall have passed in the jurisdiction of original licensure an examination deemed to be substantially equivalent to the Virginia examination.

§ 2.7. No license or registration shall be issued to a licensee/registrant whose previous license/registration has been suspended for nonpayment of a Virginia contractor recovery fund assessment until all past-due assessments have been paid.

§ 2.8. Fees for licensing, registration and examination.

A. Fee payments. Each check or money order shall be made payable to the Treasurer of Virginia. All fees are nonrefundable.

B. Class B fee. The fee for a Class B registration (initial registration) shall be \$100.

C. Class A fee. The fee for a Class A firm license (initial license) shall be \$ 125.

D. Class A individual fee. The fee for a Class A individual license (initial) license shall be \$15.

E. The fee for the examination shall be \$75.

PART III.

RENEWAL/REINSTATEMENT.

§ 3.3. Renewal.

All Class A licensees and all Class B registrants wishing to renew the license/registration must apply for renewal of the license/registration every two years.

A. Fees.

The renewal fee for a Class A firm license is \$70; the renewal fee for a Class A individual license is \$45; and the renewal fee for a Class B registration is \$55.

B. Procedures.

The Department of Commerce will mail a renewal notice to the licensee/registrant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee/registrant of the obligation to renew. If the licensee/registrant fails to receive the renewal notice, a copy of the license/registration may be submitted with the required fee as an application for renewal.

C. Applicants for renewal of a license/registration shall certify on a form provided by the board that they meet the current standards for entry as follows:

1. Those applying for renewal of a Class B registration shall meet the requirements of § 2.1.

2. Those applying for renewal of a Class A firm license shall meet the requirements of §§ 2.2A, 2.2B and 2.2C and, where applicable, § 2.3.

3. Those applying for renewal of a Class A individual license shall meet the requirements of §§ 2.5A, 2.5B and 2.5C.

D. The date on which the renewal fee is received by the department or its agent will determine whether the license/registrant is eligible for renewal or falls in the reinstatement period.

3.4. Reinstatement.

Any license/registrant failing to apply for renewal of the license/registration within 30 days of its expiration date will be required to reinstate the license/registration.

A. Fee.

The fee for reinstatement is twice the amount of the renewal fee (\$140 for a Class A firm license, \$30 for a Class A individual license and \$110 for a Class B registration).

B. Applicants for reinstatement shall meet the requirement of § 3.3 above.

C. The date on which the reinstatement fee is received by the Department of Commerce or its agent will determine whether the license/registration is reinstated or a new application for licensure/registration is required.

D. In order to ensure that licensees/registrants are competent to practice as contractors, no reinstatement will be permitted once six months from the expiration date of the license/registration has passed. After that date the applicant must apply for a new license/registration and meet the then current entry requirements.

§ 3.5. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a license/registration for the same reasons as it may refuse initial license/registration or discipline a licensee/registrant.

PART III. PART IV. STANDARDS OF PRACTICE.

§ 3.1. § 4.1. Change in management personnel.

When there has been a change in the management personnel of a licensed /registered business, the licensee /registrant shall report the change in writing to the board within 30 days. The report shall designate provide in resume' form the qualifications and experience of the replacement management personnel. The board shall promptly notify the licensed/registered firm licensee in writing that continuation of the license /registration has been granted or denied in accordance with the

requirements stated in § 2.1 or 2.2 and where applicable, §§ 2.3 and 2.5 of these regulations. ; or it shall set forth reasons for disapproval. For the purpose of this regulation, "Management personnel" means the responsible managing employee, qualifying plumbing, electrical, HVAC or refrigeration examinee or officer of any corporation. (§ 54-110 of the Code of Virginia) any of the following:

1. The licensed individual in responsible charge of the business.

2. Any individual certified by the Virginia Department of Housing and Community Development in a specialty classification for a Class A licensed business.

3. The principals or officers of a licensed/registered corporation.

4. The general partners of a licensed/registered partnership.

5. The members of a licensed/registered association.

6. The sole proprietor of a licensed/registered sole proprietorship.

§ 3.2. Transfer of license prohibited.

No license issued by the board shall be assigned or otherwise transferred. Licenses are issued to legal business entities whether they be individuals, proprietorships, partnerships, corporations, joint ventures or other legal entities. Whenever there is any change in the ownership of the legal entity licensed, whether in a proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

§ 3.3. 4.2. Name changes.

A licensee /registrant must do business operate under the name in which the license /registration is issued. As long as there is no change in the legal entity, a licensee /registrant may secure a name change by submitting a written request to the board for such a change. The request must show the name as it then appears on the license registration and the new name, and must be accompanied by a copy of a name change authorization Certificate of Amendment from the State Corporation Commission if the licensee /registrant is a corporation, or by authorization from the appropriate local court, if the licensee /registrant is not a corporation.

§ 3.4. Classification change.

A licensee may obtain additional classifications by filing a written request with appropriate fee, a detailed resume' of qualifications and experience in the classifications requested, and three letters of recommendation attesting to those qualifications. An examination fee is required when the additional classifications requested are "Special services - HVAC" or "Special services - refrigeration."

Proposed Regulations

§ 3.5. Classification change fee.

The fee for classification change shall be \$10. (~~§ 54-119 of the Code of Virginia~~)

§ 4.3. Specialty classification change, addition, or deletion.

A. A firm holding a Class A license in a specialty classification may change a classification or obtain additional classifications by certifying on a form provided by the Department of Commerce the employment of an individual currently certified by the Virginia Department of Housing and Community Development for each classification. The fee for each change or addition is \$10.

B. Should the individual certified in a specialty classification leave the licensed business, the licensee must notify the board in writing within 120 days of the departure of that individual, and either request a new license without the specialty classification or provide the information required in § 2.3 of these regulations.

§ 3.6. § 4.4. Change of address.

Licenses /registrants shall report any change of address to the board in writing within 30 days of the change.

§ 4.5. Transfer of license/registration prohibited.

No license/registration issued by the board shall be assigned or otherwise transferred. Licenses/registrations are issued to legal business entities whether they be individuals, proprietorships, partnerships, corporations, joint ventures or other legal entities. Whenever there is any change in the ownership of the legal entity licensed/registered, a new license/registration is required.

PART V. STANDARDS OF CONDUCT.

§ 2.7. 5.1. Prohibited acts. — (~~§§ 54-1.28, 54-119 and 54-132.1 of the Code of Virginia~~). The following acts constitute are cause for disciplinary action:

1. Failure in any material way to comply with the provisions of Chapters 1 or 11 of Title 54.1 of the Code of Virginia or the regulations of the board.

1- 2. Furnishing substantially inaccurate or incomplete financial information to the board in obtaining, renewing, or reinstating a license.

2. Disciplinary action by any county, city, town, or any state or federal governing body, which action shall be reviewed by the board before it takes any disciplinary action of its own.

3. Failure in any material way to comply with the provisions of the rules and regulations of the board.

3. Failure to report to the board, in writing, the

suspension or revocation of the contractor license of a Virginia license/registrant by another state or his conviction in a court of competent jurisdiction of a building code violation.

4. Publishing or causing to be published any advertisement relating to contracting which contains an assertion, representation, or statement of fact that is false, deceptive, or misleading.

5. Gross negligence, or continued incompetence, or misconduct in the practice of his profession.

6. Failure to comply with the Virginia Uniform Statewide Building Code; which is administered by the Board of Housing and Community Development.

7. 5. Willful violation or cooperation with others to violate any provisions of Chapters 1 1-1 or 7 or 11 of Title 54 54.1 , of the Code of Virginia, or these regulations.

8. Abandonment without legal excuse of a contract or construction project engaged in or undertaken by the licensee.

9. Diversion of funds or property received for prosecution or completion of a specified construction project or operation, or for a specific purpose in the prosecution, or for the completion of a construction project or operation.

6. Failure to meet the following requirements for a written contract. All building contracting, as defined in § 1.1 of these regulations, excluding routine maintenance or service contracts, shall require a legible written contract clearly specifying the terms and conditions of the work to be performed. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee/registrant responsible for performance of the work. At a minimum the contract shall specify or disclose the following:

a. When work is to begin and the estimated completion date;

b. A detailed statement of the total cost of the contract and the amounts and schedule for progress payments;

c. A statement that any down payment shall not exceed 5.0% of the total cost of the contract unless otherwise agreed by the parties in writing;

d. A listing of specified materials, work to be performed, and estimated costs;

e. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such

events do not constitute abandonment and are not included in calculating time frames for payment or performance;

f. A statement disclosing that the general contractor may be held responsible for work performed by subcontractors hired by the general contractor;

g. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;

h. Disclosure of the cancellation rights of the parties;

i. A signed acknowledgement by the consumer that he has been provided with and read the Department of Commerce statement of protections available to him through the Board for Contractors;

j. Contractor's name, address, license/registration number, expiration date, and class of license/registration;

k. Statement providing that any significant modification to the contract must be in writing and signed by all parties;

7. Failure to make prompt delivery to the consumer before commencement of work of a fully executed copy of the contract (described in § 5.16) for construction or contracting work.

8. Failure of the contractor to maintain for a period of three years from the date of a contract a complete and legible copy of all documents relating to that contract, including, but not limited to, the contract and any addenda or change orders.

9. Refusing or failing, upon request or demand, to produce to the board, or any of its agents, any document, book, record or copy thereof in the licensee's possession concerning a transaction covered by these regulations or for which the licensee is required to maintain records, or failing to cooperate in the investigation of a complaint filed with the board against the contractor.

10. Abandonment, or the intentional and unjustified failure to complete work contracted for. (Unjustified cessation of work under the contract for a period of 90 days or more shall be considered evidence of abandonment.)

11. Diversion of funds or property received for use in a specified construction project or operation, or for a specific purpose in a construction project or operation.

10. Failure to honor, within 10 days of receiving formal notice from the board, any bad checks

submitted in payment of a fee required by these regulations.

11. 12. Making a substantial misrepresentation or making a false promise of a character likely to influence, persuade, or induce.

12. Failure to notify the board in writing within 30 days after the change of the address of record of the licensee.

13. Failure of a licensee to notify the board in writing within 30 days after a change in the control or direction of the business of the licensee resulting from a change in the licensee's partners, directors, officers, management personnel, responsible managing employee or examinee, or after a change in the control or direction of the business of the licensee resulting from another occurrence or event.

14. 13. Aiding or abetting an unlicensed *unregistered* person to violate any provision of Chapters 1.1 or 7 11 of Title 54 54.1, of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed *unregistered* person; or allowing one's license *registration* to be used by an unlicensed *unregistered* person; or acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's *registrant's* business.

15. Failure to comply with the provisions of the Virginia Fair Housing Law §§ 36-86 through 36-96, of the Code of Virginia.

16. 14. Offering, giving or promising anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry.

15. Having been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this paragraph. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

16. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or of being convicted and found guilty of any felony or of a misdemeanor involving lying, cheating or stealing.

17. Disciplinary action by any county, city, town, or

Proposed Regulations

any state or federal governing body, which action shall be reviewed by the board before it takes any disciplinary action of its own.

18. Failure to comply with the Virginia Uniform Statewide Building Code.

CONSUMER INFORMATION SHEET

BOARD FOR CONTRACTORS

VIRGINIA DEPARTMENT OF COMMERCE

If you are about to engage the services of a contractor in the state of Virginia, you should be aware of the state's program for the regulation of this occupation by licensing or registration of these businesses.

Any contractor who undertakes a project the total value of which is \$40,000 or more is required to have a valid Class A license issued by the Board for Contractors. A licensed contractor has met standards established by the Board to ensure that the licensee possesses the character, knowledge, and skills necessary to practice without harm to the public.

Any contractor who undertakes a project the total value of which is \$1,500 or more but less than \$ 40,000 must have a valid Class B registration issued by the Board. The registration process only requires that the contractor submit information to the Board concerning the location, nature, and operation of his practice.

Before signing a contract, you should ask to see the license/registration or the pocket card issued with the license/registration and check to be sure that it has not expired and that the contractor is working within the limits of his license or registration.

The authority of the Board for Contractors to discipline these licensed or registered contractors is limited to specific violations of the law and/or regulations of the Board, such as written citations from the local Building Inspector for violations of the Virginia Uniform Statewide Building Code or practices which constitute abandonment, gross negligence, continued incompetence, or misconduct in the practice of the profession. In such cases disciplinary action by the Board is limited to fines and/or suspension of the contractor's license or registration, and such action can only be taken after a hearing or with the consent of the licensee/registrant and his agreement to waive his right to hearing. The Board does not have the authority to order that the licensee/registration make restitution to you for losses you may have incurred due to the contractor's poor performance; efforts to recover such funds must be made through the civil courts.

Issues involving cosmetic defects in workmanship must be resolved by negotiation between you and your contractor or civil action to enforce the terms of your contract is necessary. You should be careful in reviewing the contract before signing it in order to be sure that the terms of the agreement are clear and acceptable to you.

Should you have reason to believe that you contractor may not have complied with the rules and regulations of the Board, you should notify the Department of Commerce by calling 1-800-552-3016 toll-free in Virginia or

804-367-8504, or by writing to the following address:

Department of Commerce
Enforcement Division
3600 West Broad Street
Richmond, Virginia 23230

The above information is not intended to be an exhaustive list of the remedies available to you through your local government or other agencies. If you need additional assistance, call the Virginia Department of Agriculture and Consumer Services, Citizens Assistance number, 1-800-552-9963 toll-free in Virginia, or write to the following address:

Department of Agriculture and Consumer Services
Washington Building - Capitol Square
1100 Bank Street, Room 101
Richmond, Virginia 23219

CLB (7-1-87)

For Office Use Only	
Lic #	_____
Date	_____
Code	_____



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 STATE BOARD FOR CONTRACTORS
 P. O. BOX 11066 RICHMOND, VIRGINIA 23230-1066

APPLICATION FOR CLASS B CONTRACTOR'S LICENSE
 FEE \$125

INSTRUCTIONS: Carefully read the instructions at the beginning of each numbered section and include the exact information and attachments asked for. Read the law and regulations governing contracting in Virginia and if you cannot comply with the requirements, you may not be eligible for a license. Violations of the licensing law and regulations can result in action to revoke or suspend a license. Incomplete applications will be returned or denied. All application and renewal fees are non-refundable. Make checks payable to the "Treasurer of Virginia". \$125 fee consists of \$100 application fee and \$25 Contractor Transaction Recovery Fund Assessment.

(1) NAME OF BUSINESS ENTITY:

Enter the name in which the applicant will conduct business in Virginia, business address (P.O. Box not acceptable), mailing address if other than business address, and telephone number. If the business address is not in Virginia or if the business is a foreign corporation (not chartered in Virginia), a \$3.00 check payable to the "Secretary of the Commonwealth" and a completed Power of Attorney Form must be attached to this application.

Business Name: _____
 Business Address: _____
 Mailing Address: _____
 Telephone Number: () _____

(2) TYPE OF BUSINESS ENTITY: (Please check one)

Sole Proprietor Partnership Corporation
 Association Joint Venture

(3) RESPONSIBLE MANAGEMENT PERSONNEL:

NOTICE TO APPLICANTS

Each person listed on the application as "Responsible Management Personnel" is responsible for conducting the affairs of the business in full compliance with Virginia law and regulations. If a license is granted, it permits the business to operate with the responsible management personnel designated on the application, do business under the name in which the license has been issued, do business in the style of business entity indicated on the application and at the address (place of business) shown on the license. ANY CHANGE IN RESPONSIBLE MANAGEMENT PERSONNEL, ANY CHANGE IN NAME OR ANY CHANGE IN ADDRESS MUST BE REPORTED TO THE BOARD IN WRITING IN ACCORDANCE WITH CURRENT REGULATIONS.

List all Responsible Management Personnel in the space provided below. Include Last Name, First Name and Middle Name. Responsible Management Personnel includes the officers and directors of a corporation as well as all stockholders owning 25% or more of the corporation's capital stock, all partners in a partnership, all associates in an association, all venturers in a joint venture, or the proprietor in a proprietorship. Also include any other individuals that control the technical and administrative decisions of the business.

Owners, Partners, Venturers, Officers and Stockholders:

NAME	HOME ADDRESS	TITLE	SOC. SECURITY #

Any Other Individuals That Control The Technical and Administrative Decisions of the Business:

NAME	HOME ADDRESS	TITLE	SOC. SECURITY #

- (4) Have any of the applicant's responsible management personnel ever been convicted of any criminal offense other than a minor traffic violation or pleaded nolo contendere to any such offense? Yes No. If yes, furnish explanation on separate sheet.
- (5) Are any of the applicant's responsible management personnel currently associated as responsible management personnel in any other contracting business? Yes No. If yes, furnish explanation on separate sheet including the name of the other business(es), nature of involvement and whether the other business(es) is (are) licensed by the Virginia State Board for Contractors.
- (6) Have any of the applicant's responsible management personnel previously been responsible management personnel in any other contracting business? Yes No. If yes, furnish explanation on separate sheet, including the name of the other business(es), nature of involvement and whether the other business(es) is(are) licensed by the Virginia State Board for Contractors.
- (7) Are there any unsatisfied final judgments against any of the responsible management personnel of the applicant business arising out of a transaction involving contracting? Yes No. If yes, explain on a separate sheet.
- (8) Are there any unsatisfied final judgments against a contracting business that originated while any of the applicant's responsible management personnel were responsible management personnel of another business? Yes No. If yes, give details on separate sheet.
- (9) Are all responsible management personnel legally eligible for employment in the United States? Yes No. If no, furnish explanation on separate sheet.
- (10) If the applicant is a foreign corporation (not chartered in Virginia), complete this question:
Has the applicant been granted a Certificate of Authority by the Virginia State Corporation Commission as required under the laws of Virginia (Sec. 13.1-757, Code of Virginia)? Yes No. If yes, provide a copy of the Certificate of Authority.
- (11) Does the applicant understand that a Class B license limits total jobs or contracts to under \$40,000, and that to bid or undertake a job \$40,000 or more or perform a volume of \$300,000 or more within any given 12-month period, a contractor must hold a Class A License issued by the State Board of Contractors? Yes No.
- (12) Does the applicant understand that a Class B Contractor must comply with any local licensing requirements in the counties, cities, and towns in which work is performed? Yes No.

The undersigned swears, deposes and says that the foregoing statements and the answers are true, that I (we) have complied with all laws of Virginia affecting contractors who come under the provisions of Title 54, Chapter 7, Code of Virginia, which are applicable to my (our) business, and that I (we) understand the State Board for Contractors regulations and licensing law as well as this affidavit.

If Sole Proprietorship, sign here: _____

If Partnership, Joint Venture or Association sign here:

Name of Partnership, Joint Venture or Association

By: _____
Signatures of all Partners, Venturers or Associates

If Corporation, sign here:

Name of Corporation

By: _____
Signature of President or Vice-President

AFFIDAVIT

STATE OF _____

City (or County) of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the State and City or County aforesaid this _____ day of _____ 19__.

My commission expires the _____ day of _____ 19__.

Affix Official Seal Here

Notary Public



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23220-4817

RONALD K. LEVINE
Senior Deputy Director

The enclosed forms are to be used in applying for a Class A Contractors License. This license is required in order to be eligible to bid or engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more in the Commonwealth of Virginia.

FEES: MUST ACCOMPANY APPLICATION

Payable to:

- | | | |
|--|----------------------|-------------------------------|
| * License Fee | \$100.00 | Treasurer of Virginia |
| * Recovery Fund Assessment | 25.00 | Treasurer of Virginia |
| * Examination (if required) | 25.00 (per examinee) | Treasurer of Virginia |
| * Power of Attorney | 3.00 | Secretary of the Commonwealth |
| (See Section VII for applicability) (must be a separate check) | | |
| *These fees may be combined into one check. | | |

APPLICATION DOCUMENTS: DEADLINE

Applications may be filed at any time. Applicants requiring an examination must file at least 30 days prior to the scheduled exam. Care should be taken to see that all information called for has been entered on the forms. The application consists of two parts: Part I provides the Board with a summary of the applicant's past performance record and gives general background information with respect to the make-up and composition of the business. Part II is a statement of the applicant's current financial position. The Board will not accept a statement more than 15 months old. A financial statement more than 90 days old must be accompanied by a notarized statement certifying that the applicant's current financial condition is substantially as good as or better than that shown on the statement furnished.

The affidavit sections that appear at the ends of both Part I and II must be completed by a Notary Public or the forms will be returned. This holds true even if a separate financial statement is used in lieu of completing our balance sheet.

If the classification requested does not require an examination a permanent license may be issued if all criteria for application are met. Approximate process time is three weeks.

REFERENCES:

It shall be the responsibility of each applicant to furnish 3 credit references, 3 qualification/experience references and 1 bank reference. Color-coded forms are enclosed. The blue forms are for credit, the green for experience and qualification and the yellow for the bank. It is the responsibility of the applicant to complete the upper portion of the forms and forward them to the various sources with a request that the information requested on the forms is to be completed and returned directly to YOU. The completed forms must accompany the application.

EXAMINATIONS:

The Board currently requires written examinations of all applicants who engage in Electrical, Plumbing, HVAC, and Refrigeration. Each applicant for any of these classifications must designate on the application the name and qualifications of the person(s) who will take the examination(s) on behalf of the firm. The examinee must either be an officer or a regular full-time employee of the applicant. A \$25 fee is required for each examinee, for each exam. Exams are scheduled in the months of January, April, July and October.

NOTE:

Virginia currently has a reciprocity agreement with North Carolina to the effect that we will honor and exempt from examination any contractor who currently holds a North Carolina INTERMEDIATE or UNLIMITED Electrical, Plumbing, or Heating Group I, II, and III based on a successful examination rather than a reciprocal agreement with another state.

SCHEDULE OF BOARD MEETINGS:

The Board holds regular meetings in January, April, July, and October.

NON-RESIDENT CONTRACTORS:

All foreign corporations (chartered outside Virginia) and contractors who are not residents of Virginia are required to furnish a Power of Attorney appointing the Secretary of the Commonwealth as their Agent upon whom all lawful processes or notices may be served. A filing fee of \$3.00 must accompany the completed form. Also, before foreign corporations engage in work in this State, they must obtain a Certificate of Authority (domesticate) from the State Corporation Commission, Jefferson Building, 12th and Bank Streets, Richmond, Virginia 23219. (Section 13.1-102, Code of Virginia)

LOCAL LICENSING ORDINANCE:

Two types of local licenses exist in Virginia with respect to contractors:

1. Local revenue licenses adopted pursuant to Section 58-297 of the Code of Virginia for the purpose of revenue.
2. Local licenses adopted pursuant to Section 54-145.2 of the Code for the purpose of regulation. Class A Contractors are exempt from these local regulatory licenses.

WANT TO AVOID UNNECESSARY DELAYS? USE THE CHECKLIST BELOW TO VERIFY YOUR APPLICATION FOR A CLASS A IS COMPLETE.

- Are all required fees enclosed with the application?
 _____ \$125 (combination application fee & Recovery Act Assessment)
 _____ 25 (examination fee, if required. Electrical, Plumbing,
 HVAC, & Refrigeration specialties ONLY)
- ALL FEES MAY BE COMBINED, WITH ONE CHECK MADE PAYABLE TO THE TREASURER OF VIRGINIA
- Have you answered the question regarding any previous bankruptcy?
- If your financial statement is over 90 days old, have you prepared a separate affidavit concerning your current status?
- If an Individual (Sole Proprietorship), does your net worth equal or exceed \$25,000, exclusive of a jointly owned residence?
- If a Partnership, have you included a financial statement on the partnership as well as individual financial statements on each partner?
- If a Corporation, does your net equity equal or exceed \$25,000?
- Have you supplied all the necessary signatures on BOTH the application form (RSC-4) AND financial statement (RSC-2)?
- Have both forms been notarized?
- If you are a non-resident of Virginia, have you completed a Power of Attorney form for an individual or partnership?
- If you are a foreign corporation (not chartered in Virginia), have you completed the Power of Attorney form?
- ~~Have you attached your check for \$25 (non-resident of Virginia) to the Power of Attorney form, if required?~~
- Are all your reference forms completed and enclosed with this application? (You should have 7 - 1 bank, 3 credit and 3 experience/client.)
- If you are a foreign corporation - Do you have a certificate of authority (domestic) from the VIRGINIA STATE CORPORATION COMMISSION

SCB: 3



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230

APPLICANT FOR A CLASS A CONTRACTOR'S LICENSE SHALL COMPLETE THE UPPER PORTION OF THIS FORM

(Show name as it appears on application)

Applicant's Trade Name _____

Street Address _____

City and State _____ Zip Code _____

Names of Principals of applicant business _____

Account No(s): Checking _____ Savings _____

The undersigned hereby authorizes _____ to furnish the following information to the State Board for Contractors.

Applicant's signature _____ Title _____

AFTER COMPLETION OF THE ABOVE, THE APPLICANT SHALL SEND THIS FORM TO THE APPLICANT'S BANK AS SHOWN ON APPLICATION WITH A REQUEST THAT THE FOLLOWING BE COMPLETED AND THIS FORM RETURNED TO THE APPLICANT. (The completed references must accompany the application documents.)

DEPOSIT ACCOUNTS:

Type of Account	Date Opened	Average Balance	Current Balance	Satisfactory/Unsatisfactory

OUTSTANDING LOANS:

Amount	Date Opened	Balance	For What Purpose	Type of Security	When Due

Manner of payment: Satisfactory _____ Unsatisfactory _____ If a line of credit has been established by the applicant, state amount \$ _____

Comments: _____

Name of bank providing reference: _____

Street Address: _____

City and State: _____ Zip Code: _____

Date _____ Signature _____ Title _____

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractor's License to engage in projects of \$50,000 or more or to undertake an annual volume of \$300,000 or more.

SBC:G



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS

3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM

(Show name as it appears on application)

Applicant's Trade Name _____

Street Address _____

City and State _____ Zip Code _____

Names of Principals of applicant business _____

Type of Contracting or Specialty(ies) applied for: _____

The undersigned hereby authorizes _____ to furnish the State Board for Contractors the information requested below.

Applicant's signature _____ Title _____

AFTER COMPLETION OF THE ABOVE, APPLICANT SHALL SEND THIS FORM TO A FURNISHER OF MATERIALS OR OTHER CREDIT SOURCE AS SHOWN ON APPLICATION WITH A REQUEST THAT THE FOLLOWING BE COMPLETED AND THIS FORM BE RETURNED DIRECTLY TO THE APPLICANT. (This is a change from previous procedures.)

Date credit established _____ Highest recent credit \$ _____

Amount owing \$ _____ Past Due \$ _____

Has the applicant always met obligations in accordance with the terms of the sale? Yes _____ No _____ If not, please give particulars. _____

Name of firm providing reference _____

Street Address _____

City and State _____ Zip Code _____

Date _____ Signature _____ Title _____

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractor's License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

Rev. 3/83

SBC:G



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS
3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM

(Show name as it appears on application)

Applicant's Trade Name
Street Address
City and State
Zip Code
Names of Principals of applicant business
Type of Contracting or Specialty(ies) applied for;
The undersigned hereby authorizes
Applicant's signature Title

AFTER COMPLETION OF THE ABOVE, APPLICANT SHALL SEND THIS FORM TO A FURNISHER OF MATERIALS OR OTHER CREDIT SOURCE AS SHOWN ON APPLICATION WITH A REQUEST THAT THE FOLLOWING BE COMPLETED AND THIS FORM BE RETURNED DIRECTLY TO THE APPLICANT.

Date credit established
Highest recent credit \$
Amount owing \$
Past Due \$
Has the applicant always met obligations in accordance with the terms of the sale?
Name of firm providing reference
Street Address
City and State
Zip Code
Date Signature Title

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractor's License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

SBC:G



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS
3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM

(Show name as it appears on application)

Applicant's Trade Name
Street Address
City and State
Zip Code
Names of Principals of applicant business
Type of Contracting or Specialty(ies) applied for;
The undersigned hereby authorizes
Applicant's signature Title

AFTER COMPLETION OF THE ABOVE, APPLICANT SHALL SEND THIS FORM TO A FURNISHER OF MATERIALS OR OTHER CREDIT SOURCE AS SHOWN ON APPLICATION WITH A REQUEST THAT THE FOLLOWING BE COMPLETED AND THIS FORM BE RETURNED DIRECTLY TO THE APPLICANT.

Date credit established
Highest recent credit \$
Amount owing \$
Past Due \$
Has the applicant always met obligations in accordance with the terms of the sale?
Name of firm providing reference
Street Address
City and State
Zip Code
Date Signature Title

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractor's License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

SBC:0 1982



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS
3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM

(Please type or print)

(Show name as it appears on application)

Applicant's Trade Name _____
Street Address _____
City and State _____ Zip Code _____
Names of Principals of applicant business _____
Type of Construction or specialty(ies) _____

The undersigned hereby authorizes _____ to furnish the State
Name of Reference Source
Board for Contractors the information requested below.
Applicant's signature _____ Title _____

After completion of the above, Applicant shall send this form to a past client, former employer, other contractor, Engineer, Architect, Building Official or other source as shown on the application with a request that the following be completed and this form be returned directly to the APPLICANT. The completed references must accompany the application documents.

CERTIFICATE IN SUPPORT OF EXPERIENCE QUALIFICATIONS

IN THE MATTER OF: _____ Contractor Applicant _____ Application Business Name

The person certifying to his knowledge of the experience of the above named shall complete this form.

I, _____, certify that I have personally known
(Name of Certifier) (PRINT)
_____ from _____ Month Year to _____ Month Year
(Name of Qualifying Individual)

PLEASE COMPLETE ALL QUESTIONS
ON THE REVERSE SIDE

- Did the qualifier work for you? YES NO
- If the qualifier worked for you, did he perform as an apprentice, helper, journeyman, foreman, employee, or contractor?

- Do you know him well enough to judge his qualification as a contractor? YES NO
- In what craft did the qualifying individual serve?

(Carpenter, Plumber, Electrician, Etc.)
- Did the qualifier perform in a satisfactory manner? YES NO
If NO please explain: _____

	Excellent	Satisfactory	Fair	Poor
Ability	_____	_____	_____	_____
Quality of work	_____	_____	_____	_____
Reputation for carrying out obligations	_____	_____	_____	_____
- Please describe specific projects which the qualifier has had responsible charge:

- Are you employed in a construction related business? YES NO
If YES explain: _____

REMARKS: _____

On this _____ day of _____, 19____, I certify that the foregoing is true and correct.

(Signature of Certifier)

(Certifier's Street Address)

(City, State and Zip Code)

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractors' License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

SBC:0 1982



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS
3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM
(Please type or print)

(Show name as it appears on application)

Applicant's Trade Name _____

Street Address _____

City and State _____ Zip Code _____

Names of Principals of applicant business _____

Type of Construction or specialty(ies) _____

The undersigned hereby authorizes _____ to furnish the State

Name of Reference Source

Board for Contractors the information requested below.

Applicant's signature _____ Title _____

After completion of the above, Applicant shall send this form to a past client, former employer, other contractor, Engineer, Architect, Building Official or other source as shown on the application with a request that the following be completed and this form be returned directly to the APPLICANT. The completed references must accompany the application documents.

CERTIFICATE IN SUPPORT OF EXPERIENCE QUALIFICATIONS

IN THE MATTER OF: _____ Contractor Applicant _____ Application Business Name

The person certifying to his knowledge of the experience of the above named shall complete this form.

I, _____ (Name of Certifier) (PRINT) _____ certify that I have personally known

_____ (Name of Qualifying Individual) from _____ Month _____ Year to _____ Month _____ Year

PLEASE COMPLETE ALL QUESTIONS
ON THE REVERSE SIDE

1. Did the qualifier work for you? YES NO

2. If the qualifier worked for you, did he perform as an apprentice, helper, journeyman, foreman, employee, or contractor?

3. Do you know him well enough to judge his qualification as a contractor? YES NO

4. In what craft did the qualifying individual serve?

(Carpenter, Plumber, Electrician, Etc.)

5. Did the qualifier perform in a satisfactory manner? YES NO

If NO please explain: _____

	Excellent	Satisfactory	Fair	Poor
Ability	_____	_____	_____	_____
Quality of work	_____	_____	_____	_____
Reputation for carrying out obligations	_____	_____	_____	_____

6. Please describe specific projects which the qualifier has had responsible charge:

7. Are you employed in a construction related business? YES NO

If YES explain: _____

REMARKS: _____

On this _____ day of _____, 19____, I certify that the foregoing is true and correct.

(Signature of Certifier)

(Certifier's Street Address)

(City, State and Zip Code)

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractors' License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

SBC:0 1982



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
STATE BOARD FOR CONTRACTORS
3600 West Broad St., Richmond, VA 23230

APPLICANT FOR A CLASS A CONTRACTORS' LICENSE SHALL COMPLETE UPPER PORTION OF THIS FORM

(Please type or print)
(Show name as it appears on application)
Applicant's Trade Name
Street Address
City and State Zip Code
Names of Principals of applicant business
Type of Construction or specialty(ies)

The undersigned hereby authorizes _____ to furnish the State Board for Contractors the information requested below.
Name of Reference Source
Applicant's signature Title

After completion of the above, Applicant shall send this form to a past client, former employer, other contractor, Engineer, Architect, Building Official or other source as shown on the application with a request that the following be completed and this form be returned directly to the APPLICANT. The completed references must accompany the application documents.

CERTIFICATE IN SUPPORT OF EXPERIENCE QUALIFICATIONS

IN THE MATTER OF: _____ Contractor Applicant _____ Application Business Name

The person certifying to his knowledge of the experience of the above named shall complete this form.

I, _____ (Name of Certifier) (PRINT) certify that I have personally known _____ (Name of Qualifying Individual) from _____ Month Year to _____ Month Year

PLEASE COMPLETE ALL QUESTIONS ON THE REVERSE SIDE

- 1. Did the qualifier work for you? YES NO
2. If the qualifier worked for you, did he perform as an apprentice, helper, journeyman, foreman, employee, or contractor?
3. Do you know him well enough to judge his qualification as a contractor? YES NO
4. In what craft did the qualifying individual serve? (Carpenter, Plumber, Electrician, Etc.)
5. Did the qualifier perform in a satisfactory manner? YES NO
If NO please explain:
6. Please describe specific projects which the qualifier has had responsible charge:
7. Are you employed in a construction related business? YES NO
If YES explain:

Table with 4 columns: Excellent, Satisfactory, Fair, Poor. Rows include Ability, Quality of work, Reputation for carrying out obligations.

REMARKS:
On this _____ day of _____, 19____, I certify that the foregoing is true and correct.
(Signature of Certifier) (Certifier's Street Address)
(City, State and Zip Code)

The information requested above is strictly of a confidential nature and becomes the property of the State Board for Contractors. It will be used solely in appraising the eligibility of the applicant for a Class A Contractors' License to engage in jobs of \$40,000 or more or undertake an annual volume of \$300,000 or more.

Proposed Regulations

DEPARTMENT OF EDUCATION

PURPOSE OF ACCREDITATION.

Title of Regulation: VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.

Statutory Authority: § 22.1-19 of the Code of Virginia.

Public Hearing Date: August 31, 1989 - 7 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed changes in the accreditation standards includes two new standards: Standard I - Performance Recognition and Standard J - Accreditation Status. Also, a paragraph has been added on the restructuring of middle schools under the self-study and review section. A new criterion was added on parents providing instructional assistance; monitoring retention rates; follow-up on vocational students; at-risk students; and instructional computer equipment.

Staffing of individual schools was changed to make all schools - equal for principals and librarians. Class size for special education has been placed in the standards for the first time. Also, teachers in middle and secondary schools on a seven-period day may teach six periods.

Many of the changes are rewording or changes to make the standards more compatible with the Standards of Quality and legislation passes since the last revision.

VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.

PART I. INTRODUCTION.

§ 1.1. These standards, with certain exceptions as cited in this document, shall become effective beginning with the 1988-89 1990-91 school year. Localities may implement these standards immediately with the exception of those which increase graduation requirements for students and with the exception of Standard C-11, which allows for alternatives to the standard school year of 180 days. Students who completed the ninth grade prior 1988-89 1990-91 may earn a diploma by meeting the graduation requirements in effect when they entered the ninth grade. Students who completed ninth, tenth, eleventh, or twelfth grade courses before the ninth grade under the 1988 standards shall be awarded credit for those courses under the provisions of these standards. These standards will be reviewed again in 1990 or sooner, for the 1992-94 biennium, if deemed necessary, by the Board of Education.

PART II.

§ 2.1. The standards for accreditation of public schools in Virginia are designed to provide a *minimum* foundation for quality education. Accreditation standards provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students. The accreditation standards are designed to achieve the following objectives:

1. Seek to ensure that schools provide educational programs of high quality for all students.
2. Encourage continuous appraisal and improvement of the school program.
3. Foster public confidence.
4. Assure recognition by other institutions of learning.
5. Assist in determining the effectiveness educational performance of schools. *

* The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining the effectiveness of the Commonwealth's public schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. In the 1990-91 school year or one year following the approval by the board of such criteria, whichever is later, the Superintendent of Public Instruction shall annually identify to the board those schools that exceed or do not meet the approved criteria. From such funds as are identified in the appropriations act for this purpose, a program of one-time grants shall be established by the board to assist local school boards in the implementation of corrective action plans for those schools that are designated as not meeting the approved criteria.

PART III. REQUIREMENTS FOR ACCREDITATION OF PUBLIC SCHOOLS IN VIRGINIA.

§ 3.1. Section 22.1-19 of the Code of Virginia includes the requirement that the Board of Education shall provide for the accreditation of public elementary and secondary schools in accordance with standards prescribed by it.

The Standards of Quality specify that each school division shall maintain schools which meet those requirements for accreditation prescribed by the Board of Education.

PART IV. PROCEDURES FOR ACCREDITATION.

§ 4.1. Reports and accreditation status.

A. The principal of each school shall submit school accreditation reports, through the division superintendent,

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to the Department of Education. A Summer School Accreditation Report shall be submitted for each summer program conducted and shall be a part of the accreditation report for the regular school session immediately following the summer session. Report forms will be provided by the Department of Education. Failure to submit the reports on time will constitute grounds for withholding accreditation.

B. Information included in the reports, as well as that obtained through other records and through visits by Department of Education personnel or other designated representatives of the Board of Education, will be used to determine the accreditation status of each school in accordance with tolerances approved by the Board of Education (*See Standard J*). Schools will be accredited, accredited with advisement, or accredited with a warning, depending on the extent of existing deficiencies. Each school division shall develop by July first of the next school year a written corrective action plan, acceptable to the Board of Education, for any school that is accredited with a warning. A school division not implementing the approved corrective action plan as specified for any such school will lose accreditation status for that school and will be in violation of state law. No school in the warned category shall be permitted to maintain accreditation for more than one year.

C. Schools shall be accredited annually. The Board of Education may require immediate corrective action or change of accreditation status whenever significant deficiencies are reported by representatives of the Department of Education. Schools that lose their accredited status shall be considered for reaccreditation may have their status reconsidered when subsequent reports and visits by Department of Education personnel reveal that prescribed standards are being met. The local school board shall review annually in public session the implementation of accreditation standards.

D. When a school applies for initial accreditation, a representative of the Department of Education shall visit the school to review the accreditation standards and procedures with the principal. A school with the number of deficiencies that would place it in the warned status will not be accepted for initial accreditation.

§ 4.2. Self-study and review.

A self-study followed by a *an on site* review by the a Department of Education *approved visiting committee* is required for all schools every 10 years. The process shall be conducted using criteria developed or approved by the Department of Education and shall be followed by a written progress report and a *staff review of implementation* within five years. School divisions that have their own procedure for the process may request approval to use it in lieu of the state process for the five year report.

Schools in which the middle school (grades 6,7,or 8)

constitute half or more than half of all grades in the school will use the Process for Restructuring Education in the Middle School Grades in lieu of any other process for self-study and review. To minimize duplication of effort, adjustments in the regular evaluation process will be made for those schools in which grades 6 through 8 are not in the same building.

§ 4.3. Application of the standards.

A. These standards apply to schools for all grade levels, K-12, as listed below:

1. Schools with grades K-5 shall meet elementary school standards;
2. Schools with grades 6-8 shall meet the middle school standards; and
3. Schools with grades 9-12 shall meet the secondary school standards.

B. Schools with grade patterns other than those listed above shall meet elementary, middle, or secondary school standards as determined by the Accreditation Service of the Department of Education.

C. *Criteria from the standards that are not appropriate to special education or to vocational and alternative programs housed in separate facilities will not be applied so long as state regulations governing services to the students enrolled are met.*

D. Except for the biennial school plan required by Standard D.8 (See Part VIII of these regulations), written divisionwide plans available in and applicable to each school may be used to satisfy all other written plans required in these standards.

PART V. SCHOOL AND COMMUNITY RELATIONS: STANDARD A.

§ 5.1. Each school shall have in effect a written plan that promotes interaction with the community and that fosters mutual understanding in providing a quality educational program. The plan shall be developed using the following criteria:

1. Parents, citizens, and representatives from business and industry shall be provided opportunities to participate on advisory committees, in curriculum studies, and in evaluating the educational program.
2. A written plan shall be provided *Provisions* for interpreting the school program to the community *shall be included in the required plan*.
3. A close working relationship shall be maintained between the school and other community agencies that provide services to students.

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4. Schools shall have written plans *Provisions* for cooperating with business and industry in formulating educational programs and conducting joint enterprises involving personnel, facilities, training programs, and other resources *shall be included in the required plan*

5. The staff shall be responsible for using the resources of the community and involving parents and citizens in the following:

- a. Evaluating the school program; and
- b. Developing the biennial school plan.

6. The school shall encourage and support the establishment of a Parent-Teacher Association/Organization and shall work cooperatively with it.

7. *The school shall have guidelines to encourage parents to provide instructional assistance to their children in the home and to support the school program.*

PART VI.

PHILOSOPHY, GOALS, AND OBJECTIVES: STANDARD B.

§ 6.1. Each school shall have current written statements of its philosophy, goals, and objectives that shall serve as the basis for all school policies and practices. Such statement shall be developed using the following criteria.

1. The philosophy, goals, and objectives shall be developed with the of concerned and interested professional and lay people who represent the various populations served by the school.

2. The school staff and community representatives shall review biennially the philosophy, goals, and objectives of the school and shall revise them as needed.

3. Copies of the school's philosophy, goals, and objectives shall be available to staff members, students, and parents.

4. The school's philosophy, goals, and objectives shall be the basis for the biennial school plan.

5. The school's philosophy and objectives and instructional program shall be consistent with the Standards of Quality, and the philosophy and objectives of the school division, the developmental characteristics of the students, research, and best educational practices.

6. Each The individual school's philosophy, goals, and objectives shall be based on a realistic and systematic needs assessment.

7. The objectives for students shall be stated in terms of skills, abilities, and attitudes to be developed.

PART VII.

INSTRUCTIONAL PROGRAM: STANDARD C.

§ 7.1. Each school shall provide a planned and balanced program of instruction that is in keeping with the abilities, interests, and educational needs of students and that promotes individual student achievement.

§ 7.2. Instructional program in elementary schools.

A. Each elementary school and all other schools which house grades K-5 shall provide a program of instruction for those grades in the following subjects:

Art	
Health	Physical Education
Language Arts	Science, Activity Based#FN 1
Mathematics	Social Studies
Music	(to include Virginia and U.S. Geography)

Kindergarten programs shall be developmental programs that recognize varying patterns and rates of individual development.

B. In grades 1-3, reading, writing, spelling, listening, speaking, and mathematics shall be the core of the program. Phonics shall be taught in reading. All other subjects shall be taught emphasizing reading and the other language skills.

C. Students not reading at or above grade level after grade 3, as determined by local or state assessment, shall receive additional instruction in reading.

*Elementary science shall involve activity-based instruction for a minimum of 50 percent of the instructional time.

§ 7.3. Instructional program in middle schools.

A. Each school that contains grades 6, 7, or 8 shall restructure its program according to the plan approved by the Board of Education. Specific attention shall be given to addressing the needs of at-risk students. Each middle level school and all other schools that house one or more of the middle school grades (6, 7, or 8) shall provide for those grades a program of learning experiences organized to meet the needs of early adolescence and shall provide instruction in the following subjects and skills:

Art	Music
Health	Physical Education
Language Arts	Science
(Laboratory)	
Mathematics	Laboratory
Vocational Education	Science ³
	Social Studies

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Foreign Language ² (to include World
Study and Test Taking Geography)
Skills
Thinking Skills Computer Uses in
Work and Learning

Foreign Language (3)
Electives (4)

Vocational Education 11
Fine Arts 2
Health and Physical Education⁶ 2
Total Units 38

B. The eighth grade shall provide a minimum of eight offerings in five academic areas (language arts, mathematics, science, social studies, and electives), health and physical education, fine arts, and vocational education.

C. Students not reading at or above grade level, as determined by local or state assessment, shall receive additional instruction in reading.

Students not reading at or above grade level, as determined by local or state assessment, shall receive additional instruction in reading.

§ 7.4. Instructional program in secondary schools.

A. Each secondary school *and all other schools that house one or more of the high school grades (9, 10, 11 or 12)* shall offer *for those grades* options for students to pursue a program of studies in several academic and vocational areas. These options shall include the following:

§ 7.5. The standard unit of credit for graduation shall be based on a minimum of 150 clock hours of instruction. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 150 hours of instruction provided. If a school division elects to award credit on a basis other than the standard unit of credit, the locality shall develop a written policy approved by the superintendent and school board which ensures:

1. ~~Vocational education~~ Choices that prepare the student *to complete a vocational education program with a marketable skill in one of three or more occupational areas skills* ;
2. ~~Academic~~ Choices that prepare the student for technical or preprofessional programs of higher education;
3. ~~Liberal arts~~ Choices that prepare the student for college-level studies in the arts and sciences;
4. Access to at least two advanced placement courses or two college level courses for credit; and
5. Preparation for scholastic aptitude tests, including as a minimum, a review of appropriate English and mathematics principles and instructions in taking the tests, shall be available for students.

1. That the content of the course for which credit is awarded is comparable to 150 clock hours of instruction; and
2. That upon completion, the student will have met the aims and objectives of the course as validated by passing an appropriate test.

B. Minimum course offerings for each secondary school shall be as follows:

	9-12
Academic Subjects	23
English	(4)
Mathematics	(4)
Science (Laboratory)	(4)
Laboratory Science ⁴	
Social Studies (to include World History and World Geography) ⁵	(4)

§ 7.6. The summer school program shall be equal in quality to the program offered during the regular school term:

1. One unit of new credit per summer session shall be the maximum for which a student may enroll unless prior approval is obtained from the principal to enroll in more than one subject.
2. Credit for repeated work ordinarily will be granted on the same basis as that for new work. With prior approval of the principal, certain students may be allowed to enroll in two repeat subjects to be completed in not less than 75 clock hours of instruction per unit of credit.
3. Summer school instruction which is provided as part of a remedial program shall be designed to improve specific identified student deficiencies.

§ 7.7. Locally developed elective courses offered for credit toward high school graduation shall be approved by the division superintendent and school board. When suitable course code numbers for reporting purposes cannot be found in the School Administrators Handbook of Course

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Codes and Endorsement Codes, they will be assigned, upon request, through the Accreditation Service of the Department of Education.

§ 7.8. ~~Students who begin postsecondary education prior to high school graduation shall receive credit toward high school graduation when the following conditions are met:~~ Beginning in the middle-school years, students shall be counseled as to opportunities for beginning postsecondary education prior to high school graduation. Students taking advantage of such opportunities shall not be denied participation in school activities for which they are otherwise eligible. Wherever possible, students shall be encouraged and afforded opportunities to take college courses simultaneously for high school graduation and college degree credit, under the following conditions:

1. Prior written approval of the high school principal for the cross-registration must be obtained;
2. The college must accept the student for admission to the course(s); and
3. The course must be given by the college for degree credits (hence, no remedial courses will be accepted).

Schools that comply with this standard shall not be penalized in receiving state appropriations. Schools and colleges are strongly encouraged to provide such opportunities to the secondary school students at no tuition cost to the individual or his family.

§ 7.9. ~~The secondary school vocational education program shall be competency-based so that students can develop the knowledge, skills, and attitudes required for employment and/or advanced occupational preparation. The secondary vocational education program shall:~~

1. *Reflect employment opportunities and labor market needs;*
2. *Be competency-based so that students can develop the knowledge, skills, and attitudes required for employment and/or advanced occupational preparation;*
3. *Provide career guidance, including employment counseling and placement services, and job-seeking skills for students, including those identified as handicapped;*
4. *Reflect program completer status for students who plan to seek employment after high school graduation;*
5. *Provide student leadership development activities as an integral part of the instructional program;*
6. *Provide activities to reinforce students' basis skills including reading, writing, speaking, listening, problem solving, critical thinking, personal attitudes/attributes, career development, and technological understanding;*

7. *Use community resources and facilities to enhance the quality of the instructional program;*

8. *Use cooperative education, apprenticeships, and mentorships;*

9. *Be directed toward successful placement of students*

a. In business, industry, government, or the military; or

b. In postsecondary programs leading to technical or professional careers; and

10. *Reflect cooperative arrangements with community colleges through formal articulation agreements.*

§ 7.10. Each middle and secondary school shall provide for the early identification and enrollment of students in a college preparation program with a range of educational and academic experiences in and outside the classroom, including an emphasis on experiences that will motivate disadvantaged and minority students to attend college.

§ 7.11. Each school shall have a program designed to improve the academic achievement and aspirations of culturally disadvantaged students.

§ 7.12. The standard school year shall be 180 days. The standard school day for students in grades 1-12 shall average at least 5-1/2 hours, excluding intermissions for meals and a minimum of three hours for kindergarten. School divisions may develop alternative schedules for meeting these requirements as long as a minimum of 990 hours of instructional time is provided for grades 1-12 and 540 hours for kindergarten. Such alternative plans shall be approved by the local school board and by the Board of Education, under guidelines established by the Board of Education.

§ 7.13. All students in grades 1-12 shall maintain a full-day schedule of classes (5-1/2 hours), unless a waiver is granted by the local superintendent of schools.

§ 7.14. Each school shall implement Standards of Learning Objectives or locally developed objectives that are equivalent to or exceed Board of Education requirements.

§ 7.15. Each school shall make available a remediation program, which may include summer school, to reduce the number of students who score in the bottom national quartile on Virginia State Assessment Program Tests or those who fail the state's literacy tests.

§ 7.16. Each school shall prepare and adhere to a written plan to teach appropriate writing skills at every grade level which shall include specific requirements and which culminates with a research paper in grades 11 or 12. Further, each student shall be required to make an oral presentation on the research paper before an adult or student audience.

§ 7.17. Each school shall implement career education ~~which awareness for all students that~~ promotes students' awareness and/or knowledge of careers and ~~emphasizes the consequences and implications~~ *advantages* of leaving school ~~without~~ *with* marketable skills ~~attained by completing an occupational preparation program or preparing for further education .~~

§ 7.18. Each school shall provide for the early identification of gifted students and enrollment of such students in ~~challenging~~ *differentiated* instructional programs taught by teachers with special training or experience in working with gifted students.

§ 7.19. Each school shall provide for the early identification of handicapped students offered a curriculum that is and enrollment of such students in appropriate instructional programs, as required by law.

§ 7.20. By graduation, each student shall receive instruction designed to help him achieve the objectives outlined in Computer Literacy for Students in Virginia issued by the Department of Education.

§ 7.21. Each school shall implement the Standards of Learning for the family life education program promulgated by the Board of Education or a family life education program consistent with the guidelines developed by the Board of Education in December, 1987. *Community involvement shall be an ongoing part of program implementation and evaluation.*

§ 7.22. Homebound instruction shall be made available to students who are confined for periods that would prevent normal educational progress. Homebound instruction shall be approved for credit, provided Board of Education regulations governing such instruction are met.

§ 7.23. When approved by the principal, students may be allowed to enroll in supervised correspondence courses in subjects not available to them through the school's schedule. Credit may be awarded for the successful completion of such courses when the work is done under the supervision of a certified teacher approved by local school authorities.

§ 7.24. Homework shall be governed by a written school board policy developed with the advice of parents and teachers. The policy shall include guidelines for the amount , *quality*, and timing of homework and shall outline the responsibility of students, teachers, and parents.

§ 7.25. Experimental and innovative programs that are in conflict with accreditation standards shall be submitted to the Department of Education for approval prior to implementation. The request shall include the purpose, objectives, outline, and evaluation procedures for the programs, and shall be approved by the local school board.

§ 7.26. Each school shall provide a variety of *books*,

materials and equipment to support the instructional program.

§ 7.27. School-sponsored extracurricular activities shall be under the direct supervision of the staff and shall contribute to the educational objectives of the school. Extracurricular activities shall be organized to avoid interrupting the instructional program. Extracurricular activities shall not be permitted to interfere with the student's required instructional activities. Extracurricular activities and eligibility requirements shall be established and approved by the superintendent and the school board. Activities which help a student meet the objectives of the course may be considered part of the instructional program; they are not considered extracurricular activities as long as they do not interfere with instruction in other courses.

§ 7.28. Competitive sports of a varsity nature (scheduled league games) shall be prohibited as a part of the elementary school program.

PART VIII. INSTRUCTIONAL LEADERSHIP: STANDARD D.

§ 8.1. The principal , *with the assistance of the faculty*, shall be responsible for instructional leadership and effective school management that promotes achievement of individual students. The principal shall be responsible for the following:

1. An atmosphere of mutual respect and courtesy shall be a primary goal of the school, and the administrative staff shall ~~make every effort to achieve~~ *enlist the help of students, faculty, and community in achieving it.*
2. The principal shall establish and include in the teachers' handbook procedures to protect instructional time from interruptions and intrusions.
3. The principal or his designee shall prepare and adhere to a written plan involving greater use of aids, volunteers, part-time instructors, and technology to assist teachers , *and to assist with the remedial education program .*
4. The regular school day shall be limited to teaching and learning activities.
5. The principal or his designee shall monitor and evaluate the quality of instruction through the following:
 - a. The establishment of written objectives for each teacher, developed cooperatively by the teacher and the administrator;
 - b. A systematic program of classroom observation and follow-up consultation with each teacher *that emphasizes instructional competencies such as*

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academic learning time, accountability, clarity of structure, individual differences, evaluation, consistent rules, affective climate, learner self-concept, meaningfulness, planning, questioning skills, reinforcement, close supervision, and awareness ;

c. In-service training and professional assistance and support designed to improve instruction;

d. Analysis and use of data on pupil achievements; and

e. An evaluation of each teacher at least every two years or in accordance with a schedule approved by the Department of Education.

6. At least 40% of the time of the principal and an average of 40% of the time of the assistant principal(s) shall be devoted to supervision of instruction and curriculum development.

7. The principal shall analyze test scores and develop plans to improve them when needed. Plans shall be submitted to local school division superintendent.

8. The principal or his designee shall prepare and adhere to a written biennial school plan which includes the other written plans required in these standards, approved by the division superintendent, that is consistent with the division's six-year plan.

9. The principal or his designee shall be responsible for using the resources of the community and for involving parents and citizens in the educational program, as indicated in Standard A (see Part V of these regulations).

10. Each school shall prepare and adhere to written procedures to recognize and reward the scholastic achievements of students. (Include in biennial plan).

11. The principal or his designee shall demonstrate high expectations for all students.

12. The principal or his designee shall act to reduce the number of students who drop out of school by:

a. ~~Including dropout prevention programs in the biennial school plan and implementing these programs;~~

b. ~~Providing alternative programs with emphasis on basic skills for students who are not successful in regular instructional programs;~~

a. Identifying, early, potential dropouts, assessing their individual needs, and providing additional support and/or alternatives that meet the identified needs. Such programs can include general education, vocational education, and work; must

offer learning experiences that vary to meet interests and abilities of individual students; shall include choices in terms of times, location and staffing; and shall be designed to help students acquire knowledge and develop skills and attitudes reflected in the Goals of Education for Virginia's Public Schools.

e. ~~b.~~ Providing counseling services that motivate students to stay in school;

d. ~~c.~~ Establishing and maintaining close contact with parents of potential dropouts;

e. ~~d.~~ Conducting interviews with potential dropouts and with students who are dropping out of school;

f. ~~e.~~ Maintaining records of dropouts, including actions taken to prevent students from dropping out of school, and their reasons for leaving school; ~~and~~

f. Monitoring retention rates and procedures; and

g. Other activities deemed appropriate by local school authorities including enrollment in career exploration at the middle school level and occupational preparation programs beginning at the ninth grade .

13. The principal or his designee with the advice of parents shall develop a written procedure for referring for treatment students identified as involved in substance abuse.

14. Each member of the administrative staff shall participate annually in state or local in-service programs designed specifically for administrators.

15. Each school shall maintain a current handbook of policies and procedures that includes the school division's standards of student conduct and procedures for enforcement, along with other matters of interest to parents and students.

16. Each school shall maintain records of receipts and disbursements of funds handled. These records shall be audited annually by a professional accountant approved by the local school board.

17. Each school shall maintain a current record of certification, endorsement, and in-service training of the staff.

18. Fund-raising activities which involve elementary students in door-to-door solicitation shall be prohibited and so stated in the school handbook.

19. Each school shall have a written procedure to be followed when students or staff are injured or become ill and keep documentation of all injuries which occur at school and on school buses.

20. Each school shall have at least two full-time staff members who have attended and successfully completed courses approved by the State Board of Health in all of the following: cardiopulmonary resuscitation (CPR), Heimlich maneuver (for choking), and basic first aid. *A list of such personnel shall be made known to students and staff and posted.*

21. *Each secondary school shall conduct, in accordance with guidelines provided by the Board of Education, a follow-up of vocational students in order to assess the effectiveness of the program and obtain information for use in student guidance and vocational planning and program development.*

PART IX. DELIVERY OF INSTRUCTION: STANDARD E.

§ 9.1. The staff shall provide instruction that is educationally sound in an atmosphere conducive to learning and in which students are expected to achieve.

1. Mutual respect, courtesy, and a genuine concern for all students shall be evident in the learning environment.

2. Staff members shall serve as models for effective oral and written communication with special attention to correct use of language and spelling.

3. Teachers of all subjects shall strive to strengthen the basic skills of students.

4. Daily teaching objectives shall be established to achieve the following:

a. Identify what students are expected to learn;

b. Inform students of the learning expected and keep them engaged in learning tasks; and

c. Enable the teacher to spend the maximum time possible in the teaching/learning process by keeping to a minimum disruptions, clerical responsibilities, and the time students are out-of-class.

5. The staff shall provide for individual differences of students through the use of varied materials and activities suitable to their interests, and abilities, *and learning styles.*

6. The staff shall assess the progress of students and report promptly and constructively to them and their parents.

7. The staff shall demonstrate a high expectation of learning for all students.

8. The staff should demonstrate the qualities of patriotism, honesty, and fair play and expect the same of all students.

9. Classroom activities shall be structured and monitored to minimize disruptive behavior.

10. Inappropriate behavior by a student shall be responded to quickly and consistently without demeaning the student responsible for the behavior.

11. Each school shall establish a broad-based process for determining the particular guidance and counseling needs of its students and for planning how best to meet these needs. Guidance and counseling programs shall be provided for all students in grades K-12, to achieve the following:

a. Ensure that individual curriculum planning is provided at the middle and secondary level to assist each student in selecting appropriate and challenging courses;

b. Provide opportunities for parents, teachers, and other adults to participate in planned activities that encourage the personal, social, educational, and career development of students;

c. *Provide information at the middle and secondary levels regarding vocational completion requirements and job-market skills. Secondary students not pursuing further education shall receive employment counseling and placement services to furnish information about employment opportunities available to students graduating from or leaving school;*

d. Provide for the coordination of a testing program that includes orientation to test-taking, use of test data, and the interpretation and use of student records data;

e. Provide for the evaluation of the guidance program by the principal, counselor(s), staff, and parents;

f. Ensure that at least 60% of the time of each member of the guidance staff shall be devoted to counseling of students; and

g. Ensure that each student has a balanced program of studies each year, including at least one mathematics or laboratory science course in grades 11 or 12.

h. Ensure that services for at-risk students are coordinated.

12. *The library media center shall be organized as the resource center of the school and shall provide a unified program of media services and activities for students and teachers before, during, and after school. The library media center shall have the following: The library media center is an integral part of the instructional process. It offers consultation;*

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instruction; access to resources and information in a variety of print, nonprint, and electronic formats; reference services, and audio visual production services to students and teachers. These services are available and accessible throughout the school day. The school library media center shall be characterized by:

- a. An average monthly circulation of print and nonprint materials equal to at least 70% of the school membership;
- b. A *flexible* schedule that provides for library use by all students;
- c. A written policy for the selection, evaluation, withdrawal, and disposal of all instructional materials purchased by the school division, with clearly stated procedures for handling challenged, controversial materials;
- d. A *current* Cataloging of all library media in the school, which promotes accessibility and ease of retrieval, including a functional loan system, an annual inventory of materials and equipment, and a procedure for screening and discarding media;
- e. An information file that reflects curriculum needs and contains pamphlets, clippings, pictures, and information about local resources;
- f. A minimum of two complete sets of encyclopedias, one of which has been copyrighted within the last five years;
- g. An unabridged dictionary and abridged dictionaries;
- h. Newspaper subscription(s) providing daily, local, state, and national news coverage ;
- i. Fifteen subscriptions to periodicals for elementary schools and 25 subscriptions for middle and secondary schools that are ~~pertinent to the school program~~ *reflect the curricular and personal needs and interests of the students ;*
- j. A current and accessible professional library in each school, or in a centralized instructional media center in the school division;
- k. Materials such as prints, charts, posters, recordings (disc and tape), filmstrips, multimedia kits, models, study prints, slides, transparencies, videotapes, videodiscs, *micro* computer software, *micro forms*, *online information retrieval systems*, and maps and globes that are carefully selected to meet the needs of the instructional program;
- l. Collection requirements (20% of which may be nonprint instructional material) for each library

media center shall be as follows:

- (1) Ten books per student in elementary schools;
 - (2) In middle and secondary schools, a basic collection of 1,000 well-selected titles. (In schools with more than 150 students there shall be a minimum of seven books per student); and
 - (3) Fifty percent of the minimum basic collection shall be available for circulation during the first semester in a new school ; ;
- m. Librarians involved with teachers and administrators in planning the school curriculum; and
 - n. Functional equipment to support the use of audiovisual materials.

13. As prescribed by the Six-Year Technology Plan for Virginia, each school shall provide training and have foundation levels of equipment in institutional computing, distance learning, and audio visual equipment.

PART X. STUDENT ACHIEVEMENT: STANDARD F.

§ 10.1. Each school shall provide learning objectives to be achieved by students at successive levels of development and shall continually assess the progress of each student in relation to these objectives and the goals of education in Virginia. The goals of public education in Virginia are to aid each pupil to the full extent of his abilities, to accomplish the following:

1. Develop competence in the basic learning skills;
2. Develop the intellectual skills of rational thought and creativity;
3. Acquire knowledge and process skills of science and technology;
4. Acquire broad knowledge and understanding of the Humanities;
5. Progress on the basis of achievement;
6. Graduate from high school and qualify for further education or employment;
7. Develop personal standards of ethical behavior and moral choice;
8. Participate in society as a responsible family member and citizen;
9. Develop a positive and realistic concept of self and others;

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10. Acquire an appreciation for and a sensitivity to people of ~~various races diverse ethnic and racial groups~~ ;

11. Practice sound habits of personal health and physical fitness;

12. Enhance *and protect* the quality of the environment;

13. Develop skills, knowledge, and attitudes regarding the arts; and

14. Acquire a basic understanding and appreciation of democracy and the free enterprise system.

§ 10.2. Students shall *the* pass literacy tests *prescribed by the Board of Education* in reading, writing, and mathematics in order to be promoted to the ninth grade except for identified handicapped students who ~~are progressing according to the objectives of have been exempted by their individualized education program (IEP).~~ Students transferring to a Virginia public school prior to the ninth grade shall also be required to pass the literacy tests in order to be promoted to the ninth grade. Students who are not promoted shall be enrolled in alternative programs leading to one or more of the following:

1. Passing the literacy tests;
2. High school graduation;
3. General Educational Development (GED) Certificate;
4. Certificate of program completion; and
5. Job-entry skills.

§ 10.3. Graduation requirement.

A. To graduate from high school, a student shall meet the minimum requirements for the 21-credit diploma outlined below for grades 9-12. Students who graduate with an average grade of "B" or better will receive a Board of Education Seal on the diploma.

	9-12
English	4
Mathematics'	2
Laboratory Science'	2
Math or Science ^a	1
Social Studies:	3
Virginia and United States History ¹ , Virginia and United States Government ¹ , World Studies (World Culture, World History, World Geography) ¹	
Health and Physical Education	2

Fine Arts or Practical Arts'	1
Electives	6

Total Units 21

B. Each secondary school shall offer as an elective for students, an Advanced Studies Program which requires a minimum of 23 units of credit as outlined below for grades 9-12. Students who graduate with an average grade of "B" or better and successfully complete at least one advanced placement course (AP) or one college level course for credit will receive a Governor's Seal on the diploma.

	9-12
English	4
Mathematics	3
Laboratory Science	3
Social Studies:	3
Virginia and United States History ¹ , Virginia and United States Government ¹	
World Studies (World Cultures, World History or World Geography) ¹	
Foreign Language	3
(3 years of one language or 2 years each of 2 languages)	
Health and Physical Education	2
Fine Arts or Practical Arts ^a	1
Electives	4

Total Units 23

C. To earn an Advanced Studies Diploma, students shall complete a mathematics sequence that includes Algebra I and two courses above the level of Algebra I, and a science sequence that includes ~~three units from earth science, biology, chemistry, and physics units of credit in at least three of the four following subjects: earth science; Biology I; Chemistry I; and Physics I~~ .

D. When students below the ninth grade successfully complete ninth, tenth, eleventh or twelfth grade subjects, credit shall be counted toward meeting the units required for graduation in grades 9-12. Students shall be encouraged to take advantage of this option.

E. Students who are graduating from a secondary school ; and ~~do not intend to continue their education should have identified marketable skills must be program completers in an occupational preparation program or qualify for further education at the post secondary level~~ .

F. Students completing graduation requirements in a summer school accredited under these standards shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma.

§ 10.4. Transfer of credits.

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A. A secondary school shall accept credits received from other accredited secondary schools, including summer schools, special sessions, schools accredited through the Virginia Council for Private Education and educational programs operated by the Commonwealth. Credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted.

B. Records of transferred students shall be sent *directly promptly* to the school receiving the student upon request of the receiving school.

C. The transcript of a student who graduates or transfers from a Virginia secondary school shall show that a minimum of 21 units of credit courses in grades 9-12 are required for graduation.

D. Students transferring into a Virginia School division shall be required to earn 21 units of credit or the equivalent for graduation. Each student's prior record shall be evaluated to determine the number and content of additional credits required for graduation. Specified courses normally taken at lower grade levels shall not be required, provided the student has completed the courses required at those grade levels by the school division or state from which he transferred. Students transferring from states not giving credit for health and physical education shall not be required to repeat these courses.

§ 10.5. Students who have met the requirements and conditions set forth in these standards and have met such other requirements as may be prescribed by the local school board and approved by the Board of Education, and handicapped students who have completed the requirements of an individualized education program shall be awarded the appropriate diploma or certificate. The last school attended by the student during regular session shall award the diploma or certificate unless otherwise determined by the two superintendents.

PART XI. STAFFING: STANDARD G.

§ 11.1. Each school shall have the required staff with proper certification and endorsement.

A. The following shall be the minimum staffing according to type of school and student enrollment:

1. Division level.

Position: Teachers¹⁰; Grade K: 1 full-time per 23 with no class larger than 30, full-time aide required for any class larger than 25.

Position: Teachers¹⁰; Grade 1: 1 full-time per 23 with no class larger than 30.

Position: Teachers¹⁰; Grades 2 - 7¹¹: 1 full-time per 23 with no class larger than 30.

English Classes Middle: 1 full-time per 23 in English classes with no class larger than 30.

English Classes Secondary: 1 full-time per 23 in English classes with no class larger than 30.

2. School level.

Position: Teachers¹²; Middle: 1 full-time per 23 with no class larger than 30.

Position: Teachers*; Secondary: 1 full-time per 23 with no class larger than 30.

Position: Principal; Elementary: 1 half-time to 200, 1 full-time at 300 full-time; Middle: 1 full-time; Secondary: 1 full-time.

Position: Assistant Principal; Elementary: 1 half-time at 600, 1 full-time at 900 and 1 half-time for each additional increment of 300; Middle: 1 full-time each 600 half-time at 300 and additional half-time for each additional increment of 300; Secondary: 1 full-time each 600 half-time at 300 and 1 half-time for each additional increment of 300.

Position: Librarian; Elementary: Part time 1 half-time to 299, 1 full-time at 300 2 full-time at 1,000; Middle: 1 half-time to 299, 1 full-time at 300, 2 full-time at 1000; Secondary: 1 half-time to 299, 1 full-time at 300, 2 full-time at 1000.

Position: Guidance Counselors; Elementary: 1 hour per day per 100, 1 full-time at 500, 1 hour per day additional time per 100 or major fraction; Middle: 1 period per 80, 1 full-time at 400, 1 additional period per 80 or major fraction; Secondary: 1 period per 70, 1 full-time at 350, 1 additional period per 70 or major fraction.

Position: Clerical; Elementary: Part time 1 half-time to 299, 1 full-time at 300; Middle: 1 full-time and 1 additional full-time for each 600 beyond 200 and 1 full-time for the library at 750; Secondary: 1 full-time and 1 additional full-time for each 600 beyond 200 and 1 full-time for the library at 750.

¹² Excluding special education teachers.

B. A combined school, such as K-12, shall meet at all grade levels the staffing requirements for the highest grade level in that school. This requirement shall apply to all staff, except the guidance staff, and shall be based on the school's total enrollment. The guidance staff requirement shall be based on the enrollment at the various school organization levels as defined in § 4.3, application of standards. At the discretion of local school authorities, an alternative staffing plan may be developed which ensures that the services set forth in these standards are met. Any alternative staffing plan shall be submitted to the Accreditation and Evaluation Service, Department of Education, for approval. An alternative

staffing plan that reduces the number of staff positions will not be acceptable.

c. Program level.

1. Vocational Education.

Program: Laboratory classes in which equipment is used that could result in injury if not properly used: 20 - 1

Program: Classes where Cooperative Education Method of Instruction is required:¹³ 20 - 1

Program: On-the-Job coordination: 20 - 1

Program: Classes designed for disadvantaged students: 15 - 1

Program: Classes designed for handicapped students: 10 - 1; 12 - 1 with aide

¹³ Students in Cooperative Education Programs.

2. Special education. Special education programs shall not exceed the maximum number of students, as prescribed in these standards. Cross-categorical programs may be conducted in resource classrooms. However, care must be taken to ensure that placement is appropriate to each student's IEP, and that the teacher is appropriately endorsed in all areas. Students of the same handicapping condition may be placed in a combined self-contained (S.C.) and resource classroom.

Class size maximums for students in self-contained classes with resource students are computed on the basis of a maximum value of 20. To determine the maximum number of students allowed for a teacher who is assigned both self-contained students and resource students, the following procedure shall be followed:

a. Find the value to be assigned a student needing self-contained instruction under each handicapping condition.

b. Multiply the number of self-contained students by the assigned value.

c. Add this total value for self-contained to the number of resource students.

d. This total combined value cannot exceed the maximum value of 20.

Program	Elementary	Middle	Secondary
Educable Mentally Retarded (EMR)			
Self-Contained (K-3)	9 - 1	15 - 1	17 - 1
	11 - 1 with aide		
Self-Contained (4-5)	10 - 1		

13 - 1 with aide

Resource			
One Category	24 - 1	24 - 1	24 - 1
Cross Category	20 - 1	20 - 1	20 - 1
Combined	20 - 1	20 - 1	20 - 1
S-C Student Value (K-3)	2.2	1.3	1.2
	1.8 with aide		
S-C Student Value (4-5)	2.0		
	1.5 with aide		
Trainable Mentally Retarded (TMR)			
Self-Contained	8 - 1	8 - 1	8 - 1
	10 - 1	10 - 1	10 - 1
	with aide with aide with aide		
Severely and Profoundly Handicapped			
Self-Contained	6 - 1	6 - 1	6 - 1
	8 - 1	8 - 1	8 - 1
	with aide with aide with aide		
Othopedically Impaired¹⁴			
Self-Contained	8 - 1	8 - 1	8 - 1
	10 - 1	10 - 1	10 - 1
	with aide with aide with aide		
Resource			
One Category	24 - 1	24 - 1	24 - 1
Cross Category	20 - 1	20 - 1	20 - 1
Combined	20 - 1	20 - 1	20 - 1
S-C Student value	2.5	2.5	2.5
	2.0	2.0	2.0
	with aide with aide with aide		
Hearing Impaired & Deaf			
Self-Contained	8 - 1	8 - 1	8 - 1
	10 - 1	10 - 1	10 - 1
	with aide with aide with aide		
Resource			
One Category	24 - 1	24 - 1	24 - 1
Cross Category	20 - 1	20 - 1	20 - 1
Combined	20 - 1	20 - 1	20 - 1
S-C Student Value	2.5	2.5	2.5
	2.0	2.0	2.0
	with aide with aide with aide		
Specific Learning Disabled			
Self-Contained	8 - 1	8 - 1	8 - 1
	10 - 1	10 - 1	10 - 1
	with aide with aide with aide		
Resource			
One Category	24 - 1	24 - 1	24 - 1
Cross Category	20 - 1	20 - 1	20 - 1

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<i>Combined</i>	<i>20 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>S-C Student Value</i>	<i>2.5</i>	<i>2.5</i>	<i>2.5</i>
	<i>2.0</i>	<i>2.0</i>	<i>2.0</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Seriously Emotionally Disturbed</i>			
<i>Self-Contained</i>	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>10 - 1</i>	<i>10 - 1</i>	<i>10 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Resource</i>			
<i>One Category</i>	<i>24 - 1</i>	<i>24 - 1</i>	<i>24 - 1</i>
<i>Cross Category</i>	<i>24 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>Combined</i>	<i>20 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>S-C Student Value</i>	<i>2.5</i>	<i>2.5</i>	<i>2.5</i>
	<i>2.0</i>	<i>2.0</i>	<i>2.0</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Autism^{11*}</i>			
<i>Self-Contained</i>	<i>6 - 1</i>	<i>6 - 1</i>	<i>6 - 1</i>
	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Resource</i>			
<i>One Category</i>	<i>24 - 1</i>	<i>24 - 1</i>	<i>24 - 1</i>
<i>Cross Category</i>	<i>20 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>Combined</i>	<i>20 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>S-C Student Value</i>	<i>3.3</i>	<i>3.3</i>	<i>3.3</i>
	<i>2.5</i>	<i>2.5</i>	<i>2.5</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Deaf - Blind¹¹</i>			
<i>Self-Contained</i>	<i>6 - 1</i>	<i>6 - 1</i>	<i>6 - 1</i>
	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Multihandicapped¹¹</i>			
<i>Self-Contained</i>	<i>6 - 1</i>	<i>6 - 1</i>	<i>6 - 1</i>
	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Other Health Impaired¹¹</i>			
<i>Self-Contained</i>	<i>6 - 1</i>	<i>6 - 1</i>	<i>6 - 1</i>
	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Resource</i>			
<i>One Category</i>	<i>24 - 1</i>	<i>24 - 1</i>	<i>24 - 1</i>
<i>Cross Category</i>	<i>20 - 1</i>	<i>20 - 1</i>	<i>20 - 1</i>
<i>Speech Language</i>			
<i>Impaired¹¹</i>			
<i>Self-Contained</i>	<i>8 - 1</i>	<i>8 - 1</i>	<i>8 - 1</i>
	<i>10 - 1</i>	<i>10 - 1</i>	<i>10 - 1</i>
	<i>with aide</i>	<i>with aide</i>	<i>with aide</i>
<i>Itinerant (75 pupils maximum)</i>			

Noncategorical Primary Program¹¹

K - 2

Self-Contained *8 - 1*
 10 - 1 with aide

Preschool Programs

Center-based *8 - 1 with aide*

Home-based *12 - 1*

Combined *10 - 1*
 with no more than 6 home based

C. The principal of each middle level and secondary school shall be employed on a 12-month basis.

D. Each secondary school with 350 or more students and each middle level school with 400 or more students shall employ at least one member of the guidance staff for 11 months.

E. The maximum number of students in Average Daily Membership per certified classroom teacher for grades K-3 shall be the number required by the Standards of Quality.

F. The maximum number of students in Average Daily Membership per certified classroom teacher for grades 4-7 in elementary schools shall not exceed 35.

G. Each middle and secondary school shall have a student-teacher ratio (based on full-time equivalent teachers and excluding administrators, librarians, and guidance personnel) that does not exceed 25:1.

H. In grade 1 and in English classes (grades 6-12), the number of students per teacher shall not exceed the number required by the Standards of Quality.

I. E. Middle level and secondary school teachers with a seven-period day may teach 30 class periods per week; provided all teachers with more than 25 class periods per week have one period per day unencumbered of all teaching or supervisory duties. One class period each day, unencumbered by supervisory or teaching duties, shall be provided for every full-time classroom teacher for instructional planning, and assignments shall be limited to three different preparations.

J. F. The Middle and secondary classroom teacher's school teachers with a six-period day may teach a standard load shall be of no more than 25 class periods per week. One class period each day, unencumbered by supervisory or teaching duties, shall be provided for every full-time classroom teacher for instructional planning. Teachers of block programs with no more than 120 student periods per day may teach 30 class periods per week. Teachers who teach very small classes may teach 30 class periods per week, provided the teaching load does not exceed 75 student periods per day. If a classroom teacher teaches 30 class periods per week with more than 75 student periods per day (120 in block programs) an

appropriate contractual arrangement and compensation shall be provided.

K. G. Middle level or secondary school teachers shall teach no more than 750 student periods per week; however, physical education and music teachers may teach 1,000 student periods per week.

L. H. Every effort Each school shall be made to provide staff members with an unencumbered lunch period to receive state funding for this purpose pursuant to the appropriations act .

M. The number of students in special and vocational education classrooms shall comply with regulations of the Board of Education.

N. I. Custodial services shall be available to keep the school plant and grounds safe and clean.

O. J. Pupil personnel services, including visiting teachers/school social workers, school psychologists, and guidance counselors, shall be available to all students as necessary, especially to provide assistance in preventing dropouts and substance abuse.

PART XII. BUILDINGS AND GROUNDS: STANDARD H.

§ 12.1. The school building shall accommodate an educational program that will meet the needs of the students and ensure the health and safety of students and staff as follows:

1. The school site and physical plant shall be accessible, barrier-free, safe, clean, and free from *hazardous materials*, excessive noise and other distractions, and shall be adequate in size to meet the needs of the students enrolled.

2. Each school shall prepare and adhere to a written plan of vehicular traffic control designed to ensure safe and prompt movement of students, staff, and visitors.

3. Each school shall have a written plan *that includes training in the proper use of fire extinguishers* to follow in emergencies. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year.

4. All exit doors in a school shall *required by the Building Code* to be equipped with panic bars hardware that are usable shall remain in a released position while the building is occupied.

5. Records shall be maintained to show that fire drills are held once a week during the first month of school and at least once each month for the remainder of the school term. Evacuation routes for students shall be posted in each room.

6. The principal shall be responsible for conducting one fire inspection during each semester in accordance with regulations contained in the Fire Inspection Guide for Schools.

7. Each school shall have provisions for the proper outdoor display of the flags of the United States and of the Commonwealth of Virginia.

8. Each school plant shall have a maintenance and housekeeping program *designed to that will identify, monitor, and control hazardous materials* and ensure a healthful and pleasant learning environment.

9. The administrative unit shall have space for a principal's office, secretarial assistance, and record storage.

10. Suitable space shall be made available for student personnel services.

11. The school media center shall have adequate space to provide for the collection and circulation of instructional materials, and adequate seating for group activities.

12. Adequate, safe, and properly-equipped laboratories shall be provided to meet the needs of instruction in the sciences, computers, vocational, and fine arts.

13. Each school shall have appropriate areas and facilities for the physical education program offered. *Middle and secondary schools shall have locker rooms and showers.*

14. Adequate and properly-equipped classroom space shall be provided.

15. The school plant and grounds shall be kept safe and clean with the responsibility for the care of buildings and grounds shared by staff and the students.

16. Space shall be provided for the proper care of students who become ill.

17. All hazardous chemicals and art supplies shall be properly stored and measures shall be employed to ensure their safe use and disposal.

PART XIII

PERFORMANCE RECOGNITION: STANDARD I.

§ 13.1. The Superintendent of public instruction shall develop and the board of education shall approve criteria for determining and recognizing educational performance in the commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. One year following the

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approval by the board of such criteria, the superintendent of public instruction shall identify annually to the board those school divisions and schools that exceed or do not meet the approved criteria. From such funds as are identified in the appropriations act for this purpose, a program of one-time grants shall be established by the board to assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are designated as not meeting the approved criteria, and a program of grants shall be established to reward school divisions and schools for outstanding performance.

PART XIV

ACCREDITATION STATUS: STANDARD J.

§ 14.1. Each school's accreditation status will be based on compliance with all accreditation standards (Standards A-H).

1. Scale for determining accreditation status of schools:

Status	Deficiencies
Accredited	0-1
Accredited with advisement	2-5
Loss of accreditation status ^{1*}	6+ or noncompliance with any major criteria

2. Calculating Deficiencies

One deficiency is assessed for failure to comply with any standard except standards dealing with unendorsed teachers and standards identified as major criteria.

a. Deficiencies for uneddorsed teachers are calculated as follows:

First uneddorsed teacher	= 1 Deficiency
1% - 5%	= 2 Deficiency
6% - 10%	= 3 Deficiency
11% - 15%	= 4 Deficiency
16% - 20%	= 5 Deficiency

Beyond 20%, add one deficiency for each 3 %.

Uneddorsed staff refers to full-time equivalent personnel.

School divisions may request waivers for assigning teachers to teach outside their areas of endorsement(s). To qualify for a waiver, a teacher must take annually six semester hours of credit leading to endorsement in the area to which he or she is assigned and uneddorsed. Teachers with waivers will not be counted as deficient.

Noncompliance with any criteria identified as being major criteria by the Board of Education shall automatically cause a school to lose its accreditation status.

Footnotes:

¹ Elementary science shall involve activity-based instruction for a minimum of 50 percent of the instructional time.

² Level one of a foreign language shall be available to all eighth grade students. An exploratory foreign language offering is encouraged for students below grade eight, but will not be required until electronic classroom technology makes this program available.

³ Middle school science programs shall involve laboratory activities for a minimum of 50 percent of the instructional time.

⁴ Secondary science shall involve laboratory instruction for a minimum of 50% of the instructional time.

⁵ The social studies offering shall include at least one-half unit in economics and the course in Virginia and United States Government shall include instruction on the free enterprise system.

⁶ When health and physical education are taught as a combination class, at least 40% of the instructional time shall be devoted to health education. Classroom driver education may count for 36 class periods of health education. Students should not be removed from classes in required courses other than health and physical education for the in-car phase of driver education.

⁷ Must be selected from a list of courses approved for graduation requirements by the Board of Education. Only one year of a course in general mathematics may be used to meet the mathematics requirement.

⁸ Must be selected from a list of courses approved for graduation requirements by the Board of Education or, as an alternative, this requirement may be met by completing an appropriate sequence of courses in vocational education or Junior Reserve Officers Training Corps (JROTC).

⁹ Must be selected from a list of courses approved for graduation requirements by the Board of Education.

¹⁰ Excluding special education teachers.

¹¹ Grades six and seven contained in middle schools are subject to middle school requirements in Section b.

¹² Excluding special education teachers.

¹³ Students in Cooperative Education Programs.

¹⁴ Teachers must be endorsed in an area of special education, pupil personnel services, or licensed by another state agency, as appropriate to the needs of students.

¹⁵ Teachers must be endorsed in speech/language impaired and elementary instruction or reading disabilities.

¹⁶ Each school division shall develop a written corrective action

plan, acceptable to the Board of Education, for any school that loses its accreditation status. A school division not implementing the corrective action specified for any school will be in violation of state law.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Public Hearing Date: August 8, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

On July 1, 1989, amendments to the Virginia Medical Care Facilities Certificate of Public Need Law will become effective. The amended law (i) deregulates certain medical care facility projects and new medical care facilities currently subject to review, (ii) imposes a moratorium on the addition of nursing home beds until January 1, 1991, (iii) eliminates review requirements for hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery except with respect to the establishment of nursing home beds in general hospitals as of July 1, 1991 notwithstanding any law to the contrary and (iv) incorporates changes made to health planning law which impact the review of medical care facility projects. Additionally, the law provides for registration of and periodic reports on certain deregulated clinical health services and major medical equipment acquisitions with an expenditure of \$400,000 or more.

VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

PART I. DEFINITIONS.

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

"Acquisition" (medical care facility) means an expenditure of (i) \$700,000 or more that changes the ownership of a medical care facility or (ii) \$400,000 or more for the purchase of new major medical equipment. It shall also include the donation or lease of a medical care facility or new major medical equipment. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock.

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in these regulations. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of person.

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See §§ 5.1 and 6.8. §§ 5.8 and 6.5

"Construction" means the building of a new medical facility and/or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

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"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Formal evidentiary hearing" means a hearing held pursuant to § 9-6.14:12 of the Code of Virginia.

"Health maintenance organization (HMO)" means a public or private organization established under § 38.1-863 et seq. of the Code of Virginia and which (i) is a qualified health maintenance organization under § 1310(d) of the U.S. Public Health Services Act or (ii) provides or otherwise makes available to enrollees health care services, including at least the following: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage, and (iii) is compensated (except for co-payments) for the provision of the basic health care services listed in item (2) of this definition to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and (iv) provides physicians' services primarily (a) directly through physicians who are either employees or partners of the organization, or (b) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"Health service area" means a geographic area of the state designated by the Secretary of the United States Department of Health and Human Services pursuant to § 1511 of United States Public Law 93-641 or its successor.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Health systems agency" means an entity organized, operated and designated as a health systems agency pursuant to Title XV of the United States Public Health Service Act or, in the absence of such an agency, a local, district or regional health planning body established under

the laws of the Commonwealth.

"Health systems plan" means a regional health plan developed by a designated health systems agency in accordance with § 1513(b)(2) of United States Public Law 93-641, or its successor, which sets forth in detail the goals of a healthful environment and the health systems in the geographical area it serves.

"Informal, fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facilities" means any institution, place, building, or agency, whether or not licensed or required to be licensed by the board or the State Mental Health and Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of these regulations, only the following medical care facility classifications shall be subject to review:

"Medical care facility classifications" means that the term medical care facility includes, but is not limited to: the following:

1. General hospitals.
2. Sanatoriums.
3. 2. Sanitariums.

4. 3. Nursing homes.
5. 4. Intermediate care facilities.
6. 5. Extended care facilities.
7. 6. Mental hospitals.
8. 7. Mental retardation facilities.
9. 8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.

10. 9. Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery ; renal dialysis therapy, radiation therapy, computerized tomography (CT) scanning or other medical or surgical treatments requiring the utilization of equipment not usually associated with the provision of primary health services.

11. Hospices.

10. Rehabilitation hospitals.

"Exclusions" means that the following shall not be included in the definition of as a medical care facility classification subject to review :

1. A physician's office except when equipment generally and customarily associated with the provision of health services in an inpatient setting and the cost of which exceeds \$400,000 per unit of equipment, is purchased or leased by such physician.

2. A clinical laboratory, if the clinical laboratory is independent of a physician's office or a hospital and has been determined to meet the requirements of paragraphs (10) and (11) of § 1861 (s) of Title XVIII of the Social Security Act, as they existed on the effective date of the enactment of §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia.

3. A hospital that uses up to 10% of its beds as skilled nursing home beds for a maximum of 30 days for any one patient. Such activity must qualify for certification under § 1883 of Title XVIII and § 1913 of the Title XIX of the Social Security Act in order to receive reimbursement from Medicaid for the use of such beds.

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services

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"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction".

"Operator" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner"

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Other plans" means any plan(s) which is formally adopted by an official state agency or health systems agency regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

"Owner" means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the health systems agency regional health planning agency for the health servicearea health planning region in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) established under § 38.1-86.3 38.2-4300 et seq. which is located in the health service area planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health service area planning region in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

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"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office.

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-14.02 §15.1-1402 of the Code of Virginia.

"Pre development site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See § 8.3 § 7.3 on Progress.

"Project" means:

A. A capital expenditure by or on behalf of a medical care facility, regardless of when made, including but not limited to any studies, surveys, designs, plans, working drawings and specifications, which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (i) exceeds \$700,000 and does not involve the purchase of equipment identified in this provision of the regulation. Such expenditure shall also include a series of capital expenditures made during a 12-month period or an obligation or series of obligations made during a 12-month period of time by a medical care facility or sponsor of a medical care facility which exceed \$700,000 and which would require review if made as a single expenditure; (ii) increases the total number of beds; or (iii) relocates 10 beds or 10% of the beds, whichever is less, from one physical facility to another in any two-year period. *The establishment of a medical care facility; See definition of medical care facility.*

B. The acquisition by a medical care facility, through donation or lease, of equipment or facilities which, if purchased by the medical care facility, would require an expenditure described in subsection A or subsection E of this provision of the regulations. *An increase in the total number of beds in an existing medical care facility.*

C. The acquisition by a medical care facility of equipment or facilities through a transfer at less than fair market value if the transfer at fair market value would require an expenditure described in subsection E of this provision of the regulations. *Relocation of 10 beds or 10%*

of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

D. The introduction by a medical care facility of a clinical health service which the facility has never provided or has not provided in the previous 12 months. See definition of "service (clinical health):" *into any existing medical care facility of any new nursing home service, such as intermediate care facility services, extended care facility services or skilled nursing facility services, regardless of the type of medical care facility in which those services are provided; or*

E. The acquisition, by purchase, lease, gift or bequest, by or on behalf of a medical care facility or, if the unit of equipment is generally and customarily associated with the provision of health services in an inpatient setting, by or on behalf of a physician's office, of equipment the fair market value of which, including the value of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of the equipment, exceeds \$400,000 and which is used for the provision of medical and other health services. *introduction into an existing medical care facility of any new open heart surgery, psychiatric, medical rehabilitation, or substance abuse treatment service which the facility has never provided or has not provided in the previous twelve months.*

"Public hearing" means a proceeding conducted by the health systems agency a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of § 6-4 § 5.4 or subsection B of § 7.6.

"Regional health plan" means the regional plan adopted by the regional planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Registration" means the filing of information by the owner on affected new clinical health services established and major medical equipment acquired with an expenditure or expenditure value of \$400,000 or more on or after July 1, 1989 in a format prescribed by the Commissioner to satisfy the requirements of these regulations. For purposes of registration, affected clinical health services and major medical equipment shall include only the following:

radiation therapy;

cardiac catheterization;
obstetrical
neonatal special care unit;
lithotripsy;
magnetic resonance imaging;
positron emission tomography (PET) scanning;
computed tomography (CT) scanning
heart, lung and kidney transplants; and
other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the Commissioner.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Service" (clinical health) means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;
2. Increases the capital expenditure amount approved for the project by 10% or more;
3. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long term care except when such reclassification is allowable as provided for in these regulations. See exclusions under definition of "medical care facility;"
4. Changes the service(s) proposed to be offered; or
5. Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner.

"Statewide Health Coordinating Council" means the council established pursuant to § 1514 of United States Public Law 93-641, and pursuant to § 32.1-118, of the Code of Virginia.

"State health plan" means a document prepared by the

Statewide Health Coordinating Council in accordance with § 1524(c)(2)(A) of the United States Public Law 93-641, and § 32.1-120 of the Code of Virginia. The document approved by the Virginia Health Planning Board which shall include, but not be limited to, analysis of priority health issues, policies, needs and methodologies for assessing statewide health care needs. The State Health Plan 1989-84 and all amendments thereto including all methodologies therein shall remain in force and effect until any such regulation is amended, modified or repealed by the Board of Health.

"State medical facilities plan" means a plan adopted by the Statewide Health Coordinating Council pursuant to § 32.1-120 of the Code of Virginia for use in the Virginia Medical Care Facilities Certificate of Public Need Program. The planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. In developing the plan, the board shall take into consideration the policies and recommendations contained in the State Health Plan. The most recent applicable State Medical Facilities Plan shall remain in force until any such regulation is amended, modified or repealed by the board.

"Suspension of certificate" means a written order which is issued to the owner of an approved project by the commissioner upon the department's receipt of a request for an administrative hearing or appeal of the decision on such project or the competing application(s). Such order serves as notification to the owner of an approved project to cease temporarily project development, relieves the owner of all performance requirements for development and terminates upon notification by the commissioner that the suspended certificate has been reinstated or revoked.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules

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and regulations as are deemed necessary to effectuate the purposes of this statute.

§ 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations to set forth an orderly administrative process for making public need decisions.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.

§ 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.

§ 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

§ 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1, et seq.) of the Code of Virginia apply to their promulgation.

§ 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective January 22, 1986 July 1, 1989 .

§ 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 32.1-102.1 et seq. of the Code of Virginia.

§ 2.9. Annual report.

The department shall prepare and shall distribute upon request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending initial determination, an analysis of the consistency of the decisions with the recommendation made by the health systems agency and regional health planning agency an analysis of the costs of authorized projects.

PART III.

MANDATORY REQUIREMENTS.

§ 3.1. Requirements for reviewable medical care facilities providers facility projects .

Prior to initiating a *reviewable medical care facility* project as set forth in the definition section of these regulations, the owner or sponsor of a medical care facility shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in § 2.3 § 3.4 of these regulations shall be met.

§ 3.2. Requirements for noninstitutional providers.

Any physician or group of physicians or physician practice, of whatever legal form, shall obtain a certificate of public need prior to the purchase or lease of a unit of equipment, the cost of which exceeds \$400,000 or the establishment of a medical care facility. See definitions of "project" and "medical care facility." *Requirements for registration of affected clinical health services and major medical equipment. Within 30 days following operation, the owner of a new clinical health service established or major medical equipment acquired with an expenditure or expenditure value of \$400,000 or more acquired on or after July 1, 1989 that is not defined as a project under these regulations shall in writing register such service or equipment with the Commissioner and copy the regional health planning agency. The format for registration shall be prescribed by the Commissioner and shall include information concerning the owner and operator, description, site, capital, financing and lease costs, beginning date and hours of operation of clinical health service and major medical equipment. For purposes of registration, (i) owner shall include any person offering affected clinical health services and major medical equipment and (ii) affected clinical health services and major medical equipment shall include only the following;*

radiation therapy;
cardiac catheterization;
obstetrical;
neonatal;
lithotripsy;
magnetic resonance imaging;
positron emission tomography (PET) scanning;
computed tomography (CT) scanning;
heart, lung, and kidney transplants; and
other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the commissioner.

The commissioner shall acknowledge registration within 15 days of receipt.

§ 3.3. Requirement for notification of proposed acquisition of medical care facilities.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is \$700,000 or more, that person shall provide written notification to the commissioner and the *health systems agency regional health planning agency* that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a *reviewable* clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate review procedure which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3.4. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate *health systems agency regional health planning agency*. The written request shall identify the nature and

purpose of the change. The *health systems agency regional health planning agency* shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the *health systems agency regional health planning agency*. Failure of the *health systems agency regional health planning agency* to notify the commissioner within the 30-day period shall constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner.

§ 3.5. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if appropriate. See definition of "project" and § 3.3.

PART IV. DETERMINATION OF PUBLIC NEED (REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

A. The recommendation and the reasons therefor of the appropriate *health systems agency regional health planning agency*.

B. The relationship of the project to the applicable health plans of the *health systems agency regional health planning agency*, and the *Statewide Health Coordinating Council Virginia Health Planning Board and the Board*.

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the *health service area health planning region* in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health

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care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health services area *planning region* in which the project is to be located.

N. The need and the availability in the health services area for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

PART V.

PROCESS FOR EXEMPTING MEDICAL CARE FACILITY PROJECTS FROM REVIEW PROCEDURES.

§ 5.1. Applicability.

Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be exempt from certificate of public need review procedures and issued a certificate of public need.

A. New clinical health services of a medical care facility involving a capital expenditure of less than \$700,000 and an annual operating expenditure of \$300,000 or less during the first two years of operation except when such service is a medical care facility or is determined by the commissioner to be of a specialized nature such as CT scanning, open heart surgery, cardiac catheterization and radiation therapy that requires review under a procedure set forth in Part VI and VII of these regulations.

B. Capital expenditures that do not exceed \$700,000 involving the purchase of replacement equipment unless such equipment will cause the introduction of a new clinical health service and such clinical health service has not otherwise been determined exempt from these regulations.

C. Capital expenditures that do not exceed \$1.5 million involving the replacement or addition of equipment and technology for undertakings such as those associated with nurse call systems, materials handling and management information systems, heating and air conditioning systems and parking lots, provided such use does not constitute a clinical health service.

D. A capital expenditure in any amount involving an emergency which interrupts the immediate safe operation of a medical care facility or which poses an immediate threat to the health and safety of patients and staff and recognized as such in writing by the commissioner.

§ 5.2. Consideration of applications for exemptions.

The State Health Commissioner shall exempt any project which is determined to meet the criteria set forth in § 5.01 of the regulations and provide written notification to the applicant within 15 days of receipt of such written request by the department and the health systems agency. Such written request shall identify the name and the ownership by type of control and status of the medical care facility; the operator of the medical care facility; a brief description of the project; the capital and financing costs of the project; the method of financing, the impact of the project on charges; the projected revenue and expenses (direct and indirect) for the first two years of project operation and a schedule for completion of the project. Such schedule should include the expected date to (i) initiate work, (ii) complete the financing, (iii) purchase equipment, (iv) initiate renovation or construction and (v)

complete the project. If the commissioner determines that such request does not qualify for exemption from review procedures, the applicant shall be notified in writing of the reasons therefore in accordance with the aforementioned time frame including the legal remedies that are available to the applicant.

PART VI. V. ADMINISTRATIVE REVIEW PROCESS.

§ 6-1. 5.1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of \$700,000 but not more than \$3 million which does not change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the commissioner, or (ii) a capital expenditure of less than \$700,000 and which does change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the commissioner and these regulations, and (iii) the establishment of a new end stage renal disease, or hospice service .

§ 6-2. § 5.2. Preconsultation.

Each health systems agency regional health planning agency , in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the health systems agency or the commissioner.

§ 6-3. § 5.3. Application forms.

A. Obtaining application forms.

Applications forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate health systems agency regional health planning agency . The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate health systems agency regional health planning

agency . No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate health systems agency regional health planning agency .

§ 6-4. § 5.4. Review of application.

A. Review cycle.

The department shall notify applicant (s) upon receipt of an application by the department and the regional health planning agency of the review schedule including the date, time and place for any informal, fact-finding conference held. See §§ 5.9 and 6.6. The health system agency regional health planning agency shall within 30 days of receipt of the application and following the public hearing conducted in accordance with subsection B of § 7-6 § 6.6 of these regulations, notify the commissioner of its recommendation. Failure of the health systems agency regional health planning agency to notify the commissioner within the 30 day time period shall constitute a recommendation of approval. The department shall transmit its report and the information transmitted to the Commissioner by the regional health planning agency to the applicant (s) by the 30th day of the review cycle.

B. Ex parte contact.

After commencement of a public hearing and before a final decision is made there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided . See definition of "ex parte" contact.

§ 6-5. § 5.5. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate health systems agency regional health planning agency and the commissioner at appropriate times for consideration prior to their final action.

§ 6-6. § 5.6. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an applicant following the public hearing specified in subsection A of § 6.4 and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part VI of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of these regulations.

§ 6-7. § 5.7. Withdrawal of an application.

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The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the commissioner.

~~§ 6-8.~~ § 5.8. Consideration of applications.

All competing applications shall be considered at the same time by the ~~health systems agency regional health planning agency~~ and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate ~~health systems agency regional health planning agency~~.

~~§ 6-9.~~ § 5.9. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificate of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make ~~an initial final~~ determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the ~~health systems agency regional health planning agency~~ by the 35th day of the review cycle unless an extension is agreed to by the applicant *or an informal, fact-finding conference described in § 6.6 is held. When an informal, fact-finding conference is necessary, the review cycle shall automatically be extended to no more than 120 days or unless otherwise agreed to by the parties to the conference*. Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant. See definition of "ex parte."

PART ~~VII~~ VI. STANDARD REVIEW PROCESS.

~~§ 7-1.~~ § 6.1. Preconsultation.

Each ~~health systems agency regional health planning agency~~ and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the ~~health systems agency regional health planning agency~~ or the commissioner.

~~§ 7-2.~~ § 6.2. Application forms.

A. Obtaining application forms.

Application forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should also be submitted by the applicant to the appropriate ~~health systems agency regional health planning agency~~. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate ~~health systems agency regional health planning agency~~. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate ~~health systems agency regional health planning agency~~.

~~§ 7-3.~~ 6.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed until the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable. Additional information required to complete an application should be submitted to the department and the appropriate ~~health systems agency regional health planning agency~~ five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in the event that the 10th day falls on the weekend, the next work day. See subsection A of ~~§ 7-6.~~ § 6.6.

~~§ 7-4.~~ § 6.4. One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. See subsection A of ~~§ 7-6.~~ § 6.6.

~~§ 7-5.~~ § 6.5. Consideration of applications.

All competing applications shall be considered at the same time by the ~~health systems agency regional health planning agency~~ and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate ~~health systems agency regional health planning agency~~.

~~§ 7-6.~~ § 6.6. Review of complete application.

A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications *including a proposed date for any informal, fact-finding conference that may be held*. The ~~health systems agency regional health planning agency~~ shall conduct no more than two meetings, one of which must be a public hearing conducted by the board of the ~~health systems agency regional health planning agency~~ or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the ~~health systems agency regional health planning agency~~ staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall *complete its review and recommendation of an application and transmit the same to the applicant (s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal, fact-finding conference. advise of applicant(s) and other parties of the date, time and place of the informal, fact-finding conference.*

An informal, fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person opposed to a project seeking to demonstrate good cause at the conference. Any person seeking to demonstrate good cause shall provide written notification to the Commissioner, applicant (s) and other competing applicants and regional health planning agency stating the grounds for good cause to be received seven days in advance of the proceeding.

For purposes of this section, good cause shall mean that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia.

The commissioner shall render ~~an initial final~~ determination by the 120th day of the review cycle. Unless

agreed to by the applicant *and, when applicable, the parties to any informal, fact-finding conference held*, the review schedule shall not be extended.

B. ~~Health systems agency Regional Health Planning Agency~~ required notifications.

Upon notification of the acceptance date of a complete application as set forth in ~~Subsection A § 7-3~~ § 7.6 of these regulations, the ~~health systems agency regional health planning agency~~ shall provide written notification of its review schedule to the applicant. The ~~health systems agency regional health planning agency~~ shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the ~~health systems agency regional health planning agency~~ shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the ~~health systems agency regional health planning agency~~ shall be made. The ~~health systems agency regional health planning agency~~ shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

~~§ 7-7.~~ § 6.7. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate health systems agency and the commissioner for consideration prior to their final action.

~~§ 7-8.~~ § 6.8. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and

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shall be subject to the review requirements set forth in Part VII of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of the regulations.

§ 7.9. § 6.9. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ 7.10. § 6.10. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make an initial final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the health systems agency regional health planning agency by the 120th day of the review cycles unless an extension is agreed to by the applicant and an informal, fact-finding conference described in § 6.6 is held. When an informal, fact-finding conference is held, the 120 day review cycle shall not be extended unless agreed to by the parties to the conference. Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

PART VIII VII . DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

§ 8.1. § 7.1. Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of

the relationship, under any circumstances.

§ 8.2. § 7.2. Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for additional time periods which shall be specified at the time of the extension.

A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in § 8.3 § 7.3 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate health systems agency regional health planning agency at least 30 days prior to the expiration date of the certificate or period of extension.

B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate health systems agency regional health planning agency at least 30 days prior to the expiration date of the certificate of period of extension.

C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in subsection C of § 8.3. § 7.3. and the definition of "Construction, initiation of".

D. Health systems agency review Regional Health Planning Agency Review .

All requests for an extension of a certificate of public need shall be reviewed by the appropriate health systems agency regional health planning agency within 30 days of receipt by the department and the health systems agency regional health planning agency . The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the health systems agency regional health planning agency . Failure of the health systems agency regional health

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planning agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such *health systems agency regional health planning agency*.

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate *health systems agency regional health planning agency* and shall become part of the official project file.

§ 8-2. § 7.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project *which is still reviewable* in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

A. Twelve months following issuance:

Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects;

B. Twenty-four months following issuance:

Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

C. Upon completion of a project.

Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes.

§ 8-4. § 7.4. Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in § 8-2 § 7.3 shall be cause for certificate revocation, unless the commissioner determines sufficient

justification exists to permit variance, considering factors enumerated in subsection A and C of § 8-2 § 7.3.

B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with § 8-2 § 7.3 of these regulations shall be cause for revocation, unless due to extenuating circumstances the commissioner, in his sole discretion, extends the certificate upon written request of the applicant.

C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with the schedule of completion. See definition of "significant change" and "schedule of completion." See definition of significant change and schedule of completion.

D. Failure to initiate construction.

Failure to initiate construction of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with subsection B of § 8-2 § 7.2. of these regulations.

E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

PART IX VIII . ADMINISTRATIVE HEARINGS AND APPEALS.

§ 9-1. Reconsideration of initial determination.

A. Formal evidentiary hearing.

Formal proceedings provided for in § 9-6.14:12 of the Code of Virginia shall be held upon request when filed with the commissioner within 15 days after the initial determination by the applicant, or any third party payor providing health care insurance or prepaid coverage to 5% or more of the patients in the applicant's service area, the health systems agency or any person showing good cause or, in the case of revocation, by the person whose certificate is being revoked. Such proceedings shall be public proceedings and commence within 30 days of the receipt of such request.

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B. Good cause.

For purposes of this section, "good cause" shall mean that (i) there is significant, relevant information not previously considered, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the health systems agency.

C. Notification and suspensions.

Upon receipt of a request for a formal evidentiary hearing, the department shall notify the applicant, health systems agency, competing applicant and other appropriate persons and suspend the certificate(s) of public need, if applicable.

D. Establishing time, date, place.

Within seven days following receipt of a request for a formal evidentiary hearing the commissioner shall set a time, date and place for a formal hearing which shall be held within 30 days of receipt of the request.

E. Notification of decision.

Not later than 30 days following completion of the hearing record, the commissioner shall set forth the final decision, in writing, including the reasons therefore, and shall provide copies of the decision to all parties.

§ 0-2. § 8.2. Court Review.

A. Appeal to circuit court.

Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5% or more of the patients in the applicant's service area, a health systems agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 0-6.14:17 of the Code of Virginia by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 0-6.14:16 of the Administrative Process Act, no other person may obtain such review. Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code.

B. Designation of judge.

The judge of the court referred to in § 10-2 § 8.1 of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located

or undertaken.

C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

D. Further appeal to supreme court .

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

PART X IX . SANCTIONS.

§ 10-1. § 9.1. Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

§ 10-2. § 9.2. Injunctive relief.

On petition of the commissioner, the board or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

PART XI. SEVERABILITY CLAUSE.

§ 11-1. If any clause, sentence, paragraph, subdivision, section or part of these rules and regulations, shall be adjudged by any court of competent jurisdiction to be invalid, the judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgement shall have been rendered.

PART XI.

OTHER.

§ 11.1. Certificate of public need moratorium.

Notwithstanding any law to the contrary, the Commissioner shall not approve, authorize or accept applications for the issuance of any certificate of public need pursuant to the regulations for a medical care facility project which would increase the number of nursing home beds from the effective date of the regulations through January 1, 1991. Exceptions to the moratorium are:

1. The renovation or replacement on site of a nursing home, intermediate care or extended care facility or any portion thereof when a capital expenditure is required to comply with life safety codes, licensure, certification or accreditation standards.

2. The conversion on site of existing licensed beds of a medical care facility other than a nursing home, extended care, or intermediate care facility to beds certified for skilled nursing services (SNF) when (i) the total number of beds to be converted does not exceed the lesser of 20 beds or 10% of the beds in the facility; (ii) the facility has demonstrated that the SNF beds are needed specifically to serve as specialty heavy care patient population, such as ventilator-dependent and AIDS patients and that such patients otherwise will not have reasonable access to such services in existing or approved facilities; and (iii) the facility further commits to admit such patients on a poverty basis once the SNF unit is certified and operational.

§ 11.2. Expiration of requirements for general hospitals and outpatient or ambulatory surgery centers or clinics.

Notwithstanding any law to the contrary, as of July 1, 1991, general hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery shall no longer be medical care facilities subject to review pursuant to these Regulations except with respect to the establishment of nursing home beds in general hospitals.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care.

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

Public Hearing Date: N/A - Written comments received through September 1, 1989.

(See Calendar of Events section for additional information)

Summary:

This proposed amendment to the inpatient reimbursement section of the State Plan for Medical Assistance is intended to provide for additional reimbursement under special circumstances. The special circumstances, as prescribed by the Congress, are that the hospital serves a disproportionately high number of Medicaid patients as compared to its nonmedicaid patients.

VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care.

The state agency will pay the reasonable cost of inpatient hospital services provided under the Plan. In reimbursing hospitals for the cost of inpatient hospital services provided to recipients of medical assistance.

I. For each hospital also participating in the Health Insurance for the Aged Program under Title XVIII of the Social Security Act, the state agency will apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such a hospital under Title XVIII of the Act, except that the inpatient routine services costs for medical assistance recipients will be determined subsequent to the application of the Title XVIII method of apportionment, and the calculation will exclude the applicable Title XVIII inpatient routing service charges or patient days as well as Title XVIII inpatient routine service cost.

II. For each hospital not participating in the Program under Title XVIII of the Act, the state agency will apply the standards and principles described in 42 CFR 447.250 and either (a) one of the available alternative cost apportionment methods in 42 CFR 447.250, or (b) the "Gross RCCAC method" of cost apportionment applied as follows: For a reporting period, the total allowable hospital inpatient charges; the resulting percentage is applied to the bill of each inpatient under the Medical Assistance Program.

III. For either participating or nonparticipating facilities, the Medical Assistance Program will pay no more in the aggregate for inpatient hospital services than the amount it is estimated would be paid for the services under the Medicare principles of reimbursement, as set forth in 42 CFR 447.253(b)(2), and/or lesser of reasonable cost or customary charges in 42 CFR 447.250.

IV. The state agency will apply the standards and principles as described in the state's reimbursement plan approved by the Secretary, HHS on a demonstration or experimental basis for the payment of reasonable costs by methods other than those described in paragraphs I and II above.

V. The reimbursement system for hospitals includes the following components:

(1) Hospitals were grouped by classes according to

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number of beds and urban versus rural. (Three groupings for rural—0 to 100 beds, 101 to 170 beds, and over 170 beds; four groupings for urban—0 to 100, 101 to 400, 401 to 600, and over 600 beds.) Groupings are similar to those used by the Health Care Financing Administration (HCFA) in determining routine cost limitations.

(2) Prospective reimbursement ceilings on allowable operating costs were established as of July 1, 1982, for each grouping. Hospitals with a fiscal year end after June 30, 1982, were subject to the new reimbursement ceilings.

The calculation of the initial group ceilings as of July 1, 1982, was based on available, allowable cost data for all hospitals in calendar year 1981. Individual hospital operating costs were advanced by a reimbursement escalator from the hospital's year end to July 1, 1982. After this advancement, the operating costs were standardized using SMSA wage indices, and a median was determined for each group. These medians were readjusted by the wage index to set an actual cost ceiling for each SMSA. Therefore, each hospital grouping has a series of ceilings representing one of each SMSA area. The wage index is based on those used by HCFA in computing its Market Basket Index for routine cost limitations.

Effective July 1, 1986, and until June 30, 1988, providers subject to the prospective payment system of reimbursement had their prospective operating cost rate and prospective operating cost ceiling computed using a new methodology. This method uses an allowance for inflation based on the percent of change in the quarterly average of the Medical Care Index of the Chase Econometrics Standard Forecast determined in the quarter in which the provider's new fiscal year began.

The prospective operating cost rate is based on the provider's allowable cost from the most recent filed cost report, plus the inflation percentage add-on.

The prospective operating cost ceiling is determined by using the base that was in effect for the provider's fiscal year that began between July 1, 1985, and June 1, 1986. The allowance for inflation percent of change for the quarter in which the provider's new fiscal year began is added to this base to determine the new operating cost ceiling. This new ceiling was effective for all providers on July 1, 1986. For subsequent cost reporting periods beginning on or after July 1, 1986, the last prospective operating rate ceiling determined under this new methodology will become the base for computing the next prospective year ceiling.

Effective on and after July 1, 1988, and until June 30, 1989, for providers subject to the prospective payment system, the allowance for inflation will be based on the percent of change in the moving average of the

Data Resources, Incorporated Health Care Cost HCFA-Type Hospital Market Basket determined in the quarter in which the provider's new fiscal year begins. Such providers will have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1988, for all such hospitals will be adjusted to reflect this change.

Effective on and after July 1, 1989, for providers subject to the prospective payment system, the allowance for inflation will be based on the percent of change in the moving average of the Health Care Cost HCFA-Type Hospital Market Basket, adjusted for Virginia, as developed by Data Resources, Incorporated, determined in the quarter in which the provider's new fiscal year begins. Such providers will have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1989, for all such hospitals will be adjusted to reflect this change.

The new method will still require comparison of the prospective operating cost rate to the prospective operating ceiling. The provider is allowed the lower of the two amounts subject to the lower of cost or charges principles.

(3) Subsequent to June 30, 1982, the group ceilings should not be recalculated on allowable costs, but should be updated by the escalator.

(4) Prospective rates for each hospital should be based upon the hospital's allowable costs plus the escalator, or the appropriate ceilings, or charges; whichever is lower. Except to eliminate costs that are found to be unallowable, no retrospective adjustment should be made to prospective rates.

Depreciation, capital interest, and education costs approved pursuant to HIM-15 (Sec. 400), should be considered as pass throughs and not part of the calculation.

(5) An incentive plan should be established whereby a hospital will be paid on a sliding scale, percentage for percentage, up to 25% of the difference between allowable operating costs and the appropriate per diem group ceiling when the operating costs are below the ceilings. The incentive should be calculated based on the annual cost report.

The table below presents three examples under the new plan:

Group Ceiling	Hospital's Allowable Cost Per Day \$	Difference % of Ceiling \$	Sliding Scale Incentive % of Difference
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\$230	\$230	0	0	0	0
\$230	207	23.00	10%	2.30	10%
\$230	172	57.50	25%	14.38	25%
\$230	143	76.00	33%	19.00	25%

(6) There will be special consideration for exception to the median operating cost limits in those instances where extensive neonatal care is provided.

(7) Disproportionate share hospitals defined.

Hospitals which have a disproportionately higher level of Medicaid patients and which exceed the ceiling ~~should~~ shall be allowed a higher ceiling based on the individual hospital's Medicaid utilization. This ~~should~~ shall be measured by the percent of Medicaid patient days to total hospital patient days. Each hospital with a Medicaid utilization of over 8% ~~should~~ shall receive an adjustment to its ceiling. The adjustment ~~should~~ shall be set at a percent added to the ceiling for each percent of utilization up to 30%.

Effective July 1, 1988,¹ the following criteria shall be met before a hospital is determined to be eligible for a disproportionate share payment adjustment.

A. *Criteria.*

1. A Medicaid inpatient utilization in excess of 8% for hospitals receiving Medicaid payments in the State Commonwealth, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

2. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

3. Subsection A.2 does not apply to a hospital:

a. at which the inpatients are predominantly individuals under 18 years of age; or

b. which does not offer nonemergency obstetric services as of December 21, 1987.

B. *Payment adjustment.*

1. Hospitals which have a disproportionately higher level of Medicaid patients shall be allowed a disproportionate share payment adjustment based on the individual hospital's Medicaid utilization. The Medicaid utilization shall be determined by dividing the total number of Medicaid inpatient days by the

total number of inpatient days. Each hospital with a Medicaid utilization of over 8% shall receive a disproportionate share payment adjustment. The disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8%, times (ii) the lower of the prospective operating cost rate or ceiling.

2. A payment adjustment for hospitals meeting the eligibility criteria in subsection A above and calculated under subsection B (1) above shall be phased in over a 3-year period. As of July 1, 1988,² the adjustment shall be at least one-third the amount of the full payment adjustment; as of July 1, 1989, the payment shall be at least two-thirds the full payment adjustment; and as of July 1, 1990, the payment shall be the full amount of the payment adjustment. However, for each year of the phase-in period, no hospital shall receive a disproportionate share payment adjustment which is less than it would have received if the payment had been calculated pursuant to § V (5) of Attachment 4.19A to the State Plan in effect before July 1, 1988.

VI. In accordance with Title 42 §§ 447.250 through 447.272 of the Code of Federal Regulations which implements § 1902(a)(13)(A) of the Social Security Act, the Department of Medical Assistance Services ("DMAS") establishes payment rates for services that are reasonable and adequate to meet the costs that shall be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards. To establish these rates Virginia uses the Medicare principles of cost reimbursement in determining the allowable costs for Virginia's prospective payment system. Allowable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);

2. The provider's trial balance showing adjusting journal entries;

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of changes in financial position, and footnotes to the financial statements;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

5. Home office cost report, if applicable; and

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6. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Although utilizing the cost apportionment and cost finding methods of the Medicare Program, Virginia does not adopt the prospective payment system of the Medicare Program enacted October 1, 1983.

VII. Revaluation of assets.

A. Effective October 1, 1984, the valuation of an asset of a hospital or long-term care facility which has undergone a change of ownership on or after July 18, 1984, shall be the lesser of the allowable acquisition cost to the owner of record as of July 18, 1984, or the acquisition cost to the new owner.

B. In the case of an asset not in existence as of July 18, 1984, the valuation of an asset of a hospital or long-term care facility shall be the lesser of the first owner of record, or the acquisition cost to the new owner.

C. In establishing an appropriate allowance for depreciation, interest on capital indebtedness, and return on equity (if applicable prior to July 1, 1986) the base to be used for such computations shall be limited to A or B above.

D. Costs (including legal fees, accounting and administrative costs, travel costs, and feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) shall be reimbursable only to the extent that they have not been previously reimbursed by Medicaid.

E. The recapture of depreciation up to the full value of the asset is required.

F. Rental charges in sale and leaseback agreements shall be restricted to the depreciation, mortgage interest and (if applicable prior to July 1, 1986) return on equity based on cost of ownership as determined in accordance with A and B above.

VIII. Refund of overpayments.

A. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

B. Offset.

If the provider has been overpaid for a particular fiscal

year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

C. Payment schedule.

If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services ("the director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

D. Extension request documentation.

In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

E. Interest charge on extended repayment.

Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment.

If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

IX. Effective October 1, 1986, hospitals that have obtained Medicare certification as inpatient rehabilitation hospitals or rehabilitation units in acute care hospitals, which are exempted from the Medicare Prospective Payment System (DRG), shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in the preceding sections I, II, III, IV, V, VI, VII, VIII and excluding V(6). Additionally, rehabilitation hospitals and rehabilitation units of acute care hospitals which are exempt from the Medicare Prospective Payment System will be required to maintain separate cost accounting records, and to file separate cost reports annually utilizing the applicable Medicare cost reporting forms (HCFA 2552 series) and the Medicaid forms (MAP-783 series).

A new facility shall have an interim rate determined using a pro forma cost report or detailed budget prepared by the provider and accepted by the DMAS, which represents its anticipated allowable cost for the first cost reporting period of participation. For the first cost reporting period, the provider will be held to the lesser of its actual operating cost or its peer group ceiling. Subsequent rates will be determined in accordance with the current Medicaid Prospective Payment System as noted in the preceding paragraph of IX.

X. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

XI. Pursuant to Item 389 E4 of the 1988 Appropriation Act (as amended), effective July 1, 1988, a separate group

ceiling for allowable operating costs shall be established for state-owned university teaching hospitals.

Hospital Reimbursement Appeals Process

§ 1. Right to appeal and initial agency decision.

A. Right to appeal.

Any hospital seeking to appeal its prospective payment rate for operating costs related to inpatient care or other allowable costs shall submit a written request to the Department of Medical Assistance Service within 30 days of the date of the letter notifying the hospital of its prospective rate unless permitted to do otherwise under § 5 E. The written request for appeal must contain the information specified in § 1 B. The department shall respond to the hospital's request for additional reimbursement within 30 days or after receipt of any additional documentation requested by the department, whichever is later. Such agency response shall be considered the initial agency determination.

B. Required information.

Any request to appeal the prospective payment rate must specify: (i) the nature of the adjustment sought; (ii) the amount of the adjustment sought; and (iii) current and prospective cost containment efforts, if appropriate.

C. Nonappealable issues.

The following issues will not be subject to appeal: (i) the organization of participating hospitals into peer groups according to location and bedsize and the use of bedsize and the urban/rural distinction as a generally adequate proxy for case mix and wage variations between hospitals in determining reimbursement for inpatient care; (ii) the use of Medicaid and applicable Medicare Principles of Reimbursement to determine reimbursement of costs other than operating costs relating to the provision of inpatient care; (iii) the calculation of the initial group ceilings on allowable operating costs for inpatient care as of July 1, 1982; (iv) the use of the inflation factor identified in the State Plan as the prospective escalator; and (v) durational limitations set forth in the State Plan (the "twenty-one day rule").

D. The rate which may be appealed shall include costs which are for a single cost reporting period only.

E. The hospital shall bear the burden of proof throughout the administrative process.

§ 2. Administrative appeal of adverse initial agency determination.

A. General.

The administrative appeal of an adverse initial agency determination shall be made in accordance with the

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Virginia Administrative Process Act, § 9-6.14:11 through § 9-6.14:14 of the Code of Virginia as set forth below.

B. The informal proceeding.

1. The hospital shall submit a written request to appeal an adverse initial agency determination in accordance with § 9-6.14:11 of the Code of Virginia within 15 days of the date of the letter transmitting the initial agency determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

a. The adverse agency action appealed from;

b. A detailed description of the factual data, argument or information the hospital will rely on to challenge the adverse agency decision.

3. The agency shall afford the hospital an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia within 45 days of the request.

4. The Director of the Division of Provider Reimbursement of the Department of Medical Assistance Services, or his designee, shall preside over the informal conference. As hearing officer, the director (or his designee) may request such additional documentation or information from the hospital or agency staff as may be necessary in order to render an opinion.

5. After the informal conference, the Director of the Division of Provider Reimbursement, having considered the criteria for relief set forth in §§ 4 and 5 below, shall take any of the following actions:

a. Notify the provider that its request for relief is denied setting forth the reasons for such denial; or

b. Notify the provider that its appeal has merit and advise it of the agency action which will be taken; or

c. Notify the provider that its request for relief will be granted in part and denied in part setting forth the reasons for the denial in part and the agency action which will be taken to grant relief in part.

6. The decision of the informal hearing officer shall be rendered within 30 days of the conclusion of the informal conference.

§ 3. The formal administrative hearing: procedures.

A. The hospital shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the Code of Virginia within 15 days of the date of the letter

transmitting the adverse informal agency decision.

B. At least 21 days prior to the date scheduled for the formal hearing, the hospital shall provide the agency with:

1. Identification of the adverse agency action appealed from; and

2. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

C. The agency shall afford the provider an opportunity for a formal administrative hearing within 45 days of the receipt of the request.

D. The Director of the Department of Medical Assistance Services, or his designee, shall preside over the hearing. Where a designee presides, he shall make recommended findings and a recommended decision to the director. In such instance, the provider shall have an opportunity to file exceptions to the proposed findings and conclusions. In no case shall the designee presiding over the formal administrative hearing be the same individual who presided over the informal appeal.

E. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

F. The decision of the agency shall be rendered within 60 days of the conclusion of the administrative hearing.

§ 4. The formal administrative hearing: necessary demonstration of proof.

A. The hospital shall bear the burden of proof in seeking relief from its prospective payment rate.

B. A hospital seeking additional reimbursement for operating costs relating to the provision of inpatient care shall demonstrate that its operating costs exceed the limitation on operating costs established for its peer group and set forth the reasons for such excess.

C. In determining whether to award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, the Director of the Department of Medical Assistance Services shall consider the following:

1. Whether the hospital has demonstrated that its operating costs are generated by factors generally not shared by other hospitals in its peer group. Such factors may include, but are not limited to, the addition of new and necessary services, changes in case mix, extraordinary circumstances beyond the control of the hospital, and improvements imposed by licensing or accrediting standards.

2. Whether the hospital has taken every reasonable action to contain costs on a hospital-wide basis.

a. In making such a determination, the director or his designee may require that an appellant hospital provide quantitative data, which may be compared to similar data from other hospitals within that hospital's peer group or from other hospitals deemed by the director to be comparable. In making such comparisons, the director may develop operating or financial ratios which are indicators of performance quality in particular areas of hospital operation. A finding that the data or ratios or both of the appellant hospital fall within a range exhibited by the majority of comparable hospitals, may be construed by the director to be evidence that the hospital has taken every reasonable action to contain costs in that particular area. Where applicable, the director may require the hospital to submit to the agency the data it has developed for the Virginia Health Services Cost Review Council. The director may use other data, standards or operating screens acceptable to him. The appellant hospital shall be afforded an opportunity to rebut ratios, standards or comparisons utilized by the director or his designee in accordance with this section.

b. Factors to be considered in determining effective cost containment may include the following:

- Average daily occupancy,
- Average hourly wage,
- FTE's per adjusted occupied bed,
- Nursing salaries per adjusted patient day,
- Average length of stay,
- Average cost per surgical case,
- Cost (salary/nonsalary) per ancillary procedure,
- Average cost (food/nonfood) per meal served,
- Cost (salary/nonsalary) per pharmacy prescription,
- Housekeeping cost per square foot,
- Maintenance cost per square foot,
- Medical records cost per admission,
- Current ratio (current assets to current liabilities),
- Age of receivables,
- Bad debt percentage,
- Inventory turnover,
- Measures of case mix,
- Average cost per pound of laundry.

c. In addition, the director may consider the presence or absence of the following systems and procedures in determining effective cost containment in the hospitals's operation.

- Flexible budgeting system,
- Case mix management systems,
- Cost accounting systems,
- Materials management system,
- Participation in group purchasing arrangements,
- Productivity management systems,
- Cash management programs and procedures,

- Strategic planning and marketing,
- Medical records systems,
- Utilization/peer review systems.

d. Nothing in this provision shall be construed to require a hospital to demonstrate every factor set forth above or to preclude a hospital from demonstrating effective cost containment by using other factors.

The director or his designee may require that an onsite operational review of the hospital be conducted by the department or its designee.

3. Whether the hospital has demonstrated that the Medicaid prospective payment rate it receives to cover operating costs related to inpatient care is insufficient to provide care and service that conforms to applicable state and federal laws, regulations and quality and safety standards.³

D. In no event shall the Director of the Department of Medical Assistance Services award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care unless the hospital demonstrates to the satisfaction of the director that the Medicaid rate it receives under the Medicaid prospective payment system is insufficient to ensure Medicaid recipients reasonable access to sufficient inpatient hospital services of adequate quality.⁴ In making such demonstration, the hospital shall show that:

1. The current Medicaid prospective payment rate jeopardizes the long-term financial viability of the hospital. Financial jeopardy is presumed to exist if, by providing care to Medicaid recipients at the current Medicaid rate, the hospital can demonstrate that it is, in the aggregate, incurring a marginal loss.⁵

For purposes of this section, marginal loss is the amount by which total variable costs for each patient day exceed the Medicaid payment rate. In calculating marginal loss, the hospital shall compute variable costs at 60% of total inpatient operating costs and fixed costs at 40% of total inpatient operating costs; however, the director may accept a different ratio of fixed and variable operating costs if a hospital is able to demonstrate that a different ratio is appropriate for its particular institution.

Financial jeopardy may also exist if the hospital is incurring a marginal gain but can demonstrate that it has unique and compelling Medicaid costs, which if unreimbursed by Medicaid, would clearly jeopardize the hospital's long-term financial viability; and

2. The population served by the hospital seeking additional financial relief has no reasonable access to other inpatient hospitals. Reasonable access exists if most individuals served by the hospital seeking financial relief can receive inpatient hospital care

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within a 30 minute travel time at a total per diem rate which is less to the Department of Medical Assistance Services than the costs which would be incurred by the Department of Medical Assistance Services per patient day were the appellant hospital granted relief.⁶

E. In determining whether to award additional reimbursement to a hospital for reimbursement cost which are other than operating costs related to the provision of inpatient care, the director shall consider Medicaid applicable Medicare rules of reimbursement.

§ 5. Available relief.

A. Any relief granted under §§ 1 through 4 above shall be for one cost reporting period only.

B. Relief for hospitals seeking additional reimbursement for operating costs incurred in the provision of inpatient care shall not exceed the difference between:

1. The cost per allowable Medicaid day arising specifically as a result of circumstances identified in accordance with § 4 (excluding plant and education costs and return on equity capital); and
2. The prospective operating cost per diem, identified in the Medicaid Cost Report and calculated by the Department of Medical Assistance Services.⁷

C. Relief for hospitals seeking additional reimbursement for (i) costs considered as "pass-throughs" under the prospective payment system, or (ii) costs incurred in providing care to a disproportionate number of Medicaid recipients, or (iii) costs incurred in providing extensive neonatal care shall not exceed the difference between the payment made and the actual allowable cost incurred.

D. Any relief awarded under §§ 1 through 4 above shall be effective from the first day of the cost period for which the challenged rate was set. Cost periods for which relief will be afforded are those which begin on or after January 4, 1985. In no case shall this limitation apply to a hospital which noted an appeal of its prospective payment rate for a cost period prior to January 4, 1985.

E. All hospitals for which a cost period began on or after January 4, 1985, but prior to the effective date of these regulations, shall be afforded an opportunity to be heard in accordance with these regulations if the request for appeal set forth in subsection A of § 1 is filed within 90 days of the effective date of these regulations.

§ 6. Catastrophic occurrence.

A. Nothing in §§ 1 through 5 shall be construed to prevent a hospital from seeking additional reimbursement for allowable costs incurred as a consequence of a natural or other catastrophe. Such reimbursement will be paid for the cost period in which such costs were incurred and for

cost periods beginning on or after July 1, 1982.

B. In order to receive relief under this section, a hospital shall demonstrate that the catastrophe met the following criteria:

1. One time occurrence;
2. Less than 12 months duration;
3. Could not have been reasonably predicted;
4. Not of an insurable nature;
5. Not covered by federal or state disaster relief;
6. Not a result of malpractice or negligence.

C. Any relief sought under this section must be calculable and auditable.

D. The agency shall pay any relief afforded under this section in a lump sum.

Footnotes:

¹ This effective date tracks an emergency regulation adopted September 29, 1988, by the Director of the Department of Medical Assistance Services, pursuant to the Code of Virginia § 9-6.14:9, and filed with the Registrar of Regulations. HCFA has not approved the inclusion of this disproportionate share adjustment policy's effective date in the State Plan for Medical Assistance.

² Refer to explanation at first footnote.

³ See 42 U.S.C. § 1396(a)(13)(A). This provision reflects the Commonwealth's concern that it reimburse only those excess operating costs which are incurred because they are needed to provide adequate care. The Commonwealth recognizes that hospitals may choose to provide more than "just adequate" care and, as a consequence, incur higher costs. In this regard, the Commonwealth notes that "Medicaid programs do not guarantee that each recipient will receive that level of health care precisely tailored to his or her particular needs. Instead, the benefit provided through Medicaid is a particular package of health care services. . . that package of services has the general aim of assuring that individuals will receive necessary medical care, but the benefit provided remains the individual services offered - not "adequate health care." Alexander v. Choate - U.S. - decided January 9, 1985, 53 U.S. L.W., 4072, 4075.

⁴ In Mary Washington Hospital v. Fisher, the court ruled that the Medicaid rate "must be adequate to ensure reasonable access." Mary Washington Hospital v. Fisher, at p. 18. The need to demonstrate that the Medicaid rate is inadequate to ensure recipients reasonable access derives directly from federal law and regulation. In its response to comments on the NPRM published September 30, 1981, HCFA points out Congressional intent regarding the access issue:

The report on H.R. 3982 states the expectation that payment levels for inpatient services will be adequate to assure that a sufficient number of facilities providing a sufficient level of services actively participate in the Medicaid Program to enable all Medicaid beneficiaries to obtain quality inpatient services. This report further states that payments should be set at a level that ensures the active treatment of Medicaid patients in a majority of the hospitals in the state.

46 Fed. Reg. 47970.

⁵ The Commonwealth believes that Congressional intent is threatened in situations in which a hospital is incrementally harmed for each additional day a Medicaid patient is treated – and therefore has good cause to consider withdrawal from the Program – and where no alternative is readily available to the patient, should withdrawal occur. Otherwise, although the rate being paid a hospital may be less than that paid by other payors – indeed, less than average cost per day for all patients – it nonetheless equals or exceeds the variable cost per day, and therefore benefits the hospital by offsetting some amount of fixed costs, which it would incur even if the bed occupied by the Medicaid patient were left empty.

It should be emphasized that application of this marginal loss or “incremental harm” concept is a device to assess the potential harm to a hospital continuing to treat Medicaid recipients, and not a mechanism for determining the additional payment due to a successful appellant. As discussed below, once a threat to access has been demonstrated, the Commonwealth may participate in the full average costs associated with the circumstances underlying the appeal.

⁶ With regard to the 30 minute travel standard, this requirement is consistent with general health planning criteria regarding acceptable travel time for hospital care.

⁷ The Commonwealth recognizes that in cases where circumstances warrant relief beyond the existing payment rate, it may share in the cost associated with those circumstances. This is consistent with existing policy, whereby payment is made on an average per diem basis. The Commonwealth will not reimburse more than its share of fixed costs. Any relief to an appellant hospital will be computed on an occupancy adjusted basis. Relief will be computed using patient days adjusted for the level of occupancy during the period under appeal. In no case will any additional payments made under this rule reflect lengths of stay which exceed the 21 day limit currently in effect.

DEPARTMENT OF MOTOR VEHICLES (COMMISSIONER OF)

Title of Regulation: VR 485-50-8901. Virginia Commercial Driver's License Regulations.

Statutory Authority: §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

Public Hearing Date: September 11, 1989 - 10:30 a.m.
(See Calendar of Events section for additional information)

Summary:

These proposed regulations establish certain licensing requirements and standards for commercial drivers, as permitted or required by the Virginia Commercial Driver's License Act (House Bill 1675, enacted by the 1989 General Assembly), and the federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-750).

These licensing requirements and standards relate to: (i) the licensing of new residents and nonresidents; (ii) the satisfaction of vision requirements; and (iii) the administration of commercial driver's license skills tests by third parties, or persons other than DMV employees.

Additional hearings will be scheduled and published in the next edition of the Virginia Register.

VR 485-50-8901. Virginia Commercial Driver's License Regulations.

PART I. PURPOSE AND DEFINITIONS.

§ 1.1 Purpose.

The purpose of these regulations is to establish certain rules and standards which govern the licensing of drivers of commercial motor vehicles by the Department of Motor Vehicles. Part II of these regulations establishes guidelines for determining whether a new Virginia resident, who holds a commercial driver's license from another state, will be required to take the knowledge and skills tests to obtain a Virginia commercial driver's license. Part III of these regulations establishes the requirements for obtaining a “nonresident commercial driver's license” in Virginia. Part IV sets forth special rules for demonstrating that CDL applicants meet the vision standards established for commercial driver's as well as rules for obtaining a waiver of such standards. Part V sets forth rules and procedures for the administration of third party testing programs, by which persons other than employees of the Department of Motor Vehicles will be permitted to administer the skills test required of commercial driver's license applicants.

§ 1.2. Definitions.

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

“CDL” means a commercial driver's license as defined in Title 46.2 of the Code of Virginia.

“Department” means the Virginia Department of Motor Vehicles.

“DOT” means Federal Department of Transportation.

“Employee” means a payroll employee or person employed under lease or contract, or a person who has applied for employment and whose employment is contingent upon obtaining a CDL.

“Employer” means a person who owns or leases commercial motor vehicles and assigns employees to drive such vehicles.

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"FMCSR" means the Federal Motor Carrier Safety Regulations adopted by the United States Department of Transportation pursuant to the Motor Carrier Safety Act of 1984 (49 U.S.C. § 2501 et seq.).

"Person" means a natural person, firm, partnership, association, corporation, or a governmental entity including a school board.

"Third party tester" means a person certified by the department to administer a skills test program for testing CDL applicants in accordance with these regulations.

"Third party examiner" means an individual who is a payroll employee of a third party tester and who is certified by the department to conduct the skills test required for a CDL.

"Va. MCSR" means the Virginia Motor Carrier Safety Regulations adopted by the Virginia Department of State Police pursuant to § 52-8.4 of the Code of Virginia.

PART II.

WAIVER OF CERTAIN TEST REQUIREMENTS FOR PERSONS WITH COMMERCIAL DRIVER'S LICENSES FROM OTHER STATES.

§ 2.1. Any person who holds a valid CDL from another state, who moves to Virginia and who intends to operate commercial motor vehicles, must apply to the department for a Virginia CDL within 30 days after becoming domiciled in Virginia. Except as provided in § 2.2 of these regulations, if the department determines that such applicant is otherwise eligible for a CDL, the department will issue him a Virginia CDL with the same classification and endorsements as his CDL from another state, without requiring him to take the knowledge or skills test required for such CDL.

§ 2.2. Any such applicant who seeks to obtain a Virginia CDL with a hazardous materials endorsement will be required to take the hazardous materials knowledge test unless his CDL from another state, which bears a hazardous materials endorsement, was either issued or renewed within the two year period preceding his application for a Virginia CDL.

PART III.

REQUIREMENTS FOR "NONRESIDENT CDL" FOR PERSONS DOMICILED OUTSIDE THE UNITED STATES.

§ 3.1. Any person who is (i) domiciled in a jurisdiction outside of the United States which does not have commercial motor vehicle testing and licensing standards that meet the requirements of the Federal Highway Administration, (ii) has resided in Virginia for a minimum of six weeks, and (iii) is employed in a position that requires him to have a CDL, may apply to the department for a "nonresident CDL."

§ 3.2. Any such person must satisfy all statutory and regulatory requirements for obtaining a CDL and, in addition, must appoint his employer as his agent for the purpose of receiving notices and other legal process from the department.

PART IV.

RULES RELATING TO VISION REQUIREMENTS FOR COMMERCIAL DRIVER'S LICENSE APPLICANTS.

§ 4.1. Optional method of demonstrating satisfaction of visual standard's for commercial driver's license applicants.

Any person who applies for a CDL and who is required as a part of his examination to demonstrate that his vision meets the standards of § 46.1-357.2(b) of the Code of Virginia may satisfy that requirement by submitting to the department a copy of the medical examination report form which was used as the basis for the Medical Examiner's Certificate, which is required of most commercial drivers by the FMCSRs, and the VA MCSRs. The Medical Examiner's Certificate must also be submitted with the medical examination report form.

§ 4.2. Waiver of vision standards for CDL applicant pursuant to § 46.1-357.2(e).

A. The department may waive the vision requirements of § 46.2-357.2(b) for any CDL applicant who either (i) is subject to the FMCSRs, but is exempt from the vision standards of those regulations pursuant to 49 C.F.R. 391.71, or (ii) is not subject to the FMCSRs.

B. In order to determine whether such a waiver would unduly endanger the public safety, the department shall require such CDL applicant to submit a special waiver application and to provide all medical information relating to his vision which may be requested by the department. The department may require such CDL applicant to take a road test before determining whether to grant a waiver. If a waiver is granted, the department may subject the applicant's use of a commercial motor vehicle to reasonable restrictions, which shall be noted on the CDL. If a waiver is granted, the department may also limit the validity period of the CDL, and the expiration date shall be noted on the CDL.

PART V.

THIRD PARTY SKILLS TESTING FOR COMMERCIAL DRIVERS.

§ 5.1. Purpose.

The purpose of this Part is to establish procedures to permit persons other than employees of the department to conduct the skills test required of CDL applicants. Third party testers will be authorized to issue skills test certificates which will be accepted by the department as evidence of satisfaction of the skills test component of the CDL examination. Authority to issue skills test certificates

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will be granted only to third party testers certified by the Department.

§ 5.2. Requirements for third party testers.

A. To qualify for certification, a third party tester must:

1. Make application to and enter into an agreement with the department as provided in § 5.4 of these regulations;
2. Maintain a place of business in Virginia;
3. Have at least one certified third party examiner in his employ;
4. Ensure that all third party examiners in his employ are certified and comply with the requirements of §§ 5.3 and 5.8 of these regulations;
5. Permit the department and the Federal Highway Administration of the Department of Transportation to examine records that relate to the third party testing program and to audit his testing program;
6. Maintain at a Virginia location, for a minimum of two years after a skills test is conducted, a record of each driver for whom the third party tester conducts a skills test, whether or not the driver passes or fails the test. Each such record shall include:

- a. The complete name of the driver;
- b. The driver's social security number or other driver's license number and the name of the state or jurisdiction that issued the license held by driver at the time of the test;
- c. The date the driver took the skills test;
- d. The test score sheet(s) showing the results of the skills test, and a copy of the skills test certificate, if issued;
- e. The name and certification number of the third party examiner conducting the skills test; and
- f. Evidence of the driver's employment with the third party tester at the time the test was taken. If the third party tester is a school board which tests drivers who are trained but not employed by the school board, evidence that (i) the driver was employed by a school board at the time of the test, and (ii) the third party tester trained the driver in accordance with the Virginia School Bus Driver Training Curriculum Guide.

7. Maintain at a Virginia location, a record of each third party examiner in the employ of the third party tester. Each record shall include:

- a. Name and social security number;
- b. Evidence of the third party examiner's certification by the department;
- c. A copy of the third party examiner's current driving record, which must be updated annually;
- d. Evidence that the third party examiner is a payroll employee of the third party tester; and
- e. If the third party tester is a school board, a copy of the third party examiner's certification of instruction, issued by the Virginia Department of Education;
8. Retain the records required in paragraph 7 above for at least two years after the third party examiner leaves the employ of the third party tester;
9. Ensure that skills tests are conducted, and that skills test certificates are issued in accordance with the requirements of § 10 and § 11 of these regulations and the instructions provided by the department; and
10. Maintain compliance with all applicable provisions of these regulations and the third party tester agreement executed pursuant to § 5.4.

B. In addition to the requirements listed in subsection A above, all third party testers who are not governmental entities must:

1. Be engaged in a business involving the use of commercial motor vehicles, which business has been in operation in Virginia for a minimum of one year;
2. Employ at least 75 Virginia licensed drivers of commercial motor vehicles, during the 12 month period preceeding the application, including part time and seasonal drivers. This requirement may be waived by the department pursuant to § 12;
3. If subject to the FMCSRs, maintain a DOT rating of "satisfactory;" and
4. Comply with the Va MCSRs.

§ 5.3. Requirements for third party examiners.

A. Third party examiners may be certified to conduct skills tests on behalf of only one third party tester at any given time. If a third party examiner leaves the employ of a third party tester he must be recertified in order to conduct skills tests on behalf of a new third party tester.

B. To qualify for certification as a third party examiner, an individual must:

1. Make application to the department as provided in

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§ 5 of these regulations;

2. Be a payroll employee of the third party tester;

3. Possess a valid Virginia CDL with the classification and endorsements required for operation of the class and type of commercial motor vehicle used in skills tests conducted by the examiner;

4. Satisfactorily complete third party examiner training course(s) required by the department;

5. Within three years prior to application have had no driver's license suspensions, revocations or disqualifications;

6. At the time of application have no more than six demerit points on his driving record and not be on probation under the Virginia Driver Improvement Program;

7. Within three years prior to application, have had no conviction for any offense listed in §§ 46.1-372.17 or 46.1-372.18 of the Code of Virginia, whether or not such offense was committed in a commercial motor vehicle;

8. If the examiner is employed by a school board, be certified by the Virginia Department of Education as a school bus training instructor; and

9. Conduct skills tests on behalf of the third party tester, in accordance with these regulations and in accordance with current instructions provided by the department.

§ 5.4. Application for certification by the department.

A. Application for third party tester certification.

1. An applicant for certification shall provide the following information upon a form provided by the department:

a. Name and address and telephone number of principle office or headquarters;

b. Name, title, address and telephone number of an individual in Virginia who has been designated to be applicant's contact person with the department;

c. Description of the vehicle fleet owned or leased by the applicant, including the number of commercial motor vehicles by class and type;

d. Classes and types of commercial motor vehicles for which the applicant seeks to be certified as a third party tester;

e. Total number of Virginia licensed drivers employed during the preceeding 12 months to

operate commercial motor vehicles, and the number of such drivers who are full time, part-time and seasonal;

f. Name, driver's license number and home address of each payroll employee who is to be certified as a third party examiner. If any employee has previously been certified as an examiner by the department, the examiner's certification number;

g. The address of each Virginia location where the third party tester intends to conduct skills tests, and a map, drawing or written description of each driving course which satisfies the department's requirements for a skills test course;

h. If the applicant is not a governmental entity, it shall also provide:

(1) A decription of the applicant's business and length of time in business and length of time in business in Virginia;

(2) If subject to the FMCSRs, the applicant's Interstate Commerce Commission or DOT number and DOT rating; and

(3) Applicant's State Corporation Commission number; and

i. Any other relevant information required by the department.

2. An applicant for certification shall also execute an agreement form provided by the department in which the applicant agrees, at a minimum, to comply with the regulations and instructions of the department for third party testers, including audit procedures, and agrees to hold the department harmless from liability resulting from the third party tester's administration of its CDL skills test program.

B. Application for third party examiner certification.

1. An applicant for certification shall provide the following information on a form provided by the department:

a. Name and home and business addresses and telephone numbers;

b. Driver's license number;

c. Name, address, and telephone number of the principle office or headquarters of the applicant's employer, who has applied for or received certification as a third party has applied for or received certification as a third party tester;

d. Job title and description of duties and responsibilities;

e. Length of time employed by present employer. If less than two years, list previous employer, address and telephone number;

f. Present employer's recommendation of the applicant for certification;

g. A list of the classes and types of vehicles for which the applicant seeks certification to conduct skills tests; and

h. Any other relevant information required by the department.

C. Evaluation of applicants by the department.

1. The department will evaluate the materials submitted by the third party tester applicant, and, if the application materials are satisfactory, the department will schedule an on-site inspection and audit of the applicant's third party testing program to complete the evaluation.

2. The department will evaluate the materials submitted by the third party examiner applicant as well as the applicant's driving record. If the application materials and driving record are satisfactory, the department will schedule the applicant for third party examiner training. Training may be waived if the applicant is seeking recertification only because he has changed employers.

3. No more than two applications will be accepted from any one third party tester or examiner applicant in any 12 month period.

§ 5.5. Certification by the department.

A. Upon successful application and evaluation, a third party tester will be issued a letter or certificate which will evidence his authority to administer a third party testing program and issue skills test certificates for the classes and types of vehicles listed.

B. Upon successful application, evaluation and training, a third party examiner will be issued a letter or certificate which will evidence his authority to conduct skills tests for the classes and types of commercial motor vehicle listed.

C. Certification will remain valid until cancelled by the department or voluntarily relinquished by the third party tester or examiner.

§ 5.6. Terminating certification of third party testers and examiners.

A. Any third party tester or examiner may relinquish certification upon 30 days notice to the department. Relinquishment of certification by a third party tester or examiner shall not release such tester or examiner

from any liability that arises from his activities as a third party tester or examiner.

B. The department reserves the right to cancel the third party testing program established by these regulations, in its entirety.

C. The department may cancel the certification of an individual third party tester or examiner upon the following grounds:

1. Failure to comply with or satisfy any of the provisions of these regulations, the department's instructions or the third party tester agreement;

2. Falsification of any records or information relating to the third party testing program; or

3. Commission of any act which compromises the integrity of the third party testing program.

D. If the department determines that grounds for cancellation exist for failure to comply with or satisfy any of these regulations or the third party tester agreement, the department may postpone cancellation and allow the third party tester or examiner 30 days to correct the deficiency.

§ 5.7. On-site inspections and audits.

A. Each applicant for certification as a third party tester shall permit the department to inspect and audit its operations, facilities and records as they relate to its third party testing program, for the purpose of determining whether the applicant is qualified for certification. Each person who has been certified as a third party tester shall permit the department to periodically inspect and audit his third party testing program to determine whether it remains in compliance with certification requirements.

B. The department will perform its inspections and audits during regular business hours with or without prior notice to the third party tester.

C. Inspections and audits will include, at a minimum, an examination of:

1. Records relating to the third party testing program;

2. Evidence of compliance with the FMCSRs and Va MCSR's;

3. Skills testing procedures, practices and operations;

4. Vehicles used for testing;

5. Qualifications of third party examiners;

6. Effectiveness of the skills test program by either (i) testing a sample of drivers who have been issued skills test certificates by the third party tester or (ii)

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having department employees take the skills tests from a third party examiner; and

7. Any other aspect of the third tester's operation that the department determines is necessary to verify that the third party tester meets or continues to meet the requirements for certification.

D. The department will prepare a written report of the results of each inspection and audit. A copy of the report will be provided to the third party tester.

§ 5.8. Notification requirements.

A. Every third party tester must:

1. Notify the department in writing within 10 days of any change in:

- a. The third party tester's name or address;
- b. The third party examiners who are employed by the third party tester.

2. Notify the department in writing within 10 days of any of the following occurrences:

- a. The third party tester ceases business operations in Virginia;
 - b. The third party tester fails to comply with any of the requirements set forth in these regulation; or
 - c. Any third party examiner fails to comply with any of the requirements set forth in these regulations.
3. Notify the department of any proposed change in the skills test route at least 30 days before the third party tester plans to change the route.

B. Every third party examiner shall notify the department within 10 days after leaving the employ of the third party tester, of his change in employment.

§ 5.9. Test administration.

A. Skills tests shall be conducted strictly in accordance with the provisions of these regulations and with current test instructions provided from time to time by the department. Such instructions will include test forms and directions for completing such forms.

B. Skills tests shall be conducted:

1. On test routes which are located at least in part in Virginia, and which have been approved by the department;
2. In a vehicle that is representative of the class and type of vehicle for which the CDL applicant seeks to

be licensed and for which the third party examiner are certified to test; and

3. In vehicles that are inspected, licensed and insured, as required by law.

§ 5.10. The skills test certificate.

A. The department will accept a skills test certificate issued in accordance with this section as satisfaction of the skills test component of the CDL examination.

B. Skills tests certificates may be issued only to drivers who are employees of the third party tester who issues the certificate, except as otherwise provided herein. In the case of school boards certified as third party testers, certificates may be issued to employees and to other drivers who have been trained by the school board in accordance with the Virginia School Bus Driver Training Curriculum Guide.

C. Skills test certificates may be issued only to drivers who have passed the skills test conducted in accordance with these regulations and the instructions issued by the Department.

D. A skills test certificate will be accepted by the department only if it is:

1. Issued by a third party tester certified by the department in accordance with these regulations;
2. On a valid skills test certificate form provided by the department, completed in its entirety, without alteration;
3. Submitted to the department within 60 days of the date of the skills test; and
4. Signed by the third party tester who conducted the skills test.

§ 5.11. Waiver of requirement that third party tester applicant employ 75 drivers.

A. Any applicant for certification as third party tester may submit with his application, a request for a waiver of the requirement that the third party tester employ at least 75 drivers within the 12 month period preceeding the application, upon the grounds that such waiver would be in the best interest of the community served by the third party tester.

Such request shall include the following:

1. Distance from the department's nearest branch office.
2. Estimated number of employees per year who will require CDL skills testing.

3. *Reasons why the community, the applicant and the department would best be served if the applicant becomes a third party tester.*

C. *The department will consider the request and notify the applicant in writing of its decision after reviewing and evaluating the application.*

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.

Published: VR.V 5.16 pages 2163-2183 May 8, 1989.

NOTICE OF WITHDRAWAL

By authority of the Board of Rehabilitative Services, this will advise that the board wishes to withdraw proposed regulations titled VR 595-01-1 "Provision of Vocational Rehabilitation Services."

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public Hearing Date: July 12, 1989
(See Calendar of Events section for additional information)

Summary:

This proposed regulation sets forth the process the Virginia Racing Commission will use to obtain comments from interested and affected local governments, citizens groups and business entities regarding the regulations to govern horse racing and pari-mutuel wagering.

VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.

§ 1. Generally.

A. *These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Virginia Racing Commission. These guidelines shall not apply to regulations adopted on an emergency basis.*

B. *In developing any regulation governing horse racing and pari-mutuel wagering, the Virginia Racing Commission*

("commission") is committed to obtaining comments from interested people. The commission intends to involve all interested parties in the development of those regulations.

C. *Anyone who is interested in participating in the process of developing regulations should notify the commission in writing. This notification should be sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.*

1. *The commission will maintain a list of the people who notified the commission in writing.*

2. *The commission will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in § 4 of these guidelines.*

§ 2. Identification of needed regulations.

A. *Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.*

B. *The commission, at its discretion, may consider any regulatory request or change.*

§ 3. Identification of interested parties.

Before the commission develops a regulation, it will identify persons who either would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. *Obtaining the statewide listing of business, professional and civic associations published by the Virginia Chamber of Commerce. This list will be used to identify groups which might be interested in the regulation.*

2. *Using commission files to identify people who have raised questions or expressed an interest in the regulations.*

3. *Using a list, compiled by the commission, of persons who previously participated in public proceedings.*

4. *Obtaining from the Secretary of the Commonwealth a list of all persons, associations and other who have registered as lobbyists for the most recent General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.*

§ 4. Notification of interested parties.

A. *Generally.*

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The commission will prepare a Notice of Intended Regulatory Action ("notice") before developing any regulation. The notice will identify the subject matter and purpose of the new regulation(s). The notice will specify a time deadline and location for interested persons to submit written comments.

B. Notifying those interested.

The methods for notifying interested persons shall include publishing the notice in the Virginia Register of Regulations (Virginia Register) and also may include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in § 3 above; and
2. Requesting that groups, associations, and organizations to whom the notice is sent publish the notice in newsletters or journals or use other means available to them to inform their members.

§ 5. Public participation in regulation development.

A. Initial comment.

After interested parties have responded to the notice, the commission will determine the level of interest.

1. If sufficient interest exists, and if time permits, the commission may schedule informal meetings before the development of the proposed regulation. The meetings will determine the specific areas of interest and concern and will gather factual information on the subject of the regulation.
2. Instead of informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice.
3. The commission may decide that the notice resulted in receipt of enough information so that it can develop the proposed regulation without either an informal meeting or additional written comments.

B. Preparing a proposed regulation.

After the initial public input on the intended regulatory action, the commission will develop a proposed regulation for review, revision and adoption.

§ 6. Submission of regulation under the Administrative Process Act.

A. After the drafting process ends, the commission-approved regulation will be submitted to the Registrar of Regulations under the Administrative Process Act (APA), Chapter 1.1:1 of Title 9, of the Code of Virginia. The commission-approved regulation will be

published as a proposed regulation in the Virginia Register.

B. The commission will furnish a copy of the regulation published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulation.

C. If the commission elects to hold a public hearing, the time, date, and place will be specified. In addition, the cutoff date for people to notify the commission that they will participate in the public hearing will be set out. People who choose to participate in the public hearing will be encouraged to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the formal transcript of the hearing.

D. When the commission issues an order adopting a regulation, it may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in the Virginia Register and will specify the issue number.

§ 7. Publication and distribution of final regulation.

A. The commission will adopt all final regulations. The final regulations will be submitted for publication in the Virginia Register.

B. The commission will order the printing of all adopted final regulations and make appropriate distribution.

C. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the commission and compliance with the commission's regulations.

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.

MARINE RESOURCES COMMISSION

Habitat Management Division

Title of Regulation: VR 450-01-0051. Wetlands Mitigation - Compensation Policy.

Statutory Authority: Chapter 2.1 (§ 62.1-13.1 et seq.) of Title 62.1 of the Code of Virginia.

Effective Date: August 2, 1989

Summary:

These guidelines will be used by the Marine Resources Commission and local wetlands boards to evaluate projects which may require wetlands mitigation or compensation pursuant to Virginia's Wetlands Act (Chapter 2.1 of Title 62.1 of the Code of Virginia).

VR 450-01-0051. Wetlands Mitigation - Compensation Policy.

§ 1. Definitions.

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

"Compensation" means actions taken which have the effect of substituting some form of wetland resource for those lost or significantly disturbed due to a permitted development activity; generally habitat creation or restoration. Compensation is a form of mitigation.

"Mitigation" means all actions, both taken and not taken, which eliminate or materially reduce the adverse effects of a proposed activity on the living and nonliving components of a wetland system or their ability to interact.

§ 2. Policy.

In spite of the passage of the Virginia Wetlands Act and the Federal Water Pollution Control Act in 1972, the pressures to develop lands, including wetlands along Virginia's shoreline, have continued to accelerate as evidenced by the increasing number of permit applications being submitted. At the same time scientific research has demonstrated that certain wetlands can be established or reestablished in areas where wetlands are not found at present. This has led to an increasing number of proposals calling for the destruction of wetlands in one area in order to accommodate development, and the creation of

wetlands in another area in order to offset the loss of the natural wetland resource.

Although compensating for the loss of a wetland by establishing another of equal or greater area sounds very attractive in theory and has been regarded as successful in a few specific cases, in general, this form of mitigation has proven difficult to successfully implement. Many questions regarding the ecological soundness and feasibility of substituting one habitat for another remain to be answered. In addition, a number of studies have demonstrated that for various reasons the created habitats either never attain the level of productivity or diversity of the natural systems they replace or simply are not capable of performing the ecological functions of the undisturbed habitat.

Although California and Oregon now require compensation for lost wetlands on all projects, states such as North Carolina and New Jersey have taken a much more limited approach to the mitigation-compensation question. In general, these latter two states rely on wetland compensation only as a last resort to replace wetlands whose loss is highly justified and unavoidable. Virginia to this point has also taken a very conservative tack with regard to the use of wetland compensation as a management tool.

The Commission, and these guidelines, do not require that all wetlands losses be compensated. They do recommend, however, that compensation be required on a limited basis to replace unavoidable wetlands losses. There are three main reasons for this recommendation.

First, a literature survey and experience with implementing compensation on a day-to-day basis reveal a number of significant problems with the concept itself that remain to be resolved.

Secondly, there are general philosophical and technical questions regarding compensation which have not been answered by the scientific community to this point in time.

Thirdly, and most importantly, a reading of the Wetlands Act clearly indicates that the General Assembly intended for the Commonwealth's wetland resources to be preserved in their "natural state," and emphasized through its declaration of policy, the importance of an overall ecological approach to wetlands management.

"The Commonwealth of Virginia hereby recognizes the unique character of the wetlands, an irreplaceable natural resource which, in its natural state, is essential to the ecological systems of the tidal rivers, bays and

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estuaries of the Commonwealth.” (Emphasis added)

The General Assembly also stated that where economic development in the wetlands is clearly necessary and justified it will be accommodated while preserving the wetlands resource.

“...it is declared to be the public policy of this Commonwealth to preserve the wetlands and to prevent their despoliation and destruction and to accommodate necessary economic development in a manner consistent with wetlands preservation.” (Emphasis added)

In § 62.1-13.3 of the Code of Virginia the General Assembly mandated the preservation of the ecological systems within wetlands of primary ecological significance and then stated:

“Development in Tidewater, Virginia, to the maximum extent possible, shall be concentrated in wetlands of lesser ecological significance, in wetlands which have been irreversibly disturbed before July 1, 1972, and in areas of Tidewater, Virginia, apart from the wetlands.”

The General Assembly has spelled out clearly that “necessary economic development” is to be accommodated in Tidewater, Virginia, but that the emphasis is on wetlands preservation in their natural state.

§ 3. General criteria.

It shall remain the policy of the Commonwealth to mitigate or minimize the loss of wetlands and the adverse ecological effects of all permitted activities through the implementation of the principles set forth in these Wetlands Guidelines which were promulgated in 1974 and revised in 1982. To determine whether compensation is warranted and permissible on a case-by-case basis, however, a two-tiered mechanism will be implemented. This dual approach will consist first of an evaluation of necessity for the proposed wetlands loss (see § 4). If the proposal passes this evaluation, compensation will be required and implemented as set forth in the second phase, the Supplemental Guidelines.

The primary thrust of combining the existing Wetlands Guidelines with the two-tiered compensation guidelines is to preserve the wetlands as much as possible in their natural state and to [~~require~~ consider appropriate requirements for] compensation only [~~when~~ after it has been proven that] the loss of the natural resource is unavoidable and [~~has~~ that the project will have] the highest public and private benefit. [Commitments to preserve other existing wetlands shall not ordinarily be an acceptable form of compensation.]

§ 4. Specific criteria.

In order for a proposal to be authorized to destroy wetlands and compensate for same in some prescribed

manner, the three criteria listed below must be met. If the proposal cannot meet one or more of these criteria, the activity shall be denied, or must occur in areas apart from the wetlands. Should it satisfy all three criteria, however, compensation for the wetlands lost is required.

1. All reasonable mitigative actions, including alternate siting, which would eliminate or minimize wetlands loss or disturbance shall be incorporated in the proposal.
2. The proposal shall clearly be water-dependent in nature.
3. The proposal shall demonstrate clearly its need to be in the wetlands and its overwhelming public and private benefits.

§ 5. Supplemental guidelines.

If compensation is required, then the following guidelines should be given due consideration and, if appropriate, may be included as conditions of the permit:

1. A detailed plan, including a scaled plan view drawing, shall be submitted describing the objectives of the wetland compensation, the type of wetland to be created, the mean tide range at the site, the proposed elevations relative to a tidal datum, the exact location, the areal extent, the method of marsh establishment and the exact time frame from initial work to completion.
2. Once the grading is completed at the planting site, it should be inspected by a competent authority to insure that the elevations are appropriate for the vegetation to be planted and that the surface drainage is effective.
3. The compensation plan and its implementation must be accomplished by experienced professionals knowledgeable of the general and site-specific requirements for wetland establishment and long-term survival.
4. A performance bond or letter of credit is required and shall remain in force until the new wetland is successfully established; a minimum of two growing seasons.
5. The compensation marsh should be designed to replace as nearly as possible, the functional values of the lost resource on an equal or greater basis. In general this means creating a marsh of similar plant structure to that being lost. This may not be the case where a lesser value marsh is involved (i.e. Group 4 or 5 wetlands). A minimum 1:1 areal exchange is required in any case.
6. The compensation should be accomplished prior to, or concurrently with, the construction of the proposed

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project. Before any activity under the permit may begin, the permittee must own all interests in the mitigation site which are needed to carry out the mitigation.

7. All reasonable steps must be taken to avoid or minimize any adverse environmental effects associated with the compensation activities themselves.

8. On-site compensation is the preferred location alternative with off-site in the same watershed as a consideration when on-site is not possible. Locating a compensation site outside the river basin of the project is not acceptable unless it is done as part of a state-coordinated program of ecological enhancement.

9. In selecting a compensation site, one aquatic community should not be sacrificed to "create" another. In cases where dredged material must be placed overboard, the area may be used to create marsh, oyster rock or improve the resource value of the bottom.

10. The type of plant community proposed as compensation must have a demonstrated history of successful establishment in order to be acceptable.

11. The proposed activity should stand on its own merits in the permit review. Compensation should not be used to justify permit issuance.

12. Manipulating the plant species composition of an existing marsh community, as a form of compensation, is unacceptable.

13. Nonvegetated wetlands should be treated on an equal basis with vegetated wetlands with regard to compensation and mitigation, unless site-specific information indicates one is more valuable than the other.

14. Both short- and long-term monitoring of compensation sites should be considered on a case-by-case basis. For unproven types of compensation the applicant will be responsible for funding such monitoring as is deemed necessary.

15. Where on-site replacement for noncommercial projects is not feasible, compensation for small wetland losses (less than 1,000 square feet) should be avoided in favor of eliminating loss of the natural marsh to the maximum extent possible.

16. Conservation or other easements to be held in perpetuity should be required for the compensation marsh. Easements accepted by the Commission will be processed in accordance with the provisions of § 62.1-13.17 of the Code of Virginia.

17. All commercial projects which involve unavoidable wetland losses should be compensated.

[18. The purchase and donation for public use of existing wetlands is not an acceptable form of compensation for wetlands lost to development.]

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Habitat Management Division

Title of Regulation: VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material Along Beaches in the Commonwealth.

Statutory Authority: § 62.1-3 of the Code of Virginia.

Effective Date: August 2, 1989

Summary:

This document sets forth criteria which will be used by the Commission staff to evaluate dredging projects to assure that all suitable dredged material is utilized on eroding beach shorelines to the maximum extent practicable.

VR 450-01-0052. Criteria for the Placement of Sandy Dredged Material Along Beaches in the Commonwealth.

§ 1. Objectives and goals.

A. The objective is to assure that all suitable dredged material is utilized on eroding beach shorelines to the maximum extent practicable.

B. In considering dredging permit applications, the Commission will endeavor to:

1. Support § 10.1-704 of the Code of Virginia which provides that the beaches of the Commonwealth be given priority consideration as sites for the disposal of that portion of dredged material determined to be suitable for beach nourishment.

2. Coordinate and cooperate with the appropriate state and federal agencies to the extent that VMRC regulatory actions can support those agencies in administering House Joint Resolution No. 223, 1987 session, regarding the use of dredged material for beach nourishment.

3. Resolve or minimize legal, environmental and engineering problems which can result from inadequate planning of dredged material placement.

§ 2. Purpose.

The purpose of this document is to develop manageable criteria and threshold levels for use by Commission staff in determining which projects justify a requirement for the expenditure of funds by an applicant for sediment tests as well as investigation of legal, environmental and engineering implications inherent in every dredged

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material placement proposal.

§ 3. Policy.

The Commission will strive to achieve maximum beneficial uses of suitable dredged material for those projects which qualify under criteria established herein while protecting the interests of the Commonwealth in the land and the resources lying channelward of the mean low water shoreline which land and resources are owned by the Commonwealth and are to be held as a common for use by all its citizens.

§ 4. General criteria.

Increasing interest in the beneficial uses of dredged material dictates a more structured approach to the processing of dredging permit applications. [The criteria contained in the Subaqueous Guidelines is generally environmental in nature. Yet] Parameters to be considered in attempting to utilize suitable material for beach nourishment are frequently economic, legal, political, or technical, as well as environmental, and most often a combination of all these factors.

Because of the complexity of interests involved, certain threshold levels are needed to more readily define projects which justify the time and expense of determining whether beach nourishment is a reasonable alternative.

The following general criteria should be used to determine candidate projects suitable for detailed evaluation:

1. More than 7,500 cubic yards of material is to be removed and, based on previous experience, there is a reasonable expectation that usable quantities of suitable beach nourishment material free from toxic compounds is present in the material to be dredged.
2. Beaches with a demonstrated need for and capability of accepting all or a part of the available material are within proximity of the dredging site.
3. The political subdivision within which the potential placement site is located has expressed an interest in obtaining beach nourishment material.
4. The applicant understands that he will be required to undertake the research necessary to locate private property owners willing to accept the material if no publicly owned shoreline is in reasonable proximity.
5. When beach nourishment is incorporated into a dredging project, a more comprehensive subsurface investigation plan is required than if dredging is the only consideration.

§ 5. Specific criteria.

1. Sufficient borings must be made and analyzed to

develop a clear picture of the vertical and horizontal limit of sand deposits in the dredging area. Such borings are the responsibility of the dredging applicant.

2. Shoreline investigations at the nourishment site shall determine the characteristics of the native material, the location of utilities, structures, outfall pipes, property lines along shore transport, and other basic engineering considerations.

3. Engineering information must be analyzed to determine acceptable grain size range of fill material, design berm height, width and length, probable fate of the material, expected loss rates and the resulting maintenance requirements.

4. Legal easements and public rights-of-way must be obtained from property owners which preserve public use and state ownership of all state-owned submerged land existing channelward of mean low water shoreline prior to the placement of any material. These legal documents are the responsibility of the dredging applicant or property owners, or both.

5. The project should be engineered in a manner which results in the least environmental impact while providing an efficient and cost effective construction plan. Consideration will be given, but not limited to, the project's potential impacts on existing natural resources and habitats. These include, inter alia, existing finfish, shellfish, turtle and avian species and their critical time periods for spawning, nesting and nursery functions in areas of submerged aquatic vegetation, wetlands and submerged or intertidal and beach habitat.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: VR 385-01-19. Car Pool Regulations.

Statutory Authority: § 33.1-407 of the Code of Virginia.

Effective Date: August 2, 1989

Summary:

"Care Pool Rules and Regulations" establishes the rules, regulations and procedures for the assignment, use, and maintenance of state-owned or leased passenger type vehicles. These regulations cover, in detail, the following:

* the criteria and procedures for assignment of passenger vehicles to an agency;

* The utilization criteria of passenger type vehicles by an agency and the procedures for exemption of the minimum mileage criteria;

- * the criteria and procedures for maintenance of fleet vehicles;
- * the procedures to be followed when a fleet vehicle is involved in an accident; and
- * general administrative responsibilities of an agency using fleet vehicles.

VR 385-01-19. Car Pool Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Agency transportation officer" means the person so designated by the agency head to serve as coordinator with the fleet administrator.

"Centralized fleet" means those passenger-type vehicles owned by the Virginia Department of Transportation, Division of Fleet Management, and assigned either on a temporary or permanent basis to the various state agencies herein after referred to as "fleet vehicles".

"Commissioner" means the Commonwealth Transportation Commissioner.

"Commuting" means the use of a state-owned or leased passenger-type vehicle by an employee for travel between home and office while not in "travel status" as defined in the "Pocket Guide of State Travel Regulations", issued by the Department of Accounts.

"Employee" means any part-time, hourly or full-time employee of the Commonwealth of Virginia or any individual under contract to perform services for the Commonwealth of Virginia and other individuals authorized to operate state-owned vehicles.

"Fleet administrator" means the administrative head of the Division of Fleet Management (Central Garage).

"Law-enforcement officer" means any full-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any member of the Regulatory Division of the Department of Alcoholic Beverage Control vested with policy authority, any police agent appointed under the provisions of § 56-353 or any game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, or as referred to in accordance with opinions issued by the Attorney

General.

"Motor vehicle" is defined in § 46.2-100 of the Code of Virginia.

"Office" means the facility where the employee routinely reports for duty.

"Office-in-home" means the employee's home is the official location from which he begins and ends work duties and the employee does not report on any routine frequency to an official state facility prior to beginning work or at the conclusion of work. The location of the employee's home shall be within the geographic confines of the employee's assigned work area.

"VDOT" means the Department of Transportation.

"Vehicles, leased" means a vehicle leased with public funds for a term in excess of 30 days for use by an employee of the Commonwealth.

"Vehicle, passenger-type" means any automobile, including sedans, station wagons, or vans used primarily for the transportation of the operator and no more than 15 passengers.

§ 1.2. Organization.

The Division of Fleet Management, hereafter referred to as Fleet Management, is an organizational unit within the Virginia Department of Transportation (VDOT). The administrator for the Division of Fleet Management reports directly to the assistant commissioner at VDOT.

§ 1.3. Mission.

Fleet Management provides safe, efficient and reliable passenger-type vehicular transportation for state employees, either through permanently assigned vehicles or individual trip issue.

§ 1.4. Authority.

The Commissioner of VDOT has been given authority and responsibilities by Title 33.1 of the Code of Virginia concerning the purchase, use, storage, maintenance and repair, and disposal of all vehicles within the centralized fleet. The commissioner has delegated to the administrator of the Division of Fleet Management the responsibilities for implementing approved procedures, and monitors their implementation through receipt of monthly reports.

§ 1.5. Applicability of rules and regulations.

These rules and regulations apply to all passenger-type vehicles which are owned by Fleet Management.

The Governor may by executive order extend these regulations to all motor vehicles of any type owned or leased by the Commonwealth, or such of them as the

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Governor may designate.

§ 1.6. Responsibilities.

A. Virginia Department of Transportation is responsible for administering the functions and activities of the Division of Fleet Management and for providing maintenance, repair and fuel which may be necessary to properly care for, preserve, protect and service fleet vehicles.

B. The Division of Fleet Management is responsible for the management of the centralized fleet and for administering, monitoring and enforcing all regulations concerning vehicle assignment, utilization, maintenance, repair and replacement and for accident reporting and the handling of citizen complaints and inquiries.

C. Agency Heads are responsible for monitoring and enforcing within their agency all fleet regulations governing assignment, use, maintenance and repair, for submission of the various reports which may be required and for prompt payment of Fleet Management mileage bills.

Each agency head shall, also, designate an agency transportation officer to serve as a liaison between the agency and Fleet Management.

D. Agency Transportation Officers are responsible for carrying out the duties and functions which may be assigned them by their agency head to assure optimum utilization of the fleet. Such duties may include but are not limited to the following:

1. establish internal agency procedures to assure that vehicles are maintained in accordance with Fleet Management regulations;
2. orientation of employees to assure that vehicle operators are aware of Fleet Management regulations and of their individual responsibilities concerning the use of a fleet vehicle;
3. establish internal agency procedures to assure that vehicle operators possess a valid operator's license;
4. keep Fleet Management advised of any changes in vehicle assignment or location, or both;
5. monitor fleet vehicle utilization to assure optimum use and efficiency;
6. report to Fleet Management any commuter use of fleet vehicles;
7. submit to Fleet Management any requests for exemption to the minimum mileage criteria as set forth in § 33.1-405 of the Code of Virginia and Part III of these regulations; and

8. submit reports to Fleet Management as may be requested or required.

E. Vehicle operators are responsible for reviewing and conforming to all regulations pertaining to the use, maintenance and operation of a fleet vehicle.

PART II.

ASSIGNMENT OF FLEET VEHICLES.

§ 2.1. Types of assignment.

Listed below are the types of assignments of fleet vehicles:

1. Individual Permanent Assignment: A vehicle assigned to a specific individual for his exclusive use.
2. Agency Pool Use Assignment: A vehicle used routinely by more than one individual.
3. Temporary Assignment: A vehicle assigned for specific agency functions which will involve a duration of less than one year.
4. Trip Pool Assignment: Vehicles assigned through the Fleet Management Trip Pool for use by employees in the greater Richmond Area for specific trips with a maximum duration of three weeks.

§ 2.2. Assignment criteria.

Individual Permanent and Agency Pool Uses Assignments: Assignments will be approved only on the basis of one of the following:

1. The vehicle is to be driven not less than the annual mileage which is determined in accordance with § 33.1-045 B.1 of the Code of Virginia or in the case of a minimum mileage contained in the budget bill, the budget bill prevails.
2. A law-enforcement officer as defined in § 1.1 of these regulations.
3. An employee whose job duties require the constant use or continuous availability of specialized equipment which cannot feasibly or economically be either transferred between fleet vehicles or carried in personal vehicles. Such equipment may include medical supplies, monitoring or testing apparatus or other supplies, equipment or material necessary to perform the agency's mission or function;
4. An employee on 24-hour call who must respond to emergencies on a regular or continuing basis, and the emergency response is normally to a location other than the employee's official work station; or
5. The vehicle is used for essential travel related to the transportation of clients or wards of the

Commonwealth on a routine basis, or for essential administrative functions of the agency for which the use of a temporary assignment or personal mileage reimbursement is neither feasible nor economical.

§ 2.3. Request for assignment.

Requests by agencies for individual permanent assignments, pool use assignments and temporary assignments are to be submitted to the Division of Fleet Management on Form CP-3, Application for Assignment of State Pool Vehicle. The application is to be completely filled out, signed by the agency transportation officer, the principal operator (if an individual assignment) and the agency head. The request for assignment should be submitted at least 90 days prior to the need for the vehicle when practicable.

Requests by agencies for a trip pool vehicle are initiated by a telephone contact to Division of Fleet Management at least 24 hours prior to the need for the vehicle. Reservations are accepted and the need filled on a first-come, first-served basis. All trip pool vehicles shall be picked up and returned to the Fleet Management facility. No vehicles will be issued by Fleet Management unless the individual has in hand a Travel Request Form, CP-2, properly executed by an authorized person within the agency and unless the person being issued such vehicle has in his possession a valid operator's license.

§ 2.4. Agency assignment - informational updates.

Agencies are to keep Fleet Management advised of any changes regarding vehicle assignment, including changes in vehicle principal assignee, location of vehicle, vehicle exemption, commuting, or any factors which may affect vehicle utilization. Form CP-3, Application for Assignment of State Pool Vehicle or Update of Previous Application, is to be used for advising the fleet administrator of such changes.

§ 2.5. Term of assignment.

Section 33.1-405 C limits the assignment of a vehicle to a maximum of two years, except upon review by the commissioner as to the continued need for the assignment. The approval of a new assignment and the monitoring of existing assignments will, however, be reevaluated every three months. Any vehicle which fails to achieve the quarterly minimum mileage criteria will be reviewed for possible recall. Any changes regarding vehicle use are to be submitted to the fleet administrator in accordance with § 2.4 of these regulations.

Vehicle assignments will terminate upon notification by the fleet administrator unless the agency head determines that the vehicle is no longer needed.

§ 2.6. Driver's license.

Persons who drive a fleet vehicle shall have a valid

operator's license and shall show the license prior to obtaining any vehicle from Fleet Management. Agencies shall have in place a mechanism which assures that each person whom they authorize to drive any state-owned vehicle possesses a valid operator's license.

§ 2.7. Removal or recall of fleet vehicles from agency.

Vehicles, either agency pool or individual assignment, may be recalled if any of the following occur:

1. The vehicle is not driven, and is not exempt from, the quarterly minimum mileage requirement;
2. Vehicle abuse occurs. Abuse includes, but is not limited to, improper care and maintenance of the vehicle (excess and extended filth of vehicle), operating the vehicle without servicing at the specified frequency, and damage to the vehicle caused by willful disregard or improper use.
3. Agency mileage billings are not regularly paid within 45 days of receipt.
4. The operator of a permanently assigned vehicle is involved in more than two avoidable accidents (see §§ 6.4 and 6.5) or commits more than two moving violations in any 12-month period.
5. The operator of a fleet vehicle is delinquent in the payment of parking tickets, fines or citations on more than two occasions in a six-month period.

PART III. FLEET VEHICLE UTILIZATION.

§ 3.1. Utilization.

Section 33.1-405 of the Code of Virginia specifies the method to be used in determining the minimum mileage criteria and other conditions necessary for the assignment of a fleet vehicle. If such mileage or conditions are not demonstrated at the time of request for a vehicle, the assignment will be denied. If such mileage or conditions are not met following such assignment, the vehicle will be recalled.

§ 3.2. Request for exemption to minimum mileage criteria.

Exemptions to the minimum mileage specified for assignment or retention of a fleet vehicle may be justified if the principal operator of the vehicle has duty assignments that are routinely related to public safety or response to life threatening situations, or if the vehicle's functional use can be classified as a "Special Need". Requests for such exemptions are to be submitted to the fleet administrator on Form CP-3, Application for Assignment of State Pool Vehicle or Update of Previous Application.

The Fleet Administrator will advise the agency

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transportation officer in writing as to the approval/disapproval of the request with a copy to the appropriate agency head.

The agency head, if dissatisfied with the decision, may submit a formal appeal to the commissioner.

§ 3.3. Criteria for exemption to the minimum mileage criteria for fleet vehicle assignment.

A. Exemption based on public safety and response to life threatening situations:

1. Vehicles assigned to law-enforcement officers and state employees who have investigatory, enforcement and arrest powers concerning criminal laws.
2. Vehicles assigned to state employees whose job duties require the constant use or continuous availability of specialized equipment directly related to their routine functions, (Refer to § 2.2 for explanation of "Specialized Equipment").
3. An employee on 24-hour call for response to emergencies on a regular or continuing basis, and the emergency response is normally to a location other than the employee's official work station.

B. Exemptions based on "Special Need" classification:

1. Vehicles used for essential travel related to the transportation of clients or wards of the Commonwealth on a routine basis.
2. Vehicles used for essential administrative functions of an agency for which it is demonstrated that the use of a temporary assignment, a trip pool vehicle or personal mileage reimbursement is neither feasible nor economical.

§ 3.4. Recall of fleet vehicles due to underutilization.

The fleet administrator will advise the agency transportation officer on a quarterly basis of those vehicles which failed to meet the minimum mileage criteria. Any vehicles which reflect significant underutilization for the first, second or third quarter will be recalled immediately. Any vehicles which fail to meet the annual minimum mileage criteria will be recalled at the end of the fiscal year.

The agency will have 30 days to submit a response justifying retention for any vehicle recalled as a result of underutilization. The fleet administrator will review the agency response to the recall notice and will advise the agency in writing of his decision.

The fleet administrator's decision may be appealed in writing by the agency to the commissioner.

Failure by the agency to either return the recalled

vehicle or submit justification as to why such vehicle should not be recalled within 30 days will result in the initiation of administrative sanctions by fleet management.

PART IV. MAINTENANCE AND CARE OF FLEET VEHICLES.

§ 4.1. General.

Vehicle maintenance is the responsibility of the agency to which the vehicle is assigned. Each agency should assign a specific individual(s) to be responsible for the monitoring and control of the routine maintenance and repair of vehicles.

Agencies should advise their operators to use, to the extent practicable, the facilities of the Virginia Department of Transportation for all servicing, repairs and fuel.

§ 4.2. Routine maintenance.

Operators of permanently assigned vehicles or the individual designated by the agency shall routinely check their vehicles to insure proper oil level, water and anti-freeze for radiators, water for battery, wear on belts and proper inflation of tires. This service should be performed at least weekly or at time of fueling; or both.

The exterior of the vehicles shall be washed, the interior vacuumed and the windows cleaned as often as needed. Many VDOT shops have the capability to wash vehicles and several commercial establishments have been contracted to perform this service. Consult your agency transportation officer or the fleet administrator for lists of VDOT facilities with automatic washers and of approved commercial establishments.

§ 4.3. Fleet vehicle servicing.

It is the responsibility of the operator of a permanently assigned vehicle or the person designated by the agency to assure that vehicles are serviced at least once each 6,000 miles. This service frequency should be reduced if the vehicle is routinely operated in dusty or dirty environments.

The vehicle is to be taken to a VDOT facility to have the servicing performed. The operator or person designated within the agency should verify that the service performed and odometer reading were entered on the "Service Card" within the vehicle.

Such servicing is to include an oil and oil filter change, an inspection of the air filter, a chassis lubrication and a visual inspection of the belts, hoses and tires.

§ 4.4. Fleet vehicle repairs.

Mechanical trouble or deficiencies concerning a vehicle shall be brought to the attention of VDOT repair personnel, the agency transportation officer, or the person

responsible for vehicles at the agency, institution or work location.

All needed repairs or vehicle component replacements are to be performed by VDOT facilities to the extent practicable. Operators are authorized to secure service and repairs at commercial stations only in cases where VDOT shops are not accessible or where emergency repairs are needed. During normal work hours a VDOT shop should be contacted for authorization prior to having any repairs performed by commercial establishments.

§ 4.5. Purchase of fuel.

Fuel for vehicles is to be obtained from a VDOT facility whenever practicable. Fuel, unleaded regular only, may be purchased from commercial stations when it is more practicable due to location or when VDOT facilities in the area are closed. Operators are expected to use self-service pumps at commercial stations, since such type service is normally more economical.

§ 4.6. Responsibility for cost of repairs, maintenance and fuel.

The Division of Fleet Management will assume the cost of keeping fleet vehicles in good running order, making repairs and replacing all vehicles components necessary due to normal wear and operation.

Repairs necessary due to improper maintenance, negligence, carelessness or abuse may be charged to the agency to which the vehicle is assigned or issued.

All decisions by the fleet administrator regarding cost responsibility for repairs, excluding vehicle accidents or incidents, are subject to an appeal by the agency in writing to the commissioner.

PART V. INSTALLATION OF NONSTANDARD SPECIAL EQUIPMENT.

§ 5.1. Nonstandard equipment.

"Nonstandard equipment" is defined as any vehicle component not furnished by fleet management at the time of vehicle assignment and attached in any way to the vehicle. This may include two-way radios, tape players, receivers, telephones, antennas, trailer hitches, heavy duty shocks or agency decals.

Agencies requiring such nonstandard special equipment to be installed may do so by following these guidelines:

1. Request and receive approval from the fleet administrator.
2. The agency requesting the equipment shall pay for the equipment, installation cost, maintenance and removal of equipment.

3. Any damage or loss of resale value of the vehicle caused by the installation or removal of the nonstandard equipment shall be paid by the using agency.

PART VI. FLEET VEHICLE ACCIDENTS.

§ 6.1. Notification of state police.

Accidents involving a fleet vehicle, shall be reported to the Department of State Police in accordance with their regulations.

If the driver involved cannot contact the local state trooper it will be necessary for him to call the nearest State Police Division Headquarters located as listed below:

Division No. 1	Richmond	226-2441
Division No. 2	Culpeper	825-8315
Division No. 3	Appomattox Lynchburg	352-2728 993-2226
Division No. 4	Wytheville	228-3131
Division No. 5	Norfolk Melfa	424-6820 787-1100
Division No. 6	Salem	380-2019
Division No. 7	Alexandria	323-4500

§ 6.2. Completion of accident reports.

The operator is required to fill out an "ACCORD" form and a "Uniform Accident Prevention Committee Supplement Accident Report Form" on any accident regardless of the amount of property damage or personal injury. The original of the "ACCORD" form shall be forwarded directly to the Commonwealth's insurance carrier and a legible copy of the "ACCORD" form and the "Supplemental Accident Report Form" shall be forwarded to the Division of Fleet Management, 1401 E. Broad Street, Richmond, Virginia 23219. Also, if personal injury or death occurs to the other party, the insurance company shall be contacted immediately.

An envelope containing accident report forms and instructions is placed in the glove compartment of each pool vehicle operated out of Fleet Management in Richmond and a supply is furnished to the agencies, with vehicles on regular assignment. In the event the Insurance Information Card is not available, the fleet administrator's office shall be called in Richmond (804-367-6549 or SCATS 367-6549).

Operators are cautioned against accepting responsibility of blame for an accident or discussing the accident with anyone other than their supervisors, enforcement officers,

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or a representative of an insurance company representing the Commonwealth of Virginia.

§ 6.3. Towing.

When a fleet vehicle is inoperable, the operator shall call the nearest VDOT district or residency shop, to arrange for towing or on-site repairs. Commercial towing service may be obtained under extraordinary conditions where wrecker or towing service from the Department of Transportation's shops is impractical.

§ 6.4. Accident repairs and cost responsibility.

As soon as possible, following damage to a fleet vehicle that is still operable, the vehicle should be driven to the nearest VDOT shop for estimates and repairs.

The Fleet Management shall repair the damage to the vehicle, and where there is no negligence on the part of the operator, shall pay for repairs. Where there is negligence by the operator or in cases where the origin of the damage is undetermined the agency using the vehicle will bear the cost of repairs.

When it is determined that an accident involving a fleet vehicle was due to negligence by the state operator, the agency head at his discretion may assess appropriate charges against the employee under the Standards of Conduct.

When the vehicle has been damaged through gross negligence on the part of the state operator, the head of the agency assigned or using the vehicle shall require the state operator to pay the first \$100 of the cost of damage repair to the vehicle.

In situations involving the unauthorized use of a fleet vehicle, the agency head may require the operator to pay the entire cost for repairing any damage which the vehicle might have sustained.

If the question of responsibility of the operator is in dispute as between the operator, the using agency, or the Department of Transportation in the case of fleet vehicles, the matter may be referred to the Department of State Police by the using agency for a full review of the case and a report of its finding and recommendations to the agency or agencies involved and the operator of the vehicle. Appropriate action to comply with the recommendations of the Department of State Police shall then be taken by the using agency.

§ 6.5. Revocation of driving privileges.

Based on conditions reported by the Department of State Police subsequent to the investigation of an accident, upon the records of the Department of Motor Vehicles or upon recommendations made by the Uniform Accident Review Committee if the state vehicle involved was owned by the Fleet Management, the right of an employee to operate a

state-owned motor vehicle may be suspended.

§ 6.6. Summary of accident reporting and fleet vehicle repairs.

Listed below are the procedures to be followed in reporting accidents and fleet vehicle repairs:

1. Notify State Police.
2. Complete the "Accord Form" and the Supplement.
3. Submit original of completed Accord forms to insurance carrier with copies of the Accord Form and supplement to the fleet administrator.
4. Take vehicle to nearest VDOT shop or have vehicle towed to nearest VDOT shop. Notify VDOT shop immediately if vehicle towed to location other than VDOT shop.
5. VDOT shop will repair or secure three estimates for repairs and provide copies to the fleet administrator.
6. VDOT shop will notify operator when repairs are completed.

PART VII. FLEET VEHICLE USE.

§ 7.1. General operation.

Persons who operate a fleet vehicle should drive in such a manner as to be a credit to themselves and the Commonwealth. Operation of a state vehicle in a manner that could bring discredit to the Commonwealth may result in disciplinary action toward the operator. Operators should practice defensive driving by anticipating and observing the actions of other drivers and controlling the vehicle in such a manner so as to avoid accident involvement.

§ 7.2. Official use only.

Operators shall use fleet vehicles for official state business only. When an employee is using a fleet vehicle for travel while away from his work station, the vehicle may be used for travel to obtain meals or other necessities. Operators guilty of misuses are subject to disciplinary action by their agency and may lose their privilege to operate a fleet vehicle.

§ 7.3. Compliance with motor vehicle laws.

It is the responsibility of each individual operator to observe all motor vehicle laws of Virginia. Operators must not knowingly operate vehicles which do not comply with legal requirements.

It is the responsibility of each agency and institution to

assure that employees possess a valid driver's license prior to authorizing use of a fleet vehicle.

All violations and fines, including parking citations, are the responsibility of the assigned driver at the time of such violation.

Abuse of motor vehicle laws by an operator may result in the loss of the privilege of a fleet vehicle.

§ 7.4. Alcoholic beverages and drugs.

Under no circumstances may a state employee operate a vehicle while under the influence of intoxicating beverages, drugs or substances. Conviction of such offenses will result in the loss of the privilege of a fleet vehicle.

§ 7.5. Hitchhikers.

Hitchhikers are not allowed to ride in any fleet vehicle.

§ 7.6. Relatives.

Spouses of state employees are permitted to ride in fleet vehicles only when such travel is directly related to official state business, and even then state employees are encouraged to use personal vehicles. Agency transportation officers should be consulted regarding agency specific policies regarding this matter.

§ 7.7. Use of personal vehicles.

When authorized by the agency, employees may use personal automobiles in the discharge of official duties within the continental limits of the United States with reimbursement at the rate prescribed by the Appropriations Act.

Agencies should monitor, on an annual basis, the personal mileage reimbursement paid to each employee. Such information may reflect the need for additional fleet vehicle assignments.

Agency transportation officers should be consulted for agency specific policies concerning the use of personal vehicles.

Where there would be a concentration of state vehicles parked idle for several days such as an agency conference, personal vehicles are recommended. When plans are to utilize the trip pool vehicles for short trips, consideration should be given for using personal vehicles. This will enable trip pool vehicles to be utilized for longer trips where personal vehicles possibly would not be desirable or economical.

§ 7.8. Parking and storage of fleet vehicles.

Individuals and agencies are responsible for secure and safe storage and parking of vehicles. Fleet vehicles shall not be left on nonresidential streets or highways overnight

unless it is necessary due to mechanical failure or emergency. When a fleet vehicle is parked on a municipal street, it shall be the responsibility of the driver's agency to pay all parking fees and any parking fines assessed against the vehicle. The vehicle may be parked in a commercial or municipal parking facility provided the driver or the driver's agency pays parking fees. The assigned driver shall be responsible for towing fees resulting from improper parking.

§ 7.9. Toll charges.

Toll charges incurred during travel in a fleet vehicle are the responsibility of the operator or the agency.

§ 7.10. Hourly and parttime state employees and nonstate employees.

An agency may permit students, part-time or hourly employees, and volunteers to state service to operate or ride in fleet vehicles if on official business for the agency.

Individuals not employed by the Commonwealth may accompany state employees operating fleet vehicles when they have an interest in the purpose of the trip and their presence is directly related to official state business.

Nonstate employees may be authorized to operate a fleet vehicle if they are performing a contracted function for the Commonwealth and if such contract specifies that the Commonwealth will provide such vehicle. Nonstate employees, when authorized by the agency to operate a fleet vehicle, are subject to the same regulations as state employees concerning the use and maintenance of the vehicle.

§ 7.11. Out-of-state travel.

Approval for out-of-state travel in a fleet automobile, or by any means of transportation, shall be in accordance with the "State Travel Regulations Pocket Guide" published by the Department of Accounts, Commonwealth of Virginia.

Any use of a fleet vehicle outside of the continental United States should be discussed in advance with the fleet administrator for verification of appropriate insurance coverage.

The commercial credit card provided with each fleet vehicle is normally accepted nationwide for the procurement of fuel and repairs. The operator should, however, verify such acceptance with the commercial establishment prior to authorizing any repairs or purchasing any fuel.

§ 7.12. Driving under adverse weather conditions.

Operators who drive a fleet vehicle during adverse weather conditions are cautioned to take extreme care to ensure the safety of driver and passengers. Repairs for

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any damage to the vehicles resulting from their operation during adverse weather conditions may be charged to the using agency if it is found that the damage was caused by negligence on the part of the driver.

§ 7.13. Responsibility for loss or damage of personal or agency-owned property.

The Division of Fleet Management is not responsible or liable for loss or damage to any personal or agency-owned property or belongings transported or left in a vehicle issued by Fleet Management. Such waiver of liability includes, but is not limited to, water damage of contents caused by misalignment of trunks, doors or faulty weather-stripping which may result in interior exposure to the elements. It is the responsibility of each operator to report such defects in workmanship to either Fleet Management or a VDOT repair facility for correction.

§ 7.14. Loss of fleet vehicle keys.

Fleet Management is not responsible for any costs associated with lost, stolen or locked-in vehicle keys. Any costs for duplicate keys, locksmith services, or damage to vehicle resulting from forced entry by a state employee shall be the responsibility of the agency assigned the vehicle.

§ 7.15. Seat belts.

Each person four years of age or older, occupying the front seat of a motor vehicle equipped with a safety belt system, consisting of lap belts, shoulder harnesses, or combinations thereof, shall wear the safety belt system at all times while the motor vehicle is in motion. Exceptions to this regulation (§ 46.2-1094 of the Code of Virginia.) include persons for whom a licensed physician determined that the use of such safety belt system would be impractical due to a physical condition or other medical reason. Persons so exempted shall have in their possession a signed written statement of the physician identifying the exempted person and the grounds for exemption.

Children under the age of four years shall be protected as required by the provisions of Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

PART VIII. COMMUTING WITH FLEET VEHICLES.

§ 8.1. Request for use of fleet vehicle for commuting.

Fleet vehicles may not be used for commuting unless such use is required with respect to the duties of the employee and approved by the agency head and the fleet administrator. Requests for the use of a fleet vehicle for commuting are to be submitted to the fleet administrator by the agency on Form CP-3.

§ 8.2. Reimbursement from commuters.

All employees authorized to use a fleet vehicle for commuting shall reimburse the state for mileage unless they are law-enforcement officers or employees who do not report to an official work station and whose office is in their home. Reimbursement shall be by payroll deduction only. The fee for commuting is to be based on the rental rate per mile for fleet vehicles times the round trip mileage between the employee's home and official work station times 220 days of commute per year or on the actual or anticipated commute days per year based on the previous years travel log. Anticipated commute days may be used in the absence of a vehicle log until such time as a log is initiated and 12 months historical usage is developed.

The payroll deduction amount will remain constant throughout the year unless:

1. The centralized fleet rental rate changes.
2. The employee changes the location of his residence or office.
3. Unusual circumstances prevail (extended illnesses, etc.).

Procedures for deducting these moneys from employees pay are established by the State Comptroller and contained in the Commonwealth Accounting Policies and Procedures Manual.

§ 8.3. Types of home to office travel excluded from these regulations.

The following is the type of home to office travel which does not require a request for approval to commute:

1. Employees who only travel between home and office when in "Travel Status" as defined in the "State Travel Regulations Pocket Guide";
2. Employees who only travel between home and office the evening preceding a trip or the morning following a trip.

§ 8.4. Approval/disapproval of fleet vehicle use and exemption of fee payment.

The fleet administrator will review the agency's submission, compute the commuter fee as referred to in § 8.2 of these regulations advise the agency of his approval/disapproval of their request for vehicle use and of the appropriate fee.

§ 8.5. Appeal of fleet administrator's decision.

The agency head, if dissatisfied with the decision of the fleet administrator, may submit a written appeal to the commissioner. The commissioner will review the appeal submittal and advise the agency head and the fleet administrator of his decision.

§ 8.6. Date collection, monitoring and enforcement.

The fleet administrator shall collect and maintain accurate and reliable information on the use of fleet vehicles for commuting. A listing of all fleet vehicles used for commuting, including name of the principal operator and his social security number, the annual commuter miles and the commuter fee is to be submitted annually by each agency to the fleet administrator for submission to the VDOT commissioner.

The fleet administrator will also verify on a quarterly basis, through information provided by the Department of Accounts, that employees are reimbursing the Commonwealth for the appropriate commuter charges. Any discrepancies between the initial fee determination and the actual reimbursement will be brought to the attention of the appropriate agency head for reconciliation.

§ 8.7. Vehicle travel logs.

A vehicle travel log will be required if the agency elects to use "actual days commute" in lieu of the standard 220 days per year as set out in § 8.2. The log will show the dates and mileage of all home-to-office and office-to-home travel while in commute status and list the vehicle pool number, the operator's name and social security number.

The log shall be summarized on a quarterly basis by the operator and submitted to the agency for review. For each vehicle used to commute, the agency shall then submit to the fleet administrator the one-way commute mileage, the total commute mileage, the number of one-way commute trips and the total payroll deduction.

PART IX. SUBMISSION OF MILEAGE REPORTS.

Each agency is responsible for preparing Form CP-6, Monthly Mileage Reports, for all fleet vehicles assigned to it during the month.

Those vehicles received from the Division of Fleet Management Trip Pool in Richmond for specific trips will not be reported on the mileage report. Form CP-6 is to be submitted in duplicate by the tenth of each month to:

Division of Fleet Management
c/o Virginia Department of Transportation
1401 E. Broad Street
Richmond, Virginia 23219

Should an agency fail to submit the required mileage report, the agency will be billed the minimum depreciation for those vehicles assigned during the month. The next months billing will be for total mileage reported without any adjustment.

A supply of forms and instructions for preparation are available from the Division of Fleet Management.

PART X. PAYMENT OF BILLS.

The Division of Fleet Management will bill the user agencies based on the established cost per mile or the minimum monthly rate plus the established cost per mile for operation.

Agencies are expected to process their bills for payment within 30 days of receipt of bill from Fleet Management. Bills delinquent by more than 45 days will be turned over to the Comptroller for appropriate action.

Continuous late submission of mileage reports or late payment of bills by an agency may result in the recall of vehicles, or a prohibition on new assignment requests, replacements and use of trip pool vehicles.

Vehicles which are in repair facilities for more than seven days may be credited such time, less two days, if such vehicles are not driven the minimum monthly mileage and if requested to do so by the agency. Such request must be made in writing or noted on the Form CP-6 by the agency. The number of days downtime for vehicle repairs and the location of the repair facility must also be shown. No credit will be allowed for downtime as a result of a vehicle accident where the state operator has been determined to be at fault.

WHEN YOU HAVE AN ACCIDENT

Pursuant to Section 2.1-526.6 of the Code of Virginia, this vehicle is Self-insured [Effective July 1, 1987], Gates, McDonald, & Company, Administrator.

ALL ACCIDENTS ARE TO BE REPORTED TO:

NATIONWIDE MUTUAL INSURANCE COMPANY
 800 Graves Mill Road
 Lynchburg, Va 24502
 [POLICY # 1-445400]

WHAT TO DO:

Always...

- A. As the operator of a State owned vehicle you are required to call the State Police immediately.
- B. Obtain names, addresses, phone numbers and license numbers of all those involved.
- C. Obtain name, address and phone number of any person who claims to be injured and note all property damage.
- D. Note the number of people who were in the other cars.
- E. Obtain the names, addresses and phone numbers of witnesses who saw the accident.
- F. Call your Supervisor as soon as possible.
- G. You are to call NATIONWIDE; identify yourself as the Commonwealth of Virginia and give the Claim Service Representative a report of the accident.

TOLL FREE (IN STATE) 1-800-421-3535
TOLL FREE (OUT OF STATE) 1-800-446-0992

- H. Nationwide will need:
 - ... Name of State Agency
 - ... Vehicle ID # (from vehicle registration)
 - ... Accident information

DO NOT comment on whether or not the accident was your fault.

BE SURE TO COMPLETE THE ACORD AUTOMOBILE LOSS NOTICE AND FORWARD TO NATIONWIDE IN LYNCHBURG.

NOTICE . . . EXECUTIVE ORDER NUMBER 66 (85) REQUIRES THE USE OF SAFETY BELTS BY STATE EMPLOYEES.

IF THERE ARE ANY QUESTIONS, CONTACT YOUR SUPERVISOR

DATA GRAPHICS, INC. 04746

CP-2 (9-20-89)		Commonwealth of Virginia	
367-6987		Division of Fleet Management	
Division Department		Travel Request	
Agency _____ Comp. Code _____		Agency Name _____	
Address _____		2400 W. Leigh St.	
Vehicle Requested From _____ 19 ____ AM		00097	
To _____ 19 ____ AM			
Itinerary _____			
Operator's Name _____			
operator's license has been verified. Operator license validation has been/will be performed for any other person who may be authorized to drive this vehicle.			
Signed _____			
(Person authorized by agency to issue request)			
Billing Code _____		(Division of Fleet Management use only)	
Pool No. _____		Meter in _____	
Issued _____ 19 ____ AM		Meter out _____	
Returned _____ 19 ____ AM		By _____ (initials)	
Operators License No. _____		By _____ (initials)	
		Trip Miles _____	
		Operators Signature _____	

CP-3 (Rev. 10/88)

**DIVISION OF FLEET MANAGEMENT
APPLICATION FOR ASSIGNMENT OF STATE POOL VEHICLE
OR UPDATE OF PREVIOUS APPLICATION**

AGENCY: _____		AGENCY CODE: _____	
AGENCY ADDRESS: (st., city, zip) _____			
APPLICATION <input type="checkbox"/> New Assignment <input type="checkbox"/> Informational Update For Pool # _____	ASSIGNMENT <input type="checkbox"/> Permanent <input type="checkbox"/> Pool Use <input type="checkbox"/> Individual <input type="checkbox"/> Temporary How Long _____	VEHICLE TYPE <input type="checkbox"/> Sedan <input type="checkbox"/> Compact <input type="checkbox"/> Large <input type="checkbox"/> S/W <input type="checkbox"/> Compact <input type="checkbox"/> Large <input type="checkbox"/> Other	
JUSTIFICATION FOR LARGE SEDAN, S/W or OTHER Vehicle Request: _____			
INDIVIDUAL ASSIGNMENT: (name, work address and location where vehicle stored) _____			
AGENCY POOL VEHICLE: (person responsible for vehicle, work address) _____			
DATE VEHICLE NEEDED: _____		PROJECTED ANNUAL BUSINESS MILES: _____	

**SECTION I
JUSTIFICATION FOR ASSIGNMENT
HISTORICAL AND CURRENT DATA ON USER(S) OF VEHICLE REQUESTED**

A. Mileage Fiscal Year to date in personal reimbursement (*) _____ Miles

B. Mileage previous Fiscal Year in personal reimbursement (*) _____ Miles

C. Division of Fleet Management trip pool vehicles travelled (*) _____ Miles
this Fiscal Year to date and _____ Miles last Fiscal Year.

D. Describe any recent changes in responsibilities that affect mileage accumulation: _____

(*) A, B, and C pertain to all potential users of the vehicle requested.

**SECTION II
REQUEST FOR EXEMPTION TO MANDATED MINIMUM MILEAGE CRITERIA**

A. Vehicle used by sworn law enforcement officer with duties consisting of the following:

B. Vehicle used by employees whose duties relate to public safety and life threatening situations consisting of the following:

The number of responses to emergencies this Fiscal Year to date is _____ and last Fiscal Year was _____.

C. Special Need Vehicle necessary to perform the following critical functions of the agency:

Frequency of use (times/day, week, month or year) _____ / _____

D. Vehicle needed due to the nature and type of specialized equipment necessary to perform critical functions of the agency. The following is a listing of the type, size, and approximate weight of equipment:

AGENCY: _____	AGENCY CODE: _____
SECTION III INDIVIDUAL ASSIGNMENT ONLY COMMUTING INFORMATION	
A. Will this employee be authorized to use vehicle for commuting? <input type="checkbox"/> No-Vehicle will be parked at office (address) _____ <input type="checkbox"/> No-Home is office (address) _____ <input type="checkbox"/> Yes-Reason for commuting: _____ Work location: _____ Home address: _____ One-way mileage (home to office) _____ miles	
B. Does agency request exemption to commuting fee for employee (subject to Fleet Administrator's approval). <input type="checkbox"/> No-Employee authorizes semi-monthly payroll deduction for fee. <input type="checkbox"/> Yes-Basis for exemption is the following: _____	

**SECTION IV
CERTIFICATIONS
OPERATOR-AGENCY TRANSPORTATION OFFICER-AGENCY HEAD**

THE UNDERSIGNED CERTIFY THAT THE ABOVE INFORMATION IS TRUE TO THE BEST OF OUR KNOWLEDGE. WE UNDERSTAND THAT IF ANY INFORMATION CHANGES THAT A NEW FORM MUST BE SUBMITTED. WE UNDERSTAND THAT COMPLIANCE WITH THE APPROPRIATIONS ACT AND THE CAR POOL REGULATIONS IS MANDATORY. AS AGENCY TRANSPORTATION OFFICER, I CERTIFY THAT ALL OPERATORS WHO WILL BE AUTHORIZED TO DRIVE THIS VEHICLE WILL BE MADE AWARE OF THEIR RESPONSIBILITIES CONCERNING THE USE OF A STATE VEHICLE AND ASSURANCES ARE IN PLACE TO DETERMINE THE VALIDITY OF THEIR OPERATORS LICENSE.

(Principal Operator) (date) SSN _____

(Agency Head) (date) (Agency Transportation Officer) (date)

DIVISION OF FLEET MANAGEMENT USE ONLY

REQUEST FOR VEHICLE APPROVED: YES NO

REQUEST FOR EXEMPTION TO MINIMUM MILEAGE CRITERIA APPROVED: NA YES NO

REQUEST FOR EXEMPTION TO COMMUTER FEE: NA YES NO

COMMUTER FEE CALCULATION (SEMI-MONTHLY) = _____

THE FOLLOWING VEHICLE IS BEING ISSUED AS A RESULT OF THIS APPLICATION:

POOL # _____ LICENSE # _____ VEHICLE TYPE _____

(Fleet Administrator) (date)

(IF YOU WISH TO APPEAL ANY OF THE ABOVE DECISIONS SUCH APPEAL MUST BE SUBMITTED IN WRITING BY THE AGENCY HEAD TO THE FLEET ADMINISTRATOR.)

A COPY OF THIS FORM, SIGNED BY THE FLEET ADMINISTRATOR, IS YOUR AUTHORITY TO PICK UP THE ABOVE NOTED VEHICLE AND MUST BE PRESENTED AT THE TIME OF PICKUP.

THE DIVISION OF FLEET MANAGEMENT IS LOCATED AT 2400 W. LEIGH STREET, RICHMOND, VIRGINIA. VEHICLES MAY BE PICKED UP DURING REGULAR WORK DAYS BETWEEN THE HOURS OF 8:00 A.M. AND 11:30 A.M. OR 1:00 P.M. AND 3:30 P.M.

PROPOSED LEASE AGREEMENT

TERM OF LEASE (MOS./YRS.): _____ TYPE OF VEHICLE: _____
 ANTICIPATED MONTHLY COST: _____ / MONTH MAXIMUM ANNUAL MILEAGE: _____
 COST EXCESS MILEAGE _____ / MILE

OPTIONS TO BE INCLUDED ON VEHICLE:
 ITEMS INCLUDED IN LEASE: ROUTINE MAINTENANCE MAJOR MAINTENANCE
 FUEL INSURANCE TITLE AND LICENSE

FUNDING SOURCE FOR LEASE

SOURCE OF FUNDS FOR ITEMS INCLUDED IN LEASE:
 SOURCE OF FUNDS FOR OPERATIONAL COSTS NOT INCLUDED IN LEASE:
 COST RESPONSIBILITY OF USER:

THE UNDERSIGNED CERTIFY THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE. WE UNDERSTAND THAT COMPLIANCE WITH THE APPROPRIATIONS ACT AND THE CAR POOL REGULATIONS GOVERNING THE USE OF STATE-OWNED VEHICLES IS APPLICABLE TO LEASE VEHICLES AND AGENCY OWNED VEHICLES.

 (User) (date) (Agency Transportation Officer) (date)

 (Agency Head) (date)

DIVISION OF FLEET MANAGEMENT USE ONLY

REQUEST FOR VEHICLE APPROVED: YES NO
 REQUEST FOR EXEMPTION TO COMMUTER FEE: NA YES NO
 COMMUTER FEE CALCULATION (SEMI-MONTHLY):

 (Fleet Administrator) (date)

(IF YOU WISH TO APPEAL ANY OF THE ABOVE DECISIONS SUCH APPEAL MUST BE SUBMITTED IN WRITING TO THE FLEET ADMINISTRATOR.)

(SUBMIT ORIGINAL AND TWO COPIES TO THE FLEET ADMINISTRATOR, DIVISION OF FLEET MANAGEMENT, 1401 E. BROAD ST., RICHMOND,

Form CP-16 (4-1-73)
(Repl. G. D. Form Budget 11, 12)
Submit original and 2 copies

COMMONWEALTH OF VIRGINIA
CENTRAL GARAGE FUND
APPLICATION FOR LICENSE PLATE FOR USE ON STATE OWNED VEHICLE

Initial Request for State Tags Date: _____
 Initial Request for Blind Tags Agency: _____
 Renewal Request for Blind Tags

The Central Garage Car Pool Committee is requested to direct the Commissioner of the Division of Motor Vehicles to issue License Plate(s) for use on the following Vehicle(s):

Make and Style	Serial Number	Date Acquired
1 _____		
2 _____		
3 _____		
4 _____		
5 _____		

Operated by:

Operator's Name	Title	Duties which involve use of state vehicle
1 _____		
2 _____		
3 _____		
4 _____		
5 _____		

I certify information herein is true and correct and that said vehicle(s) will be used only on business of the State Government.

Signature _____
(Agency Head)

DO NOT WRITE BELOW THIS LINE

AUTHORIZATION TO ISSUE LICENSE PLATE(S) FOR USE ON STATE OWNED VEHICLE

Date _____

Commissioner of the Division of Motor Vehicles.

The Central Garage Car Pool Committee has approved the above request from _____ (Agency Name) and you are hereby directed upon Compliance with regulations Established by the Division of Motor Vehicles, pursuant to the Law, to issue License Plates for the above described Vehicles for period ending _____.

Signed _____
Executive Secretary
Central Garage Car Pool Committee

PRODUCER		PRODUCER PHONE (A.C. NO., EXT.)		OR COMPANY USE ONLY	
<input type="checkbox"/>					
CODE	SUB CODE	POLICY EFF. DATE (MM DDYY)	POLICY EXP. DATE (MM DDYY)	DATE (MMDDYY) & TIME OF LOSS	CAUSE
INSURED		INSURED'S RES. PHONE (A.C. NO.)		INSURED'S BUSINESS PHONE (A.C. NO., EXT.)	
NAME & ADDRESS		PERSON TO CONTACT		WHERE TO CONTACT	
				WHEN	
		CONTACT'S RESIDENCE PHONE (A.C. NO.)		CONTACT'S BUSINESS PHONE (A.C. NO., EXT.)	
LOSS		LOCATION OF ACCIDENT (INCLUDING CITY & STATE)		NUMBER OF CONTACTS & REPORT NO.	
				CIRCUMSTANCES	
DESCRIPTION OF ACCIDENT (USE REVERSE SIDE, IF NECESSARY)					
POLICY INFORMATION					
BODILY INJURY	PROPERTY DAMAGE	SINGLE LIMIT	MED. PAY	OTHER FRANCHISES	OTHER COVERAGE & DEDUCTIBLES (UM, NO FAULT, TOWN & COV.)
LOSS PAYEE	COLLISION DED.				
INSURED VEHICLE					
VEH. NO. (YEAR MAKE MODEL)	VIN (VEH. IDENTIFICATION)		PLATE NO.		
OWNER'S NAME & ADDRESS		PHONE (A.C. NO., EXT.)			
DRIVER'S NAME & ADDRESS (CHECK IF SAME AS OWNER)		RESIDENCE PHONE (A.C. NO.)	BUSINESS PHONE (A.C. NO., EXT.)		
RELATION TO INSURED (EMPLOYEE, FAMILY, ETC.)	DATE OF BIRTH	DRIVER'S LICENSE NUMBER	PURPOSE/USE	USED WITH PERMISSION	
DESCRIBE DAMAGE	ESTIMATE AMOUNT	WHERE CAN VEHICLE BE SEEN	WHEN	OTHER INSURANCE CO. VEHICLE	
PROPERTY DAMAGED					
DESCRIBE PROPERTY (IF AUTO YEAR MAKE MODEL PLATE NO.)					
OWNER'S NAME & ADDRESS		RESIDENCE PHONE (A.C. NO., EXT.)	BUSINESS PHONE (A.C. NO., EXT.)		
OTHER DRIVER'S NAME & ADDRESS (CHECK IF SAME AS OWNER)		RESIDENCE PHONE (A.C. NO., EXT.)	BUSINESS PHONE (A.C. NO., EXT.)		
DESCRIBE DAMAGE	ESTIMATE AMOUNT	WHERE CAN DAMAGE BE SEEN			
INJURED					
NAME & ADDRESS		PHONE (A.C. NO., EXT.)	AGE	EXTENT OF INJURY	
WITNESSES OR PASSENGERS					
NAME & ADDRESS		PHONE (A.C. NO., EXT.)	OTHER SPECIFY		
REMARKS (INCLUDE ADJUSTER ASSIGNED)					
REPORTED BY	REPORTED TO	SIGNATURE OF PRODUCER OR INSURED			

Applicable in California

For your protection, California law requires the following to appear on this form:

- (a) It is unlawful to:
 - (1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.
 - (2) Knowingly file multiple claims for the same loss or injury with more than one insurer with an intent to defraud the insurer.
 - (3) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any such claim.
- (b) Every person who violates any provision of this section is punishable by imprisonment in the state prison, for two, three, or four years, or by fine not exceeding ten thousand dollars (\$10,000) or both.
- (c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of a violation of this section who has been previously convicted of violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of such fact was not admitted or found to be true or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institution Code.

CALIFORNIA INSURANCE CODE 556

Applicable in Florida, Idaho, and New York

Any person who knowingly and with intent to injure, defraud, or deceive any insurance company files a Statement of Claim Containing any False, Incomplete or Misleading Information is Guilty of a Felony.*

- *In Florida - Third Degree Felony
- +In New York - Insurance Fraud In Third Degree - Class A Misdemeanor
- In Second Degree - Class E Felony
- In First Degree - Class D Felony

Applicable in New Jersey

Any person who knowingly and with intent to defraud any insurance company or other persons, files a statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact, material thereto, commits a fraudulent insurance act, which is a crime, subject to criminal prosecution and civil penalties.

HPS-802F(7-1-85)
GP-517-1-85

STATE VEHICLE ACCIDENT REPORT SUPPLEMENTAL ACCIDENT REPORT FORM

This form must be submitted with ACCORD Form when reporting an accident.
In all State vehicle accidents, regardless of the amount of damage, a State Police Officer must investigate the accident. Out-of-state accidents must be investigated by the available police agency.

1. Agency: _____ 2. Vehicle No.: _____ 3. License No.: _____
4. Driver's Name: _____ 5. Years Employed: _____ 6. Seat Belt in Use
Yes _____ No _____
7. No. of Previous Accidents: _____ 8. Case Nos.: _____
9. Has State driver taken defensive driving course? Yes _____ No _____
10. Name, address and badge number of Police Officer investigating accident.

11. County/City where accident occurred.

Use this space to provide any descriptive information about accident that would not fit on the ACCORD Form.

On reverse side, make a detailed sketch showing width of roadway, type of road surface, distance of each vehicle from center of roadway (before, after, and at time of accident). Show sight distance in either direction, percent of grade, and any essential information which can be better shown on sketch. Number vehicles with State vehicle being numbered as No. 1. Indicate North by arrow.

Virginia Department of Highways and Transportation ONLY
District _____ Residency _____ Crew No. _____
Approved Operator's Card: Yes _____ No _____
Was signing in accordance with approved "Work Area Protection Manual?" (Note layout used on sketch.) Yes _____ No _____

Final Regulations

* * * * *

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia which excludes from Article 2 regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Department of Transportation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 385-01-20. Rules and Regulations Governing the Purchase or Lease of Motor Vehicles with Public Funds.

Statutory Authority: § 33.1-407 of the Code of Virginia.

Effective Date: August 2, 1989

Summary:

Rules and Regulations Governing the Purchase or Lease of Motor Vehicles with Public Funds establishes the rules, regulations, and procedures for purchasing or leasing a motor vehicle for use by the Commonwealth by an officer or employee of the Commonwealth with public funds.

VR 385-01-20. Rules and Regulations Governing the Purchase or Lease of Motor Vehicles with Public Funds.

§ 1. Definitions.

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

"Commissioner" means the Commonwealth Transportation Commissioner.

"Employee" means any part-time, hourly or full-time employee of the Commonwealth or any individual under contract to perform services for the Commonwealth of Virginia and authorized to operate a state-owned vehicle.

"Lease" means a contract for the use of a motor vehicle for a term of more than 30 days.

"Motor vehicle" means every vehicle as defined in § 46.2-100 of the Code of Virginia.

"Passenger-type vehicle" means any automobile, including sedans and station wagons, or vans used primarily for the transportation of the operator and no more than 15 passengers.

§ 2. Authority and responsibility.

Section 33.1-403 of the Code of Virginia provides that motor vehicles shall not be purchased or leased with

public funds by the Commonwealth or any officer or employee on behalf of the Commonwealth without the prior written approval of the commissioner.

The commissioner has delegated such responsibility to the Fleet Administrator, Division of Fleet Management, for passenger-type vehicles and to the Administrative Services Division of the Virginia Department of Transportation (VDOT) for all other motor vehicles. The commissioner monitors this delegated responsibility through the receipt of monthly reports.

§ 3. Agency request to purchase or lease.

Requests to purchase or lease a passenger-type vehicle are to be submitted on Form CP-15 to the fleet administrator by the agency head. Form CP-15, Application to Purchase or Lease Passenger-Type Vehicle, is to be completely filled out and signed by the agency head, the agency transportation officer and the user. The form requires specific information concerning vehicle type, options required and justification for the purchase or lease. Such justification will include a statement concerning the reasons that a standard pool vehicle (vehicle provided by Centralized Fleet) will not serve the transportation needs of the agency.

Requests to purchase or lease all other types of motor vehicles are to be submitted to the Administrative Services Division of the Virginia Department of Transportation on Form AS-2B.

§ 4. VDOT review and approval process.

The fleet administrator will review all agency requests for the purchase or lease of passenger-type vehicle including sedans, station wagons, vans designed to carry 3 to 15 passengers and utility vehicles such as four-wheel drive vehicles designed to carry more than the driver and one passenger. The fleet administrator will evaluate the agency's justification for the type of vehicle requested, the use to be made of the vehicle and the agency's reasons why such need cannot be fulfilled with a vehicle provided by the Centralized Fleet.

Lease requests for passenger vehicles must be accompanied by an analysis demonstrating that the cost of such lease plus the operating costs of the vehicle are less than comparable costs for a like vehicle provided by the Centralized Fleet. Leases will not be approved for more than two years.

The fleet administrator will advise the agency of his approval or disapproval of the request to purchase/lease within 14 days of his receipt of such request. In the case of disapproval of the agency's request, the fleet administrator will state specific reasons for such disapproval and suggest alternative means to facilitate the transportation need.

Requests for the purchase/lease of nonpassenger motor

vehicles will be reviewed by the Administrative Services Division based on information shown on Form AS-2B. Lease of nonpassenger type vehicles will not be approved for a period exceeding two years.

§ 5. Agency's right to appeal.

The agency head, if dissatisfied with the decision of the fleet administrator or administrative services officer, may submit a written appeal to the VDOT Commissioner. Such appeal shall set forth the justification regarding the lease or purchase and the reasons why it is in the best interest of the agency or the Commonwealth.

The VDOT Commissioner will advise the agency of his decision within 30 days or receipt of such appeal and provide copies of his decision to the appropriate cabinet secretary and the fleet administrator or administrative services officer.

CP-15 (Rev. 10/88)

**DIVISION OF FLEET MANAGEMENT
VIRGINIA DEPARTMENT OF TRANSPORTATION
APPLICATION TO PURCHASE OR LEASE PASSENGER-TYPE VEHICLE**

AGENCY: _____	AGENCY CODE: _____
AGENCY ADDRESS: (st., city, zip) _____	
TYPE APPLICATION	
<input type="checkbox"/> Purchase - Type Vehicle _____	
<input type="checkbox"/> Lease - Type Vehicle _____	
Special Equipment or Options Needed: _____	
Anticipated Annual Mileage: _____ Miles/Year	
No. Pool Vehicles Assigned to Agency: _____	
No. Passenger Type Vehicles Owned by Agency: _____	
No. Passenger Type Vehicles Leased By Agency: _____	

JUSTIFICATION FOR LEASE/PURCHASE
<p>Basis of Request:</p> <p><input type="checkbox"/> Additional Vehicle Needed for (state need and use) _____</p> <p>_____</p> <p><input type="checkbox"/> Requested Vehicle to be a Replacement:</p> <p>Type Vehicle Replaced: _____</p> <p>Odometer Reading: _____ Miles</p> <p>Reason for Replacement and Disposition of Vehicle: _____</p> <p>_____</p> <p>A Standard Pool Vehicle Will Not Serve Our Need Due to the Following: _____</p> <p>_____</p> <p>_____</p>

COMMUTING INFORMATION
<p>WILL THIS EMPLOYEE BE AUTHORIZED TO USE THE VEHICLE FOR COMMUTING?</p> <p><input type="checkbox"/> NO - VEHICLE WILL BE PARKED AT OFFICE</p> <p><input type="checkbox"/> NO - HOME IS OFFICE</p> <p><input type="checkbox"/> YES - REASON FOR COMMUTING: _____</p> <p style="text-align: center;">WORK LOCATION: HOME ADDRESS: ONE-WAY MILEAGE (HOME TO OFFICE): _____ MILES</p> <p>DOES AGENCY REQUEST EXEMPTION TO COMMUTING FEE?</p> <p><input type="checkbox"/> NO - EMPLOYEE AUTHORIZES SEMI-MONTHLY PAYROLL DEDUCTION FOR FEE</p> <p><input type="checkbox"/> YES - BASIS FOR EXEMPTION: _____</p>

PROPOSED LEASE AGREEMENT	
TERM OF LEASE (MOS./YRS.): _____	TYPE OF VEHICLE: _____
ANTICIPATED MONTHLY COST: _____ / MONTH	MAXIMUM ANNUAL MILEAGE: _____
	COST EXCESS MILEAGE _____ / MILE
OPTIONS TO BE INCLUDED ON VEHICLE:	
ITEMS INCLUDED IN LEASE:	<input type="checkbox"/> ROUTINE MAINTENANCE <input type="checkbox"/> MAJOR MAINTENANCE <input type="checkbox"/> FUEL <input type="checkbox"/> INSURANCE <input type="checkbox"/> TITLE AND LICENSE

FUNDING SOURCE FOR LEASE
SOURCE OF FUNDS FOR ITEMS INCLUDED IN LEASE: _____
SOURCE OF FUNDS FOR OPERATIONAL COSTS NOT INCLUDED IN LEASE: _____
COST RESPONSIBILITY OF USER: _____

THE UNDERSIGNED CERTIFY THAT ALL OF THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE. WE UNDERSTAND THAT COMPLIANCE WITH THE APPROPRIATIONS ACT AND THE CAR POOL REGULATIONS GOVERNING THE USE OF STATE-OWNED VEHICLES IS APPLICABLE TO LEASE VEHICLES AND AGENCY OWNED VEHICLES.

(User) (date) _____
(Agency Transportation Officer) (date)

(Agency Head) (date)

DIVISION OF FLEET MANAGEMENT USE ONLY
<p>REQUEST FOR VEHICLE APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>REQUEST FOR EXEMPTION TO COMMUTER FEE: <input type="checkbox"/> NA <input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p>COMMUTER FEE CALCULATION (SEMI-MONTHLY): _____</p> <p>_____ (Fleet Administrator) (date)</p> <p>(IF YOU WISH TO APPEAL ANY OF THE ABOVE DECISIONS SUCH APPEAL MUST BE SUBMITTED IN WRITING TO THE FLEET ADMINISTRATOR.)</p>

(SUBMIT ORIGINAL AND TWO COPIES TO THE FLEET ADMINISTRATOR, DIVISION OF FLEET MANAGEMENT, 1401 E. BROAD ST., RICHMOND, VA 23219)

EMERGENCY REGULATIONS

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

See State Lottery Department section in this issue of the Register.

DISCUSSION

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-2.6110. Poverty Income Guidelines: State Plan for Medical Assistance Relating to Title XIX of the Social Security Act.

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

Effective Dates: June 14, 1989, through June 13, 1990.

DECISION BRIEF FOR: The Honorable Gerald L. Baliles, Governor

SUBJECT: Emergency Regulation for Poverty Income Guidelines.

SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled Poverty Income Guidelines. This Poverty Income Guidelines policy will be used by the Department to administer its eligibility requirements.
2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action concerning Poverty Income Guidelines. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: June 5, 1989

3. CONCURRENCES:

Concur:
/s/Eva S. Teig
Secretary of Health and Human Resources
Date: June 8, 1989

4. GOVERNOR'S ACTION:

Approve:
/s/Gerald L. Baliles
Governor
Date: June 12, 1989

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 16, 1989 - 11:57 a.m.

6. BACKGROUND: This emergency regulation action incorporates the Poverty Income Guidelines, as published by the Department of Health and Human Services (DHHS) in the February 16, 1989 Federal Register, into the State Plan for Medical Assistance.

That notice provided updated guidelines required by §§ 652 and 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981. The guidelines were effective on the date of Register publication. As required by OBRA, the updated guidelines reflected last year's change in the Consumer Price Index.

These poverty income guidelines are used administratively as financial eligibility criteria and are only one of several criteria used to establish recipient eligibility for Medicaid covered services. The guidelines are a simplified version of the federal government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty.

Because the Health Care Financing Administration required the filing of these poverty income guidelines in the Plan for Medical Assistance, an emergency regulation is needed to obtain the earliest possible effective date to conform to federal requirements.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department 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 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.

Without an emergency regulation, this amendment to the State Plan cannot become effective until satisfying the APA's publication and final review period requirements, usually of three to four months for rules exempt due to federal requirements.

8. FISCAL/BUDGETARY IMPACT: Based on the number of people between the Medicaid income standards and poverty levels, and using appropriate forecasting techniques, the projected increase in funding for Qualified Medicare Beneficiaries and pregnant women and children under the age of one was included in the 1989 budget amendments. The budgeting techniques used anticipated growth in population reflecting a changing poverty level.

Consequently, the 1988-90 Appropriations Act, as

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amended by the 1989 General Assembly, provides adequate funding for this State Plan change. Thus, there is no new fiscal impact over and above the original impact of implementing policies that relate to the poverty level.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective upon its filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by amending regulations. Without an effective emergency regulation, the Department would lack the authority to implement these new poverty income guidelines in its eligibility determination process. The Department will promulgate permanent regulations as required by the Code.

10. **APPROVAL SOUGHT FOR VR 460-03-2.6110.**

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:

VR 460-03-2.6110. Poverty Income Guidelines: State Plan for Medical Assistance Relating to Title XIX of the Social Security Act.

A. INCOME ELIGIBILITY LEVELS - CATEGORICALLY NEEDY

1) For AFDC related groups:

No. of Persons	Group I	Group II	Group III
1	\$ 131	\$ 157	\$ 220
2	207	231	294
3	265	291	354
4	322	347	410
5	380	410	488
6	427	458	534
7	482	512	590
8	541	572	650
9	591	623	701
10	647	678	755
Each person above 10	56	56	56

2) For Aged, Blind, Disabled groups: the SSI income levels

3) For individuals meeting the requirements of §§ 435.231 and 435.232, the income level is 300% of the

SSI payment level for an individual.

B. INCOME ELIGIBILITY LEVELS - OPTIONAL CATEGORICALLY NEEDY GROUPS WITH INCOMES UP TO FEDERAL POVERTY LINE

1. *Pregnant Women, Infants, and Children*

The levels for determining income eligibility for groups of pregnant women, infants, and children under the provisions of § 1902(1)(2) of the Act are as follows:

Based on 100% of the official Federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline
1	\$ 5,980
2	8,020
3	10,060
4	12,100
5	14,140
6	16,180
7	18,220
8	20,260

2. *Aged and Disabled Individuals*

The levels for determining income eligibility for groups of aged and disabled individuals under the provisions of § 1902(m)(4) of the Act are as follows:

Based on% of the official Federal nonfarm income poverty line:

Not covered.

C. INCOME ELIGIBILITY LEVELS - OPTIONAL GROUP OF QUALIFIED MEDICARE BENEFICIARIES WITH INCOMES UP TO FEDERAL POVERTY LINE

The levels for determining income eligibility for groups of qualified Medicare beneficiaries under the provisions of § 1905(p)(2)(A) of the Act are as follows:

Based on 85% of the official Federal nonfarm income poverty line:

Size of Family Unit	Poverty Guideline
1	\$ 5,083
2	6,817

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3 8,551
 4 10,285
 5 12,019
 6 13,753
 7 15,487
 8 17,221

Revision: HCFA-FM-87-4 (BERC)
 MARCH 1987

SUPPLEMENT 1 TO ATTACHMENT 2.6-A
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE: Virginia

D. INCOME LEVELS - MEDICALLY NEEDY

Applicable to all groups Applicable to:

(1) Family Size
 (2) Net income level protected for maintenance
 (3) Net income level for persons living in rural areas

urban only

urban & rural

	Group I	Group II	Group III	
1	\$2600	\$3000	\$3900	\$
2	\$3400	\$3700	\$4800	\$
3	\$3900	\$4300	\$5300	\$
4	\$4400	\$4800	\$5800	\$
5	\$4900	\$5300	\$6300	\$
6	\$5400	\$5800	\$6800	\$
7	\$5900	\$6300	\$7300	\$
8	\$6500	\$6900	\$7800	\$
9	\$7100	\$7500	\$8500	\$
10	\$7800	\$8200	\$9100	\$
For each additional person, add:	\$600	\$600	\$600	\$

TN No. _____
 Supersedes _____
 TN No. _____

Approval Date _____

Effective Date _____

HCFA ID: 2004P/0021P

Emergency Regulation

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-70-16. Child Support Enforcement Program.

Statutory Authority: Public Laws 93-647 and 98-378 Chapter 13 of Title 63.1 of the Code of Virginia.

Effective Date: July 1, 1989

1. **REQUEST:** The Governor's approval is requested for the Department of Social Services to issue the Child Support Enforcement Program emergency regulation number VR 615-70-16.
2. **PURPOSE OF THE REQUEST:** This emergency regulation is necessary as the regulation under which the Department of Social Services (DSS) is currently operating the Child Support Enforcement Program expires June 30, 1989. The Department diligently attempted to have final rules promulgated prior to June 30, 1989. Proposed regulations were published in the Virginia Register of Regulations in November 1988. However, the Department of Planning and Budget (DPB) reviewed the proposed regulations and recommended that the proposed regulations be withdrawn and rewritten to improve their clarity and conciseness. The proposed regulations were withdrawn by the Department of Social Services in December 1988 as recommended by DPB. Staff from DPB met with DSS staff in March to provide specific information about their concerns with the proposed regulation. DSS then rewrote the regulations. There is now insufficient time prior to July 1, 1989, for the regulation to go through the full public comment period required by law for promulgating regulations.

Your approval of this emergency regulation will allow the Department of Social Services to continue to operate the Child Support Enforcement Program in accordance with the Administrative Process Act.

3. **PERSONS AFFECTED BY THIS REGULATION:** This emergency regulation affects absent parents who are responsible for the financial support of their children, persons who have custody of the children needing support, children needing financial support from absent parents, employers of absent parents, and the Commonwealth of Virginia through the payment and reimbursement of public assistance.
4. **BACKGROUND:** The Child Support Enforcement Program is a cooperative endeavor between federal and state governments to assure that children receive financial support from both parents when one parent is absent from the home. For the past ten years the fastest growing family structure has been the one-parent unit. Increases in divorce, marital separations, and unwed mothers have caused a rise in the number of children raised in single parent households. Sociological studies consistently show that

the absence of one parent from the home means a lower standard of living for the family that remains. The majority of single parent households are headed by women. In 1983 the poverty rate for families headed by women was more than three times that for two parent households. National attention is now focusing on the fact that the increase in welfare costs in the United States is, to a considerable extent, a result of the nonsupport by absent parents.

In addition, national demographic changes have affected the financial status of children. Many individuals relocate to different geographic areas several times during their lifetimes. The mobility of both the absent parent and the custodial parent has made collection of child support increasingly difficult. It also complicates the process of establishing paternity when the parents are unmarried.

Recent federal and state legislation has responded to these changes in the family structure and its mobility. It has allowed agencies operating child support programs to adopt improved procedures for enforcing the collection of child support. This regulation describes the methods by which Virginia's Child Support Enforcement Program will provide efficient and effective child support enforcement services to children and their custodial parents.

5. **AUTHORITY TO ACT:** Public Laws 93-647 and 98-378, commonly called the Child Support Enforcement Amendments of 1984, and Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 of the Code of Virginia provide the statutory base for the Child Support Enforcement Program regulations.
6. **FISCAL IMPACT:** This regulation will not increase the costs of operating the Child Support Enforcement Program. The department is currently operating this program under a budget approved by the General Assembly. The Child Support Enforcement Program is one of the few government programs which saves tax dollars. The federal government matches the costs states incur in the administration of their child support programs:

68% of the administration costs.

90% of the management information systems development costs.

As much as 50% of the support monies collected toward the ADC debt.

6 to 10% of both ADC and non-ADC collections to be used for whatever purposes the state deems appropriate.

The department collected \$89,265,491 in child support payments in state FY 1988. Of that amount \$69,376,202 non-ADC and \$19,889,289 was ADC. The department

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expenditures for the program were \$32,374,860. Of that amount, \$23,219,570 was returned to the federal government and \$9,155,290 was returned to the state treasury.

It will cost the Commonwealth approximately \$5,000 annually to pay the application fee for custodial parents applying for services (5,000 new non-ADC applicants per year at \$ 1.00 per person).

The indirect financial benefits of the Child Support Enforcement Program are incalculable. In some instances the amount of child support collected is sufficient to eliminate dependence on public assistance. In other instances, the collection of child support prevents custodial parents from needing to apply for public assistance to support their children.

7. **FUTURE DEPARTMENT ACTION:** The emergency regulation (VR 615-70-16) which is being submitted to you for approval will simultaneously be submitted to the Virginia Register of Regulations as a proposed regulation (VR 615-70-17). As soon as the proposed regulation is finalized, the emergency regulation will expire.

Summary:

Federal and state laws require absent parents to provide financial support for their children. The Department of Social Services establishes child support obligations and, when payments are not made, enforces the support obligation. This emergency regulation describes the child support enforcement services offered by the Department of Social Services and identifies the rules by which these services will be provided.

Preamble:

This emergency regulation (VR 615-70-16) is necessary as the regulation under which the department is currently operating the Child Support Enforcement Program, VR 615-70-8, expires June 30, 1989. Proposed regulations which were to have replaced the regulation which expires in June were published in the Virginia Register of Regulations on November 21, 1988. These regulations, numbered VR 615-70-9 through VR 615-70-15, were withdrawn at the request of the Department of Planning and Budget. The Division of Child Support Enforcement has revised the proposed regulations in accordance with the recommendations of the Department of Planning and Budget. The revised regulations will be submitted to the Virginia Register of Regulations for publication as a proposed regulation in accordance with the Administrative Process Act (APA). There is insufficient time, however, for a proposed regulation to go through the full APA public comment requirements before the June 30, 1989, expiration of VR 615-70-8.

VR 615-70-16. Child Support Enforcement 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:

"ADC" means Aid to Dependent Children which is established under Title IV-A of the Social Security Act. This is a category of financial assistance paid on behalf of children who are deprived of one or both of their parents by reason of death, disability, or continued absence (including desertion) from the home.

"ADC/FC" means Aid to Dependent Children/Foster Care which is established under Title IV-E of the Social Security Act. This is a category of financial assistance paid on behalf of children who otherwise meet the eligibility criteria for ADC and who are in the custody of the local social service agencies.

"Administrative" means noncourt-ordered, legally enforceable actions the department may take to establish or enforce a child support obligation.

"Appeal" means a request for a review of an action taken by the division.

"Custodial parent" means (i) the natural or adoptive parent with whom the child resides, (ii) a stepparent or other person who has legal custody of the child and with whom the child resides, or (iii) a social service agency which has legal custody of a child in foster care.

"Debt" means the total unpaid support obligation established by court order, administrative order, or payment of public assistance which is owed by an absent responsible parent to either the custodial parent or to the Commonwealth.

"Delinquent" means an unpaid child support obligation.

"Department" means the Department of Social Services.

"Disregard payment" means a payment made to an ADC recipient in an amount up to \$50. The payment is made from the child support collected on the individual's behalf.

"District office" means a local office of the Division of Child Support Enforcement responsible for the operation of the Child Support Enforcement Program.

"Division" means the Division of Child Support Enforcement of the Virginia Department of Social Services.

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"Enforcement" means ensuring the payment of child support through the use of administrative or judicial means.

"Financial statement" means a sworn document from both the custodial parent and absent responsible parent showing their financial situation.

"Foreclosure" means a judicial procedure to enforce debts involving forced judicial sale of the real property of a debtor.

"Health care coverage" means a plan providing hospital, medical, or surgical care coverage for dependent children.

"Hearings officer" means a disinterested person designated by the department to hold appeal hearings and render appeal decisions.

"IV-D agency" means a governmental entity administering the child support program under Title IV-D of the Social Security Act. In Virginia the IV-D agency is the Division of Child Support Enforcement.

"Judicial" means an action initiated through a court.

"Location only services" means that certain entities such as courts and other state child support enforcement agencies can receive only location services from the department.

"Local social service agency" means one of Virginia's locally administered social service or welfare departments which operate the ADC and ADC/FC programs and other programs offered by the department.

"Mistake of fact" means an error in the identity of the absent responsible parent or in the amount of child support owed.

"Obligation" means the amount and frequency of payments which the absent responsible parent is legally bound to pay.

"Public assistance" means payments for ADC, or ADC/FC, or Medicaid-only.

"Putative father" means an alleged father; a person named as the father of a child born out-of-wedlock but whose paternity has not been established.

"Recipient" means a person receiving public assistance.

"Responsible parent" means a person required under law to support a dependent child or the child's caretaker.

"Summary of facts" means a written statement of facts outlining the actions taken by the department on a case which has been appealed.

PART II. GENERAL INFORMATION.

§ 2.1. Services provided.

A. Child support enforcement services shall be provided as a group to ADC, ADC/FC, and non-ADC clients. Courts and other state IV-D agencies may apply for location-only services.

B. Child support enforcement services shall include the following services which may involve administrative or court action:

1. Location of absent responsible parents;
2. Establishment of paternity;
3. Establishment or modification of child support obligations, including the responsibility to provide health care coverage;
4. Enforcement of child support obligations, both administratively and judicially determined; and
5. Collection and disbursement of child support payments, regardless of whether the obligation is legally established.

§ 2.2. Eligibility for services.

A. Individuals residing in Virginia who receive ADC or ADC/FC assistance are automatically eligible for child support services.

1. ADC and ADC/FC applicants and recipients must accept child support services as a condition of eligibility for public assistance unless the local social service agency determines that good cause exists for not accepting these services.

2. The department shall suspend action on a child support case in which the local social service agency has determined that good cause exists for not cooperating with the department in its pursuit of child support.

3. The department shall continue to provide child support services to a custodial parent when the ADC case closes.

a. The department shall provide these services without requiring a formal application.

b. The department shall continue to provide these services until the custodial parent states in writing that the services are no longer wanted unless the closure of the child support case is contrary to state or federal law.

B. Individuals residing in Virginia or having a legal

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residence in Virginia who do not receive ADC or ADC/FC assistance must make an application for child support services as a condition of eligibility for those services.

1. The child for whom child support is being requested must be under 18 years of age, unless

a. There is a court order specifying that support continue until a later age, or

b. The child is handicapped, or

c. The services being requested are for a child support obligation which existed prior to the child's 18th birthday.

2. If the child for whom support is being sought is under 18 years of age, the applicant must be the parent or legal guardian of the child and the child must reside with the applicant.

C. Individuals residing outside of Virginia shall be eligible for child support services upon a request for services from the IV-D agency in the state in which they reside.

D. Courts and other state IV-D agencies are eligible for location only services.

§ 2.3. Assignment of rights.

A. Individuals applying for child support services shall assign their support rights to the Commonwealth on behalf of the child or the spouse and child.

B. Assignment of child support rights to the Commonwealth is automatic with receipt of ADC or ADC/FC assistance.

§ 2.4. Authorization to seek or enforce a child support obligation.

Persons receiving child support services shall give the department written authorization to seek or enforce support on behalf of the child or spouse and child.

§ 2.5. Special conditions regarding receipt of ADC or ADC/FC.

A. Receipt of ADC or ADC/FC assistance creates a debt to the Commonwealth.

B. If a debt is owed to the Commonwealth due to the receipt of ADC or ADC/FC assistance, the department shall apply amounts collected for past due child support toward this debt unless the court order stipulates otherwise. Payments collected for current support may not be applied toward the debt.

C. Money received from tax intercept shall be applied, in total, toward the ADC or ADC/FC debt.

§ 2.6. Application fees.

The application fee for child support services is \$1. The department shall pay this fee on behalf of all applicants for child support enforcement services.

§ 2.7. Costs associated with the provision of child support services.

A. The department may not require custodial parents to pay the costs associated with the provision of child support services.

B. The putative father shall pay the costs associated with the determination of paternity if he signs a stipulation agreement to pay or if he is ordered by a court to pay these costs.

PART III.

ESTABLISHING CHILD SUPPORT OBLIGATIONS.

Article 1.

Paternity Establishment.

§ 3.1. Establishing paternity.

In order for the department to establish a child support obligation and to enforce and collect child support payments from a putative father, the father must be determined to be legally responsible for the support of the child. In situations in which the putative father has not been legally determined to be the father of the child, paternity must be adjudicated before a child support obligation can be established.

§ 3.2. Establishing paternity in interstate cases.

The department shall establish, if possible, the paternity of children who do not reside in Virginia when the putative father resides in Virginia and a request for such services is received from another state IV-D agency.

Article 2.

Administrative Support Orders.

§ 3.3. Administrative establishment of a child support obligation.

The department has statutory authority to establish child support obligations through noncourt-ordered legally enforceable administrative means. These administrative obligations have the same force and effect as a support obligation established by the court.

A. The amount of child support that is owed and the frequency with which it is paid must be established before the payment of child support can be enforced.

B. The administrative order shall be called the Administrative Support Order.

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C. The department shall use administrative rather than judicial means to establish the child support obligation whenever possible.

D. The department shall use administrative means to establish a temporary child support obligation when judicial determinations of support are pending due to custody and visitation issues.

E. The department shall consider the obligation to be established when an Administrative Support Order has been served and the ten-day appeal period for the administrative order has elapsed.

F. The department shall modify the obligation when new information is received.

G. The department shall modify the amount of the obligation for future child support payments only.

§ 3.4. Determining the amount of the child support obligation.

A. The obligation shall include:

1. Frequency with which the current amount owed is to be paid;
2. Current amount owed;
3. PA debt, if any; and
4. Unpaid past due child support, if any.

B. Financial statements.

1. The department shall use financial statements obtained from the absent responsible parent and the custodial parent to determine the amount of the child support obligation.
2. The absent responsible parent and custodial parent shall complete sworn financial statements upon demand by the department and annually thereafter.
3. If either the absent responsible parent or the custodial parent is a recipient of public assistance, the department shall use the information obtained through the ADC or ADC/FC eligibility process to meet the financial statement requirement.
4. The department shall define the type of financial information which shall be required based on § 63.1-274.5 of the Code of Virginia which is incorporated by reference.
5. A custodial parent who is not a responsible parent of the child for whom child support is being sought may not be required to complete a financial statement.

6. The department shall obtain financial statements from both absent responsible parents when the custodial parent is not a responsible parent of the child.

C. When an absent parent is responsible for the support of children receiving ADC or ADC/FC assistance, the department shall initially base the amount of the obligation on the amount of ADC or ADC/FC paid on behalf of the responsible parent's dependents.

1. The department shall change the proposed obligation amount and base it on the child support scale if the absent responsible parent provides financial information before the appeal time period has passed.

2. If the department receives financial information after the obligation is established, the department shall modify the Administrative Support Order prospectively and shall base the future obligation amount on the child support scale.

D. When the absent parent is responsible for the support of children not receiving ADC or ADC/FC and provides a financial statement, the department shall base the amount of the obligation on the child support scale.

1. If the responsible parent does not provide a financial statement and there is no court order and no previously issued administrative order, the department shall issue a default Administrative Support Order.

The default administrative order shall be based on the amount of public assistance that would be paid on behalf of the absent responsible parent's dependents if they were eligible for ADC assistance.

§ 3.5. Service of the administrative support order.

The department must legally serve the administrative support order on the absent responsible parent in order to have an established obligation.

§ 3.6. Health care coverage.

A. The absent responsible parent shall provide information regarding health care coverage for his dependent children, and spouse or former spouse if applicable, upon request from the department.

B. The absent responsible parent shall provide health care coverage for the child or children if medical insurance is available through his employment.

§ 3.7. Child support scale.

A. The department is required to use the Schedule of Monthly Basic Child Support Obligations and procedures in § 20-108.2 of the Code of Virginia in calculating the

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amount of administrative child support obligations. This section of the Code is incorporated by reference.

B. The department shall call this schedule the child support scale.

C. The department shall not deviate from the scale in establishing Administrative Support Orders except in the two situations identified in § 3.4.

D. The total child support obligation will be divided between both parents in the same proportion as their individual gross incomes bear to their combined gross income.

E. The department shall consider the following factors in calculating the combined gross income:

1. The absent responsible parent and custodial parent's gross monthly income from all sources;
2. The number of children for whom the absent responsible parent and custodial parent shall joint legal responsibility;
3. Extraordinary medical and dental expenses which are defined in § 20-108.2 of the Code of Virginia; and
4. The custodial parent's work-related child care expenses.

F. The department may not include benefits from public assistance programs as defined in § 63.1-87 or child support received in calculating the combined gross income.

PART IV.

ENFORCING CHILD SUPPORT OBLIGATIONS.

Article 1.

General.

§ 4.1. Enforcement rules.

A. The department shall, whenever possible, administratively enforce compliance with established child support orders including both administrative and court orders.

B. The department shall enforce child support obligations at the time the Administrative Support Order is initially entered through the use of one of the following methods of wage withholdings.

1. Immediate withholding of earnings
2. Voluntary assignment of earnings

C. The department shall enforce child support obligations when the obligation becomes delinquent through the use of one or more of the following

administrative enforcement remedies.

1. Mandatory withholding of earnings
2. Liens
3. Orders to withhold and deliver
4. Foreclosure
5. Distraint, seizure, and sale
6. Unemployment compensation benefits intercept
7. Bonds, securities, and guarantees
8. Tax intercept
9. Internal Revenue Service full collection service
10. Credit bureau reporting
11. Federal enforcement remedies

D. The department shall attempt to enforce current and delinquent child support payments through administrative means before petitioning the court for enforcement action unless it determines that court action is more appropriate.

§ 4.2. Withholding of earnings rules.

A. The department may issue a withholding of earnings order against all earnings except those exempted from garnishment under federal and state law.

B. The amount of money withheld from earnings may not be more than the amount allowed under the Consumer Credit Protection Act. (§ 34-29 of the Code of Virginia).

C. The department shall modify the withholding of earnings order only if there is a change in the amount of the current support or past due debt.

D. The department shall release the withholding of earnings order only if one of the following occurs:

1. The current support obligation terminates and any past due debt is paid in full;
2. Only a past due debt is owed and it is paid in full;
3. The whereabouts of the child or child and caretaker become unknown; or
4. Bankruptcy laws require release.

Article 2.

Immediate and Voluntary Withholding of Earnings.

§ 4.3. General.

The administrative Support Order shall include a requirement for immediate withholding of the child support obligation from the absent responsible parent's earnings. The custodial parent and absent responsible parent may choose a voluntary assignment of earnings as an alternate arrangement for payment of child support.

§ 4.4. Immediate withholding of earnings.

The Administrative Support Order shall include a requirement for immediate withholding of the child support obligation from the absent responsible parent's earnings.

§ 4.5. Voluntary withholding of earnings.

A. Voluntary withholding of earnings is also called voluntary assignment of earnings.

B. The custodial parent and absent responsible parent may choose a voluntary assignment of earnings at the time the obligation is established as an alternate to immediate withholding of earnings for payment of child support.

C. The department may initiate a voluntary assignment of earnings when it is the most expeditious means of enforcing a wage withholding.

D. The absent responsible parent may not choose a voluntary assignment of earnings as an alternative to mandatory withholding of earnings after enforcement action has been initiated.

Article 3. Other Enforcement Remedies.

The department shall have the authority to administratively collect delinquent child support payments from absent responsible parents. These are called enforcement remedies.

§ 4.6. Mandatory withholding of earnings.

The department shall send a mandatory withholding of earnings order to an employer requiring the deduction of the child support obligation from the absent responsible parent's earnings when a payment is delinquent in an amount equal to one month's child support obligation.

§ 4.7. Liens.

A. The department may file a lien on the real or personal property of the absent responsible parent when there is a support debt.

B. Upon receipt of a support order from a jurisdiction outside of Virginia, the department may immediately file a lien.

C. The lien of the department shall have the priority of

a secured creditor.

D. The lien of the department shall be subordinate to the lien of any prior mortgage.

§ 4.8. Orders to withhold and deliver.

A. The department may use orders to withhold and deliver to collect assets such as bank accounts, trust funds, stocks, bonds, and other types of financial holdings when there is a support debt.

B. The department shall release orders to withhold and deliver when

1. The debt on the order is paid, or

2. The absent responsible parent makes satisfactory alternate arrangements for paying the debt, or

3. The order cannot be served on the absent responsible parent.

§ 4.9. Distrain, seizure, and sale.

A. The department may use distraint, seizure, and sale against the real or personal property of an absent responsible parent when there is a support debt.

B. The director of the division shall give final approval for the use of distraint, seizure, and sale.

§ 4.10. Unemployment compensation benefits intercept.

A. The department may intercept unemployment compensation benefits when there is a support debt.

B. The department may, with the consent of the absent responsible parent, intercept unemployment compensation benefits when there is not a support debt.

C. The department may intercept unemployment compensation benefits paid by the Commonwealth to an absent responsible parent who lives out of state.

D. The department shall intercept the amount of benefits allowed by the Virginia Employment Commission.

§ 4.11. Bonds, securities, and guarantees.

The department shall use bonds, securities, and guarantees as an enforcement action only if the amount of the delinquency exceeds \$1,000 and

A. After all other enforcement actions fail, or

B. When no other enforcement actions are feasible.

§ 4.12. Tax Intercept.

A. The department may intercept state and federal

Emergency Regulation

income tax refunds and shall apply these moneys, in whole or in part, first to any debt to the Commonwealth and second to delinquent child support obligations.

B. The Virginia Department of Taxation prescribes rules for interception of state tax refunds and notification to the person whose tax refund is being intercepted.

1. The department may retain moneys up to the amount owed on the due date of the finalization notice from the department to the Virginia Department of Taxation.

2. The department may intercept state tax refunds when the delinquent amount equals at least \$25.

3. The department may not intercept taxes if the absent responsible parent has appealed the intercept action and the appeal is pending.

4. The department shall promptly issue a refund to the absent responsible parent when one of the following occurs:

a. The intercept was made in error.

b. The absent responsible parent pays the delinquent amount in full and the Department of Taxation has been notified of the delinquency and before the tax refund is intercepted.

c. Both federal and state tax refunds are intercepted and the total amount intercepted is more than the amount of the delinquency at the time that notification of the tax intercept was sent to the Department of Taxation.

C. The Internal Revenue Service has prescribed rules regarding the interception of federal tax refunds. Part 45, § 302.60 and § 303.72 of the Code of Federal Regulations are incorporated by reference in this regulation.

Article 4. Federal Enforcement Remedies.

In addition to state administrative enforcement remedies, the department shall use federal enforcement remedies to enforce child support obligations.

§ 4.13. Internal revenue service full collection service.

A. The department may ask the Internal Revenue Service to collect delinquent child support payments when all reasonable efforts to collect past due child support payments have been made but have not been successful.

B. The department shall make this request through the federal Office of Child Support Enforcement.

§ 4.14. Enforcement remedies to be used against federal employees.

A. The department may apply its enforcement remedies against United States military and civilian active and retired personnel.

B. When enforcement under Virginia law is not possible, the department may use (i) Mandatory Military Allotments and (ii) Involuntary Child Support Allotments for Public Health Services Employees to enforce child support obligations of active military personnel and public health services employees.

1. For the purposes of these two enforcement actions, delinquency shall be defined as failure of the absent responsible parent to make child support payments equal to the amount due for two months.

2. The amount of money withheld from these wages shall be up to the amount allowed under the Consumer Credit Protection Act. (Section 34-29 of the Code of Virginia).

PART V. ADMINISTRATIVE APPEALS.

Actions to establish and enforce child support obligations administratively may be appealed according to the following rules.

§ 5.1. Validity of the appeal.

A. The department shall determine the validity of an appeal.

1. The appeal must be in writing.

2. The appeal must be received within ten working days of service when personally delivered.

3. If mailed, the postmark must be no later than ten working days from the date of service of the notice of proposed action.

B. The only exception to this shall be appeals of federal and state tax intercepts. The absent responsible parent shall have 30 days to appeal a tax intercept notice to the department.

§ 5.2. General rules.

A. The appeal shall be heard by a hearings officer.

1. The hearings officer shall hold the hearing in the district office where the custodial parent resides unless another location is requested by the absent responsible parent and it complies with § 63.1-267.1 of the Code of Virginia.

2. The absent responsible parent and the custodial parent may be represented at the hearing by legal counsel.

3. The absent responsible parent may withdraw the appeal at any time.

4. The hearings officer shall accept a request for a continuance from the absent responsible parent or the custodial parent if

a. The request is made in writing at least five working days prior to the hearing, and

b. The request is for not more than a ten day continuance.

B. The hearings officer shall notify the absent responsible parent and custodial parent of the date and time of the hearing and of the disposition of the hearing in accordance with § 63.1-267.1 of the Code of Virginia.

C. Prior to the hearing, the hearings officer shall send the absent responsible parent and the custodial parent a copy of the Summary of Facts prepared by the district office.

D. The hearings officer shall provide the absent responsible parent and the custodial parent with a copy of the hearing decision either at the time of the hearing or no later than 45 days from the date the appeal request was first received by the department.

E. The hearings officer shall notify the absent responsible parent and the custodial parent in writing by certified mail if the appeal is determined to be abandoned because the absent responsible parent did not appear at the hearing.

F. The absent responsible parent or the custodial parent may appeal the hearings officer's decision to the juvenile and domestic relations district court within ten calendar days of receipt of the hearings officer's decision. An appeal of a tax intercept must be made to the circuit court within 30 days of the date of the hearings officer's decision.

§ 5.3. Appeal of enforcement actions.

A. The absent responsible parent may appeal the actions of the department to enforce a support obligation only when the basis of the appeal is:

1. Withholding of earnings; liens; distraint, seizure, and sale; and unemployment compensation benefits intercept may be appealed based only on a mistake of fact.

2. Orders to withhold and deliver may be appealed based only on (i) a mistake of fact or (ii) whether the funds to be withheld are exempt by law from garnishment.

3. Federal and state tax intercepts may be appealed based only on (i) a mistake of fact or (ii) the validity

of the claim.

B. A mistake of fact is based on

1. An error in the identity of the absent responsible parent, or

2. An error in the amount of current support or past due support.

§ 5.4. Appeal of federal enforcement remedies.

Actions to enforce child support payments through federal enforcement remedies may not be appealed through the Department of Social Services. Absent responsible parents shall appeal these actions to the federal agency which took the action.

PART VI. INTERSTATE RESPONSIBILITIES.

When the absent responsible parent and the custodial parent reside in different states, cooperation between these states is necessary.

§ 6.1. Cooperation with other state IV-D agencies.

A. The department shall provide the same services to other state IV-D cases that it provides to its own cases with the following conditions:

1. The request for services must be in writing.

2. The request for services must list the specific services needed.

B. The department shall request in writing the services of other state IV-D agencies when the custodial parent resides in Virginia, but the absent responsible parent resides in another state.

C. Other department responsibilities in providing services to other state IV-D cases and obtaining services from other state IV-D agencies are defined in Part 45, § 303.7 of the Code of Federal Regulations and § 63.1-274.6 and § 20-88.22 of the Code of Virginia. These regulations are incorporated by reference here.

§ 6.2. Central registry.

A. The department shall manage the flow of interstate correspondence through a Central Registry located in the division's central office. Correspondence will be handled according to the rules established by the state and federal regulations cited by reference above.

B. The Central Registry shall act as the URESA State Information Agent required by § 20-88.22 of the Code of Virginia.

PART VII.

Emergency Regulation

CONFIDENTIALITY AND EXCHANGE OF INFORMATION.

Article 1.

Information Collected by the Department.

§ 7.1. Information collected from state, county, and city offices.

A. State, county, and city offices and agencies shall provide the department with information about absent responsible parents.

B. The department shall use this information to locate and collect child support payments from absent responsible parents.

§ 7.2. Subpoena of financial information.

The department may subpoena financial records from a person, firm, corporation, association, political subdivision, or state agency to corroborate the existence of assets of the absent responsible parent or the custodial parent identified by the Internal Revenue Services.

Article 2.

Information Released by the Department.

§ 7.3. Agencies to whom the department releases information.

A. The department may release information on absent responsible parents to courts and other state child support agencies.

B. The department shall release information concerning the absent responsible parent to consumer credit agencies upon their request. (§ 34-29 of the Code of Virginia.)

C. The department may release information concerning custodial parents to courts and other state IV-D agencies as necessary to collect child support on their behalf.

D. The department shall obtain permission from the absent responsible parent or the custodial parent prior to providing information on that person to an entity other than the ones listed above.

§ 7.4. Release of information to and from the Internal Revenue Service.

A. The department may not release information provided by the Internal Revenue Service to anyone outside of the department with the following exceptions:

1. The department may release the information to local social service agencies and the courts, but the source of the information may not be released.

2. The department may release information provided by the Internal Revenue Service if that information is

verified by a source independent of the IRS.

B. The division director, or a designee, may release information on absent responsible parents to the Internal Revenue Service.

§ 7.5. Request for information from the general public.

The department shall answer requests for information from the general public within 14 days of receipt of the request or less as federal and state law may require.

§ 7.6. Requests for information from absent responsible parents and the custodial parents.

A. The department shall release, upon request from the absent responsible parent or custodial parent, copies of court orders, administrative orders, enforcement actions, and fiscal records.

B. The department shall release to the absent responsible parent and to the custodial parent personal information contained in the case record which pertains to the individual requesting the information with one exception. The department may not release medical or psychological information for which the physician providing the information has stated the individual should not have access.

C. The absent responsible parent and the custodial parent may correct, challenge, or explain the personal information which pertains to that individual.

D. The department shall charge a fee for copying case record information. The department shall base the fee on the cost of copying the material.

§ 7.7. Release of health care information.

The department shall provide specific third party liability information to the Department of Medical Assistance Services in order for that agency to pursue the absent responsible parent's medical provider for any Medicaid funds expended for his or her dependents who are receiving ADC or ADC/FC or who are Medicaid-only clients.

A. The department shall release health care coverage information on ADC and ADC/FC cases to the Department of Medical Assistance Services as prescribed in the cooperative agreement between the department and that agency.

B. The department shall release health care coverage information on ADC and ADC/FC cases to other state child support agencies upon their request.

C. The department shall release information on health care coverage for non-public assistance cases only with the consent of the custodial parent.

**PART VIII.
RIGHTS AND RESPONSIBILITIES OF THE
DEPARTMENT AND OF THE CUSTODIAL
PARENT.**

**Article 1.
Custodial Parent's Rights and Responsibilities.**

Throughout this regulation rights and responsibilities of the custodial parents are mentioned in general terms. This section of the regulation does not abridge those rights and responsibilities; it adds to them.

§ 8.1. Custodial parents rights.

A. The department shall give the custodial parent prior notice of major decisions about the child support case.

B. The department shall periodically inform the custodial parent of the progress of the case.

C. The department shall provide the custodial parent with copies of appropriate notices as identified in this regulation.

D. The department shall advise custodial parents who receive ADC of the following rights:

1. The \$ 50.00 disregard payments,
2. Eligibility for continued Medicaid coverage when ADC is no longer received, and
3. Eligibility for continued child support services when ADC is no longer received.

E. The department shall inform all non-ADC or ADC/FC clients at the time of application for services of the effect of past receipt of ADC or ADC/FC on the collection of child support payments.

§ 8.2. Custodial parent's responsibilities.

A. Custodial parents must give full and complete information, if known, regarding the absent responsible parent's name, address, social security number, current employment, and employment history and provide new information when learned.

B. Custodial parents must inform the department of any public assistance which was received in the past on behalf of the parent and children.

C. Custodial parents must promptly (i) inform the department of any divorce actions or court actions to establish a child support order, (ii) send to the department copies of any legal documents pertaining to divorce, support, or custody, and (iii) inform the department of any changes in custody or plans for reconciliation with the absent responsible parent.

D. Custodial parents must notify the department if an attorney is hired to handle a child support matter.

E. Custodial parents must notify the department immediately of any change in their financial circumstances.

F. Custodial parents must notify the department in writing regarding any change of their address or name. When possible, the custodial parent shall give this notification 30 days in advance.

**Article 2.
Department's Rights and Responsibilities.**

§ 8.3. Department's rights.

The department shall decide, in a manner consistent with state and federal requirements, the best way to handle a child support case.

§ 8.4. Department's responsibilities.

A. The department shall act in a manner consistent with the best interests of the child.

B. The department shall establish a priority system for providing services which will ensure that services are provided in a timely manner.

C. The department shall keep custodial parents advised about the progress of the child support cases and shall include custodial parents in major decisions made about the handling of the child support case.

**PART IX.
PROCESSING SUPPORT PAYMENTS.**

**Article 1.
Child Support Payments.**

§ 9.1. Disbursement of child support payments.

A. An absent responsible parent may have multiple child support obligations.

1. Each case shall receive full payment of the current obligation when possible.

2. If the absent responsible parent's disposable earnings do not cover the full payment for each current support order, the department shall prorate the amount withheld among all orders.

B. Current support obligations shall be satisfied before satisfying a past due debt.

C. The method by which child support payments are disbursed is governed by Part 45, § 302.51 and § 302.52 of the Code of Federal Regulations which are incorporated by reference.

Emergency Regulation

Article 2. Payment Recovery.

§ 9.2. Recovery of duplicate payments.

When a custodial parent has received an emergency petty cash fund payment and a child support payment for the same period of time, the department shall first demand payment from the custodial parent. If the custodial parent does not comply with the demand, the department shall recover the amount of the emergency payment according to the methods described in § 9.5.

§ 9.3. Recovery of bad check payments.

When a payment made by an absent responsible parent is not honored upon presentation to the bank on which it was drawn, the department shall first demand payment from the absent responsible parent.

A. If the absent responsible parent does not comply with the demand, the department shall initiate enforcement action.

B. If enforcement action is not successful, the department shall recover the payment from the custodial parent according to the methods described in § 9.5.

§ 9.4. Erroneous disbursements.

When the department sends the custodial parent a payment in error, the department shall first demand payment from the custodial parent. If the custodial parent does not comply with the demand, the department shall recover the amount of the payment from the custodial parent according to the methods described in § 9.5.

§ 9.5. Methods of payment recovery from the custodial parent.

A. If the custodial parent is not an ADC or ADC/FC recipient, the department shall:

1. Intercept and retain payments for past due debt.
2. Retain 10% of the current support payment.
3. Retain the lesser of the balance due or 100% of Internal Revenue Service or State tax funds intercepted.
4. Retain the lesser of the balance due or funds seized from bank accounts.

B. If the custodial parent is an ADC or ADC/FC recipient, the department shall retain funds that otherwise would be due the custodial parent as allowed by Part 45, § 302.51 of the Code of Federal Regulations.

PART X. CASE CLOSURE.

§ 10.1. General rules.

A. The department shall terminate child support enforcement services when

1. A custodial parent is no longer eligible for services;
2. A custodial parent no longer wants child support enforcement services, and the department is not required by law to provide the services;
3. The absent responsible parent is no longer responsible for the support of the child and has no past due debt; or
4. The department is unable to obtain information either to establish or enforce the case and has exhausted all methods known to the department to obtain such information.

B. The department shall continue to provide collection and disbursement services until alternate arrangement for these services has been made.

CERTIFICATION

/s/ Larry D. Jackson
Commissioner, Virginia Department of Social Services
Date: May 8, 1989

/s/ Gerald L. Baliles
Governor
Date: June 6, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: June 7, 1989 - 10:27 a.m.



Commonwealth of Virginia
Department of Social Services
Division of Child Support Enforcement

RP Name _____
RP SSN _____
Case ID# _____

APPLICATION FOR CHILD SUPPORT ENFORCEMENT SERVICES

I, _____, Social Security number _____ am applying to the Division of Child Support Enforcement for child support enforcement services for the following children:

Children's Name	Date of Birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

The services I am applying for include:

- Location of the Responsible Parent to obtain child support (if the whereabouts are unknown)
- Obtaining an acknowledgment of paternity (if not already established)
- Establishing child support obligations
- Enforcing and collecting a child support obligation

I authorize the Division of Child Support Enforcement (DCSE) to explore, pursue, and utilize all sources of information available in support of its investigation. I understand that, depending on the information I provide (including, but not limited to, the Responsible Parent's SSN, address and employer), the DCSE will assign a priority level to my case. I understand that the DCSE cannot guarantee the success of its efforts.

I understand that legal assistance may be provided in establishing or enforcing a child support obligation. I acknowledge that any legal assistance which may be provided by the Office of the Attorney General, any office of a Commonwealth's Attorney or otherwise is being provided to the Division of Child Support Enforcement, and not to me personally. A final decision concerning any legal action which may be taken in my case shall be made by the Division, and the Division shall advise me of action they have decided to take. I further acknowledge that I am aware of my right to secure the services of my own attorney to represent me personally at any time. If I choose to retain the services of a private attorney, I will notify the Division immediately.

I authorize the Division of Child Support Enforcement to seek, enforce, and collect for me and my children current or past due support from anyone who has a legal duty to support me and my children.

I authorize the Division of Child Support Enforcement to endorse and cash checks, money orders, or other forms of payment which are made out to me for support payments.

APPLICANT



BLAIR BUILDING
600 DISCOVERY DRIVE
RICHMOND, VIRGINIA 23225 8699
(804)662-9204

LARRY D. JACKSON
COMMISSIONER

COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

Dear Employer:

Your employee _____ SSN _____ has been ordered to provide health care coverage for his dependent child(ren) if it can be obtained through his employer even if there is an additional cost to the employee. Please complete the bottom section of this letter by checking the statements which apply and return it to us in the pre-addressed envelope we have enclosed for your convenience.

Sincerely,

Investigator
Telephone

The above-named dependents are covered by the following health care coverage:

Insurance Company: _____

Policy Number: _____

Beginning date of dependent coverage: _____

Coverage type:

- Hospital only
- Hospital and Surgical
- Hospital, Surgical and Major Medical
- Health Maintenance Organization (HMO)
- Champus

- Insurance for the above-named dependents ended on _____ (Date).
- Since enrollment there have been lapses in coverage (from _____ to _____ (Dates)).
- The above-named dependents are not enrolled in an insurance plan, but insurance is available for the employee's dependents.
- Medical insurance for dependents is not available to this employee.

Date

Signature

Company Name

Company Address

Telephone Number

7/88

An Equal Opportunity Agency





SLAIN BUILDING
8007 DISCOVERY DRIVE
RICHMOND, VIRGINIA 23223-8699
(804)662-9204

LARRY D. JACKSON
COMMISSIONER

COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

Dear :

_____ has enrolled _____
under the following health care policy:

Insurance Company: _____
Policy Number: _____
Beginning Date: _____
Coverage Type: _____

This policy covers certain medical needs. You should make this coverage known when your child(ren) needs medical attention. If your child(ren) is also covered by Medicaid, use both the above insurance information and your Medicaid card when receiving medical services.

Please note that since this insurance coverage is related to the responsible person's employment, any termination of employment will probably void this coverage.

The health care policy for _____ through _____
Insurance Company ended on _____

The health care coverage for _____ has changed. The new insurance information is as follows:

Insurance Company: _____
Policy Number: _____
Beginning Date: _____
Coverage Type: _____

Sincerely,

Investigator
Telephone:

An Equal Opportunity Agency



STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

PROVISIONS

Bureau of Insurance

May 25, 1989

Administrative Letter 1989-9

TO: All Companies Licensed to Write Life Insurance and Accident and Sickness Insurance in Virginia

RE: Approval of Living Benefit Provisions Attached to or Included in Life Insurance Policies

As a result of requests from many insurers who wish to market the types of coverage referenced above, we have recently conducted a study of these new kinds of benefits with the intent of determining whether and under what conditions the Bureau of Insurance will grant approval of filings of this nature.

It is our position that in order for sufficient experience to be developed with regard to these new and innovative products, some leeway must be granted so that the products can be marketed.

Effective immediately, therefore, we will begin to accept so-called "living benefit" provisions for approval for use in the Commonwealth of Virginia. There will, however, be some specific criteria that must be adhered to before such filings will be considered, and these have been set out below. General criteria will be applicable to all "living benefit" provisions; additional criteria have been established for each of the three separate and distinct benefit types defined as follows:

A. Long Term Care

A long term care benefit is one advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, personal care, mental health or substance abuse services, provided in a setting other than an acute care unit of a hospital.

B. Advanced Death Benefit

An advanced death benefit is one that provided for the acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable.

C. Specified Disease

A specified disease benefit is one in which a portion of the death benefit is paid upon occurrence of a covered disease as defined in the policy or rider.

GENERAL CRITERIA FOR ALL LIVING BENEFIT

1. Each filing must contain an actuarial memorandum illustrating reserving methods and premium development.

2. A separate premium schedule for the benefit must be included with the policy whether premiums are deducted from the policy accumulation fund or are charged in addition to the premium for the base policy.

3. The effect of the benefit payments on the face amount of the policy, loans, cash values and premiums, if any, must be clearly stated in the rider.

4. The definition of "terminal" or "fatal" illness must be no more restrictive than that a licensed physician has determined that life expectancy is no more than six months.

5. If the benefit is to be provided by rider, the Bureau of Insurance must be provided with a list of all approved forms to which the rider will be attached.

6. If the benefit can result in the payment of 100% of the face amount, the rider or policy shall prominently disclose this.

7. The first page of each rider or policy shall contain a prominent statement in boldface type similar to the following:

"Benefits paid under the rider or policy may be taxable. If so, you or your beneficiary may incur a tax obligation. As with all tax matters, you should consult your personal tax advisor to assess the impact of this benefit."

8. The company must annually submit as part of its annual statement filing a special experience exhibit for the purpose of monitoring the adequacy of the reserving methods.

Each of the three benefit types has additional approval criteria applicable to it, as set out below.

LONG TERM CARE BENEFIT CRITERIA

1. Long term care benefits must meet all the requirements of Chapter 52 of Title 38.2 of the Code of Virginia, as amended.

2. A long term care benefit will be considered as an accident and sickness benefit attached to or included in a life policy.

3. A long term care benefit must give the policyholder access to cash values if a value is built up.

State Corporation Commission

4. *Waiting periods not to exceed 12 consecutive months after issue of the rider or policy are permissible.*

5. *Long term care benefits must satisfy the loss ratio standards as set forth by Virginia Insurance Regulation No. 22 (Case No. INS810039).*

6. *Long term care benefits should be carefully reviewed to determine whether they will need to comply with the required accident and sickness policy provisions referenced in § 38.2-3503 of the Code of Virginia, as amended.*

ADVANCED DEATH BENEFIT CRITERIA

1. *Advanced death benefit provisions will be considered as life insurance as defined in § 38.2-102 of the Code of Virginia, as amended.*

SPECIFIED DISEASE BENEFIT CRITERIA

1. *Specified disease benefits will be considered as accident and sickness benefits.*

2. *Specified disease benefits must list and define covered disease.*

3. *Specified disease benefits must satisfy the loss ratio standards as set forth by Virginia Insurance Regulation No. 22. (Case No. INS810039).*

4. *Specified disease benefits should be carefully reviewed to determine whether they will need to comply with the required accident and sickness policy provisions referenced in § 38.2-3503 of the Code of Virginia, as amended.*

Any company desiring reconsideration of forms which previously have been disapproved or had their approval withdrawn is requested to notify us, in writing, that they wish to have us reconsider the forms.

Should any clarification be required as to the intent of this letter or the requirements of the Virginia State Corporation Commission, Bureau of Insurance, with regard to the approval of forms as described in this letter, please contact the Bureau's Life and Health Forms and Rates Section.

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

Bureau of Insurance

June 5, 1989

Administrative Letter 1989-10

TO: All property and Casualty Insurers and Rate Service Organizations Licensed in Virginia.

RE: Rate Filings Subject to the Provisions of Virginia Code §§ 38.2-1906 or 38.2-2003.

Virginia Code § 38.2-1906 sets forth requirements for the filing of rates for the lines or subclassifications of insurance where the State Corporation Commission has determined that competition is not an effective regulator of rates pursuant to Virginia § 38.2-1905.1. Virginia Code § 38.2-2003 sets forth requirements for the filing of rates for workers compensation, the Virginia Automobile Insurance Plan, uninsured motorists coverage, the Virginia Property Insurance Association and home protection contracts. This Administrative Letter outlines the information the Bureau of Insurance must consider when an insurer or rate service organization submits a rate filing for one of the designated noncompetitive subclassifications of liability insurance or for one of the lines of insurance enumerated in Chapter 20.

Virginia Code §§ 38.2-1906.3.A1 and 38.2-2003.B provide that each insurer shall submit with its rate filing, as deemed appropriate by, and to the extent directed by, the Commission, the following information relating to experience in Virginia and countrywide:

1. *Number of exposures;*
2. *Direct premiums written;*
3. *Direct premiums earned;*
4. *Direct losses paid identified by such period as the Commission may require;*
5. *Number of claims paid;*
6. *Direct losses incurred during the year, direct losses incurred during the year which occurred and were paid during the year, and direct losses incurred during the year which were reported during the year but were not yet paid;*
7. *Any loss development factor used and supporting data thereon;*
8. *Number of claims unpaid;*
9. *Loss adjustment expenses paid identified by such period as the Commission may require;*
10. *Loss adjustment expenses incurred during the year, loss adjustment expenses incurred during the year for losses which occurred and were paid during the year, and loss adjustment expenses incurred during the year for losses which were reported during the year but were not paid;*
11. *Other expenses incurred, separately by category of*

expense, excluding loss adjustment expenses;

12. Investment income on assets related to reserve and allocated surplus accounts;

13. Total return on allocated surplus;

14. Any loss trend factor used and supporting data thereon;

15. Any expense trend factor used and supporting data thereon; and

16. Such other information as may be required by rule of the Commission, including statewide rate information presented separately for Virginia and each state wherein the insurer writes the line, subline or rating classification for which the rate filing is made and which the Commission deems necessary for its consideration.

Insurers and rate service organizations should use the attached form to report the required information to support its rate filing. Where actual experience does not exist or is not credible, the Commission will allow the use of reasonable estimates for the information required. Each insurer and rate service organization should submit a full explanation with its rate filing as to why the required information is not submitted or available, and must submit supporting data for any estimates used. An authorized company representative should certify that appropriate consideration has been given in this filing to the factors specified in subsections A and B of § 38.2-1904 in § 38.2-2005 (as appropriate), as set forth in the attached document.

Further, Virginia Code §§ 38.2-1912 and 32.2-2003 require that upon filing any change in the rate applicable to a class, line or subdivision of insurance governed by the provisions of these Sections, the insurer shall give notice to the Division of Consumer Counsel of the Office of the Attorney General. The notice shall indicate that a rate change has been filed with the State Corporation Commission. In its filing to the Commission the insurer must certify that it has notified the Office of the Attorney General of the filing. Insurers may certify to such notice by having an appropriate individual sign the certification statement included in the attached document.

The filing certification requirements of Administrative Letter 1987-11 continue in effect for those lines and subclassifications not subject to the delayed effect of rate provisions of § 38.2-1912. They also remain in effect for the filings of the Virginia Medical Malpractice Joint Underwriting Association.

/s/ Steven T. Foster
Commissioner of Insurance

§38.2-1906 AND §38.2-2003 DATA REQUIREMENTS

For each line or subclassification designated, provide the information requested below:

Data: Virginia _____ Countrywide _____ or Other _____
 If Other, please specify _____

Exposure Base _____

Designated line or subclassification	Insurer					NAIC#
	Calendar/Accident Year (X - latest full calendar year)	X-4	X-3	X-2	X-1	
Enter Year	_____	_____	_____	_____	_____	_____
1. Number of exposures written	_____	_____	_____	_____	_____	_____
2. Number of exposures earned	_____	_____	_____	_____	_____	_____
3. Direct premium written	_____	_____	_____	_____	_____	_____
4. Direct premium earned	_____	_____	_____	_____	_____	_____
5. Direct losses incurred						
A) Direct losses paid during the calendar year						
1) Current accident year	_____	_____	_____	_____	_____	_____
2) Prior accident years	_____	_____	_____	_____	_____	_____
B) Direct losses paid for the accident year valued at 12-31-X	_____	_____	_____	_____	_____	_____
C) Reserves for reported losses at the end of the calendar year						
1) Current accident year	_____	_____	_____	_____	_____	_____
2) Prior accident years	_____	_____	_____	_____	_____	_____
D) Reserves for reported losses at the end of the previous calendar year	_____	_____	_____	_____	_____	_____

DR(5/89)

Designated line or subclassification	Insurer					NAIC#
	Calendar/Accident Year	X-4	X-3	X-2	X-1	
E) Reserves for reported losses for the accident year valued at 12-31-X	_____	_____	_____	_____	_____	_____
F) Reserves for incurred but not reported losses at the end of the calendar year						
1) Current accident year	_____	_____	_____	_____	_____	_____
2) Prior accident years	_____	_____	_____	_____	_____	_____
G) Reserves for incurred but not reported losses at the end of the previous calendar year	_____	_____	_____	_____	_____	_____
H) Reserves for incurred but not reported losses for the accident year valued at 12-31-X	_____	_____	_____	_____	_____	_____
I) Calendar year incurred losses [A(1) + A(2) + C(1) + C(2) - D + F(1) + F(2) - G]	_____	_____	_____	_____	_____	_____
J) Accident year incurred losses - A(1) + C(1) + F(1)	_____	_____	_____	_____	_____	_____
K) Accident year incurred losses valued at 12-31-X B + E + H	_____	_____	_____	_____	_____	_____
6. Number of claims paid and closed during the calendar year	_____	_____	_____	_____	_____	_____
7. Number of claims unpaid and/or open at the end of the calendar year	_____	_____	_____	_____	_____	_____

DR(5/89)

Designated line or subclassification	Insurer					
	Calendar/Accident Year	X-4	X-3	X-2	X-1	X
8. Loss adjustment expenses incurred						
A) Loss adjustment expense paid during the calendar year						
1) Current accident year						
2) Prior accident years						
B) Loss adjustment expense paid for the accident year valued at 12-31-X						
C) Reserves for reported loss adjustment expense at the end of the calendar year						
1) Current accident year						
2) Prior accident years						
D) Reported loss adjustment expense at the end of the previous calendar year						
E) Reserves for reported loss adjustment expense for the accident year valued at 12-31-X						
F) Reserves for incurred but not reported loss adjustment expense at the end of the calendar year						
1) Current accident year						
2) Prior accident years						

DR(5/89)

Designated line or subclassification	Insurer					
	Calendar/Accident Year	X-4	X-3	X-2	X-1	X
G) Reserves for incurred but not reported loss adjustment expense at the end of the previous calendar year.						
H) Reserves for incurred but not reported loss adjustment expense for the accident year valued at 12-31-X						
I) Calendar year incurred loss adjustment expense [A(1) + A(2) + (C(1) + C(2) - D + F(1) + F(2) - G)]						
J) Accident year incurred loss adjustment expense A(1) + C(1) + F(1)						
K) Accident year incurred loss adjustment expense valued at 12-31-X B + E + H						
9. State premium taxes, licenses, and fees allocated to this line or subclassification.						
10. Commission expense allocated to this line or subclassification						
11. Other expenses allocated to this line or subclassification						
12. Investment income allocated to this line or subclassification related to reserve and surplus accounts						

DR(5/89)

Designated line or subclassification	Insurer					NAIC=
Calendar/Accident Year	X-4	X-3	X-2	X-1	X	
13. Surplus allocated to this line or subclassification	_____	_____	_____	_____	_____	_____
14. Annual loss trend used	_____	_____	_____	_____	_____	_____
15. Annual expense trend used	_____	_____	_____	_____	_____	_____
DR(5/89)						

Certification

(Name of Insurance Company)

Filing Being Certified _____
Proposed Effective Date _____

I, being a qualified actuary, certify that appropriate consideration has been given in this filing to the factors specified in subsections A. and B. of §38.2-1904 or of §38.2-2005 (as appropriate) of the Code of Virginia. For the purpose of this certification, a qualified actuary is defined as (1) a member in good standing of the American Academy of Actuaries, or (2) a fellow or associate of the Casualty Actuarial Society, or (3) an individual who has both the educational background necessary for the practice of actuarial science and at least four years of property and casualty actuarial experience. I am a qualified actuary in accordance with (1) _____, (2) _____, or (3) _____ above.

NAME (Please Print or Type) _____ DATE _____
SIGNATURE _____ () _____
TELEPHONE NUMBER

I certify that the Division of Consumer Counsel of the Office of the Attorney General has been notified of this rate filing.

NAME (Please Print or Type) _____ DATE _____
SIGNATURE _____ () _____
TELEPHONE NUMBER

STATE LOTTERY DEPARTMENT

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

Title of Regulation: VR 447-01-2. Administration Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Dates: June 14, 1989, through June 13, 1990

SUMMARY

- 1. REQUEST:** The Governor's approval is hereby requested to adopt the Administration Emergency Regulation affecting the Operations Special Reserve Fund.
- 2. RECOMMENDATION:** The State Lottery Department recommends approval of the Department's request to adopt the Administration emergency regulation to amend requirements for the Operations Special Reserve Fund. Section 58.1-4022(D) of the Code of Virginia provides for the transfer to the General Fund of the Commonwealth the audited balance of the State Lottery Fund, less the Special Reserve Fund. Section 58.1-4022(B) provides for establishment by Board regulation of a special reserve fund for 1) operation of the lottery or 2) to provide for prize payments when such liabilities exceed cash on hand. The Board established a reserve a reserve for prize payments during the current fiscal year but did not make the establishment of the reserve for operations effective until July 1, 1989. The Auditor of Public Accounts asserts that the reserve for operations should be established effective June 30, 1989. The Governor's approval of this emergency regulation will allow the State Lottery Department to make the effective date of the Operations Special Reserve Fund June 30, 1989 and will initially establish the Operations Special Reserve Fund at \$6 million dollars and shall be increased monthly at the rate of 2.5% of sales until it totals 2.5% of estimated annual sales. The effect of this latter change will permit the transfer of more revenue to the General Fund than the current regulation language allows. As provided in the Code of Virginia, Section 9-6.14:4.1 subsection C, paragraph 5, the agency shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

VR 447-01-2. Administration Regulations.

§ 1.7 Operations of the department.

A. Generally.

The department shall be operated in a manner which considers the needs of the Commonwealth, the public-at-large, the convenience of the ticket purchasers, and winners of lottery prizes.

B. Employment.

The department shall hire people without regard to race, sex, color, national origin, religion, age, handicap, or political affiliation.

1. All employees shall be recruited and selected in a manner consistent with the policies which apply to classified positions.

2. Sales and marketing employees are exempt from the Virginia Personnel Act.

C. Internal operations.

The department will operate under the internal administrative, accounting and financial controls specifically developed for the State Lottery Department under the applicable policies requested by the Departments of Accounts, Planning and Budget, Treasury, State Internal Auditor and by the Auditor of Public Accounts.

1. Internal operations include, but are not limited to, ticket controls, money receipts and payouts, payroll and leave, budgeting, accounting, revenue forecasting, purchasing and leasing, petty cash, bank account reconciliation and fiscal report preparation.

2. Internal operations apply to automated and manual systems.

D. External operations.

The department will conduct business with the public, lottery retailers, vendors and others with integrity and honesty.

E. Apportionment of lottery revenue.

Moneys received from lottery sales will be divided approximately as follows:

50% Prizes

45% State Lottery Fund Account (On and after July 1, 1989, administrative costs of the lottery shall not exceed 10% of gross sales.)

5.0% Lottery retailer discounts

F. State Lottery Fund Account.

The State Lottery Fund will be established as an account in the Commonwealth's accounting system. The account will be established following usual procedures and will be under regulations and controls as other state accounts. Prior to the start of the first lottery game, the account will be funded from the proceeds of a Department of Treasury loan or loans (treasury loan). Thereafter, funding will be from gross sales.

1. Within the State Lottery Fund, there shall be

State Lottery Department

established a "Special Reserve Fund" which shall contain the following subaccounts:

a. An "Operations Special Reserve Fund" subaccount for administrative and operations costs will be created in the State Lottery Fund account. [At all times on and after July 1, 1989 the amount of the Operations Special Reserve Fund will be not less than 2.5% of the total annual estimated gross lottery revenue to be generated from sales. On June 30, 1989, six million dollars shall be transferred into the Operations Special Reserve Fund. Thereafter, 2.5% of gross monthly revenues from sales shall be transferred to the Operations Special Reserve Fund until the Operations Special Reserve equals not less than 2.5% of estimated annual gross lottery revenues from sales.] Commencing with lottery operations, but prior to initial sales, all funds derived from the start-up treasury loan(s) shall be deposited to the Operations Special Reserve Fund. Except as otherwise provided in these regulations, start-up treasury loan fund balances shall remain in the Operations Special Reserve Fund until exhausted, until transferred to the Lottery Start-up Payback Special Reserve Fund or until 12 months after initial lottery sales at which time any fund balance from the start-up treasury loan(s) shall revert to the General Fund.

b. A "Lottery Prize Special Reserve Fund" subaccount will be created in the State Lottery Fund account and will be used when lottery prize pay-outs exceed department cash on hand. Immediately prior to initial lottery sales, \$500,000 shall be transferred to the Lottery Prize Special Reserve Fund from start-up treasury loan funds in the State Lottery Fund. Thereafter, 5.0% of monthly gross sales shall be transferred to the Lottery Prize Special Reserve Fund until the amount of the Lottery Prize Special Reserve Fund reaches 5.0% of the gross lottery revenue from the previous year's annual sales or five million dollars, whichever is less.

(1) The calculation of the 5.0% will be made for each instant or on-line game.

(2) The funding of this subaccount may be adjusted at any time by the board.

2. Until July 1, 1989, or when start-up funds are totally repaid, a special subaccount titled "Lottery Start-up Payback Special Reserve Fund" will be established to retire the start-up treasury loan(s).

a. Five percent of the state lottery fund balance, excluding funds derived from start-up treasury loan(s), at the beginning of each month will be placed in this subaccount. The director may increase this percentage when, in his judgment, sufficient funds remain in the State Lottery Fund to meet other needs and shall increase the percentage

when necessary to retire the treasury loan(s) within the first 12 months from initial lottery sales.

b. The director may, at any time, direct the transfer from the State Lottery Fund balance to the "Lottery Start-up Payback Special Reserve Fund" of all or any portion of any funds derived from the start-up treasury loan(s) which, in his judgment are no longer required to fund lottery operations.

c. The director may, from time to time, direct the transfer of all or a portion of the "Lottery Start-up Payback Special Reserve Fund" to the General Fund of the Treasury to retire all or a portion of the start-up treasury loan(s). The director shall ensure that the entire amount of the start-up treasury loan(s) is repaid within the first 12 months of lottery sales.

3. Other subaccount may be established in the State Lottery Fund account as needed at the direction of the board upon the request of the director or the internal auditor with concurrence of the State Comptroller, State Treasurer and the Auditor of Public Accounts.

G. Administrative and operations costs.

Lottery expenses include, but are not limited to , ticket costs, vendor fees, consultant fees, advertising costs, salaries, rents, utilities, and telecommunications costs.

H. Audit of lottery revenues.

The cost of any audit shall be paid from the State Lottery Fund.

1. The Auditor of Public Accounts or his designee shall conduct a monthly post-audit of all accounts and transactions of the department. When, in the opinion of the Auditor of Public Accounts, monthly post-audit are no longer necessary to ensure the integrity of the lottery, the Auditor of Public Accounts shall notify the board in writing of his opinion and fix a schedule of less frequent post-audits. The schedule of post-audits may, in turn, be further adjusted by the same procedure to require either more or less frequent audits in the future.

2. Annually, the Auditor of Public Accounts shall conduct a fiscal and compliance audit of the department's accounts and transactions.

I. Other matters.

The board and director may address other matters not mentioned in these regulations which are needed or desired for the efficient and economical operation and administration of the lottery.

/s/ Kenneth W. Thorson

State Lottery Department

Director, State Lottery Department
Date: May 26, 1989

/s/ Gerald L. Baliles
Governor, Commonwealth of Virginia
Date: June 7, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: June 14, 1989 - 10:33 a.m.

* * * * *

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Dates: June 14, 1989 through June 13, 1990.

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulations eliminating the claim form requirement for prizes less than \$600 cashed by retailers.
2. RECOMMENDATION: The State Lottery Department recommends approval of the department's request to adopt emergency regulations to eliminate the claim from requirement for prizes less than \$600 cashed by retailers. The elimination of the claim form would not result in a loss of information related to taxes because there is not state tax on prizes of less than \$600. Neither will the loss of information compromise security or otherwise adversely affect the administration of the lottery. The department has determined that the claim forms have created additional paperwork for citizens who want to cash in their prizes, for the retailers to handle and for the lottery to store the forms without useful purpose. The Governor's approval of this emergency regulation will allow the State Lottery Department to better serve the general public and it will be consistent with the paperwork reduction goals of the Governor's Commission on Efficiency in Government. As provided in the Code of Virginia, § 9-6.14.4.1 subsection C, paragraph 5, the agency shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. We do not anticipate any negative response to this regulatory change.

VR 447-02-1. Instant Game Regulations.

§ 3.26. Additional validation requirements.

Before paying any prize between \$26 and \$599, the retailer shall:

1. Require the claimant to fill out a prize claim form; *Reserved*.

2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;

3. Report to the department the ticket number, validation code and validation number of the ticket; and

4. Obtain an authorization number for prize payment from the department.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central and regional offices.

B. Claims forms shall be required to claim prizes of between \$26 and \$599 from lottery retailers *Reserved*.

C. The department or any lottery retailer may, in their discretion, require claims forms to claim prizes of \$26 or less from a lottery retailer *Reserved*.

D. The Director may, at his or her discretion, require claims forms to be filed to claim prizes.

Submitted:

/s/ Kenneth W. Thorson
Director, State Lottery Department
Date: May 26, 1989

Approved:

/s/ Gerald L. Baliles
Governor, Commonwealth of Virginia
Date: June 7, 1989

Filed:

/s/ Joan W. Smith
Registrar of Regulations
Date: June 14, 1989 - 10:33 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

CRIMINAL JUSTICE SERVICES BOARD

Title of Regulation: **VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law Enforcement Officers, Jailors or Custodial, Courtroom Security and Process Service Officers and Officers of the Department of Corrections, Division of Adult Institutions.**

Governor's Comment:

I have no objection to the final regulations, revised as a result of comments received during the public comment period, which will update and modify in-service training standards for Criminal Justice Officers.

/s/ Gerald L. Baliles
Date: June 7, 1989

* * * * *

Title of Regulation: **VR 240-01-03. Rules Relating to Compulsory Minimum Training Standards for Undercover Investigative Officers.**

Governor's Comment:

I have no objection to the final regulations which will update and modify training requirements for state and local law-enforcement officers assigned to undercover investigative work.

Gerald L. Baliles
Date: June 7, 1989

* * * * *

Title of Regulation: **VR 240-01-5. Rules Relating to Compulsory Training Standards for Dispatchers.**

Governor's Comment:

I have no objection to the final regulations which will update and modify training requirements for law enforcement dispatchers.

/s/ Gerald L. Baliles
Date: June 7, 1989

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

Title of Regulation: **VR 245-03-01. Regulations Governing Interpreter Services for the Hearing-Impaired.**

Governor's Comment:

I concur with the content of this proposal. My final assessment will be contingent upon a review of the public's comment.

/s/ Gerald L. Baliles
Date: June 6, 1989

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-14-01. Permit Regulation.**

Governor's Comment:

The promulgation of these regulations is intended to ensure conformance of state permit regulations to federal regulations. Pending public comment, I recommend approval of these regulations.

/s/ Gerald L. Baliles
Date: June 9, 1989

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider amending regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to review the regulation for effectiveness and appropriateness.

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

Written comments may be submitted until 5 p.m., July 21, 1989.

Contact: L. H. Redford, Regulatory Coordinator, Office of Policy Analysis and Development, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3539 or SCATS 786-3539

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-04-09. Rules and Regulations for Enforcement of the Virginia Seed Law**. The purpose of the proposed action is to amend paragraph 2 A. Prohibited Noxious Weed Seed - by adding Serrated Tussock - Nassella Trichotoma. The proposed addition to the Prohibited Noxious Weed Seed List would prohibit from sale, expose for sale, transporting or advertising for sale within this state, any seed or mixture of seed containing Serrated Tussock.

Statutory Authority: § 3.1-271 (2) of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 20, 1989.

Contact: D. E. Brown, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, 1100 Bank Street, Richmond, VA 23209, telephone (804) 786-3797 or SCATS 786-3797

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider

amending regulations entitled: **VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law**. The purpose of the proposed action is to allow the sale of Racing Gasoline for highway use.

The Virginia Board of Agriculture and Consumer Services has been requested by the petroleum industry to allow the sale of "Racing Gasoline" for highway use under the Board's authority to regulate the sale and use of motor fuels in Virginia.

There are two major suppliers of racing gasoline and the fuels produced by these companies will not meet the 10% evaporation standard as established by the American Society for Testing and Materials (ASTM) which were adopted in our Regulations effective September 23, 1986.

Current regulations are intended to assure that any gasoline offered for sale to the general motoring public will have characteristics that will provide quick engine starts. Producers of racing gasoline feel there is a market for gasoline manufactured for high performance engines, and to insure cooler engine operating temperatures, cold startability problems are a necessary risk.

The Motor Fuel Section is seeking data from scientific research and opinions of experts on the effects of the sale of unleaded racing gasoline as well as the economic impact of prohibiting its sale for highway use.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., July 20, 1989.

Contact: W. P. Zentmeyer, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511 or SCATS 786-3511

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution**. The purpose of the proposed action is to reduce ozone producing evaporative volatile organic compound (VOC) emissions, by limiting gasoline

General Notices/Errata

volatility during the ozone season (June through September), for the protection of public health and welfare.

A public meeting will be held on August 16, 1989, at 10 a.m., in House Committee Room 1, State Capitol, Capitol Square, Richmond, Virginia, to receive input on the development of the proposed regulation.

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

Written comments may be submitted until August 16, 1989.

Contact: Ellen P. Snyder, Policy and Program Analyst, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-0177 or SCATS 786-0177

CHILD DAY-CARE COUNCIL

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider amending regulations entitled: **VR 175-02-01. Minimum Standards for Licensed Child Care Centers.** The purpose of the proposed action is to (i) revise regulation to incorporate requirements for occasional child care and care for children who are mildly ill; (ii) determine appropriate activity space and group size requirements after reviewing public comment; and (iii) make other revisions for improvement in clarity and content.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until August 1, 1989.

Contact: Diana Thomason, Program Development Supervisor, Division of Licensing Programs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Soil and Water Conservation Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **Erosion and Sediment Control Law Regulations.** The purpose of the proposed regulation is to develop regulations for the Erosion and Sediment Control Law which is currently being regulated by meeting specific general criteria. This will make the enforcement of this law more manageable.

Statutory Authority: § 10.1-561 of the Code of Virginia.

Written comments may be submitted until July 5, 1989.

Contact: John Poland, Urban Programs Supervisor, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **Stormwater Management Law.** The regulation will provide the framework whereby local governments may adopt comprehensive stormwater management planning guidelines. All state agency projects will be governed by these regulations.

Statutory Authority: §§ 10.1-561 and 10.1-603 of the Code of Virginia.

Written comments may be submitted until July 5, 1989.

Contact: John Poland, Urban Programs Supervisor, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 371-7483

BOARD OF CORRECTIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to repeal regulations entitled: **VR 230-01-002. Rules and Regulations for the Purchase of Services for Clients.** The purpose of the proposed action is to provide instructions for the purchase of services from public or private vendors when such needed services are not available within the Department of Corrections.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until August 2, 1989.

Contact: Ben Hawkins, Agency Regulatory Coordinator, Planning and Development Unit, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262 or SCATS 674-3262

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-003. Rules and Regulations Governing the Certification Process.** The purpose of the proposed action is to provide regulations governing the process and

procedures utilized by the Board of Corrections to monitor and certify correctional programs.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until August 21, 1989.

Contact: John T. Britton, Certification Unit Manager, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3237 or SCATS 634-3237

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Certification of Criminal Justice Instructors**. The purpose of the proposed action is to amend and revise the Rules Relating to Certification and Recertification of Criminal Justice Instructors.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until July 10, 1989, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Jailors, Custodial Officers, Courthouse or Courtroom Security Officers and Deputy Sheriffs Designated to Serve Process**. The purpose of the proposed action is to amend and revise the Rules Relating to Compulsory Minimum Training Standards for Jailors, Custodial Officers, Courthouse or Courtroom Security Officers and Deputy Sheriffs designated to serve process.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until July 10, 1989, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider amending regulations entitled: **Regulations Governing Driver Education**. The purpose of the proposed regulation is to more clearly define the regulations for public, nonpublic and commercial schools related to driver education requirements.

Statutory Authority: §§ 22.1-205, 46.1-357, 46.1-368 and 54.1-1003 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Claude A. Sandy, Director, Department of Education, Division of Sciences and Elementary Administration, P.O. Box 6Z, Richmond, VA 23216, telephone (804) 225-2865 or SCATS 225-2865

BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**. The purpose of the proposed action is to amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (Regulations) so that the regulations are consistent with the amended law.

Statutory Authority: §§ 32.1-1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Written comments may be submitted until August 8, 1989.

Contact: Marilyn H. West, Director, Division of Resources Development, Department of Health, James Madison Bldg., 109 Governor St., Room 1005, Richmond, VA 23219, telephone (804) 786-7463 or SCATS 786-7463

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 amend Part III Examinations, Sections 3.1 A to identify the parts of the

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FLEX examination; 3.1 B, add all examinations which if failed would require additional training to be eligible for additional attempts to sit for the examination; 3.1 C, regulation renumbered, to change; and 3.2 A, provides for a combination of examinations acceptable for licensure to practice Medicine or Osteopathy in Virginia.

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

Written comments may be submitted until August 2, 1989.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9923

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 465-08-01. Regulations Governing the Certification of Occupational Therapy.** The purpose of the proposed action is to regulate the Certification and practice of Occupational Therapy pursuant to §§ 54.1-2956.1 through 54.1-2956.5 of the Code of Virginia effective July 1, 1989.

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

Written comments may be submitted until July 31, 1989.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9923 or SCATS 662-9923

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Minority Business Enterprise intends to consider promulgating regulations entitled: **VR 486-01-01. Public Participation Guidelines.** The purpose of the proposed action is to seek public participation from interested parties prior to formation and during drafting, promulgation and final adoption of regulations.

Statutory Authority: §§ 2.1-64-34 and 2.1-64-35 of the Code of Virginia.

Written comments may be submitted until August 2, 1989.

Contact: Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, 200-202 N. 9th St., Richmond, VA 23219, telephone (804) 786-5560, toll-free 1-800-223-0671 or SCATS 786-5560

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-01-01. Public Participation Guidelines.** The purpose of this proposed action is to establish permanent procedures for the Virginia Racing Commission to solicit and obtain comments from interested individuals and organizations in the formation and development of its regulations.

The commission proposes to adopt as permanent regulations emergency Public Participation Guidelines which were published in the Virginia Register on April 10, 1989, and which took effect on April 25, 1989.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until July 3, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: Elizabeth Kaplan, Senior Analyst, Virginia Department of Planning and Budget, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-7478 or SCATS 786-7478

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.

Contact: Robert J. Johnson, State Plan Coordinator, Department of Rehabilitative Services, 4901 Fitzhugh Ave., P.O. Box 11045, Richmond, VA 23230, telephone (804) 367-6379, SCATS 367-6379 or 1-800-552-5019 (toll-free)

DEPARTMENT OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Aid to Dependent Children (ADC) Program - Deprivation Due to the Incapacity of a Parent**. The purpose of the proposed action is to formally adopt emergency regulation VR 615-01-26, **Aid to Dependent Children-Deprivation Due to the Incapacity of a Parent**, which requires that the limited employment opportunities of handicapped individuals be considered in determining ADC eligibility based upon a parent's incapacity. The term "handicapped individual" will be defined in the regulation.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until July 19, 1989, to Guy Lusk, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Agency Regulatory Liaison, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

DEPARTMENT OF TAXATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-2-322. Individual Income Tax: Virginia Taxable Income; VR 630-2-330. Individual Income Tax: Retirement Income Tax Credit**. The purpose of the proposed action is to conform to the provisions of SB 1, enacted by the 1989 Special Session of the General Assembly, which grants a subtraction of up to \$16,000 of retirement income for each taxpayer age 55 and over.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 14, 1989.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

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.

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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.

† Proposed Title III Application

Title: State Application for Funding under Title III of the Older Americans Act, as Amended.

Statutory Authority: § 2.1-373(a)(3) of the Code of Virginia.

Effective Date: October 1, 1989

Summary:

The Older Americans Act was passed by Congress in 1965. Congress intended "to provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training..." (42 U.S. Code, Sec. 3001). The Act has been amended eleven times since then, most recently in 1987.

Under Title III, the Act authorizes funding to support in each state a state agency on aging and area agencies on aging. It authorized funding to develop or expand local community projects which provide a wide range of social and nutrition services to older persons.

In order for Virginia to receive Title III funds, it must develop a document which describes how the Title III program will be administered in the state. The document is submitted by the Commonwealth of Virginia to the Federal Administration on Aging as an application for funds appropriated under Title III of the Older Americans Act (OAA), as amended. This application covers the two years from October 1, 1989, through September 30, 1991.

The application

- identifies the Department for the Aging as the single state agency designated to develop and administer the Title III program in Virginia,
- identifies the geographic boundaries of each Planning and Service Area and the Area Agency on Aging designated to serve each area,

◦ describes statewide activities designed to lead to the development or enhancement of comprehensive and coordinated community based systems in, or serving, communities throughout Virginia,

◦ proposes a plan for the allocation and use of all Title III funds, and

◦ provides the assurances required by the Administration on Aging under the Older Americans Act, as amended.

Included are the recommendations of the Task Force established to assist the department in the development of the application. The Task Force assured that the department would have the benefit of input from a variety of interested groups, representing all areas of the state and including the Area Agencies on Aging, provider organizations, legislators, the Governor's Advisory Board on Aging, and the academic community. During its deliberations, the Task Force focused on four specific issues: service definitions, targeting services, minimum spending for priority services, and allocation of funds to the Area Agencies on Aging. For more information about the Task Force, contact the Virginia Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia 23219 (telephone: 804-225-2271).

SECTION I ADMINISTRATION OF TITLE III PROGRAM IN VIRGINIA

VIRGINIA DEPARTMENT FOR THE AGING

In recognition of the special needs of older Virginians, the General Assembly created a Commission on Aging in 1958 to study the facilities and services available to the elderly. In 1970, the Division of State Planning and Community Affairs was given responsibility for developing and coordinating programs for the elderly in accordance with the Older Americans Act.

The Virginia Office on Aging was created as an independent agency in 1974 to operate under the direction and supervision of the Governor. The Office on Aging was then placed under the Secretary of Human Resources and a Governor's Advisory Board on Aging was named.

The 1982 General Assembly enacted legislation renaming the Office on Aging the Department for the Aging. This change recognizes the significance of programs serving the elderly as well as Virginia's commitment to these programs.

The Virginia Department for the Aging is the agency responsible for planning, coordinating, funding, and evaluating programs for older Virginians. These programs include a full range of health, education, nutrition, and supportive services to improve the quality of life for older Virginians.

The Commissioner of the Virginia Department for the Aging is appointed by the Governor and supervises a staff of 27. The department is organized into two operating units: the Division of Financial Management and the Division of Program Development and Management.

In its personnel recruitment, selection, and management activities, the department complies with the policies and regulations established by the Virginia General Assembly and the Virginia Department of Personnel and Training. The department also has an Affirmative Action Program which is consistent with Federal and State laws and regulations.

The Virginia Department for the Aging:

1. reviews and, when appropriate, comments on all state plans, budgets, policies, and administrative and legislative proposals which affect older persons in Virginia. The department tracks all legislative proposals considered by the Virginia General Assembly which affect older;
2. solicits and reviews comments on the needs of older persons with input from the Governor's Advisory Board on Aging and from the general public in accordance with its Public Participation Guidelines;
3. coordinates statewide planning and development of activities related to the purposes of the Older Americans Act by serving on commissions and task forces addressing the special needs of older Virginians;
4. provides technical assistance to agencies, organizations, associations, and individuals representing older persons;
5. operates the Office of the State Long-Term Care Ombudsman and supervises the operation of substate long-term care ombudsman programs;
6. reviews and comments, upon request, on applications to state and federal agencies for assistance relating to meeting the needs of older persons;
7. increases public awareness of the needs and problems of older Virginians by developing programs which provide accurate and appropriate information and reverse negative attitudes about older persons and the aging process; and
8. evaluates the social, physical, and economic needs of older Virginians and determines the extent to which public and private programs meet such need.

GOVERNOR'S ADVISORY BOARD ON AGING

The Governor's Advisory Board on Aging was established at the same time that the Virginia Department for the Aging was established as an independent agency. The

board has as its mission to assist the department in the performance of its statutory duties and responsibilities.

The members of the board are appointed by the Governor and serve at the pleasure of the Governor. There are currently 33 persons on the board, providing broad representation of the public and private sectors. The board meets four times a year and its meetings are open to the public.

AREA AGENCIES ON AGING

Virginia's 25 Area Agencies on Aging are designated by the Department for the Aging with the sanction of local governments to plan, coordinate, and administer Older Americans Act programs and services. Some of the Area Agencies are private nonprofit organizations, other are part of local government, and still others are joint exercises of power.

The following are Virginia's Planning and Service Areas (PSA) and their respective Area Agencies on Aging. The boundaries already established for Planning and Service Areas and their respective Area Agencies on Aging will remain until application for change has been made to the Commissioner of the Department for the Aging and the change has been approved by the commissioner, pursuant to department regulations.

PLANNING AND SERVICE AREA 1

Mountain Empire Older Citizens, Inc.
330 Norton Road
P.O. Box 1097
Wise, Virginia 24293-1097
(703) 328-2302
Service area: Lee, Scott, and Wise Counties; and the City of Norton.

PLANNING AND SERVICE AREA 2

Appalachian Agency for Senior Citizens, Inc.
Box SVCC - Southwest Virginia Community College
Richlands, Virginia 24641-1510
(703) 964-4915
Service area: Buchanan, Dickenson, Russell, and Tazewell Counties.

PLANNING AND SERVICE AREA 3

District Three Governmental Cooperative
305 South Park Street
Marion, Virginia 24354-2999
(703) 783-8158
Service area: Bland, Carroll, Grayson, Smyth, Washington, and Wythe Counties; the Cities of Bristol and Galax.

PLANNING AND SERVICE AREA 4

New River Valley Agency on Aging
143 Third Street NW
Pulaski, Virginia 24301-4999
(703) 980-8888
Service area: Floyd, Giles, Montgomery, and Pulaski

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Counties; and the City of Radford.

PLANNING AND SERVICE AREA 5

League of Older Americans, Inc.
706 Campbell Avenue SW
P.O. Box 14205
Roanoke, Virginia 24038
(703) 345-0451

Service area: Alleghany, Botetourt, Craig, and Roanoke Counties; and the Cities of Clifton Forge, Covington, Roanoke, and Salem.

PLANNING AND SERVICE AREA 6

Valley Program for Aging Services, Inc.
P.O. Box 817
Waynesboro, Virginia 22980-0603
(703) 942-7141

Service area: Augusta, Bath, Highland, Rockbridge, and Rockingham Counties; and the Cities of Buena Vista, Harrisonburg, Lexington, Staunton, and Waynesboro.

PLANNING AND SERVICE AREA 7

Shenandoah Area Agency on Aging, Inc.
15 North Royal Avenue
Front Royal, Virginia 22630-2611
(703) 869-4100

Service area: Clarke, Frederick, Page, Shenandoah, and Warren Counties; and the City of Winchester.

PLANNING AND SERVICE AREA 8A

City of Alexandria
(Alexandria Area Agency on Aging)
DHS - Office on Aging
2525 Mount Vernon Avenue - Unit 5
Alexandria, Virginia 22301-1119
(703) 838-0920

Service area: City of Alexandria.

PLANNING AND SERVICE AREA 8B

Arlington County
(Arlington Agency on Aging)
1801 North George Mason Drive
Arlington, Virginia 22207-1999
(703) 358-5030

Service area: Arlington County.

PLANNING AND SERVICE AREA 8C

Fairfax County
(Fairfax County Area Agency on Aging)
11212 Waples Mill Road
Fairfax, Virginia 22030-6036
(703) 246-5411

Service area: Fairfax County and the Cities of Fairfax and Falls Church.

PLANNING AND SERVICE AREA 8D

Loudoun County
(Loudoun County Area Agency on Aging)
115 Harrison Street NE
Leesburg, Virginia 22075
(703) 777-0257

Service area: Loudoun County.

PLANNING AND SERVICE AREA 8E

Prince William County
(Prince William Area Agency on Aging)
9252 Lee Avenue
Manassas, Virginia 22110
(703) 335-6400

Service area: Prince William County and the Cities of Manassas and Manassas Park.

PLANNING AND SERVICE AREA 9

Rappahannock-Rapidan Community Services Center
Aging Services
401 South Main Street
Culpeper, Virginia 22701
(703) 825-3100

Service area: Culpeper, Fauquier, Madison, Orange, and Rappahannock Counties.

PLANNING AND SERVICE AREA 10

Jefferson Area Board for Aging
2300 Commonwealth Drive - Suite B1
Charlottesville, Virginia 22901
(804) 978-3644

Service area: Albemarle, Fluvanna, Greene, Louisa, and Nelson Counties; and the City of Charlottesville.

PLANNING AND SERVICE AREA 11

Central Virginia Commission on Aging, Inc.
2511 Memorial Avenue - Suite 301
Lynchburg, Virginia 24501-2689
(804) 528-8500

Service area: Amherst, Appomattox, Bedford, and Campbell Counties; and the Cities of Bedford and Lynchburg.

PLANNING AND SERVICE AREA 12

Southern Area Agency on Aging, Inc.
213 East Main Street
Martinsville, Virginia 24112-4228
(703) 632-6442

Service area: Franklin, Henry, Patrick, and Pittsylvania Counties; and the Cities of Danville and Martinsville.

PLANNING AND SERVICE AREA 13

Lake Country Area Agency on Aging
1105 West Danville Street
South Hill, Virginia 23970-3501
(804) 447-7661

Service area: Brunswick, Halifax, and Mecklenburg Counties; and the City of South Boston.

PLANNING AND SERVICE AREA 14

Piedmont Senior Resources Area Agency on Aging, Inc.
P.O. Box 398 - Piedmont Geriatric Hospital
Burkeville, Virginia 23922-0398
(804) 767-5588

Service area: Amelia, Buckingham, Charlotte,

Cumberland, Lunenburg, Nottoway, and Prince Edward Counties.

PLANNING AND SERVICE AREA 15

Capital Area Agency on Aging, Inc.
316 East Clay Street
Richmond, Virginia 23219-1496
(804) 343-3000

Service area: Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent, and Powhatan Counties; and the City of Richmond.

PLANNING AND SERVICE AREA 16

Rappahannock Area Agency on Aging, Inc.
204 Thompson Avenue
Fredericksburg, Virginia 22405-2529
(703) 371-3375

Service area: Caroline, King George, Spotsylvania, and Stafford Counties; and the City of Fredericksburg.

PLANNING AND SERVICE AREA 17/18

Northern Neck-Middle Peninsula Agency on Aging, Inc.
Post Office Box 610
Urbanna, Virginia 23175
(804) 758-2386

Service area: Lancaster, Northumberland, Richmond, Westmoreland, Essex, Gloucester, King and Queen, King William, Mathews, and Middlesex Counties.

PLANNING AND SERVICE AREA 19

Crater District Area Agency on Aging
120 West Bank Street
Petersburg, Virginia 23803-3216
(804) 732-7020

Service area: Dinwiddie, Greenville, Prince George, Surry, and Sussex Counties; and the Cities of Colonial Heights, Emporia, Hopewell, and Petersburg.

PLANNING AND SERVICE AREA 20

Southeastern Virginia Areawide Model Program, Inc.
7 Koger Executive Center - Suite 100
Norfolk, Virginia 23502-4121
(804) 461-9481

Service area: Isle of Wight and Southampton Counties; the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

PLANNING AND SERVICE AREA 21

Peninsula Agency on Aging, Inc.
1010 Old Denbigh Boulevard
Newport News, Virginia 23602
(804) 874-2495

Service area: James City and York Counties; and the Cities of Hampton, Newports News, Poquoson, and Williamsburg.

PLANNING AND SERVICE AREA 22

Eastern Shore Area Agency on Aging/Community Action Agency, Inc.
Post Office Box 8
49 Market Street

Onancock, Virginia 23417
(804) 787-3532

Service area: Accomack and Northampton Counties.

SECTION II
MAJOR TITLE III PROGRAM AND SERVICE
DELIVERY ACTIVITIES

DEMOGRAPHIC PROFILE OF VIRGINIA

Total number of persons all ages (1989)	6,022,530
Total number of persons all ages (1990)	6,096,750
Total number of persons age 60+ (1989)	912,280
Total number of persons age 60+ (1990)	932,720
Total number of persons age 75+ (1989)	253,730
Total number of persons age 75+ (1990)	261,060
Total number of females age 60+ (1989)	538,229
Total number of females age 60+ (1990)	550,872
Total number of non-white persons age 60+ (1989)	162,892
Total number of non-white persons age 60+ (1990)	166,555
Total number of persons age 60+ residing in rural jurisdictions (1989)	333,330
Total number of persons age 60+ residing in rural jurisdictions (1990)	338,020
Total number of persons age 60+ with income below the poverty level (1980)	108,581
Total number of non-white persons age 60+ with income below the poverty level (1980)	37,446

* * * * *

1. A jurisdiction is considered rural if it is not part of a Standard Metropolitan Statistical Area or if it has a population density of less than 50 persons per square mile.

2. The poverty threshold in 1979 for one person 65 years

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of age or older was \$3,479; for a householder 65 years of age or older in a two-person household it was \$4,389.

3. Population estimates for 1989 and 1990 were prepared by the Virginia State Data Center. Poverty-related data were published by the U.S. Bureau of the Census.

ADVOCACY AND COORDINATION

One of the major responsibilities of the Department for the Aging is to serve as an advocate for the more than 900,000 older persons who live in Virginia. Public education, operation of the Long-Term Care Ombudsman Program, and participation on the Long-Term Care Council are some of the activities which the department will undertake to meet this responsibility.

Public Education.

An important aspect of advocacy is education, not only of the general public but also of policy makers and planners concerned with aging issues. The Department for the Aging educates in a number of ways:

1. the department publishes a quarterly newsletter;
2. the department monitors federal and state legislation of interest to older persons and publishes a weekly Legislative Update during the General Assembly session;
3. the department prepares and distributes press releases and public service announcements on current issues affecting older persons;
4. the department is the lead agency for the Healthy Older Virginians Coalition, a group of public and private agencies and organizations concerned about improving the health of older Virginians;
5. the department has a toll-free telephone number (1-800-552-4464) to increase access to needed information and resources for older Virginians, their caregivers, and the general public; and
6. the department organizes or participates in public forums and conferences on aging issues, such as the biennial state conference on long-term care.

Office of the State Long-Term Care Ombudsman.

The Office of the State Long-Term Care Ombudsman (LTCOP) is a state-administered and managed program operated by the Department for the Aging. The Office of the State Long-Term Care Ombudsman includes local ombudsman programs established by contract between Area Agencies on Aging and the Department for the Aging. The Office serves as a point of entry whereby complaints, made by or on behalf of older persons in long-term care facilities or those receiving long term care services in the community, can be received, investigated

or referred for investigation, and resolved.

The Office of the State Long-Term Care Ombudsman serves as a non-adversarial advocate for long-term care residents and recipients of long-term care services. Ombudsman educate long-term care recipients and their families and friends about the long-term care system. Ombudsman work to empower service recipients to resolve complaints themselves, when they arise. The Office coordinates its complaint resolution activities, whenever possible, with long-term care regulations and other advocacy programs concerned with long-term care. The Office operates a statewide toll-free telephone number (1-800-552-3402) to assist individuals in placing a complaint or making a request for information.

The major responsibilities of the Office of the State Long-Term Care Ombudsman include:

1. To investigate and resolve complaints made by or on behalf of older persons who are residents of long-term care facilities or recipients of community-based long-term care services.
2. To analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care in the state, and to recommend changes in such laws, regulations, and policies as deemed appropriate.
3. To provide information to public agencies, legislators, and others regarding the problems and concerns of older persons residing in long-term care facilities or receiving long-term care services.
4. To train volunteers and designated representatives of the Office.
5. To promote the development of citizens' organizations to advocate for quality long-term care services in their communities and in the state.
6. To establish a statewide reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities and concerning long-term care services, and to establish procedures for submitting data collected by the Office to agencies in the state with responsibility for licensing or certifying long-term care facilities and services.
7. To prepare an annual report containing data and findings regarding the types of problems and complaints reported by older persons receiving long-term care, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life of long-term care recipients.
8. To carry out other activities which the federal and state Commissioners on Aging deem appropriate. These activities include, but are not limited to: a) providing

long-term care information to the public, and b) building and strengthening the Ombudsman Program.

The Virginia Department for the Aging has designated through contract an organizational unit within certain Area Agencies on Aging to fulfill the responsibilities of the Office of the State Long-Term Care Ombudsman in a specific geographic area. The department will continue to encourage Area Agencies to establish such substate ombudsman programs. This local option is seen as a more effective way to resolve complaints in localities throughout the state because of their ability to make more on-site investigations and other personal efforts toward resolution.

Coordination of Long-Term Care Services.

In 1982, the Virginia General Assembly passed legislation creating a Long-Term Care Council to coordinate the delivery of community-based services to elderly and impaired Virginians. The Commissioner of the Department for the Aging serves on the Council with the Commissioners and Directors of other state human services agencies. The Secretary of Health and Human Resources chairs the Council and staff support is provided by the Department for the Aging.

The 1982 session of the General Assembly also called for the establishment of local long-term care coordinating committees. These committees have the same responsibility in the jurisdictions which they serve as the Long-Term Care Council has at the state level. Area Agencies on Aging are members of the local committees and, in many cases, are the lead agency.

ADMINISTRATION OF AGING PROGRAMS

The Code of Virginia assigns to the Department for the Aging the responsibility for administering the state Title III application and for coordinating state programs and activities related to the purposes of the Older Americans Act (OAA). This section of the application describes the services to be provided with OAA funds, the population to be served, and the methods to be used to serve the target population.

Services Which May Be Provided under the State Application.

Programs and services funds under Title III of the Older Americans Act are intended to (1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services, (2) remove individual and social barriers to economic and personal independence for older individuals, and (3) provide a continuum of care for the vulnerable elderly [OAA, 301(a)]. What follows are the programs and services which may be provided during the two-year period beginning October 1, 1989.

i. Checking services. Calling or visiting older persons at their residence to check on them to make sure

they are well and safe. This activity may also serve to provide psychological reassurance to an older person who is alone and in need of personal contact from other individuals.

ii. Congregate meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current Recommended Dietary Allowance for older persons. The provision of meals must occur at designated nutrition sites which also provide a climate/atmosphere for socialization and opportunities to alleviate isolation and loneliness.

iii. Consolidated access services. Identifying and locating older persons in need of services and assessing and periodically reassessing their need for services; collecting and providing information to link older persons with the opportunities, services, and resources needed to meet their particular problems and needs.

iv. Dental services. Provision of needed dental services to limited-income persons 60 years of age and older not otherwise able to obtain the services.

v. Emergency services. Provision of money and other resources, including referral to other public and private agencies, for assistance to persons 60 years of age and older who have an emergency need for help. Area Agencies must have approved policies established by their governing board for administration of this service.

vi. Employment services. Assistance to older persons seeking part-time or full-time employment within the public or private sector and advocacy on behalf of the older worker.

vii. Finance, tax, and consumer counseling. Provision of direct guidance and assistance to older persons and their caregivers in the areas of consumer protection, personal financial matters, and tax preparation.

viii. Geriatric day care services. Regular daytime supervision and care of frail, disabled, and institutionally at-risk older adults. Participants require a level of care which ensures their safety, and, with the provision of services ranging from socialization to rehabilitation, may experience an enhancement in their quality of life and level of functioning.

ix. Health education. Provision of information or materials, or both, specifically designed to address a particular health-related issue. The activity may be preventive in nature and may promote self-care and independence.

x. Health screening. Provision of screening to determine current health status, including counseling, follow-up, and referral, as needed.

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xi. Home care/companion services. Provision of light housekeeping, companionship, and other services to eligible older adults, who, because of their functional level, are unable to perform these tasks themselves.

xii. Home delivered meals. Procurement, preparation, conveyance, and provision of nutritionally balanced meals that meet one-third of the current Recommended Dietary Allowance for older persons. The meals must be delivered and received at the homes of the individuals.

xiii. Home health services. Provision of intermittent skilled nursing care under appropriate medical supervision to acutely or chronically ill homebound older adults. Various rehabilitative therapies and home health aides providing personal care services are included.

xiv. Homemaker/personal care services. Provision of non-medically oriented services by trained personnel under professional supervision. Services may include personal care activities, nutrition-related tasks, light housekeeping, and respite for family caregivers.

xv. Identification/discount program. Provision to older persons of a card which can be used as identification to cash checks and to obtain discounts for goods and services from participating merchants.

xvi. Legal assistance. Legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney). Includes counseling or representation by a non-lawyer, where permitted by law, to older individuals with economic or social needs. May also include preventive measures such as community education.

xvii. Long-term care coordinating activity. Provides for the participation of Area Agency staff on the local long-term care coordinating committee(s) and in the planning and implementation of a coordinated service delivery system.

xviii. Public information. Provision of information to older persons and the general public about the programs and services available to the elderly and their caregivers and about the talents, skills, problems, and needs of older persons.

xix. Residential repair and renovation. Provision of home repairs and/or home maintenance to persons 60 years of age and older (includes weatherization provided with Older Americans Act funds).

xx. Services to persons in institutions. Provision of consultation and assistance to institutionalized older persons, their families, and facility staff in such areas as aging issues, resident rights, and activities for

facility residents.

xxi. Socialization/recreation services. Activities to provide persons 60 years of age and older with opportunities to participate in constructive social experiences and leisure-time activities. This may also include senior center activities as well as activities suitable for and within the time constraints of the nutrition sites.

xxii. Substate long-term care ombudsman program. Serves as a point of entry for long-term care recipients, their families and friends, and the concerned public, whereby complaints made by, or on behalf of, older persons in long-term care facilities or receiving long-term care services in the community can be received, investigated, and resolved. The program also provides counseling and support to long-term care recipients and other to assist them in resolving problems and concerns through the use of the complaint handling procedure of the long-term care facility or community based long-term care service provider. In addition, the program is a resource for information regarding institutional and community based long-term care services. Through its contacts with long-term care recipients and others concerned with long-term care, the program identifies problems and concerns of older persons receiving long-term care and their families and friends and recommends changes in the long-term care system which will benefit these individuals as a group.

xxiii. Transportation services. Group transportation of older persons to congregate meals, socialization and recreation activities, shopping, and other services available in the community; individual transportation to needed services that promote continued independent living.

xxiv. Volunteer programs. Development of opportunities for the community to do volunteer work in aging programs and services; recruiting and supervising volunteers; and developing opportunities for older persons to do volunteer work in the community.

Population To Be Served.

The Older Americans Act requires that the Virginia Department for the Aging and Area Agencies on Aging give preference to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals [OAA, 305]. "Greatest economic need" means "the need resulting from an income level at or below the poverty threshold established by the Office of Management and Budget" [OAA, 302(20)]. Area Agencies on Aging may not, however, use an older person's income or resources to deny or limit that person's receipt of services financed under Title III of the Older Americans Act [45 CFR 1321.17(f)(3)]. "Greatest social need" is defined as "the need caused by noneconomic factors which include physical and mental

disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threaten such individual's capacity to live independently" [OAA, 302(21)].

The federal regulations implementing Title III require that persons age 60 or over who are frail, homebound by reason of illness or incapacitating disability, or otherwise isolated, be given priority in the delivery of services [45 CFR 1321.69]. In the 1988 Appropriations Act, the Virginia General Assembly has expressed its intent that Older Americans Act funds and general fund monies be targeted to services which can assist the elderly to function independently for as long as possible.

The following are guidelines for Area Agencies on Aging concerning the population to be given preference during the next two years. The guidelines are general and allow for maximum local flexibility to target services based on needs identified at the local level. Area Agencies on Aging are encouraged to further target the population to be served by implementing a process for establishing client eligibility for services available under the Area Plan for Aging Services and determining by the Task Force established to assist the Department for the Aging in the development of the Title III application.

Every Virginian age 60 and over is eligible to receive services provided with Title III funds. Preferential consideration shall be given to the older Virginian who lacks family and community support and who meets one or more of the following criteria:

1. the person is in economic need, i.e., has an income at or below the poverty level, with special attention given to the person who has expenses disproportionate to his income and is not receiving means-tested public benefits; or
2. the person is in social need, i.e., (a) is impaired (needs assistance with two or more activities of daily living), or (b) is homebound (cannot go out of the house without assistance or supervision), or (c) is isolated (deprived of desired access to services and a support system).

All older Virginians cannot receive all of the services they need. There are not enough public resources to do so. Services need to be targeted to those older persons most in need. However, a distinction can be made between targeting services which assist the older person to obtain other needed services and targeting services which directly assist the older person to function independently for as long as possible.

The Virginia Department for the Aging and Area Agencies on Aging are by definition visible focal points of contact where anyone can receive help, information, or referral on any aging issue. Information about community resources and how to access them should be available to

all older persons their families and other caregivers, and other concerned persons. These services are consolidated access services, public information services, the long-term care ombudsman program and substate ombudsman programs, identification/discount programs, and volunteer programs.

In the provision of services which directly assist older persons to function independently for as long as possible, preferential consideration should be given to those older persons who lack family and community support and who have an economic or social need. These persons lack family and community support because such informal resources are absent, exhausted, or inadequate. Services which may be provided to these persons include, but are not limited to, transportation, in-home care, adult day care, nutrition, and legal assistance.

Economic need should not be defined in terms of the poverty level only. A person who has an income below the poverty level and who receives means-tested public benefits (Medicaid, SSI, and Food Stamps) may have less economic need than a person who has a moderate income but has high expenses for health and medical care (including equipment) or for housing may have a greater economic need than someone who has low expenses.

"Impaired" means limited in the ability to perform at least two activities of daily living. It does not matter whether the limitations in activities of daily living involve household tasks (preparing meals, shopping, managing money, using the telephone, doing housework) or personal care (bathing, dressing, eating, getting in and out of bed or chairs, walking, going outside, using the toilet). When resources are limited, personal care needs should be met first because limitations in personal care reflect a higher level of impairment.

Social need is described in terms of non-economic factors such as homeboundness and isolation. "Homebound" means not being able to leave the house without some assistance or without supervision. The person may be homebound because of a physical impairment, e.g., arthritis, or because of a mental impairment, e.g., Alzheimer's disease. "Isolated" means deprived of desired access to community resources and a support system. The reason for the deprivation may be physical or mental/emotional. The person desires and needs the resource and support but is unable to obtain it. Desired access may be limited because of the culture, race, or ethnicity of the person or because of geography.

The department will continue to support the efforts of the Aging Network to develop an effective system of uniform assessment for basic services, as described in the document entitled Future Direction of Virginia's Aging Network. The document outlines and describes the Aging Network's plan for serving as the coordinating mechanism for establishing an easily accessed system of services for older Virginians.

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A comprehensive uniform assessment process will identify problem areas and provide the basis for a care plan which allows the older person to live in the least restrictive and most satisfying environment. Each Area Agency will be responsible for ensuring that a minimum amount of the following basic services is available in its Planning and Service Area, funding and other local resources permitting: advocacy, care management, in-home services, transportation, meals, and information/linkage.

Some of the methods which may be used to target services to persons in the greatest economic or social need and to evaluate targeting efforts include:

1. directing outreach efforts to particular neighborhoods, Census tracts, magisterial districts, or other subdivisions of the Planning and Service Area where there are concentrations of the target population;
2. giving special consideration in the intake/assessment process to the target population;
3. routing transportation so as to concentrate the service in areas where the target population lives;
4. locating program activities in senior centers and other community facilities accessible to the target population;
5. using means to publicize services, e.g., newsletters, media, and brochures, which are likely to attract the target population;
6. providing those services which most appropriately meet the needs of the target population;
7. evaluating current program practices to insure that they do not discourage participation by the target population.

Rural Elderly.

One in three older Virginians lives in a rural area. It is frequently more difficult — as well as more expensive — to deliver services to the rural elderly because of the low population density and larger geographical areas. In contrast to residents of urban areas, rural residents have lower incomes, poorer transportation service, greater distances to traverse, and more difficulty obtaining adequate health care. The low population density and expansive distances to be covered place heavy demands on staff time, make local organizing difficult and expensive, result in increased costs (for mileage reimbursement, communications outreach, and staff time lost while driving), and serve as a deterrent to interagency coordination.

The following is a description of the methods which have been and will continue to be used to serve older residents of rural areas in Virginia:

1. The Title III intrastate funding formula targets funding to the rural cities and counties in the state by including a rural 60+ factor. A city or county is rural if (1) it is not within a Standard Metropolitan Statistical Area according to the Bureau of the Census or (2) it has a population density of less than 50 persons per square mile. This method acknowledges the higher costs of providing services to the rural elderly.

2. One of the objectives in the Department's Strategic Plan is to foster the development of innovative programs and initiatives. A strategy to achieve this objective is to develop an initiative which addresses the housing needs of older persons in rural areas.

3. In 1987, the department and Virginia Power Company implemented the Gatekeeper Program. The Program utilizes meter readers and collectors who have been trained to watch for clues that an older customer may be experiencing a problem. Virginia Power serves a mix of urban and rural areas. The Program has since been expanded to include the mostly rural areas served by Appalachian Power Company and Delmarva Power Company.

4. In 1986, the department entered into a limited agreement with the Department of Medical Assistance Services to provide transportation services to older Medicaid recipients. The agreement has resulted in increased transportation services, mostly to residents of rural areas. In 1988, the agreement was expanded with a special grant from the Virginia General Assembly.

5. Nine Area Agencies on Aging operate long-term care ombudsman programs under contract with the department. Five of the agencies serve predominantly rural areas. This expansion increases access of rural residents to the information, counseling, and complaint resolution services offered by the Office of the State Long-Term Care Ombudsman.

6. The department operates a toll-free telephone number (1-800-552-4464) in recognition of the high communication costs in a state as large as Virginia. This service improves access to the information and referral resources of the department.

7. The department has a working relationship with the Virginia Primary Care Association, which consists of the 21 community health centers and 2 migrant health centers in Virginia. The centers are located in medically underserved areas, most of which are rural. The working relationship is intended to lead to improved linkage between the Area Agencies on Aging and the health centers.

Minority Elderly.

The ability of programs and services to reach out to

minority persons, especially low-income minority persons, is a key focus of the efforts of the Department for the Aging. Eighteen percent of the older population in Virginia are members of minority groups. Over one-third of older Virginians in poverty are minority. Minority groups require special efforts to ensure equitable access to available programs and services. The high participation rates of minority persons in programs and services indicates that the methods listed below are effective in providing services to this population.

The following is a description of the methods used to serve older residents who are members of minority groups:

1. The Title III intrastate funding formula includes a factor which specifically references low-income minority persons.
2. Currently the department is conducting, in coordination with the Office for Civil Rights, an enhanced analysis of the participatoin of minority persons in Older Americans Act programs in Virginia.
3. The department installed a toll-free telephone number to improve access for low-income persons.
4. The department makes available publications in various languages and encourages special outreach efforts to limited English-speaking minoritiles.
5. Area Agencies on Aging locate service delivery sites in neighborhoods and communities with a high concentration of minority persons.

In-Home Services to Frail Older Persons.

The Department for the Aging expects to continue to receive funding under Title III-D of the Older Americians Act to provide in-home services to frail older individuals, including in-home supportive services for older persons who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims. In order to determine the eligibility of a frail older person to receive in-home services under Title III-D, Area Agencies on Aging shall take into account the following criteria:

1. The person is at least 60 years of age;
2. The person has an income at or below the poverty level established by the U. S. Office of Management and Budget;
3. The person is restricted in his ability to perform at least two activities of daily living; and
4. The person lacks community support mechanisms to assist in the provision of Title III-D services.

An Area Agency on Aging expending funds under Title

III-D shall consult and coordinate the provision of Title III-D services with other agencies and organizations which administer or provide health, social, rehabilitative, and mental health services to older persons in the Planning and Service Area. At a minimum, the Area Agency shall consult with the following agencies and organizations providing services to older persons:

- local long-term care coordinating committees;
- local community services boards and community mental health centers;
- local health departments; and
- local departments of social services.

Program Management Initiatives.

In order to improve programs and services for older Virginians during the period covered by this application, the Department for the Aging will take the following action as recommended by the State Application Task Force:

1. review the service definitions to ensure that they are clear, consistent, and easily understandable by the general public;
2. establish minimum standards for services provided under the state application to improve the quality of the services;
3. eliminate duplication and overlap between services, e.g., in-home services, ombudsman program/services to persons in institutions, consolidated access/finance counseling;
4. review the list of allowable activities for comprehensiveness and consistency with the service definition, e.g., socialization/recreation and transportation, and make appropriate changes;
5. consider developing definitions for case management, guardianship, placement, supervision, interpreting, chore, housing assistance, and respite care as discrete services.
6. revise the definition of dental services to encourage providers to use any other reimbursement available and to allow the services to be provided in the home.
7. in consultation with the Office of the Attorney General, review the definition of legal assistance for compliance with the Older Americans Act and the Title III regulations.
8. consider the recommendation to identify a group of basic services which will be available in every Planning and Service Area in Virignia and which will be provided in a uniform and consistent manner.

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9. collect information on non-Older Americans Act programs and funding administered by the Area Agencies on Aging.

SECTION III PROPOSED USE OF TITLE III RESOURCES

PLANNED SPENDING FOR MAJOR ACTIVITIES

The Virginia Department for the Aging estimates that it will receive approximately \$15.2 million in federal and state Title III resources in each of the next two federal fiscal years. The department will receive additional resources for programs targeted by the General Assembly. These resources will be used to meet the costs of the operation of the department and the Area Agencies on Aging and the provision of supportive services (Title III-B), nutrition services (Title III-C), and in-home services for frail older persons (Title III-D). The Area Agencies on Aging will expend additional funds from a variety of private and public sources, including local governments, to conduct local activities.

Figures 1 and 2 show the major Title III-funded programs and activities to be conducted during each of the two years covered by this state application and the sources of funding for those programs and activities. The Older Americans Act permits the department to transfer Congregate Meals Program funds to the Home-Delivered Meals Program and to transfer Nutrition Program funds to the Supportive Services/Senior Centers Program. Figures 1 and 2 reflect the transfer of 15% of the Congregate Meals Program funds to the Home-Delivered Meals Program and 20% of the Nutrition Program funds to the Supportive Services/Senior Centers Program. Such transfers make more funds available to serve meals to the homebound and to expand home and community based services in the Supportive Services Program.

These figures are for planning purposes only. The budget for each fiscal year is contingent upon appropriation action by the United States Congress and the Virginia General Assembly.

FIGURE 1
PLANNED SPENDING IN FISCAL YEAR 1990

Major Program/Activity	Source of Funding					
	Federal [III-B]	Federal [III-C(1)]	Federal [III-C(2)]	Federal [III-D]	State	Local
State Agency Administration	\$ 667,422	\$ -0-	\$ -0-	\$ -0-	\$ 222,474	\$ -0-
Office of the State Long-Term Care Ombudsman	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 54,021	\$ -0-
Training	\$ 37,500	\$ -0-	\$ -0-	\$ -0-	\$ 12,500	\$ -0-
Area Agency Administration	\$ 631,298	\$ 469,565	\$ 238,488	\$ -0-	\$ 93,355	\$ 373,421
Supportive Services and Senior Centers	\$5,801,378	\$ -0-	\$ -0-	\$ -0-	\$ 341,258	\$ 682,515
Congregate Meals	\$ -0-	\$3,821,462	\$ -0-	\$ -0-	\$ 224,792	\$ 449,584
Home-Delivered Meals	\$ -0-	\$ -0-	\$2,336,189	\$ -0-	\$ 137,423	\$ 274,846
In-Home Services for Frail Older Individuals	\$ -0-	\$ -0-	\$ -0-	\$95,133	\$ 5,596	\$ 11,192
TOTALS	<u>\$7,137,598</u>	<u>\$4,291,027</u>	<u>\$2,574,677</u>	<u>\$95,133</u>	<u>\$1,087,832</u>	<u>\$1,784,384</u>

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SPENDING FOR PRIORITY SERVICES

The Older Americans Act requires that the Department for the Aging specify a minimum percentage of the funds received by each Area Agency which will be spent to provide the following categories of services: access services, in-home services, and legal assistance. For the period covered by this application, the minimum percentages will be as follows:

An Area Agency on Aging shall spend at least 15% of its Title III-B allotment for services associated with access to other services. Services associated with access to other services are consolidated access services and transportation services.

An Area Agency on Aging shall spend at least 5% of its Title III-B allotment for in-home services. In-home services are (i) homemaker/personal care services, (ii) home care/companion services, (iii) home health services, (iv) checking services, (v) residential repair and renovation services, and (vi) in-home respite care for families and adult day care as a respite service for families.

An Area Agency on Aging shall spend at least 1% of its Title III-B allotment for legal assistance for the elderly.

The department may waive this requirement for any category of services if the Area Agency on Aging demonstrates to the department that services being provided in such category in the area are sufficient to meet the need for such services in the area. Before an Area Agency on Aging requests a waiver, the Area Agency on Aging shall conduct a public hearing as follows:

1. The Area Agency on Aging requesting a waiver shall notify all interested persons of the public hearing.
2. The Area Agency shall provide interested persons with an opportunity to be heard.
3. The Area Agency on Aging requesting the waiver shall receive, for a period of 30 days, any written comments submitted by interested persons.

The Area Agency on Aging shall furnish a complete record of the public comments with the request for the waiver to the Virginia Department for the Aging.

Whenever the Department for the Aging proposes to grant a waiver to an Area Agency on Aging, the department shall publish its intent in The Virginia Register of Regulations, together with the justification for the waiver, at least 30 days prior to the effective date of the decision to grant the waiver. During the 30-day period, any individual or service provider in the area to which the waiver applies may request a hearing from the department on the waiver request.

An Area Agency on Aging, whose spending in a priority service category exceeds the minimum proportional expenditure level specified above, shall spend in each such category of services at least the same amount of actual funds as it spent in such category for the previous fiscal year.

During the next two years, the Department for the Aging will review this policy in light of data on actual spending in the priority services categories and data on the extent to which the need of priority services is met with available resources.

SECTION IV ASSURANCES

The Virginia Department for the Aging makes the following assurances in accordance with the Older Americans Act (OAA), as amended, and with the Code of Federal Regulations (45 CFR 1321).

1. The Virginia Department for the Aging will take into consideration the views of service recipients in connection with matters of general policy arising in the development and administration of the State Plan [OAA, 305(a)(2)(B)].
2. The State Plan will be based upon Area Plans for Aging Services developed by the Area Agencies on Aging in Virginia [OAA, 307(a)(1)] and submitted to the Department for the Aging for approval [OAA, 307(a)(2)].
3. The Virginia Department for the Aging will evaluate the need for supportive services, nutrition services, and multipurpose senior centers within Virginia and will determine the extent to which existing public or private programs meet such need [OAA, 307(a)(3)(A)].
4. Information and referral services will be established and maintained in sufficient numbers to assure that all older persons in Virginia who are not furnished adequate information and referral services will have reasonably convenient access to such services [OAA, 307(a)(9)].
5. The Commonwealth of Virginia and the Virginia Department for the Aging respectively will undertake a range of activities regarding the long-term care ombudsman program [OAA, 307(a)(12)].
6. The Virginia Department for the Aging will comply with the funding requirements for the long-term care ombudsman program [OAA, 307(a)(21)].
7. The Virginia Department for the Aging will comply with the requirements of the Older Americans Act, as amended, with respect to nutrition services [OAA, 307(a)(13)] and legal assistance [OAA, 307(a)(15)].
8. The Virginia Department for the Aging will comply

with the requirements of the Older Americans Act, as amended, with respect to the acquisition, alteration, or renovation of existing facilities or the construction of new facilities to serve as multipurpose senior centers [OAA, 307(a)(14)].

9. The Virginia Department for the Aging will comply with the requirements for the provision of services for the prevention of abuse of older persons [OAA, 307(a)(16)].

10. The Virginia Department for the Aging will require that, if there are a substantial number of older persons in a Planning and Service Area of limited English-speaking ability, the Area Agency on Aging for such a Planning and Service Area will utilize outreach workers fluent in the language spoken and will meet other requirements concerning counseling and assurance of cultural sensitivity [OAA, 307(a)(20)].

11. The Virginia Department for the Aging will require outreach efforts which will identify older persons who are eligible for assistance under Title III of the Older Americans Act, as amended, with special emphasis on older persons with the greatest economic or social need (with particular attention to low-income minority persons) and on older persons who reside in rural areas of Virginia. Outreach efforts will inform these persons of the assistance available [OAA, 307(a)(24)].

12. Where there is a significant population of older Indians in any Planning and Service Area, the Area Agency on Aging will provide for outreach to such persons [OAA, 306(a)(6)(N)].

13. The Virginia Department for the Aging will spend Title III-Part D funds in accordance with criteria set forth in Sections 341 through 344 of the Older Americans Act, as amended.

14. The Virginia Department for the Aging will require that each Area Agency on Aging consult and coordinate with other community agencies and voluntary organizations in the planning and provision of in-home services under Title III-Part D of the Older Americans Act, as amended [OAA, 341(b)].

15. The Virginia Department of Aging will develop eligibility criteria for providing in-home services to frail older individuals which will take into account the following factors: (a) age, (b) greatest economic need, (c) noneconomic factors contributing to the frail condition, and (d) noneconomic and nonhealth factors contributing to the need for such services [OAA, 343].

16. Funds made available under Title III-Part D will be in addition to, and will not be used to supplant, any funds that are or would otherwise be expended under any federal, state, or local law by the Commonwealth of Virginia, a unit of general purpose local government, or an Area Agency on Aging [OAA,

344].

17. With respect to the needs of older persons with severe disabilities, the Virginia Department for the Aging will coordinate planning, identification, assessment of needs, and service for older persons with disabilities, with particular attention to persons with severe disabilities, with other state agencies which have primary responsibility for individuals with disabilities. The department also will develop collaborative programs, where appropriate, to meet the needs of older persons with disabilities [OAA, 307(a)(25)].

18. The Virginia Department for the Aging will require Area Agencies on Aging to conduct efforts to facilitate the coordination of community-based long-term care services for older persons designed to retain persons in their homes and to emphasize the development of client-centered case management systems as a component of these services [OAA, 307(a)(26)].

19. The Virginia Department for the Aging will prepare and distribute a uniform format for use by the Area Agencies on Aging in developing Area Plans for Aging Services [OAA, 307(a)(1)].

20. Each Area Agency on Aging will develop and submit to the Virginia Department for the Aging for approval an Area Plan for Aging Services which complies with the provisions of the Older Americans Act, as amended [OAA, 307(a)(2)].

21. The Virginia Department for the Aging and the Area Agencies on Aging will give preference to providing services to older persons in the greatest economic or social need, with particular attention to low-income minority persons. An older person's income or resources will not be used to deny or limit the person's receipt of services under Title III of the Older Americans Act [45 CFR 1321.17(f)(2); OAA, 306(a)(5)(A)(i)].

22. The Virginia Department for the Aging and the Area Agencies will provide older persons with an opportunity to contribute voluntarily to the cost of services [45 CFR 1321.17(f)(5)].

23. No supportive services, nutrition services, or in-home services will be provided directly by the Virginia Department for the Aging or an Area Agency on Aging, except where, in the judgment of the department, provision of such services by the department or an Area Agency on Aging is necessary to assure an adequate supply of such services, or where such services are directly related to the department's or Area Agency's administrative functions, or where such services of comparable quality can be provided more economically by the department or Area Agency on Aging [OAA, 307(a)(10)].

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24. The Virginia Department for the Aging will use such methods as are necessary for the proper and efficient administration of the Title III program and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration [OAA, 307(a)(4)].

25. The Virginia Department for the Aging will develop policies governing all aspects of programs operated under Title III of the Older Americans Act, as amended, including the operation of the Office of the State Long-Term Care Ombudsman [45 CFR 1321.17(f)(7)].

26. The Virginia Department for the Aging will spend in each fiscal year, for services to older person residing in rural areas in Virginia assisted under Title III of the Older Americans Act, as amended, an amount equal to not less than 105 percent of the amount expended for such services in Fiscal Year 1978 [OAA, 307(a)(3)(B)].

27. The Virginia Department for the Aging will adopt such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, federal funds paid under Title III to Virginia, including any such federal funds paid to the recipients of a grant or contract [OAA, 307(a)(7)].

28. All services provided under Title III will meet any existing state and local licensing, health, and safety requirements for the provision of those services [45 CFR 1321.17(f)(4)].

29. Subject to the employment system requirements of Virginia and local governments, the Virginia Department for the Aging and the Area Agencies on Aging will give preference to persons age 60 or older for any staff positions for which such persons qualify [OAA, 307(a)(11)].

30. The Virginia Department for the Aging will provide in-service training opportunities for personnel of agencies and programs funded under the Older Americans Act, as amended [OAA, 307(a)(17)].

31. The Virginia Department for the Aging will assign personnel to provide leadership in developing legal assistance programs for older persons throughout Virginia [OAA, 307(a)(18)].

32. With respect to education and training services, Area Agencies on Aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide these services [OAA, 307(a)(19)].

33. The Virginia Department for the Aging will make such reports in such form and containing such information as the Administration on Aging may require and will comply with such requirements as the

Administration on Aging may impose to insure the correctness of such reports [OAA, 307(a)(6)].

34. The Virginia Department for the Aging will afford an opportunity for a hearing upon request to any Area Agency on Aging submitting an Area Plan for Aging Services, to any provider of service under an Area Plan, or to any applicant to provide a service under an Area Plan [OAA, 307(a)(5)].

35. The Virginia Department for the Aging will conduct periodic evaluations of, and public hearings on, activities and projects carried out with Title III funds, including an evaluation of the effectiveness of the department in reaching older persons with the greatest economic or social needs, with particular attention to low-income minority persons [OAA, 307(a)(8)].

Appendix 1

INTRASTATE FUNDING FORMULA

The Older Americans Act of 1965, as amended, requires that the Department for the Aging develop and publish for review an intrastate funding formula for the allocation of funds to Area Agencies on Aging. The updated Title III intrastate funding formula to be implemented during the two-year period covered by this application is computed on the basis of (1) the number of persons 60 years of age and over, provided by the Virginia State Data Center, (2) the number of persons 60 years of age and over at or below the poverty level, from the 1980 US Census, (3) the number of minority persons 60 years of age and over at or below the poverty level, from the 1980 Census, and (4) the number of persons 60 years of age and over who reside in rural areas of the state.

The formula factors and their weights are as follows:

Population 60+	30%
Poverty 60+	50%
Minority Poverty 60+	10%
Rural residents 60+	10%

Population 60+. This factor distributes Title III funds on the basis of the geographical location of older Virginians. It reflects the proportion of persons age 60 and over throughout the state.

Poverty 60+. This factor distributes Title III funds to those areas of the state with the greatest number of older persons in economic need. The financial condition of the older person is a major determinant of his ability to meet basic life needs, such as food, shelter, clothing, health care, and mobility. This factor is an application of the definition of greatest economic need.

Minority Poverty 60+. The low-income minority elderly factor addresses the racial barrier as well as the economic needs of this group of older persons.

Rural Residents 60+. The rural 60+ factor is utilized to denote the geographical isolation faced by older Virginians who live in the rural areas of the state. "Rural area" means a city or county which is not within a Metropolitan Statistical Area (MSA) according to the Bureau of the Census or a city or county which is within an MSA but which has a population density of less than 50 persons per square mile.

In Fiscal Year (FY) 1990 each Area Agency on Aging will be held harmless at its FY 1989 funding level. In FY 1991, each Area Agency will be held harmless at 90 percent of its FY 1989 funding level. The hold-harmless provision will allow implementation of the formula without significant shifts in funding and major disruption of services during the first year. Implementation of this allocation plan is contingent upon no decrease in federal and state funding below the FY 1989 level.

No Area Agency on Aging will receive less than \$100,000 in total funds distributed under this allocation plan.

What follows is a numerical statement of the funding formula to be used and a demonstration of the allocation of funds based on the formula:

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FIGURE 2
PLANNED SPENDING IN FISCAL YEAR 1991

Major Program/Activity	Source of Funding					
	Federal [III-B]	Federal [III-C(1)]	Federal [III-C(2)]	Federal [III-D]	State	Local
State Agency Administration	\$ 667,422	\$ -0-	\$ -0-	\$ -0-	\$ 222,474	\$ -0-
Office of the State Long-Term Care Ombudsman	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ 54,021	\$ -0-
Training	\$ 37,500	\$ -0-	\$ -0-	\$ -0-	\$ 12,500	\$ -0-
Area Agency Administration	\$ 631,298	\$ 469,565	\$ 238,488	\$ -0-	\$ 93,355	\$ 373,421
Supportive Services and Senior Centers	\$5,801,378	\$ -0-	\$ -0-	\$ -0-	\$ 341,258	\$ 682,515
Congregate Meals	\$ -0-	\$3,821,462	\$ -0-	\$ -0-	\$ 224,792	\$ 449,584
Home-Delivered Meals	\$ -0-	\$ -0-	\$2,336,189	\$ -0-	\$ 137,423	\$ 274,846
In-Home Services for Frail Older Individuals	\$ -0-	\$ -0-	\$ -0-	\$95,133	\$ 5,596	\$ 11,192
TOTALS	<u>\$7,137,598</u>	<u>\$4,291,027</u>	<u>\$2,574,677</u>	<u>\$95,133</u>	<u>\$1,087,832</u>	<u>\$1,784,384</u>

COUNCIL ON THE ENVIRONMENT

Public Notice

PUBLIC HEARING ON COMMONWEALTH OF VIRGINIA REQUEST TO AMEND THE VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

Notice is hereby given that the Office of Ocean and Coastal Resource Management (OCRM) of the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, and the Virginia Council on the Environment, will hold a public hearing for the purpose of receiving comments on the Commonwealth of Virginia's request to amend its federally approved Coastal Resources Management Program by incorporating the 1987, 1988, and 1989 amendments to the Coastal Primary Sand Dune Protection Act. The hearing will also solicit comments on issues to be addressed as part of the federal review of the request under the National Environmental Policy Act (NEPA).

The hearing will be held July 19, 1989, at 7 p.m. at:

The Virginia Beach City Council Chambers
City Hall Building, Second Floor
Municipal Center
Virginia Beach, Virginia 23456

The Coastal Primary Sand Dune Protection Act is a regulatory policy intended to preserve and protect coastal primary sand dunes in the Commonwealth. It was passed in 1980.

In March 1987, the Virginia General Assembly made changes and additions to the language in the 1985 amendment of the Coastal Primary Sand Dune Protection Act. These changes served to more clearly delineate Sandbridge Beach as an area in jeopardy from erosion, to expand the area included in the provision that owners of Sandbridge property shall not be prohibited from erecting and maintaining bulkheads, to protect the rights of adjacent property owners, and to supply measures designed to prevent the possibility of erosion between adjoining but noncontiguous bulkheads.

The new language also stated that the properties of those homeowners who wish to erect bulkheads must, in consultation with the Virginia Beach Wetlands Board and subject to review by the Virginia Marine Resources Commission, be "...in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge."

Other language appended to the Act required the applicant(s) to obtain written consent from adjacent property owners for the construction of the bulkhead, and required that the applicant(s) agree that in the future those adjacent owners be allowed to tie in to the bulkhead at no additional cost.

The 1988 General Assembly eliminated the requirement for the adjacent property owner's consent to the proposed construction of bulkheads. It further required that such construction be completed in three years.

Following severe coastal storms in April 1988, the City of Virginia Beach issued an emergency declaration and ordinance allowing Sandbridge property owners to receive bulkhead permits before August 31, 1988, without having their applications considered by the Virginia Beach Wetlands Board in public hearings. Storms during winter and spring of 1989 caused further damage to the Sandbridge area, including some of the new bulkheads.

The 1989 General Assembly amended the act to clarify the language by substituting and defining the word "beach" where the term "reach" had been used before.

All interested persons and organizations are invited to express their views. Oral presentations will be scheduled on a first come, first heard basis, and will be limited to a maximum of 10 minutes. Persons requiring additional information on this action should contact OCRM. Written comments will be accepted until August 2, 1989, and should be submitted to:

Mr. William Millhouser, South Atlantic & Gulf
Regional Manager
Office of Ocean & Coastal Resource Management
National Oceanic & Atmospheric Administration
1825 Connecticut Avenue, N.W., Room 721
Washington, D.C. 20235
(202) 673-5138

Copies should be sent to: Keith Buttlerman, Administrator, Council on the Environment, 903 Ninth Street Office Building, Richmond, Virginia 23219.

No verbatim transcript of the hearing will be prepared, but OCRM staff will record the general thrust of the remarks. All comments received at this hearing and in writing before August 2, 1989, will be fully considered in the development of the NEPA documents and the final decision on the approval of the Commonwealth's request.

For additional information, contact David Kaiser, NOAA, (202) 673-5138 or Sharon Anderson, Council on the Environment, (804) 786-4500.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Grant Program

The Department of Housing and Community Development was designated administering agency for distribution of state funds appropriated by the General Assembly under the Homeless Prevention Program for the 1989 session. The funds are being made available under the State Homeless Housing Assistance Program and the

General Notices/Errata

program name will be SHARE-Homeless Intervention Program. The program will operate for one year at approximately eight demonstration sites, offering temporary rental, mortgage, and security deposit assistance. An informal advisory committee was established to gather input on program design.

Notice is hereby given of the availability of grants to eligible project sponsors under the SHARE-Homeless Intervention Program (application deadline - July 21, 1989 - amount available statewide - \$1.026 million).

For requesting program information or application manuals contact: Rebecca C. Miller, Program Manager, Virginia Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219, telephone (804) 786-7891

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-02-4.194. **Methods and Standards for Establishing Payment Rates - Long-Term Care.**

Publication: 5:4 VA.R. 584 November 21, 1988

Correction to the Final Regulation:

Page 584, the effective date of the final regulation is being changed from January 1, 1989, to July 1, 1989.

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: Core Standards.

Publication: 5:17 VA.R. 2426 May 22, 1989

Correction to the Final Regulation:

Page 2426, line eight of the definition of "Behavior Management," the word "technicalities" needs to be changed to "techniques." A typographical error was made in the submission package.

Page 2427, line six of the definition of "Corporal Punishment," which beings at the bottom of page 2426, the punctuation after the word "pulling" needs to be changed from a comma to a semicolon.

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

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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 OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 27, 1989 - 10 a.m. – Public Hearing
Washington Building, 1100 Bank Street, Board Room, 2nd Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and other Animals or Birds into Virginia.** The amendment to the regulation is necessary to establish a program in Virginia for the eradication of pseudorabies in swine and to improve the regulation's clarity and effectiveness.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Written comments may be submitted until August 28, 1989, to William D. Miller, D.V.M., State Veterinarian, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or SCATS 786-2483

September 27, 1989 - 10 a.m. – Public Hearing
Washington Building, 1100 Bank Street, Board Room, 2nd Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to adopt regulations entitled: **VR 115-02-16. Rules and Regulations Governing Pseudorabies in Virginia.** The regulation is necessary to establish a program in Virginia for the eradication of pseudorabies in swine.

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Written comments may be submitted until August 28, 1989, to William D. Miller, D.V.M., State Veterinarian, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 600, Richmond, Virginia 23219.

Contact: Paul J. Friedman, D.V.M., Chief, Bureau of Veterinary Services, Division of Animal Health, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or SCATS 786-2483

STATE AIR POLLUTION CONTROL BOARD

† **September 6, 1989 - 10 a.m. – Public Hearing**
Department of Air Pollution Control, Southwest Virginia Regional Office, 121 Russell Road, Abingdon, Virginia

† **September 6, 1989 - 10 a.m. – Public Hearing**
Department of Air Pollution Control, Valley of Virginia Regional Office, 5338 Peters Creek Road, Suite D, Roanoke, Virginia

† **September 6, 1989 - 10 a.m. – Public Hearing**
Department of Air Pollution Control, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia

† **September 6, 1989 - 10 a.m. – Public Hearing**
Department of Air Pollution Control, State Capitol Regional Office, 8205 Hermitage Road, Richmond, Virginia

† **September 6, 1989 - 10 a.m. – Public Hearing**
Department of Air Pollution Control, Hampton Roads Regional Office, Old Greenbrier Road, 2010 Old Greenbrier Road, Chesapeake, Virginia

Calendar of Events

† September 6, 1989 - 10 a.m. – Public Hearing
Department of Air Pollution Control, National Capitol
Regional Office, Springfield Towers, Suite 502, 6320
Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate newly promulgated federal New Source Performance Standards and National Emissions Standard for Hazardous Air Pollutants.

STATEMENT

Subject: Documents Incorporated by Reference.

Substance: The amendments update the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from whom it may be obtained. The amendments also update the list of NSPS and NESHAPS incorporated by reference found in Rule 5-5 and Rule 6-1 of the agency's regulations.

Purpose: The purpose of the proposed amendments is to change the agency's regulations to provide the latest edition of referenced documents and incorporate newly promulgated federal NSPS and NESHAPS.

Basis: The basis for incorporating documents by reference is § 9-6.18 of the Virginia Register Act.

Issues: The issue is whether the regulation should specify the most current edition of any documents incorporated by reference and whether the agency should obtain delegation of authority to enforce the newly promulgated federal standards.

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

Written comments may be submitted until September 6, 1989, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249 or SCATS 786-1249

VIRGINIA BOATING ADVISORY BOARD

July 21, 1989 - 2 p.m. – Open Meeting

Bernard's Landing Marina, Smith Mountain Lake, Virginia

Discussion of and action on issues of concern to Virginia's recreational boaters. Focus of July 21 meeting is on boating problems at Smith Mountain Lake.

Contact: E. L. (Ron) Rash, Member, Boating Advisory Board, P.O. Box 2177, Lynchburg, VA 24551, telephone (804) 845-2371

BOARD FOR BRANCH PILOTS

July 18, 1989 - 10 a.m. – Open Meeting
Virginia Port Authority, World Trade Center, Suite 600,
Norfolk, Virginia. ☒

The board will meet to conduct routine business at its regular quarterly business meeting.

Contact: David E. Dick, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500 or toll-free 1-800-552-3016

* * * * *

† September 7, 1989 - 9 a.m. – Public Hearing
Virginia Port Authority, World Trade Center, Suite 600,
Norfolk, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to adopt, amend and repeal regulations entitled: **VR 535-01-01. Branch Pilot Regulations.** The purpose of the proposed amendments is to continue and revise the standards for Branch Pilot licensure, continued licensure and conduct in piloting vessels in Virginia's waters.

STATEMENT

Statement of basis, purpose and impact: Pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 of the Code of Virginia, the Board for Branch Pilots proposes to amend, by adding to, repealing and reorganizing, its existing regulation governing Branch Pilots.

The above cited chapter provides a basis for protecting the public health, safety and welfare; for assuring the safety of vessels transiting Virginia's navigable waterways; and for protecting the safety of Virginia's waters and ports by empowering the Board for Branch Pilots (formerly the Board of Commissioners to Examine Pilots) to regulate Branch Pilots in Virginia.

The purpose of the regulation is to create standards for licensure, continued licensure and conduct by licensees which assure that only competent individuals become licensed and continue to be licensed. Further, that those so licensed pilot vessels in a manner which protects both the

vessel and Virginia's waters and ports.

The 1988 Session of the Virginia General Assembly passed Senate Bill 238 which revised, rearranged, amended and recodified the laws of Virginia relating to professions and occupations. The laws governing Branch Pilots were among those revised and recodified. Senate Bill 238 became law on January 1, 1989. While the revised Code made few substantive changes, the proposed regulation was carefully developed to assure its proper implementation.

The proposed regulation applies directly to 51 individuals licensed as Branch Pilots or Limited Branch Pilots and indirectly to the masters and owners of the vessels and the owners of the cargos on those vessels transiting Virginia's waters which are required by statute to use the services of a pilot. Pilots are individuals licensed to assure the safe passage of vessels from sea to any port or point (such as an anchorage) in Virginia and from any port or point to sea as well as from any port or point in Virginia to another port or point in Virginia. The proposed regulation also applies indirectly to all citizens of the Commonwealth whose livelihood or recreation depend upon the continued integrity of Virginia's waters. Poor performance or error on the part of a pilot could result in hazardous materials being spilled into Virginia's waters or in hazards to navigation which could interrupt commerce and interfere with the timely passage of U.S. warships. The recent tanker vessel oil spill in Alaska is an example of the environmental and economic harm which could result from pilot error.

The fees charged by pilots for their services are, by statute, determined by the Virginia State Corporation Commission. Any aspect of the proposed regulation which may result in increased costs to pilots may not be passed on to consumers through fee increases without the approval of the State Corporation Commission.

A summary of the provisions of the proposed regulation and their estimated impact is as follows.

1. Proposed § 1.1 is a revision of the current §§ 1.1.1 and 1.1.2 which continues the requirement that all applicants for licensure possess a valid federal pilot license and adds specific apprenticeship and examination requirements as conditions of initial licensure. No impact is expected as the new provisions reflect the board's past custom and practice, and have been added to clarify the board's specific entry standards.

2. Proposed § 2.1 is a revision of current §§ 1.2.1, 1.2.2, 1.3.1, 1.4.1, 1.4.2, 1.4.3, 1.4.4 and 1.4.5 which continues the requirement that all pilots desiring to renew their licenses appear before the board and present evidence of a satisfactory physical examination, of continued competence to pilot vessels on waters authorized by the individual's license and of compliance with the requirement to post a bond and take an oath. (The revision adds a requirement to

post a bond and take an oath.) The revision adds a requirement that those renewing also show evidence of having maintained certain federal licenses. No impact is expected as both the old and the new provisions reflect the board's past custom and practice. It has been determined that all current licensees meet the federal license requirement and will not be adversely impacted by the new provision.

3. Proposed § 3.1 is a new provision which formally establishes a procedure for licensees to qualify to pilot vessels in additional waters. No impact is expected as the provision reflects the board's past custom and practice.

4. Proposed § 4.1 is a revision of current §§ 1.3, 1.2.3, 1.5, 1.8, 1.9, and 2.2 which continues the board's authority to discipline pilots who fail to file a bond and take an oath; who perform their duties while under the influence of alcohol or drugs; and who fail to report specified information concerning the passage of vessels and any incidents which occur during the passage. The provision adds grounds for discipline for pilots who fail to report to the board certain criminal convictions; who fail to report disciplinary actions of the United States Coast Guard or the National Transportation Safety Board; who are negligent in the performance of their duties; who violate or cooperate with others in violating the laws or regulations governing pilots; who fail to submit to the board evidence that they are free of any physical, emotional or psychological impairments; or who fail to submit the results of a drug test. An indication of drug or alcohol induced impairment is grounds for disciplinary action under the proposed regulation. No impact is expected for those who comply.

5. The proposed regulation repeals provisions of the current regulations which require a medical certificate upon the occasion of a pilot reaching age 72; allow disciplinary action for a pilot's improper conduct while not engaged as a pilot; require the maintenance of a sufficient complement of pilots; allow disciplinary action without a hearing under the Administrative Process Act; and specify who shall receive on behalf of the board the reports required by regulation. All were deleted to comply with current law or because the board determined the requirements were no longer necessary. No impact is expected to result.

Statutory Authority: § 54.1-902 of the Code of Virginia.

Written comments may be submitted until September 5, 1989.

Contact: David E. Dick, Deputy Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8500, toll-free 1-800-552-3016 or SCATS 367-8500

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

July 6, 1989 - 5:30 p.m. - Open Meeting
August 3, 1989 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001
Ironbridge Road, Room 502, Chesterfield Virginia. ☒

To meet requirements of Superfund Amendment and
Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services
Coordinator, Chesterfield Fire Department, P.O. Box 40,
Chesterfield, VA 23832, telephone (804) 748-1236

CONSORTIUM ON CHILD MENTAL HEALTH

† July 14, 1989 - 9 a.m. - Open Meeting
† August 2, 1989 - 9 a.m. - Open Meeting
† September 6, 1989 - 9 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,
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

July 14, 1989 - 8:30 a.m. - Open Meeting
August 11, 1989 - 8:30 a.m. - Open Meeting
September 8, 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

STATE BOARD FOR COMMUNITY COLLEGES

† July 19, 1989 - 2 p.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Board
Room, 15th Floor, Richmond, Virginia. ☒

The state board will meet at 2 p.m. for a working
session followed by a meeting of the state board
committees at 3 p.m.

Contact: Joy S. Graham, James Monroe Bldg., 101 N. 14th
St., Richmond, VA 23219, telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Goose Creek Advisory Board Meeting

July 12, 1989 - 10 a.m. - Open Meeting
Loudoun County Administration Offices, 18 North King
Street, Leesburg, Virginia.

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program
Manager, Department of Conservation and Historic
Resources, 203 Governor St., Suite 326, Richmond, VA
23219, telephone (804) 786-4132 or SCATS 786-4132

Division of Planning and Recreation Resources

† July 13, 1989 - 9:30 a.m. - Open Meeting
State Capitol, House Room 1, Richmond, Virginia. ☒

A business meeting of this advisory board to review
statewide recreation matters.

Contact: Art Buehler, Director, Division of Planning and
Recreation Resources, Department of Conservation and
Historic Resources, 203 Governor St, Suite 326, Richmond,
VA 23219, telephone (804) 786-5046 or SCATS 786-5046

BOARD FOR CONTRACTORS

† August 7, 1989 - 7:30 p.m. - Public Hearing
Roanoke, Virginia

† August 8, 1989 - 7:30 p.m. - Public Hearing
Fredericksburg, Virginia

† August 9, 1989 - 7:30 p.m. - Public Hearing
Williamsburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for Contractors
intends to adopt, amend and repeal regulations
entitled: **VR 220-01-2. Board for Contractors Licensing
Regulations.** The proposed regulations have been
reorganized to place entry requirements before
renewal, list fees at appropriate places, and to
separate standards of practice from standards of
conduct. In addition, in accordance with changes made
by the Code Commission to Title 54.1, Chapter 11 on
the regulation of contractors, the term "registration"
has been added in the appropriate places. The

proposed regulations also change some of the conditions for licensure, add the requirement for licensure of an individual Class A contractor for every licensed Class A firm, delete the requirement for board-administered examinations for certain specialty classifications, and substitute the requirement of a master certification from the Department of Housing and Community Development in those specialties. In addition, the regulations require assurance of continued competence for renewal or reinstatement of a license or registration and require some additional documentation of contractual agreements, record keeping and reporting to the board.

STATEMENT

Statement of basis, purpose, impact and summary: Pursuant to § 54.1-1102 of the Code of Virginia and in accordance with Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, the Board for Contractors proposes to amend, add to, delete and reorganize its existing regulations governing licensed and registered contractors.

The regulations require licensure of firms and individuals performing construction, removal, repair or improvements when the total value referred to in a single contract is \$40,000 or more; or the total value of such construction, removal, repair or improvement undertaken by such firm or individual within any twelve-month period is \$300,000 or more. The regulations further require registration of any firm which performs construction, removal, repair or improvements when the total value referred to in a single contract is \$1,500 or more but less than \$40,000, and registration of any firm contracting to construct a water well to reach ground water as defined in § 62.1-44.85, regardless of contract amount. In addition, the regulations establish standards of practice and standards of conduct for all of these licensees and registrants.

These regulations apply directly to approximately 16,755 licensed Class A firms, 16,755 individuals who will be required to hold Class A licenses, and 26,277 registered Class B firms.

The proposed regulations have been reorganized to place entry requirements before renewal, list fees at appropriate places, and to separate standards of practice from standards of conduct. In addition, in accordance with changes made by the Code Commission to Title 54.1, Chapter 11 on the regulation of contractors, the term "registration" has been added in the appropriate places. The proposed regulations also change some of the conditions for licensure, add the requirement for licensure of an individual Class A contractor for every licensed Class A firm, delete the requirement for board-administered examinations for certain specialty classifications, and substitute the requirement of a master certification from the Department of Housing and Community Development in those specialties. In addition,

the regulations require assurance of continued competence for renewal or reinstatement of a license or registration and require some additional documentation of contractual agreements, record keeping and reporting to the board.

A summary of the major proposed changes and their estimated impact is as follows:

1. The definition of "building contractor" is amended to be consistent with the definition of "contractors" found in § 54.1-1100 of the Code of Virginia. No impact from this clarification is anticipated.
2. The section on renewal (formerly § 1.2) is moved to follow the section on entry in order to provide a more logical order. It is anticipated that this change will assist applicants in their efforts to comply with these requirements. Regulations which address the implementation of staggered renewals have been deleted as they are now obsolete.
3. Fees listed in §§ 1.3, 1.4, 1.5 and 1.6 have been moved and placed in the appropriate sections throughout the regulations (i.e., examination and application fees in the entry section, renewal/reinstatement fees in the renewal/reinstatement section). This change should facilitate applicants' efforts to carry out the procedures for each of these requirements.
4. Proposed § 2.1 clarifies the requirements for Class B registration in accordance with §§ 54.1-204, 54.1-1107.1, and the definition of "registration" in § 54.1-300 of the Code of Virginia. Registration procedures will not change as a result of this proposed regulation which replaces old § 2.3.
5. Proposed § 2.2 A, B, C and D alters the standards for Class A licensure of a firm by adding requirements for employment of a Class A licensed individual, reporting of disciplinary actions on contractor licenses issued to the firm in other jurisdictions, and the provision of specific information on the ability of the firm to meet its financial obligations. These provisions should increase protection to consumers by identifying a specific responsible individual in each licensed firm and by assuring that financially unstable firms do not become licensed. Applicants for Class A licenses for firms will be required to submit additional information not required under current regulations, but they will also be free of past requirements for references from suppliers, customers and financial institutions as these have been deleted.
6. Proposed § 2.3 eliminates the requirement for firms applying for licensure in certain specialty classifications to have a qualified individual take an examination administered by the department on behalf of the board. Instead, a master's certification from the Department of Housing and Community Development

Calendar of Events

in the specialty must be provided. This change will relieve the Department of Commerce of the administration of examination which are repetitious of those offered by Housing and Community Development, and relieve the qualifying individuals from the obligation to take two tests. Protection of consumers will not be jeopardized, as the standards for a master's certification are equal to the standards currently required by the Department of Commerce examinations.

7. Proposed § 2.4 will allow firms with current Class A licenses at the effective date of the proposed regulations to submit to the board on or before July 1, 1990 the name of a proposed individual for a Class A license who will not be required to meet the financial responsibility standards in proposed § 2.5 C or to take the examination required by proposed § 2.5 E. This "grandfather" clause will provide an opportunity for experienced firms to meet the requirements for having a licensed individual in responsible charge without placing an undue burden on these currently licensed firms. Consumers will be protected by the assurance that a licensed individual, subject to the statutes and regulations of the board, will be in responsible charge of each licensed firm as of July 1, 1990.

8. Section 2.5 subsections A, B, C, D and E sets forth requirements for licensure of individual Class A contractors. These requirements include reporting of criminal convictions and reporting of any disciplinary actions against contractor licenses issued to the applicant in other jurisdictions. After January 1, 1991, these proposed regulations will also require the provision of information to assure the applicant's ability to meet the financial obligations and the achievement of a passing grade on an examination on the board's regulations and other knowledge necessary to manage a contracting firm. These requirements will significantly improve the protection of consumers by identifying a qualified responsible individual in each licensed firm. These new licenses will double the number of Class A licensees and thus substantially increase the workload in the Department of Commerce, requiring several additional positions in the agency. It is anticipated that the examination will be contracted out to a vendor.

9. Proposed § 2.6 allows for issuance of a Class A individual license to an applicant from another jurisdiction who has met the requirements of § 2.5 A, B and C and passed a substantially equivalent examination in the jurisdiction of original licensure. This proposal will facilitate reciprocal licensure while assuring that the public is protected by the maintenance of consistent standards for all applicants for individuals Class A licenses.

10. Section 2.7 alerts licensees/registrants to a procedure already in effect at the department

requiring that all past due contractor recovery fund assessments be paid prior to issuance of a new license.

11. Section 2.8 sets forth all fees associated with licensure, registration and examination. New fees have been adopted by separate motion of the board in accordance with § 54.1-113 of the Code of Virginia.

12. Section 3.3 A, B, C, and D sets forth procedures, fees, and requirements for renewal of licensure or registration. These include a new requirement that applicants for renewal state that they meet current entry standards. This requirement will provide continued protection to the public and demand new information only from those who cannot meet the required standards. This proposal will increase the workload of department staff who will have to respond to inquiries about this requirement and to review this information for presentation to the board.

13. Section 3.4 A, B, C and D sets forth the procedures, fees, and standards for reinstatement of a license or registration. The most significant impact of this proposal will be the requirement to reapply as a new applicant once six months from the expiration date of the license has passed. This standard will provide increased protection to consumers by requiring requalification in order to ensure continued competence of licensees/registrants. Regulators who fail to renew or reinstate within the prescribed time will experience the impact of this proposal in having to reapply for licensure or registration.

14. Section 3.5 states authority of the board to deny renewal or reinstatement of a license or registration for the same reasons as the board may deny entry. This proposal simply alerts regulators to the authority of the board.

15. Section 4.1 is revised to state more precisely the basis on which the board may deny continuation of a license/registration upon notification of a change in the management personnel of the licensed/registered firm. The proposal also adds the licensed individual Class A contractor to the listed positions for which a change in personnel must be reported.

16. Section 4.3 revises the procedures for changing or adding specialty classifications to Class A licenses in accordance with § 2.3. The fee required remains the same. This section also sets a time limit of 120 days for notice to the board of the departure of the certified individual, after which time the firm must either seek a new license without the specialty designation or provide the board with the name of a new employee who meets the requirements of § 2.3.

17. Section 5.1 2 allows the board to take disciplinary action against a licensee who provides substantially inaccurate or incomplete financial information when seeking to reinstate a license. Previously this

regulation addressed only initial entry or renewal. Applicants for reinstatement are currently required to meet this standard; the additional language simply clarifies the application of the requirement.

18. Section 5.1 3 requires licensees/registrants to report to the board in writing the suspension or revocation of a contractor license issued by another jurisdiction and to report any conviction in a court of competent jurisdiction of a building code violation. These requirements are consistent with the entry requirements in §§ 2.1, 2.2 B and 2.5 A and B. This regulation will allow the board to discipline regulants who fail to comply with this requirement, thus enabling increased protection of the public.

19. Section 5.1 6 institutes the requirement of a written contract containing specified information. This contract is to be used in all building contracting transactions as defined in § 1.1 of the regulations, excluding routine maintenance or service contracts. This proposals will have an impact on licensees/registrants who do not currently use such contracts or who may have to revise the forms which they currently use. The proposal will significantly increase protection to both consumers and regulants by assuring written agreement prior to payment and commencement of work. The statement provided to consumers specified in § 5.6 6 i is attached to this proposal and will be provided to regulants by the department.

20. Section 5.1 7 requires delivery of a fully executed copy of the contract (required by § 5.1 6) to the consumer prior to the commencement of work. This proposal assures that the consumer has this document before any work is done so that he can move to enforce the terms of the contract if necessary.

21. Section 5.1 8 requires a regulant to maintain records of contracting transactions for three years from the date of contract. This documentation protects both parties to the transactions by providing evidence which can establish the actual terms of the contract. These records should also enable department staff and the board to draw more accurate conclusions in reviewing complaints filed with the department.

22. Section 5.1 9 allows the board to take disciplinary action against a licensee/registrant for refusing to provide the documents referenced in § 5.1 8 or failing to cooperate in the investigation of a complaint filed with the board against the contractor. This proposal strengthens the ability of the board to protect the public by conducting thorough investigation of consumer complaints.

23. Section 5.1 10 is revised to define "abandonment" as the intentional and unjustified failure to complete work. The proposed regulation also states that unjustified cessation of work for 90 days or more shall

be considered evidence of abandonment. These changes should allow for more precise application of this regulation in cases in which allegations of abandonment are brought to the board.

24. Section 5.1 15 allows the board to consider disciplinary action against a regulant who is convicted or found guilty of any felony or of a misdemeanor involving lying, cheating or stealing. This proposal ensures that those currently licensed/registered continue to meet the standards required for entry, thus protecting the public.

25. Section 5.1 16 requires all regulants to report to the board the convictions outlined in § 5.1 15 within 30 days of the conviction or guilty plea. The regulation will allow the board to take disciplinary action against any regulant who conceals this information.

All changes, deletions, and additions to the regulations not discussed above are not substantive in nature but are made for the purpose of clarification and consistency.

Statutory Authority: §§ 9-6.14:7.1 and 54.1-1102 of the Code of Virginia.

Written comments may be submitted until September 3, 1989.

Contact: Florence R. Brassier, Deputy Director, Board for Contractors, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8557, toll-free 1-800-552-3016 or SCATS 367-8557

VIRGINIA COUNCIL FOR THE COORDINATION OF PREVENTION

† July 21, 1989 - 10 a.m.

State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

The agenda includes (i) presentation of an award to the Governor; (ii) distribution of the printed Comprehensive Prevention Plan; and (iii) discussion of how to implement the prevention plan recommendations.

Contact: Ron Collier or Harriet Russell, Office of Prevention, Promotion and Library Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530

BOARD OF CORRECTIONS

† July 19, 1989 - 10 a.m. - Open Meeting

Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ☒

Calendar of Events

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

August 3, 1989 - 7 p.m. – Public Hearing
Holiday Inn Airport, 6626 Thirlane Road, Roanoke, Virginia

August 16, 1989 - 10 a.m. – Public Hearing
Board of Corrections, 6900 Atmore Drive, Meeting Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Corrections intends to adopt regulations entitled: **VR 230-30-005. Guide for Minimum Standards in Design and Construction of Jail Facilities.** These regulations establish minimum standards for the design and construction of jail facilities.

Statutory Authority: § 53.1-68 of the Code of Virginia.

Written comments may be submitted until August 18, 1989.

Contact: Dave Hawkins, Architect, Department of Corrections, Architecture and Design Unit, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3231 or SCATS 674-3231

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

NOTE: CHANGE OF HEARING DATE

September 15, 1989 - 10 a.m. – Public Hearing
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Criminal Justice Services intends to amend regulations entitled: **VR 240-02-1. Regulations Relating to Criminal History Record Information Use and Security.** Regulations to ensure the completeness, accuracy, privacy and security of criminal history record information. Amendments expand present language to provide further clarification of procedures.

Statutory Authority: §§ 9-170 and 9-184 through 9-196 of the Code of Virginia.

Written comments may be submitted until August 30, 1989.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000 or SCATS 786-4000

BOARD OF DENTISTRY

† **July 12, 1989 - 2 p.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A formal hearing regarding Richard Stone, D.D.S.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906

STATE BOARD OF EDUCATION

July 27, 1989 - 9 a.m. – Open Meeting
July 28, 1989 - 9 a.m. – Open Meeting
James Monroe Building, 101 North Fourteenth Street, Conference Rooms D & E, Richmond, Virginia. (Interpreter for deaf provided if requested)

Business will 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

DEPARTMENT OF EDUCATION

† **August 31, 1989 - 7 p.m. – Public Hearing**
Hermitage High School, Richmond, Virginia
Lake Taylor High School, Norfolk, Virginia
George Wythe High School, Wytheville, Virginia
Osborn High School, Manassas, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to amend regulations entitled: **VR 270-01-0012. Standards for Accrediting Public Schools in Virginia.** These regulations provide a foundation for quality education and provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests and aspirations of students. These proposed regulations establish minimum standards and criteria which serve as the basis for determining the accreditation status of public schools in the Commonwealth.

STATEMENT

Subject: Establish standards for accrediting elementary, middle, and secondary schools in the Commonwealth.

Design criteria for measuring compliance with the established standards.

Substance: To ensure that all elementary, middle, and

secondary schools in the Commonwealth meet requirements of § 22.1-19 of the Code of Virginia and the Standards of Quality.

To meet the requirements of Standard 3F of the Standards of Quality, which states that "Each school board shall maintain schools which meet the standards of accreditation as prescribed by the Board of Education."

Purpose: The Standards for Accrediting Public Schools in Virginia are designed to provide a minimum foundation for quality education. Accreditation standards provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspirations of all students. The accreditation standards are designed to achieve the following objectives:

Seek to ensure that schools provide educational programs of high quality for all students.

Encourage continuous appraisal and improvement of the school program.

Foster public confidence.

Assure recognition by other institutions of learning.

Assist in determining the educational performance of schools.

Statutory Authority: §§ 22.1-16 and 22.1-19 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Dr. Robert B. Jewell, Associate Director, Accreditation and Evaluation Service, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2105

COUNCIL ON THE ENVIRONMENT

† **July 17, 1989 - 7 p.m.** – Open Meeting
Wilton Museum House, South Wilton Road, Richmond, Virginia. ☐

A quarterly meeting to consider and discuss statewide environmental issues. Citizens will be given an opportunity to express their views during the citizens' forum portion of the meeting.

Contact: David J. Kinsey, Special Projects Coordinator, Council on the Environment, 202 N. Ninth St., Room 900, Richmond, VA 23219, telephone (804) 786-4500 or SCATS 786-4500

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

July 19, 1989 - 10 a.m. – Open Meeting
State Capitol Building, House Room 2, Richmond, Virginia. ☐

A regular meeting of the board.

Contact: Marilyn Mandel, Planning, Research and Policy Analysis Director, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

August 27, 1989 - 3 p.m. – Open Meeting
August 28, 1989 - 9 a.m. – Open Meeting
Koger Center - West, 1601 Rolling Hills Drive, Surry Building, Richmond, Virginia.

August 27, 1989 - Preneed Committee Meeting.

August 28, 1989 - Certify candidates for September examination, general board meeting, and discuss proposed regulations.

Contact: Mark L. Forberg, Executive Director, 1601 Rolling Hills Dr., Richmond, VA, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

July 7, 1989 - 10 a.m. – Open Meeting
Virginia Museum of Fine Arts, Main Conference Room, Richmond, Virginia. ☐

The board will advise the Director of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Rancorn, Wildman & Krause, Architects, P.O. Box 1817, Newport News, VA 23601, telephone (804) 867-8030

GLOUCESTER COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† **August 30, 1989 - 6:30 p.m.** – Open Meeting
The Old Courthouse, Gloucester, Virginia. ☐

The committee will conduct a table top exercise to test the recently approved County Hazardous Materials Plan.

Contact: Georgette N. Hurley, Assistant County

Calendar of Events

Administrator, P.O. Box 329, Gloucester, VA 23061,
telephone (804) 693-4042

BOARD OF HEALTH

† August 8, 1989 - 10 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to amend regulation entitled: **VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** This action amends the existing Virginia Medicare Care Facilities Certificate of Public Need (COPN) Rules and Regulations in order to implement the COPN program consistent with amended COPN law that becomes effective on July 1, 1989.

STATEMENT

Legal authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Summary, purpose, need: These regulations primarily incorporate amendments to the certificate of public need law that become effective on July 1, 1989, in order to assure program compliance with the law. The amendments to the certificate of public need law provide for the deregulation of certain medical care facility projects that previously required authorization by the State Health Commissioner prior to development and operation.

The proposed amendments to the regulation include the following:

1. Modified definitions of medical care facility and project to reflect a change in projects subject to certificate of public need review beginning July 1, 1989; deletion of definitions for health systems agencies, health services area, health systems plan and Statewide Health Coordinating Council; addition of definitions for regional health planning agencies, health planning region, regional health plan and Virginia Health Planning Board in accordance with changes to the health planning law; modification of the definition of State Medical Facilities Plan.

2. The addition of a section identifying the process for registration of certain new clinical health services and major medical equipment acquisitions involving an expenditure of \$400,000 or more with the State Health Commissioner.

3. The addition of a new section describing the moratorium on the issuance of certificates for the addition of nursing home beds from July 1, 1989, until January 1, 1991. Exceptions to the moratorium are the conversion of existing licensed beds to skilled nursing

facility beds under certain conditions and the replacement or renovation on site of existing nursing homes in order to comply with licensure, life safety and accreditation standards.

4. The addition of a new section to advise of the deregulation of outpatient or ambulatory surgery clinics or centers and general hospitals except with respect to the establishment of nursing home beds as of July 1, 1991, notwithstanding any law to the contrary.

5. Modification to the provisions related to administrative hearings on certificate of public need requests prior to the decision of the State Health Commissioner.

6. Deletion of the section describing the exemption review procedure (15 day cycle) as a mechanism for obtaining a certificate of public need because of deregulation of certain clinical health services and major medical equipment.

Impact: Eliminates costs previously incurred by persons in obtaining certificates of public need and contains expenses to the Commonwealth in implementing the certificate of public need program because of the deregulation of certain medical care facility projects. The costs to the agency in implementing the certificate of public need program will be absorbed within the current budget structure.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Written comments may be submitted until 5 p.m., August 8, 1989.

Contact: Marilyn H. West, Director, Division of Resources Development, Department of Health, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-7463 or SCATS 786-7463

BOARD OF HEALTH PROFESSIONS

† July 28, 1989 - 11 a.m. - Open Meeting
Best Western Radford Inn, Exit 35, Interstate I-81,
Radford, Virginia. ☒

A regularly quarterly meeting of the board. The draft report on the evaluation of the enforcement system will constitute the major agenda item. Reports of the Regulatory Evaluation and Research Committee and the Administration and Budget Committee will be considered.

Regulatory Evaluation and Research Committee

† July 18, 1989 - 9 a.m. - Open Meeting
Best Western Radford Inn, Exit 35, Interstate I-81,

Radford, Virginia. ☒

The committee will consider further the issue of direct access to the services of licensed physical therapists and criteria for determining the need for and level of regulation of health occupations and professions.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† July 25, 1989 - 9:30 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371 or SCATS 786-6371

BOARD FOR HEARING AID SPECIALISTS

September 11, 1989 - 9 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulation entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.**

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

Written comments may be submitted until August 30, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-4917, telephone (804) 367-8534

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† July 5, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia. ☒

A monthly council meeting. The agenda is available upon request.

Contact: Marla Richardson, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2638

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 11, 1989 - 9 a.m. - Open Meeting
August 1, 1989 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† July 18, 1989 - 10 a.m. - Open Meeting
601 S. Belvidere Street, Richmond, Virginia. ☒

A regular meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) hold collections for chairman and vice chairman of the Board of Commissioners; (v) consider and, if appropriate, approve proposed amendments to the Rules and Regulations and Procedures, Instructions and Guidelines; and (vi) 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, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

August 21, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The purpose of this hearing is to receive public input on the proposed criteria for accrediting local jurisdictions' Building Code Academies. Localities which establish training academies for building code officials, that are consistent with these accreditation criteria, will be exempt from transmitting the 1% levy proposed for adoption in the Uniform Statewide Building Code, Volume I, New Construction Code.

Calendar of Events

See General Notices section for criteria.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

August 21, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-03. Survey Standards for the Inspection of Buildings Being Converted to Condominiums.** The purpose is to amend the survey standards for inspection of buildings being converted to condominiums for the presence of asbestos.

Statutory Authority: § 55-79.94 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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August 21, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Housing and Community Development intends to amend regulations entitled: **VR 394-01-06. Virginia Uniform Statewide Fire Prevention Code/1987 Edition.**

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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August 21, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-7. Asbestos Survey Standards for Buildings to be Renovated or Demolished.** The purpose is to amend the standards for inspection and management of buildings to be renovated or demolished.

Statutory Authority: § 36-99.7 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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August 21, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I, New Construction Code, 1987 Edition.**

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

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August 21, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code - Volume II Building Maintenance Code/1987.** The purpose is to amend those portions of the regulations pertaining to: Application to Pre-USBC and Post-USBC Buildings; Fire Protection Systems for Use Group R-1 (Hotels, Motels).

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until August 25, 1989.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or SCATS 371-7772

(804) 786-6508

VIRGINIA COUNCIL ON INDIANS

† **July 12, 1989 - 2 p.m.** – Open Meeting
Old City Hall, 1001 East Broad Street, AT&T Communications Conference Room, 1st Floor, Richmond, Virginia

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees

An orientation session will precede the council meeting.

† **September 18, 1989 - 2 p.m.** – Open Meeting
Old City Hall, 1001 East Broad Street, AT&T Communications Conference Room, 1st Floor, Richmond, Virginia

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Information Director, Virginia Council on Indians, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

COMMISSION ON LOCAL GOVERNMENT

† **July 10, 1989 - 11 a.m.** – Open Meeting
City Council Chambers, Manassas Park City Hall, One Park Center Court, Manassas Park, Virginia

An open meeting and oral presentations regarding the City of Manassas Park - Prince William County settlement agreement.

† **July 10, 1989 - 3 p.m.** – Open Meeting
City Council Chambers, Manassas Park City Hall, One Park Center Court, Manassas Park, Virginia

A regular meeting of the commission to consider such matters as may be presented.

† **July 10, 1989 - 7:30 p.m.** – Open Meeting
City Council Chambers, Manassas Park City Hall, One Park Center Court, Manassas Park, Virginia

An open meeting and public hearing regarding the City of Manassas Park - Prince William County settlement agreement.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone

LONGWOOD COLLEGE

Board of Visitors

July 6, 1989 - 9 a.m. – Open Meeting
July 7, 1989 - 3 p.m. – Open Meeting
College Campus, Longwood House, Farmville, Virginia. ☒

A meeting to conduct business pertaining to the governance of the institution/retreat.

Contact: William F. Dorrill, Longwood College, Farmville, VA 23901, telephone (804) 392-9211 or SCATS 265-4211

MARINE RESOURCES COMMISSION

† **July 11, 1989 - 9:30 a.m.** – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒

The Virginia Marine Resources Commission will meet on the first Tuesday of each month, except July, at which time the meeting will on Tuesday, July 11, 1989. The commission hears and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It also hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-2208

BOARD OF MEDICAL ASSISTANCE SERVICES

July 12, 1989 - 9 a.m. – Open Meeting
July 12, 1989 - 1 p.m. – Retreat
July 13, 1989 - 9 a.m. – Retreat
Hotel Roanoke, Roanoke, Virginia

Board Meeting - July 12 at 9 a.m. - noon

Retreat - July 12 at 1 p.m. - 6 p.m.

Retreat - July 13 at 9 a.m. - 12:30 p.m.

Contact: Jacqueline Fritz, Legislative Analyst, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

Calendar of Events

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

July 20, 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: **State Plan for Medical Assistance Relating to Preadmission Screening. VR 460-01-46. Utilization Control and VR 460-02-4.141. Criteria for Nursing Home Preadmission Screening: Medicaid Eligible Individuals and All Mentally Ill and Mentally Retarded Individuals At Risk of Institutionalization.** These regulations contain the requirements for patient preadmission screening prior to nursing facility admittance.

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

Written comments may be submitted until 4:30 p.m., July 20, 1989, to Charlotte C. Carnes, Manager, Medical Social Services, 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

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† September 1, 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 Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.191. Disproportionate Share Adjustments for Inpatient Hospitals.** These proposed regulations intend to regulate the additional reimbursement to qualifying hospitals which serve a disproportionately higher number of Medicaid days.

STATEMENT

Basis and authority: Section 32.1-325 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. 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.

This regulatory action conforms the Plan for Medical Assistance to the requirements of § 4112 of the Omnibus Budget Reconciliation Act of 1987 and the Medicare Catastrophic Coverage Act of 1988.

Purpose: The purpose of this proposal is to implement federal legislative requirements regarding payment of disproportionate share adjustments to certain qualifying hospitals.

Summary and Analysis: Congress enacted § 4112 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987) which established minimum uniform requirements for the states to follow in establishing methods for defining disproportionate share hospitals and determining payment adjustments. The Department of Medical Assistance Services' (DMAS) initial analysis of this legislation indicated that the current State Plan was in compliance with the new criteria and that Virginia qualified under the Special Rule at § 4112 e.

In May, 1988, the Health Care Financing Administration (HCFA) issued Interim Manual Instructions to the State Medicaid Manual, at §IM 6000, which required the states to "...submit, no later than May 15, 1988, either: an assurance with the appropriate related information indicating compliance with § 4112; or a statement indicating that an amendment is necessary and will be submitted no later than July 1, 1988." The Interim Manual instructions at §IM 6000.5 repeated the Special Rule contained in OBRA 1987.

On May 12, 1988, DMAS assured HCFA that Virginia was in compliance with § 4112 of OBRA 1987 under the Special Rule and provided the required information to demonstrate compliance. On August 8, 1988, HCFA advised, in correspondence dated August 1, 1988, that the Medicare Catastrophic Coverage Act, effective July 1, 1988, made a number of technical and clarifying amendments to § 4112 of OBRA 1987. One of these changes amended the Special Rule to clarify that qualifying states must have payment adjustments in their plans "...based on a pooling arrangement involving a majority of the hospitals participating under the plan." The HCFA correspondence further pointed out that the conference committee report stated that it was Congress' intent that the special rule in § 4112 OBRA 1987 apply only to the State of New York.

The HCFA letter concluded by requesting that DMAS either submit additional information regarding qualification under the special rule or submit an amendment to the State Plan with an effective date of July 1, 1988, which would bring the Commonwealth into compliance with the requirements of § 4112 of OBRA 1987.

Section 4112 of OBRA 1987 addressed two sets of minimum uniform criteria for deeming a hospital eligible for a disproportionate share adjustment, as well as the minimum payment adjustment criteria. The minimum eligibility criteria concern the Medicaid inpatient utilization rate, the low income utilization rate, and certain obstetrical care requirements. Section 4112 provided that a state could use another definition of a disproportionate share hospital as long as it included these elements. The minimum payment criteria concern additional payment amounts related to the disproportionate share adjustment

percentage. As with the eligibility criteria, § 4112 allowed states to use their own definition of payment amounts as long as payments were made to qualifying hospitals and the minimum criteria of the new federal law were met.

In addition, § 4112 of OBRA 1987 permitted no more than a 3 year phase-in period for the payment adjustments. As of July 1, 1988, the adjustments must be at least one-third the amount of the full payment adjustment; as of July 1, 1989, the payment must be at least two-thirds the full payment adjustment; and as of July 1, 1990, the states must pay the full amount of the payment adjustment.

Before OBRA 1987, the State Plan provided a more liberal adjustment for disproportionate share hospitals than the OBRA minimum requirements and contained three provisions which did not comply with OBRA. Those 3 provisions were:

1. a hospital must exceed the Medicaid ceiling to receive a disproportionate share adjustment;
2. a hospital's disproportionate share adjustment is limited to an increase of 30% due to Medicaid utilization;
3. the disproportionate share adjustment is added to a provider's peer group ceiling on operating costs. This ceiling is subsequently compared to the provider's allowable operating cost and the provider receives the lower of the two as its prospective operating per diem rate. A provider whose operating cost is either below its ceiling or not very far above it will receive either no benefit from a disproportionate share increase to the ceiling or only a partial benefit.

After the federal law change rendered the State Plan inconsistent, the department filed an emergency regulation which may require extension, pursuant to the Administrative Process Act § 9-6.14.9, and submitted to HCFA State Plan amendment 88-20 (SPA 88-20) containing the language of the emergency regulation. The SPA 88-20 package, effective July 1, 1988, as required in federal law and the HCFA correspondence referenced earlier, was timely postmarked to satisfy HCFA's filing requirements.

HCFA, in approving the Commonwealth's disproportionate share adjustment methodology, has disapproved the effective date of SPA 88-20 for federal financial participation. The reason cited was the department's failure to comply with 42 CFR 447.205. This federal regulation requires that substantive changes be published in a public notice before its effective date. Due to the actions of Congress and HCFA, as related above, complying with this requirement was impossible. The department is appealing HCFA's decision on the basis that statutory compliance takes precedence over administrative rule.

Impact: Under Virginia's current prospective payment

system, 32 hospitals qualify and receive disproportionate share adjustments. These payments are estimated to be \$2,166,656 for each year of the biennium. These monies are included in the department's budget. The proposed changes will increase disproportionate share payments to 6 hospitals. The estimated additional payments are approximately \$839,440 for fiscal year 1989 (\$409,647 GF and \$429,793 NFG) and \$1,902,780 for fiscal year 1990 (\$951,390 GF and \$951,390 NGF). These funding needs were addressed in the October 1, 1988 budget submission.

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

Written comments may be submitted until 4:30 p.m., September 1, 1989, to William R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

BOARD OF MEDICINE

July 7, 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 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.

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

July 20, 1989 - 8:15 a.m. – Open Meeting
July 21, 1989 - 8:15 a.m. – Open Meeting
July 22, 1989 - 8:15 a.m. – Open Meeting
July 23, 1989 - 8:15 a.m. – Open Meeting
Omni Charlottesville Hotel, 235 West Main Street, Charlottesville, Virginia. ☐

An open session to conduct general board business and discuss any other items which may come before the board. On Friday, Saturday and Sunday the board will review reports, interview licensees and make decisions on discipline matters.

Calendar of Events

Contact: Eugenia Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† July 25, 1989 - 1 p.m. - Public Hearing
Shenandoah College and Conservatory, Business Administration, Building 1460 College Drive, Winchester, Virginia

† July 25, 1989 - 7 p.m. - Public Hearing
The First Church of the Brethren, 315 Dogwood Drive, Harrisonburg, Virginia

† July 25, 1989 - 1 p.m. & 7 p.m. - Public Hearing
Roanoke College, Olin Hall, Main Street, Salem, Virginia

† July 25, 1989 - 7 p.m. - Public Hearing
Lloyd C. Bird High School, 10301 Courthouse Road Extended, Chesterfield, Virginia

† July 25, 1989 - 7 p.m. - Public Hearing
Henrico County Board Room, Government Center, Parham and Hungary Springs Road, Richmond, Virginia

† July 25, 1989 - 1 p.m. - Public Hearing
Gloucester High School, Auditorium, Route 615, Gloucester, Virginia

† July 25, 1989 - 7 p.m. - Public Hearing
Christopher Newport College, John W. Gaines Theater, 50 Shoe Lane, Newport News, Virginia

† July 26, 1989 - 1 p.m. - Public Hearing
Albemarle County Office Building, 401 McIntire Road, Auditorium, Charlottesville, Virginia

† July 26, 1989 - 7 p.m. - Public Hearing
Walker Grant Middle School, 1 Learning Lane, Fredericksburg, Virginia

† July 26, 1989 - 1 p.m. & 7 p.m. - Public Hearing
Falls Church High School, 7521 Jaguar Trail, Fairfax County, Virginia

† July 26, 1989 - 1 p.m. - Public Hearing
New River Community College, Route 100, Rooker Building, Richardson Auditorium, Dublin, Virginia

† July 26, 1989 - 7 p.m. - Public Hearing
Wytheville Community College, Grayson Commons Area, 1000 East Main Street, Wytheville, Virginia

† July 26, 1989 - 1 p.m. & 7 p.m. - Public Hearing
John Marshall High School, 4225 Old Brook Road, Richmond, Virginia

† July 26, 1989 - 1 p.m. - Public Hearing

Henry County Administration Building, Kings Mountain Road, Collinsville, Virginia

† July 26, 1989 - 7 p.m. - Public Hearing
Linkhorne Middle School, 2525 Linkhorne Drive, Lynchburg, Virginia

† July 26, 1989 - 1 p.m. - Public Hearing
Old City Hall, Council Chambers, 401 Albemarle Drive, Chesapeake, Virginia

† July 26, 1989 - Public Hearing
Virginia Beach Pavilion, 19th Street at Highway 44, Room 1, Virginia Beach, Virginia

† July 27, 1989 - 1 p.m. - Public Hearing
Arlington County Board Room, 1 Courthouse Plaza, 2100 Clarendon Building, 3rd Floor, Arlington, Virginia

† July 27, 1989 - 7 p.m. - Public Hearing
County Office Complex, 1 County Complex Court, Manassas, Virginia

† July 27, 1989 - 1 p.m. - Public Hearing
Norton Holiday Inn, 551 East Highway 58, Norton, Virginia

† July 27, 1989 - 7 p.m. - Public Hearing
Virginia Highlands Community College, Learning Resources/Business Technology Building, I-81, Exit 7, Abingdon, Virginia

† July 27, 1989 - 1 p.m. - Public Hearing
City Council Chambers, Yancy Street, (Behind the Library on Broad Street, Route 501), South Boston, Virginia

† July 27, 1989 - 1 p.m. & 7 p.m. - Public Hearing
Booker T. Washington High School, 1111 Park Avenue, Norfolk, Virginia

The board will be holding 27 public hearings throughout the Commonwealth to hear comments on the Draft Comprehensive State Plan which outlines the need for services to the mentally ill, mentally retarded and substance abusing citizens of the Commonwealth. Copies of the Plan are available at local community services boards' offices.

Contact: William C. Armistead, Health Program Analyst, P.O. box 1797, Richmond, VA 23214, telephone (804) 786-3904, toll-free 1-800-262-8311/TDD ☎ or SCATS 786-3904

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

August 15, 1989 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Rooms D and E, Richmond, Virginia. ☎ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

Calendar of Events

August 15, 1989 - 10 a.m. – Public Hearing
Roanoke City Hall, 215 Church Avenue, Council Chambers, Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 10 a.m. – Public Hearing
Norfolk Public Schools Building, 800 East City Hall Avenue, 12th Floor Board Room, Room 202, Norfolk, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 10 a.m. – Public Hearing
Oakton Corporate Center, 10461 White Granite Drive, 3rd Floor Training Room, Suite 300, Oakton, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 7:30 p.m. – Public Hearing
Holiday Inn-Koger Center-South, 1021 Koger Center Boulevard, Anna Room, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

August 15, 1989 - 7:30 p.m. – Public Hearing
Roanoke City Hall, 215 Church Avenue, Council Chambers, Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided upon request. Please request by July 24, 1989.)

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health, Mental Retardation and Substance Abuse Services, acting as the lead agency administering Part H (EHA) early intervention services to infants and toddlers with handicaps (Public Law 99-457), intends to conduct public hearings for the purpose of presenting the FY 89 State Early Intervention Grant Application. Interested parties are asked to give their comments and suggestions. Copies of the grant may be obtained by contacting the Department of Mental Health, Mental Retardation and Substance Abuse Services employee listed below. The application will be available as of June 1, 1989. Written comments will be accepted by the listed contact person until August 18, 1989.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

Substance Abuse Advisory Council

† **July 27, 1989 - 10 a.m. – Open Meeting**
James Madison Building, 109 Governor Street, 13th Floor Conference Room, Richmond, Virginia.

The council will meet to continue its agenda to improve the availability and delivery of substance abuse services statewide.

Contact: Wayne Thacker, Director, Office of Substance

Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3906 or SCATS 786-3906

DEPARTMENT OF MOTOR VEHICLES

† **September 11, 1989 - 10:30 a.m. – Public Hearing**
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-50-8901. Virginia Commercial Driver's License Regulations.** These regulations establish certain standards and requirements for licensing drivers of commercial motor vehicles in Virginia. These requirements and standards relate to (i) the licensing of new residents and nonresidents, (ii) the satisfaction of vision requirements, and (iii) the administration of skills tests by persons other than DMV employees. The Virginia Commercial Driver's License Act (House Bill 1675, enacted by the 1989 General Assembly); the federal Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-750), and §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

STATEMENT

Issues: New state and federal laws permit DMV to (i) issue a commercial driver's license to certain new residents without conducting all CDL skills and knowledge tests, (ii) issue a CDL to certain drivers who are domiciled outside the U.S., (iii) determine whether certain medical forms will be accepted as proof of a driver's satisfaction of vision requirements, (iv) waive certain state vision requirements for drivers of commercial motor vehicles, and (v) authorize persons other than DMV to administer the skills test required of CDL applicants.

Purpose: To establish DMV licensing standards and requirements for commercial drivers as permitted by state and federal law.

Impact: These regulations will affect certain drivers of commercial motor vehicles who are already required by state and federal law to obtain a CDL. The regulations will eliminate duplicative compliance efforts for drivers who have CDL from another state and move to Virginia, as well as for CDL applicants who have complied with the vision requirements of the federal or state Motor Carrier Safety Regulations. The regulations will affect persons who are non-domiciliaries of the U.S., but who reside in Virginia, by permitting them to apply for a Virginia CDL. Certain CDL applicants who do not meet strict state vision standards will be affected by these regulations, which permit such applicants to petition DMV for a waiver of these standards.

These regulations will also affect certain employers of commercial drivers. The regulations will permit eligible

Calendar of Events

employers to administer the skills test component of the CDL examination to their employees.

Additional hearings will be scheduled and published in the next edition of the Register.

Statutory Authority: §§ 46.1-26 and 46.1-370.2 of the Code of Virginia.

Written comments may be submitted until September 1, 1989.

Contact: Dan W. Byers, DSA Assistant Administrator or Rudy C. McCollum, CDL Program Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-1836 (Dan Byers) or 367-6633 (Rudy McCollum)

† **September 26, 1989 - 10 a.m.** – Public Hearing
Holiday Inn Airport, 6626 Thirlane Road, Roanoke, Virginia. ☒ (Interpreter for deaf provided if requested)

† **September 27, 1989 - 1 p.m.** – Public Hearing
Best Western Springfield Inn, 6550 Loisdale Court, Springfield, Virginia. ☒ (Interpreter for deaf provided if requested)

† **October 2, 1989 - 10 a.m.** – Public Hearing
Omni, 100 Batten Bay Boulevard, Newport News, Virginia. ☒ (Interpreter for deaf provided if requested)

† **October 3, 1989 - 1 p.m.** – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Department of Motor Vehicles, in conjunction with the Commission on Virginia Alcohol Safety Action program and the Transportation Safety Board, will conduct a public hearing for the purpose of discussing issues regarding SJR 172, administrative revocation of the driver's licenses of persons who operate motor vehicles while under the influence of alcohol or drugs, or both, or who refuse to submit to chemical testing after having been arrested for driving under the influence.

Contact: Vince M. Burgess, Administrator, Traffic Safety Administrator, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-8150 or SCATS 367-8150

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† **July 8, 1989 - 1 p.m.** – Open Meeting
Virginia Institute of Marine Science, Gloucester Point, Virginia. ☒

A meeting to receive reports from Research and

Collections Committee, Planning and Facilities Committee, Finance Committee, Personnel Committee, and Director's Report.

Contact: Gail D. Gregory, Director of Marketing, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8600 or SCATS 857-6950

BOARD OF NURSING

† **July 17, 1989 - 9 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.

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

Editor's Note: The Board of Pharmacy, pursuant to public input, will hold a public hearing regarding the proposed increase in fees.

† **July 12, 1989 - 10 a.m.** – Public Hearing
Holiday Inn-West End, 6531 West Broad Street, Chesterfield Room, Richmond, Virginia.

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 July 12, 1989.

Contact: Jack B. Carson, Executive Director, 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

COMMISSION ON PRISON AND JAIL OVERCROWDING

July 14, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Full Commission meeting. Working committees will give status reports.

Contact: Lin Corbin-Howerton, Staff Director, 9th Street Office Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 786-1657

BOARD OF PSYCHOLOGY

† **July 28, 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) review applications for licensure, residency, and registrations as Technical Assistants; and (iii) discuss oral examinations.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913

VIRGINIA RACING COMMISSION

† **July 12, 1989 - 9 a.m. - Public Hearing**
Virginia Supplemental Retirement Systems, 1200 East Main Street, Training Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: **VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.** The guidelines will establish permanent procedures to solicit and obtain comments from interested individuals and organizations as the commission drafts and promulgates regulations governing horse-racing and parimutuel wagering.

STATEMENT

Statement of purpose: The Virginia Racing Commission will use these guidelines to obtain public comments from interested and affected local governments, citizens groups and business entities regarding regulations to govern horse racing and parimutuel wagering in Virginia.

Public participation guidelines adopted as an emergency regulation by the commission became effective on April

25, 1989. The proposed permanent guidelines are identical to the emergency regulation.

Estimated impact:

Entities affected. This regulation affects all local governments, business entities, community groups and private citizens which may be impacted by or which have an interest in horse racing, racetrack operations, and parimutuel wagering. Those who may be affected include, but are not limited to:

◦ City and county governments where referendums may be held to permit parimutuel wagering in conjunction with horse racing;

◦ Business entities, including partnerships, corporations, and private individuals, which may be interested in constructing or operating a racetrack, or both; or which may be interested in providing goods and services to racetracks;

◦ Owners, breeders and trainers of race horses; and

◦ Private citizens and community groups or similar associations which might wish to comment on the possible location or operation of a racetrack in their area.

Fiscal impact.

a. Costs to affected entities. The public participation guidelines have no direct fiscal impact. Interested parties may incur costs only to the extent necessary to present oral or written comments to the commission.

b. Costs to commission. The commission will incur only minimal costs. These would include sending notices to parties interested in the commission's regulatory process.

c. Source of commission funds. The commission has a Treasury loan to pay for its operation. After racing with parimutuel wagering begins in the Commonwealth, the commission will have special revenue from license and permit fees.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Written comments may be submitted until September 1, 1989, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

Contact: Elizabeth Kaplan, Senior Analyst, Department of Planning and Budget, P.O. Box 1422, Richmond, VA 23211, telephone (804) 786-7478 or SCATS 786-7478

Calendar of Events

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.

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.

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

SAFETY AND HEALTH CODES BOARD

Task Force on Certifying of Boiler and Pressure Vessel Operators

July 12, 1989 – CANCELLED
Department of Labor and Industry, 205 North 4th Street,
2nd Floor Conference Room, Richmond, Virginia. ☒

The meeting of the Task Force appointed by the Safety and Health Codes Board has been cancelled.

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

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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 Board of Social Services intends to adopt regulations entitled: **VR 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.

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 Friedenberg, Legislative Analyst,
Department of Social Services, 8007 Discovery Dr.,
Richmond, VA 23229-8699, telephone (804) 662-9182 or
SCATS 662-9182

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August 24, 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 Social Services intends to adopt regulations entitled: **VR 615-70-17. Child Support Enforcement Programs.** This regulation describes the rules the Department of Social Services will use in establishing, enforcing, and collecting child support payments.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 24, 1989, to Jane Clements, Department of Social Services, Division of Child Support Enforcement, 8007 Discovery Drive, Blair Building, Richmond, Virginia, 23229-8699.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Drive, Blair Building, Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

VIRGINIA SOIL AND WATER CONSERVATION BOARD

July 12, 1989 - 2 p.m. – Open Meeting
Blacksburg Marriott, 900 Prices Fork Road NW,
Blacksburg, Virginia

A regular bi-monthly meeting.

Contact: Donald L. Wells, Department of Conservation and Historic Resources, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-4356

COMMONWEALTH TRANSPORTATION BOARD

† **July 19, 1989 - 1:30 p.m.** – Open Meeting
Omni Hotel, 777 Waterside Drive, Norfolk, Virginia. ☒
(Interpreter for deaf provided if requested)

A work session.

† **July 20, 1989 - 10 a.m.** – Open Meeting
Omni Hotel, 777 Waterside Drive, Norfolk, Virginia. ☒
(Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA, telephone (804) 786-9950

VIRGINIA RESOURCES AUTHORITY

† **July 11, 1989 - 10 a.m.** – Open Meeting
The Mutual Building, 909 East Main Street, Suite 707,
Conference Room A, Richmond, Virginia

The board will meet to approve minutes of the meeting of June 13, 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 office of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., P.O. Box 1300,
Richmond, VA 23210, telephone (804) 644-3100

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

July 15, 1989 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒

A quarterly meeting to consider matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3162, toll-free 1-800-622-2155, SCATS 371-3162 or 371-3140/TDD ☎

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

July 25, 1989 - 1:30 p.m. – Open Meeting
August 22, 1989 - 1:30 p.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140

VIRGINIA VOLUNTARY FORMULARY BOARD

July 7, 1989 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia.

The purpose of this hearing is to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on November 15, 1989, and a supplement to the

Calendar of Events

Formulary that became effective on May 20, 1989.

Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on July 7, 1989, will be made a part of the hearing record and considered by the Board.

† **August 10, 1989 - 10:30 a.m.** – Open Meeting
Department of Health, James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Bureau of Pharmacy Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

VIRGINIA WASTE MANAGEMENT BOARD

† **July 24, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

This will be a regular scheduled business meeting and discussion of proposed Infectious Waste Management Regulations.

Contact: Loraine Williams, Secretary, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075, SCATS 225-2667 or 225-3753/TDD ☎

DEPARTMENT OF WASTE MANAGEMENT

July 3, 1989 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

A public meeting will be held for Amendment 10 to the Virginia Hazardous Waste Management Regulations to discuss the proposed changes in U.S. Environmental Protection Agency Regulations in solid and hazardous waste management. The regulated community, public, and interested persons are invited to attend.

Contact: Stuart T. Ashton, IV, Staff Specialist, James Monroe Bldg., 101 N. 14th St., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667

VIRGINIA WINEGROWERS ADVISORY BOARD

July 10, 1989 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Annual meeting of the board to vote new chair and vice-chair people into office and discuss new proposals for approval.

Contact: Annette C. Ringwood, Wine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Richmond, VA 23219, telephone (804) 786-0481 or (804) 371-7685

VIRGINIA COUNCIL ON THE STATUS OF WOMEN

† **July 10, 1989 - 8 p.m.** – Open Meeting
† **September 11, 1989 - 8 p.m.** – Open Meeting
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the council.

† **July 11, 1989 - 9 a.m.** – Open Meeting
† **September 12, 1989 - 9 a.m.** – Open Meeting
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S SYSTEM OF APPELLATE REVIEW OF CIVIL CASES

† **July 11, 1989 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia. ☒

An organizational meeting of this study committee to plan agenda for interim. HJR 329

Contact: Oscar Brinson, Staff Attorney, or Mary K. Geisen, Research Associate, Division of Legislative Services, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING DNA TEST DATA EXCHANGE

† July 25, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A regular meeting. SJR 127

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591, or Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838

JOINT SUBCOMMITTEE STUDYING EARLY CHILDHOOD AND DAY CARE PROGRAMS

† July 6, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

First meeting of 1989 for day care study, established by HJR 27 in 1988. HJR 27 (1988)

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

† July 6, 1989 - 1:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Appropriations Committee Room, Richmond, Virginia. ☒

An organizational meeting of this study committee. HJR 408

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

July 6, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Subcommittee will meet to discuss issues identified at organizational meeting, which are: administrative review (concurrent jurisdiction); parole board, police

records; proprietary information and exemptions. HJR 246

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE NEEDS OF HEAD AND SPINAL CORD INJURED CITIZENS

† July 11, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The subcommittee will hold deliberations regarding needs and services of the physically handicapped and issues carried over for further study on head and spinal cord injured citizens. HJR 287

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING LIABILITY FOR ILLEGAL DUMPING OF HAZARDOUS MATERIALS

† July 6, 1989 - 9:30 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

An organizational meeting. SJR 202

Contact: John Heard, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Tommy Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869

JOINT SUBCOMMITTEE STUDYING REINSURANCE, INSURANCE ANTITRUST LAWS AND LIABILITY INSURANCE COVERAGE

† July 7, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

† August 21, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

† September 22, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The focus of each meeting will be devoted to either Reinsurance, Anti-trust laws or Liability Insurance Coverage. HJR 382

Calendar of Events

Contact: Bill Cramme', Staff Attorney, or Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591, or Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

COMMISSION ON LOCAL GOVERNMENT STRUCTURES AND RELATIONSHIPS

† **July 12, 1989 - 9:30 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia

First meeting of the interim to discuss previous work of this commission and to set agenda for 1989. HJR 286

Contact: C. M. Conner, Jr., Staff Attorney or Dr. R. J. Austin, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

July 10, 1989 - 10 a.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Public hearing of proposed regulations for Commission on VASAP Policy and Procedural Manual (including Case Management and Certification Manuals).

Contact: For additional information or persons wishing to speak contact: Kim Morris, Commission on VASAP, 1001 E. Broad St., Suite 245, Richmond, VA 23219, telephone (804) 786-5896

July 10, 1989 - 1 p.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

To act on the comments received from the public hearings concerning the proposed regulations for the Commission on VASAP Policy and Procedure Manual (including Case Management and Certification Manuals).

Contact: Donald R. Henck, Ph.D., Executive Director, Old City Hall Bldg., Suite 245, Box 28, Richmond, VA 23219, telephone (804) 786-5896 or SCATS 786-5896

CHRONOLOGICAL LIST

OPEN MEETINGS

July 3
Waste Management, Department of

July 5
† Higher Education for Virginia, State Council of

July 6
Chesterfield County, Local Emergency Planning Committee of
† Early Childhood and Day Care Programs, Joint Subcommittee Studying
† Engineers, Architects and Land Surveyors and the Exemption from Licensure of Employees of the Commonwealth and its Localities, Joint Subcommittee Studying the Regulation of
Freedom of Information Act, Joint Subcommittee Studying the
Longwood College
- Board of Visitors

July 7
General Services, Department of
- Art and Architectural Review Board
Longwood College
- Board of Visitors
† Reinsurance, Insurance Antitrust Laws and Liability Insurance Coverage, Joint Subcommittee Studying
Voluntary Formulary Board, Virginia

July 8
† Natural History, Virginia Museum of

July 10
† Local Government, Commission on
Virginia Alcohol Safety Action Program, Commission on
Winegrowers Advisory Board, Virginia
† Women, Virginia Council on the Status of

July 11
† Appellate Review of Civil Cases, Joint Subcommittee Studying the Commonwealth's System of
† Head and Spinal Cord Injured Citizens, Joint Subcommittee Studying the Needs of
Hopewell Industrial Safety Council
† Marine Resources Commission
† Virginia Resources Authority
† Women, Virginia Council on the Status of

July 12
Conservation and Historic Resources, Department of
- Goose Creek Advisory Board
† Dentistry, Board of
† Indians, Virginia Council on
Medical Assistance Services, Board of
Pharmacy, Board of
Safety and Health Codes Board Task Force on
Certifying of Boulder and Pressure Vessels Operators
Soil and Water Conservation Board
† Structures and Relationships, Commission on Local Government

Calendar of Events

July 13

† Conservation and Historic Resources, Department of
- Division of Planning and Recreational Resources
Medical Assistance Services, Board of

July 14

† Child Mental Health, Consortium on
Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for
Pork Industry Board, Virginia
Prison and Jail Overcrowding, Commission on

July 15

Visually Handicapped, Department for the
- Advisory Committee on Services

July 17

† Environment, Council on the
† Nursing, Board of

July 18

Branch Pilots, Board for
† Health Professions, Board of
- Regulatory Evaluation and Resource Committee
† Housing Development Authority, Virginia

July 19

† Community Colleges, State Board for
† Corrections, Board of
Farmworkers Board, Governor's Migrant and Seasonal
† Transportation Board, Commonwealth

July 20

Medicine, Board of
† Transportation Board, Commonwealth

July 21

Boating Advisory Board, Virginia
† Coordination of Prevention, Virginia Council for the
Medicine, Board of

July 22

Medicine, Board of

July 23

Medicine, Board of

July 24

† Waste Management Board, Virginia

July 25

† DNA Test Data Exchange, Joint Subcommittee
Studying
† Health Services Cost Review Council, Virginia
Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of
Related Services to Handicapped Children

July 27

Education, State Board of

† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Substance Abuse Advisory Council

July 28

Education, State Board of
† Health Professions, Board of
† Psychology, Board of

August 1

Hopewell Industrial Safety Council

August 2

† Child Mental Health, Consortium on

August 3

Chesterfield County, Local Emergency Planning
Committee of

August 8

† Health, Board of

August 10

† Voluntary Formulary, Virginia

August 11

Children, Coordinating Committee for Licensure and
Certification of Residential Facilities for

August 21

† Reinsurance, Insurance Antitrust Laws and Liability
Insurance Coverage, Joint Subcommittee Studying

August 22

Visually Handicapped, Department for the
- Interagency Coordinating Council and Delivery of
Related Services to Handicapped Children

August 27

Funeral Directors and Embalmers, Board of

August 28

Funeral Directors and Embalmers, Board of

August 30

† Gloucester County Local Emergency Planning
Committee

August 31

† Education, Department of

September 6

† Child Mental Health, Consortium on

September 8

Children, Coordinating Committee for Licensure and
Certification of Residential Facilities for

September 11

† Women, Virginia Council on the Status of

Calendar of Events

September 12

† Women, Virginia Council on the Status of

September 18

† Indians, Virginia Council on

September 22

† Reinsurance, Insurance Antitrust Laws and Liability Insurance Coverage, Joint Subcommittee Studying

PUBLIC HEARINGS

July 7

Voluntary Formulary Board, Virginia

July 10

Social Services, Department of Virginia Alcohol Safety Action Program, Commission on

July 12

Pharmacy, Board of
† Racing Commission, Virginia
Rehabilitative Services, Department of

July 25

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

July 26

† Mental Health, Mental Health and Substance Abuse Services Board, State

July 27

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

August 3

Corrections, Virginia Board of

August 7

† Contractors, Board for

August 8

† Contractors, Board for

August 9

† Contractors, Board for

August 15

Mental Health, Mental Retardation and Substance Abuse Services, Department of

August 16

Corrections, Virginia Board of

August 21

Housing and Community Development, Board of
Housing and Community Development, Department of

August 31

Education, Department of

September 6

† Air Pollution Control Board, State

September 7

† Branch Pilots, Board for

September 11

Hearing Aid Specialists, Board for
† Motor Vehicles, Department of

September 19

Criminal Justice Services, Department of

September 26

† Motor Vehicles, Department of

September 27

Agriculture and Consumer Services, Department of
† Motor Vehicles, Department of

October 2

† Motor Vehicles, Department of

October 3

† Motor Vehicles, Department of