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# VIRGINIA REGISTER

OF REGULATIONS

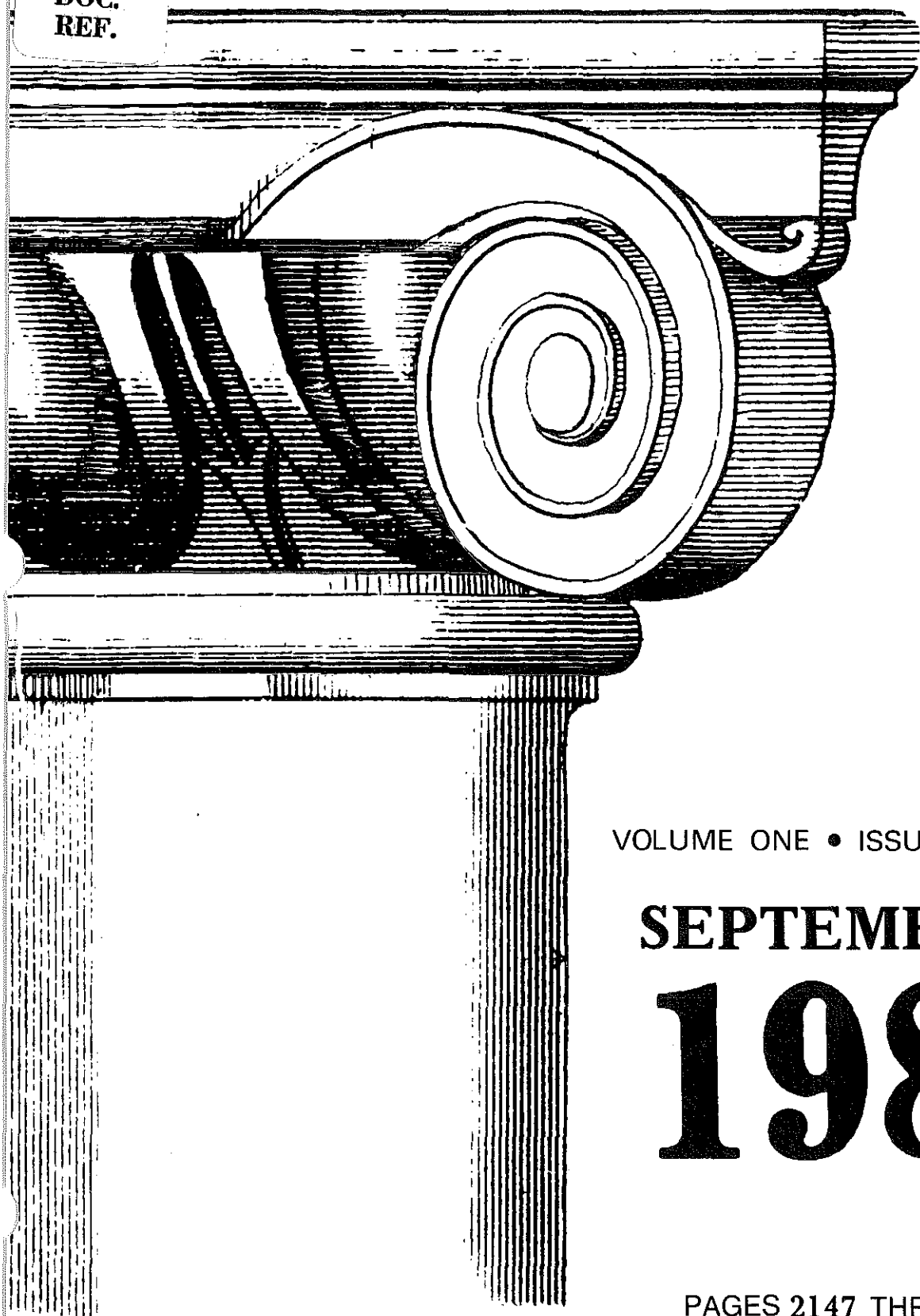
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VOLUME ONE • ISSUE TWENTY-FIVE

SEPTEMBER 16

1985

PAGES 2147 THROUGH 2314



# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

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

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

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly 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.

**Virginia Register of Regulations.** Published bi-weekly, with an index published quarterly by the Commonwealth of Virginia, Virginia Code Commission, P.O. Box 3-AG, Richmond, Virginia 23208, pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Subscriptions \$85 per year, postpaid to points in the U.S., 3rd-Class postage paid at Richmond, Virginia and individual copies \$4 each. Direct all mail to Registrar of Regulations, P.O. Box 3-AG, Richmond, Virginia 23208, Telephone (804) 786-3591.

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**Staff of the Virginia Register:** Joan W. Smith, Registrar of Regulations; Ann M. Brown, Assistant Registrar of Regulations.

### Citizen Participation in the Rule-Making Process

As required by the Administrative Process Act, each agency of the Commonwealth is required to develop, adopt and utilize public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Citizens may participate in the process by which administrative regulations are adopted, amended, or repealed by submitting data or views on proposed regulations either orally or in writing, to the proposing agency (see General Notices and Calendar of Events section of the *Virginia Register*).

### How to Follow State Agency Regulatory Action in the Virginia Register

Under the provisions of the Administrative Process Act, state agencies must publish in the *Virginia Register* the full text of proposed rules and regulations, if substantive, as well as a summary statement.

In addition, the agency is required to provide a public comment period and hold a public hearing. A notice of hearing will be published sixty days prior to the hearing. Such notices are published in the CALENDAR OF EVENTS section of the *Virginia Register*. Proposed regulations and adopted regulations are published in separate sections of the *Virginia Register*.

All executive orders and comments on regulations issued by the Governor are published under the GOVERNOR section.

The CALENDAR OF EVENTS section not only contains the notices of public comment periods and hearings but also all notices of meetings required to be open under the provisions of the Freedom of Information Act.

## VIRGINIA REGISTER OF REGULATIONS PUBLICATION DEADLINES AND SCHEDULES

ISSUE DATE	MATERIAL SUBMITTED BY 4:30 p.m. Friday	Will be included in PUBLICATION MAILED on Friday
Feb. 4 .....	Jan. 18 .....	Feb. 1
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Mar. 4 .....	Feb. 15 .....	Mar. 1
Mar. 18 .....	Mar. 1 .....	Mar. 15
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## Symbol Key

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

## VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

**Title of Regulations:** VR 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine

**Statutory Authority:** §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

**Public Hearing Date:** October 15, 1985  
(See Calendar of Events Section for additional information)

### Summary:

Cotton boll weevil, *Anthonomus grandis*, has been described as the most costly insect in the history of American agriculture. It is thought to have crossed the Rio Grande at Brownsville, Texas in 1982, and was first detected in Virginia in 1922. The adult feeds on cotton bolls and leaves and the larva feeds only on the cotton bolls. Egg punctures on the bolls cause bolls to flare, turn yellow, and fall to the ground.

The regulations amend the current Cotton Boll Weevil Quarantine so Virginia can participate in a continued multistate cooperative effort to monitor and eradicate, if necessary, cotton boll weevil from Virginia, North Carolina, and South Carolina by requiring: (i) cotton growers to declare their intentions of acreage in cotton to be grown each year, and (ii) require a payment of \$10 per acre of cotton grown to defray the cost of the program.

VR 115-04-14. Rules and Regulations for Enforcement of the Virginia Pest Law - Cotton Boll Weevil Quarantine.

### § 1. Definitions. Regulation 2.

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

"ASCS" means United States Department of Agriculture, Agricultural Stabilization and Conservation Service.

"Boll Weevil" means the live insect, ("Anthonomus grandis" Boheman), in any living stage of development.

"Board" means the Board of the Virginia Department of Agriculture and Consumer Services.

"Certificate" means a document issued or authorized by

an inspector to be issued under these regulations by an inspector to allow the movement of regulated articles to any destination.

"Compliance agreement" means a written agreement between a person engaged in growing, dealing in, or moving grower, dealer, or mover of regulated articles; and the Virginia Department of Agriculture and Consumer Services, wherein in which the former agrees to comply with conditions specified in the agreement by the inspector who executes the agreement on behalf of the department, to prevent the dissemination spread of the boll weevil.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services or his designee.

"Cotton" means parts and products of plants of the genus "Gossypium", before processing.

"Cottonseed" means cottonseed from which the lint has been removed.

"Gin trash" means all of the material produced during the cleaning and ginning of seed cotton, bollies, or snapped cotton, except for the lint, cottonseed, and gin waste.

"Grower" means a farm operator or producer, whether he owns the owner of the land or not.

"Infestation" means the presence of the boll weevil, or the existence of circumstances that make it reasonable to believe that boll weevil is present.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations.

"Limited Permit" means a document issued or authorized to be issued by an inspector to allow the movement of noncertifiable regulated articles to a specified destination for limited handling, utilization use, process, or for treatment.

"Lint" means all forms of raw ginned cotton, either baled or unbaled, except linters and waste.

"Moved (Movement, Move)" means shipped; offered for shipment to a common carrier; received for transportation or transported by a common carrier; or carried, transported, moved, or allowed to be moved by any means. "Movement" and "Move" shall be construed

# Proposed Regulations

accordingly.

"Person" means any individual, corporation, company, society, or association or other organized group of any of the foregoing.

"Regulated area" means the entire State Commonwealth of Virginia.

"Seed cotton" means cotton as it comes from the field prior to ginning.

"Used cotton harvesting equipment" means equipment previously used to harvest, strip, transport or destroy cotton.

## § 2. Notice of quarantine. Regulation 1.

Under the authority of Title §§ 3.1-188.20 through 3.1-188.31:2 of the Code of Virginia, a quarantine of the State Commonwealth of Virginia and all cotton producing states and countries infested with the boll weevil is hereby established to control, eradicate, and prevent the dissemination spread of the cotton boll weevil, "Anthonomus grandis" Boheman.

## § 3. Regulated articles. Regulation 2.

A. The following shall not be moved from outside Virginia into this state Commonwealth, or between points within Virginia, or interstate, in any manner or method, except in accordance compliance with the conditions prescribed in these regulations :

(A) 1. The boll weevil, ("Anthonomus grandis" Boheman), in any living state of development.

(B) 2. Seed cotton.

(C) 3. Gin trash.

(D) 4. Used cotton harvesting equipment.

(E) 5. Any other products, articles, or means of conveyance of any character whatsoever, kind not covered by subparagraphs (1) through (4) subsection A, 1-4 above, of this paragraph regulation, when it is determined by an inspector that they present a hazard of spread of the boll weevil and the person in possession thereof has been so notified.

## § 4. Requirements for program participation. Regulation 4.

A. All cotton farm operators in Virginia are hereby required to participate in the eradication program. Participation shall include timely reporting of acreage and field locations, compliance with regulations, and payment of fees. Farm operators within the state shall be notified through either the extension offices, VDACS, ASCS, or newspapers of their program costs on a per acre basis on or before March 15 of each year. The following

procedures are required for participation in the program:

1. Completing a Cotton Acreage Reporting Form at the ASCS office by April 15 of the current growing season for which participation is desired. At this time a nonrefundable fee of \$5.00 per acre, based on that acreage reported by the farm operator, shall be paid. All acreage reported after April 15 will be subject to an additional assessment of \$5.00 per acre in addition to the program cost.

2. On or before the July 1, the remaining share of the farm operators payment of \$5.00 for those acreages shall be paid. Final adjustment will be based on ASCS measured acreage of reported fields. If measured acreage is not available by July 1 the remaining share shall be based on the ASCS certified acreage. Any final adjustment based on measured acreage shall be made upon notification of actual measured acreage by ASCS or program personnel.

3. All fees shall be paid by the farm operator. Fees shall be made payable to Treasurer of Virginia and collected by ASCS.

4. Noncommercial cotton shall not be planted in Virginia unless the grower applies for and receives an exemption to grown cotton. Applications, in writing, shall be made to the State Entomologist stating the conditions under which the grower requests such exemption. The decision whether or not to exempt all or part of these requirements shall be based on the following:

a. Location of growing area,

b. Size of growing area,

c. Pest conditions in the growing area,

d. Accessibility of growing area,

e. Any stipulations set forth in a compliance agreement between the individual and the Department of Agriculture and Consumer Services that are necessary for the effectuation of the program.

B. Farm operators whose ASCS measured acreage exceeds the grower reported acreage by more than 10%, shall be assessed an additional \$5.00 per acre on that acreage in excess of the reported acreage. Any person whose reported acreage exceeds the ASCS measured acreage by more than 10% due to emergency or hardship conditions may apply for a waiver of the additional assessment. Any farm operator applying for a waiver of the additional assessment shall make application in writing to the State Entomologist stating the conditions under which the waiver is requested.

C. Failure to pay all remaining fees on or before July 1

# Proposed Regulations

of the current growing season will result in an additional assessment of \$10 per acre. Failure by a farm operator to pay all program costs as of August 1 or upon notification of ASCS measured acreage, whichever is later, shall be a violation of The Virginia Cotton Boll Weevil Quarantine. The farm operator when found in violation and upon notification shall completely destroy all cotton not found to be in compliance with the provisions of this section. If such farm operator fails to comply with these regulations, the Commissioner of Agriculture and Consumer Services, through his duly authorized agents, shall proceed to destroy such cotton, and shall compute the actual costs of labor and materials used, and the farm operator shall pay to the commissioner such assessed costs. No damage shall be awarded the grower of such cotton for entering thereon and destroying any cotton when done by the order of the commissioner.

D. The decision of whether to waive all or part of these additional assessments or payment dates shall be made by the State Entomologist and notification given to the farm operator within two weeks after receipt of such application. Decision shall be based on the following: (i) meteorological conditions, (ii) economic conditions, and (iii) any other uncontrollable destructive forces.

E. Acreage subject to emergency or hardship conditions after all the growers' share of the program have been paid and prior to the initiation of field operations may be considered for a refund. The refund amount will be determined by the actual program cost per acre up to the time of emergency or hardship.

F. The commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the ASCS farm established yield for the current year.

§5. Conditions governing the issuance of certificates and permits to allow the movement of regulated articles. Regulation 4.

A. Certificates shall be issued by the inspector for movement of the regulated articles designated in Regulation § 3 under any one of the following conditions when :

1. In the judgment of the inspector, they have not been exposed to infestation.
2. They have been examined by the inspector and found to be free of infestation.
3. They have been treated , under the observation of the inspector , in accordance compliance with methods selected by him. to be effective under the conditions in which applied.
4. Grown, produced, stored, or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted. thereby.

B. Limited permit. Limited permits may be issued by the inspector for the movement of noncertified regulated articles specified under Regulation § 3 to specified destinations for limited handling, utilization use , processing, or treatment , when he determines that no hazard of spread of the boll weevil exists.

C. Special permits. Special permits may be issued by the State Entomologist Virginia Department of Agriculture and Consumer Services to allow the movement of boll weevil in any living stage and any other regulated articles for scientific purposes , under such conditions as may be prescribed in each specific case.

D. Compliance agreement. Compliance agreements may be issued by the inspector. As a condition of issuance of receiving a certificates certificate or limited permits permit for the movement of regulated articles , any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such article may be required to sign a compliance agreement . stipulating The agreement shall stipulate that he will maintain such the required safeguards against the establishment and spread of infestation will be maintained and will comply with such the conditions as to governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers. used in the transportation of such articles, as may be required by the inspector.

§ 6. Cancellation of certificates and permits. Regulation 5.

Any certificate or permit which has been issued or authorized may be withdrawn by the inspector if he determines determined that the holder thereof has not complied with any condition for the use of such the documents.

§ 7. Compliance agreements; and cancellation thereof. Regulation 6.

A. Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of such articles under this quarantine. Compliance agreement forms may be obtained from an inspector.

B. Any compliance agreement may be cancelled by the inspector who is supervising its enforcement whenever he finds that the other party thereto covered by the agreement has failed to comply with the conditions of the agreement as stated . Cancellation appeals may be taken to the commissioner in writing within seven calendar days of the cancellation.

§ 8. Assembly and inspection of regulated articles. Regulation 7.

Persons (other than those authorized to use certificates, limited permits, or reproductions thereof) who desire to move regulated articles which must be accompanied by a



# Proposed Regulations

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certificate or permit shall, as far in advance as possible, request an inspector to examine the articles prior to movement. ~~Such~~ The articles shall be assembled at such points a place and in such a manner as the inspector designated by the inspector to facilitate inspection.

§ 9. Attachment and disposition of certificates or permits. Regulation 8:

A. If a certificate or permit is required for the movement of regulated articles, the certificate or permit shall be securely attached to the outside of the container in which such the articles are moved. ~~except that, where~~ However, if the certificate or permit is attached to the way-bill or other shipping document, and the regulated articles are adequately described on the certificate, permit, or shipping document, ~~the attachment of then~~ the certificate or permit need not be attached to each container of the articles is not required .

B. In all cases, certificates, or permits shall be furnished given by the carrier to the consignee at the destination of the shipment.

§ 10. Inspection of shipments. Regulation 9:

Any product or article moved by any means or manner intrastate or offered to a common carrier for shipment intrastate, or destined for interstate movement, which contains or which the inspector has probable cause to believe contains either infestations, infested products or articles, the movement of which is controlled by these regulations, shall be subject to inspection by an inspector and stopped if necessary at any time or place, and when actually found to involve danger of dissemination of the boll weevil to noninfested localities, measures to eliminate infestation may be required by the inspector.

Any product to be moved either within or out of the state, which is suspected of containing the boll weevil, shall be subject to inspection. The shipment may be stopped at any time or place by an inspector. When such a product is found to threaten the spread of the boll weevil to noninfested areas, the inspector may require measures to eliminate the infestation.

§ 11. Rules. Regulation 10:

All cotton farm operators in a regulated area shall submit a Cotton Acreage Reporting Form by the 15th of June each growing season to the County ASCS office until notified by the Commissioner in writing, however, no further cost of the trail boll weevil eradication program shall be shared by the grower after the 1980 growing season.

The commissioner, pursuant to § 3.1-188.30 of the Code of Virginia, may determine costs for services, products, or articles that shall be paid by the persons affected when those services, products, or articles are beyond the reasonable scope of the law. Regulation 11: Violations

Persons convicted of violating any of these regulations shall be punished in accordance with Section 3-1-188.29 of the Virginia Pest Law.

## BOARD OF HEALTH

Title of Regulations: VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Statutory Authority: § 32.1-102 of the Code of Virginia.

Public Hearing Dates: November 15, 1985 - 10 a.m.  
(See Calendar of Events Section  
for additional information)

### Summary:

One of the criteria for the review of projects under the certificate of public need law is the conformance to certain capital and operating expenditure limits. These amendments raise the capital expenditure limit to \$700,000 and the operating expenditure limit to \$300,000.

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 meaning, unless the context clearly indicates otherwise:

"Acquisition" (medical care facility) a capital means an expenditure of ~~\$600,000~~ \$700,000 or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. An acquisition 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 § 2.36 this section . 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 Section 2-34 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.

**"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 §§ 6-08 and 7-05 5.1 and 6.8.

**"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.

**"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 section 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 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 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

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Mental Retardation 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.

*"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. Sanitariums.
4. Nursing homes.
5. Intermediate care facilities.
6. Extended care facilities.
7. Mental hospitals.
8. Mental retardation facilities.
9. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.
10. 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.

*"Exclusions"* means that the following shall not be included in the definition of a medical care facility:

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.

*"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 Section 2-10 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 Section 2-289 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 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 for the health service area 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

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health maintenance organization (HMO) which is located in the health service area 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 services area in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

"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. See also 2-222.02-a. See definition of "Medical care facility".

"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 of the Code of Virginia.

"Predevelopment 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 § 8-00 8.3 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 ~~\$600,000~~ \$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 ~~\$600,000~~ \$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.

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 Section subsection A of § 2-345-01 or subsection E of § 2-345-05 these regulations this provision of the regulations.

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 2-34.01A or 2-34-05 subsection E of § 2-345-05 these regulations: this provision of the regulations.

D. The introduction by a medical care facility of a clinical health service described in 2-37 which the facility has never provided or has not provided in the previous 12 months. See definition of "clinical health service."

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.

"Public hearing" means a proceeding conducted by the health systems 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 Sections 6-7-06-02 subsection A of § 6.4 or subsection B of § 7.6.

"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 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

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allowable as provided for in Section 2-222.02 (e) of 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 United States Public Law 93-641, and § 32.1-120 of the Code of Virginia.

"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.

"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.

## 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 to 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. Section 32.1-102.2 and § 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules 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 .....

### § 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 an analysis of the costs of authorized projects.

### PART III. MANDATORY REQUIREMENTS.

#### § 3.1. Requirements for medical care facilities providers.

Prior to initiating a project as defined in Section 2-34 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 § 3-03 3.3 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 as set forth in Section 2-35-05 or the establishment of a medical care facility, as defined in Section 2-20-01 of these regulations. See definitions of "project" and "medical care facility."

#### § 3.3. Requirement for notification of proposed acquisition.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is ~~\$600,000~~ \$700,000 or more, that person shall provide written notification to the commissioner and the health systems 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 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. The written request shall identify the nature and purpose of the change. The health systems 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. Failure of the health systems 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, as defined in Section 2-345 regulations. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if appropriate. See definition of "project."

### 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.

B. The relationship of the project to the applicable health plans of the health systems agency and the Statewide Health Coordinating Council.

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 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

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the project.

I. The relationship of the project to the existing health 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 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 of 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 ~~\$600,000~~ \$700,000 and an annual operating expenditure of ~~\$250,000~~ \$300,000 or less during the first two years of operation except when such service is a medical care facility as defined in Section 2-20 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 ~~\$600,000~~ \$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. ADMINISTRATIVE REVIEW PROCESS.

### § 6.1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of ~~\$600,000~~ \$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 ~~\$600,000~~ \$700,000 and which does change bed capacity or replace existing beds or ~~relocates~~ 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 and stage renal disease, home health or hospice service.

### § 6.2. Preconsultation.

Each health systems 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. 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. 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. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate health systems agency.

### § 6.4. Review of application.

#### A. Review cycle.

The health system agency shall within 30 days of receipt of the application and following the public hearing conducted in accordance with subsection B of § 7.6 of these regulations, notify the commissioner of its recommendation. Failure of the health systems agency to notify the commissioner within the 30 day time period shall constitute a recommendation of approval.

#### 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 as set forth in Section 2-14. See definition of "ex parte" contact.

### § 6.5. 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 and the commissioner at appropriate times for consideration prior to their final action.

### § 6.6. Amendment to application.

The applicant shall have the right to amend an application at any time. Any amendment as defined in Section 2-02 which is made to an applicant following the public hearing specified in ~~7-06-02~~ 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 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 § ~~3-04~~ 3.4. of these regulations.

### § 6.7. 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.

### § 6.8. Consideration of applications.

All competing applications shall be considered at the



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same time by the health systems 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.

## § 6.9. 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 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 by the 35th day of the review cycle unless an extension is agreed to by the applicant. 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 ~~Section 2-14~~ the *ex parte* provision of these regulations, between the commissioner and the applicant. See definition of "*ex parte*."

## PART VII. STANDARD REVIEW PROCESS.

### § 7.1. Preconsultation.

Each health systems 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 or the commissioner.

### § 7.2. 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. 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. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate health systems agency.

### § 7.3. 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 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 ~~section 7-02-02~~ subsection A of § 7.6.

### § 7.4. 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 ~~Section 7-037~~ subsection A of § 7.6.

### § 7.5. Consideration of applications.

All competing applications shall be considered at the same time by the health systems 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.

### § 7.6. 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. The health systems 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 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 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 notify the applicant(s) and other parties of the date, time and place of the informal, fact-finding conference. See § 9-6.14:11 of the Code of Virginia. The commissioner shall render an initial determination by the 120th day of the review cycle. Unless agreed to by the applicant, the review schedule shall not be extended.

## B. Health systems agency required notifications.

Upon notification of the acceptance date of a complete application as set forth in § 7.3 of these regulations, the health systems agency shall provide written notification of its review schedule to the applicant. The health systems 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 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 shall be made. The health systems 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 Section 2-356. 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 as set forth in Section 2-14. See definition of "ex parte."

## § 7.7. 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. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment as defined in Section 2-02 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 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 § 2-04 3.4 of the regulations.

## § 7.9. 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. 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 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 by the 120th day of the review cycles unless an extension is agreed to by the applicant. Such written notification shall also reference the factors and basis 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. DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

## § 8.1. Duration.

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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. 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 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate health systems 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 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 ~~8-02-04~~ *subsection C of § 8.3*.

### D. Health systems agency review.

All requests for an extension of a certificate of public need shall be reviewed by the appropriate health systems agency within 30 days of receipt by the department and the health systems 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. Failure of the health systems

agency to notify the commissioner within the time frame prescribed shall constitute a recommendation of approval by such health systems 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 and shall become part of the official project file.

## § 8.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project 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. Revocation of certificate.

### A. Lack of progress.

Failure of any project to meet the progress requirements stated in ~~8-03~~ § 8.3. shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors

enumerated in ~~8-02-02~~ subsection A and C of § 8.3.

## B. Failure to report progress.

Failure of an applicant to file progress reports on an approved project in accordance with ~~8-03~~ § 8.3 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 ~~2-36-02~~ shall be cause for revocation the 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 ~~8-02-02~~ subsection B of § 8.2 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. 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.

#### 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.

### § 9.2. 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 § 9-6.14:17 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 § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review.

#### B. Designation of judge.

The judge of the court referred to in § 10.2 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.

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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. 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. SANCTIONS.

### § 10.1. 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. 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.

## DEPARTMENT OF SOCIAL SERVICES

Title of Regulations: VR 615-21-02. Standards and Regulations for Licensed Adult Day Care Centers.

Statutory Authority: § 63.1-174 of the Code of Virginia.

Public Hearing Date: December 10, 1985 - 11 a.m.  
(See Calendar of Events Section  
for additional information)

### Summary:

*The statutory basis for these regulations is § 63.1-174 of the Code of Virginia. The Department of Social Services has approved draft standards and regulations for licensed adult day care centers for a 60 day public comment period.*

*The purpose of standards and regulations for adult day care centers is to ensure a minimum level of health, safety, and well-being for the participants receiving care. The proposed revisions are designed to provide protective oversight of participants in group care in a flexible enough manner to accommodate changes during the lifetime of these standards. Emphasis has been placed on clarity and ease of comprehension.*

*The document is comprised of the following issues which impact adult care centers subject to licensure by the Department of Social Services: Administration, personnel, supervision, physical environment, management of emergencies and programs and services which include: admission policies, health care, management of behavior, nutrition, food service and activities.*

*Under the current definition in the Code of Virginia, an adult day care center is a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of a day only, which provides supplementary care and protection of individuals who reside elsewhere. Section 63.1-172 C of the Code of Virginia exempts a facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation, and the home or residence of an individual who cares for only persons related to him by blood or marriage from adult day care center licensure.*

*As of July 1985, 30 centers were licensed for a total capacity of 1,171 participants. Of these, 15 were private, not-for-profit; 11 were public not-for-profit; and 4 were operated for profit.*

VR 615-21-02. Standards and Regulations for Licensed Adult Day Care Centers.

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## PART I. INTRODUCTION.

- Article 1.  
Definitions.

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

"Administer medicine" means to read the label, to open the container of medicine, to remove the prescribed dosage, and to give it to the person for whom it is prescribed.

Section 43-524.65 of the Code of Virginia, states that only people authorized by state law may administer drugs. People authorized to administer medicine include licensed physicians, registered nurses, licensed practical nurses, physicians' assistants, and other individuals who meet the requirements of the law. In addition to these persons designated in the law, a physician may choose to designate, in writing, a person who does not meet the requirements of the law to be his authorized agent. This permits the person to administer medicine legally to that physician's designated patients, in accordance with such a physician's instructions.

"Adult" means any person 18 years of age or older.

"Adult day care center" means "a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the State Board of Mental Health and Mental Retardation, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage." (Chapter 9, § 63.1-172C of the Code of Virginia)

"Ambulatory" means the ability of a person who is

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physically and mentally able to make an exit from a building in an emergency, including the ascent and descent of stairs, without the assistance of another person or without the use of any device such as, but not limited to, a wheelchair, walker or leg prosthesis. The determination of whether a person is ambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of § 6.5 of these standards and regulations.

**NOTE:** This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.

**"Care"** means assistance with the activities/tasks of daily living provided to participants.

**"Character and reputation"** means findings have established both: (i) the absence of evidence of bad character or conduct, and (ii) that knowledgeable and objective people agree that the subject maintains business/professional and community relationships which are characterized by honesty, fairness, truthfulness, and a concern for the well-being of others to the extent that the subject is considered suitable to be entrusted with the health, safety, and welfare of aged, infirm, or disabled adults.

**"Commissioner"** means the Commissioner of Social Services, also known as the Director of the Virginia Department of Social Services.

**"Contrast"** means a significant difference in diversity of adjacent parts by color, tone, and/or light.

**"Department"** means the Virginia Department of Social Services.

**"Department's representative"** means an employee of the Virginia Department of Social Services who is acting as the authorized agent of the commissioner in carrying out the responsibilities and duties specified in Chapter 9, Title 63.1 of the Code of Virginia.

**"Director"** means the person who has been delegated responsibility for the programmatic and administrative functions of the adult day care program.

**"Disabled"** means the inability to perform some or all of the activities/tasks of daily living due to physical or mental handicaps or injuries.

**"Distribute medicine"** means to give the container of medicine to the person for whom it is prescribed.

**"Infirm"** means the inability to perform some or all of the activities/tasks of daily living due to weakness or illness.

**"Legal guardian"** means an individual who has legal control and management of the person, or the property, or

of both the person and the property of the participant. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the participant has proper care and supervision in keeping with his needs. A legal guardian of the property is appointed to manage the financial affairs in the best interest of the participant.

**"Licensee"** means any person, association, partnership, or corporation to whom the license is issued.

**"Licensed practical nurse"** means any individual who holds a current, valid, license from the Commonwealth of Virginia as a L.P.N.

**"Nonambulatory"** means the inability of a person, who because of physical or mental impairment, must be led, assisted, or carried by another person, or who is dependent on the use of a device such as, but not limited to, a walker, wheelchair or leg prosthesis to make an exit from a building in an emergency. The determination of whether a person is nonambulatory shall be based on information contained in the report of the physical examination as required by paragraph 5 of subsection B of § 6.5 of these standards and regulations.

**NOTE:** This is not a medical definition, but is related to the placement of elderly and impaired adults in buildings that are appropriate in terms of fire safety.

**"Nurse"** means any individual who holds a current, valid license from the Commonwealth of Virginia as a licensed practical nurse or as a registered nurse.

**"Participant"** means an aged, infirm or disabled adult who takes part in the program of care and receives services from the center.

**"Physician"** means any individual licensed to practice medicine in any of the 50 states or the District of Columbia.

**"Program director"** means the person responsible for programmatic functions and supervision of all staff who work directly with participants.

**"Protection"** means the intent to prevent harm and to provide oversight of the participant.

**"Recommended dietary allowances"** (RDA) are the levels of intake of essential nutrients considered, in the judgment of the Committee on Dietary Allowances of the Food and Nutrition Board of the National Research Council on the basis of available scientific knowledge, to be adequate to meet the known nutritional needs of practically all health persons.

The RDA were approved by the governing board of the National Research Council, whose members are drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. The members of the committee responsible for

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the report were chosen for their special competencies and with regard for appropriate balance.

The study was supported by the National Institutes of Health, United States Public Health Service.

"Registered nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as a R.N.

"Respite care" means temporary care given to a person to relieve family members or other caregivers. These standards apply only if respite care is provided during part of the day. If 24-hour respite care is planned or provided for four or more people, the Standards and Regulations for Licensed Homes for Adults shall apply.

"Responsible person" means the person who assumes the responsibility for arranging for care and services for the participant. The responsible person may or may not be the legal guardian for the participant, and may or may not be related to the participant.

"Snack" means a light meal or nutritious meal supplement.

"Sponsor" means an individual, partnership, association, or corporation responsible for the operation of an adult day care center subject to licensure.

"Staff or staff person" means administrative, program, service, and volunteer personnel including the licensee when the licensee is an individual.

"Supplementary care" means a part of the total care that is required by participants. Supplementary care augments the care that the family or other persons provide. Care provided by an adult day care center is supplementary care.

"Supervision" means the general oversight of the physical and mental well-being of participants.

"Unit dose" means a packaged amount of medicine containing one dose of the medicine.

"Volunteer personnel" means persons who come to the center once a week or more often or who are counted in the staff to participant ratio.

## Article 2. Legal Base.

§ 1.2. Sections 63.1-172 through 63.1-194 of the Code of Virginia describe the responsibility of the Department of Social Services for the regulation of residential and day care programs for adults, including adult day care centers.

§ 1.3. Section 63.1-174 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services and facilities for adults,

including adult day care centers.

## Article 3. Purpose.

§ 1.4. The purpose of the Standards and Regulations for Licensed Adult Day Care Centers is to protect aged, infirm, or disabled adults who are away from their homes during a part of the day by:

1. Ensuring that the activities, services, and facilities of adult day care centers are conducive to the well-being of the participants; and
2. Reducing risks in the caregiving environment.

## Article 4. Applicability.

§ 1.5. These Standards and Regulations for Licensed Adult Day Care Centers apply to any facility:

1. That is operated for profit or desires to be licensed; and
2. That provides supplementary care and protection for four or more adults.
  - a. Who are aged, infirm or disabled,
  - b. Who are in care for less than 24 hours per day, and
  - c. Who reside elsewhere.

§ 1.6. The following types of facilities are not subject to licensure as an adult day care center:

1. A facility or portion of a facility licensed by the State Board of Health;
2. A facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation;
3. A home or residence of an individual who provides care only for persons related to him by blood or marriage;
4. A facility or a portion of a facility which is certified by the Department of Mental Health and Mental Retardation, and which conducts a mental health program where treatment is provided for adults who are experiencing varying degrees of mental health related problems;
5. A facility or a portion of a facility certified by the Department of Mental Health and Mental Retardation which conducts a mental retardation program where treatment is provided for mentally retarded or developmentally disabled adults;
6. A facility or a portion of a facility which conducts programs whose primary purpose is training or



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employment for physically or mentally impaired adults (e.g., sheltered workshops, etc.); and

7. A facility or a portion of a facility which conducts a socialization or recreation activity program for adults who do not receive assistance with the activities/tasks of daily living or protective oversight and supervision (e.g. senior centers, etc.).

## PART II. ADMINISTRATION.

### Article 1. Sponsorship.

§ 2.1. Each center shall have a clearly identified sponsor. An individual, partnership, association, corporation, or governmental unit may operate an adult day care center.

§ 2.2. One of the following five types of sponsorship shall apply:

1. **Individual proprietorship**

The individual is the licensee.

2. **Partnership**

The partnership shall:

- a. Have a written agreement (articles of partnership) to operate and maintain an adult day care center; and
- b. Serve as the licensee.

3. **Unincorporated association**

The association shall:

- a. Have a written constitution or written by-laws which establishes that the purpose of the association allows the operation and maintenance of an adult day care center; and
- b. Have a governing board which serves as the licensee.

4. **Corporate**

The corporation shall:

- a. Have a charter, articles of incorporation or certificate of authority to transact business in the Commonwealth of Virginia, which specifies that the purpose of the corporation allows operation and maintenance of an adult day care center; and
- b. Have a governing board which serves as the licensee.

5. **Public**

The governmental unit sponsoring the center shall be the licensee.

§ 2.3. The sponsor, represented by the individual proprietor or by the officers and agents of a partnership, association, or corporation shall be of good character and

reputation; and shall not have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of children or adults.

§ 2.4. **Posting of the license.**

The license shall be posted in a place conspicuous to the public, near the main entrance of the building(s), or in the main office.

§ 2.5. **Deceptive representation or advertisement.**

An adult day care center shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made an advertisement of any sort regarding services or anything so offered to the public, which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

### Article 2. Operational Responsibilities.

§ 2.6. The licensee shall be responsible for the overall planning of the program and services to be provided by the center. The operational responsibilities of the licensee shall include, but not be limited to, the following:

1. To develop a written statement of the purpose and scope of the services to be provided by the center, a description of adults who may be accepted into the program as well as those whom the program cannot serve, and written policies under which the center will operate;

NOTE: This requirement applies only to initial application for licensure unless there is a significant change.

2. To ensure that the center's activities, services, and facilities are maintained in compliance with the Standards and Regulations for Licensed Adult Day Care Centers, with the terms of the current license issued by the department and with other relevant federal, state, or local laws and regulations;

3. To appoint and identify in writing a director to be responsible for the day-to-day operation and management of the center, except when the sponsor is an individual who serves as the director or a partnership in which a partner serves as the director;

4. To provide for an adequate number of qualified staff capable of carrying out the operation of the program;

5. To develop a written organizational chart indicating lines of authority and a staffing plan which includes a staffing schedule;

6. To establish sound policies under which the center

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shall operate; and

7. To ensure sound financial management of the center.

## Article 3. Financial Responsibilities.

§ 2.7. Section 63.1-176 of the Code of Virginia: With an initial application for licensure, the applicant shall provide the department with the following evidence of financial responsibility:

1. A projected budget detailing income and expenses of the proposed center for the first year of operation;
2. A complete balance sheet showing separately the current assets committed to and current liabilities charged against the proposed center; and
3. Documentation of funds or credit available for the first 90 days of operation.

NOTE: Financial records may be requested pursuant to § 63.1-177 of the Code of Virginia.

§ 2.8. The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate. Evidence of insurance coverage shall be made available to the department's representative upon request.

## Article 4. Record Keeping Responsibilities.

§ 2.9. The licensee shall ensure that the center maintains an adequate system of record keeping to comply with these standards.

§ 2.10. All participants' records shall be treated confidentially.

§ 2.11. Records shall be updated and kept current as changes occur.

§ 2.12. If the participant or legal guardian consents in writing records shall be shared with other facilities/agencies upon referral or discharge.

§ 2.13. All records required by these standards for both participants and personnel shall be kept in a locked cabinet or area and retained at the center for one year after termination of enrollment or termination of employment, unless specified otherwise.

## PART III. PERSONNEL.

### Article 1. General Qualifications.

§ 3.1. The following standards shall apply to all staff:

1. No staff person shall have been convicted of a felony or a misdemeanor related to abuse, neglect, or exploitation of adults or children.

2. All staff persons shall be of good character and reputation.

3. All staff persons shall understand and be sensitive to the varying capabilities, interests, needs, and problems of the individuals in care.

4. All staff persons shall be competent, qualified, and capable of carrying out assigned responsibilities.

5. All staff persons shall be willing and able to accept training and supervision.

6. All staff persons shall be able to communicate effectively both orally and in writing as applicable to the job responsibility.

7. All staff persons shall be able to understand and apply those standards in the Standards and Regulations for Licensed Adult Day Care Centers which relate to their respective responsibilities.

§ 3.2. All staff persons who work directly with participants and who are counted in the staff to participant ratio shall be at least 18 years of age.

EXCEPTION: Paid or volunteer assistants may be between 14 and 18 years of age provided that their immediate supervisor is an adult.

### Article 2. Personnel Records.

§ 3.3. Personnel records shall be kept at the center for paid staff and volunteer personnel who begin work subsequent to ..... (effective date of these standards).

§ 3.4. Personnel records shall include the following:

1. The original application for employment or other written material providing:

a. Identifying information including name of staff person, beginning date of employment/volunteering, and job title;

b. Any other information needed to demonstrate that the individual possesses the qualifications required for the position;

2. Written documentation that at least two references as to character and reputation as well as competency were checked with previous employers, if any, and/or other knowledgeable and objective sources prior to

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employment or volunteering (e.g., letters of reference; notations of telephone reference checks including the name of the person(s) contacted, the date(s) of contact, the firm(s) contacted, and the results);

3. Documentation and dates of participation in orientation, training and staff development activities; and

4. Date of termination of employment, when applicable.

## Article 3. Health Requirements.

§ 3.5. Health information required by these standards shall be maintained for all staff (including the licensee, the director, and volunteer personnel) who come in contact with participants or who handle food.

### A. Initial tuberculosis examination and report.

1. Each staff person shall obtain an evaluation indicating the absence of tuberculosis in a communicable form within 30 days before or 30 days after employment or contact with program participants.

**EXCEPTION:** When a staff person terminates work at one licensed facility and begins working at another licensed facility with a gap in service of six months or less, the previous statement of tuberculosis screening may be transferred to the second facility.

2. Each staff person shall submit a statement that he is free of tuberculosis in a communicable form. This statement shall be maintained at the center and shall include the following:

- a. The type(s) of test(s) used and the test result(s),
- b. The date of the statement, and
- c. The signature of the physician, the physician's designee, or an official of a local health department.

### B. Subsequent evaluations.

Any staff person who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall within 30 days after exposure/development receive an evaluation in accordance with subsection A of § 3.5 of these standards and regulations.

§ 3.6. At the request of the licensee/director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the safety of participants in care may be jeopardized by the physical or mental health of a specific participant.

§ 3.7. Any individual who upon examination or as a result of tests shows indication of a physical or mental condition

which may jeopardize the safety of participants in care or which would prevent performance of duties:

1. Shall be removed immediately from contact with participants and food served to participants and
2. Shall not be allowed contact with participants or food served to participants until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed, dated statement from the physician.

§ 3.8. Any individual who cannot adequately perform their duties or who may jeopardize the health or safety of the participants shall be relieved of their duties and removed from the center.

## Article 4. Staff Training.

§ 3.9. All staff shall be trained in the appropriate procedures for handling emergencies. Such training shall take place before job responsibilities are assumed and shall include at least the following:

1. Their individual responsibilities in the event of fire, including the location and operation of any fire extinguishers and fire alarm boxes;
2. Their individual responsibilities in the event of illness or injuries, including the location and use of the first aid emergency supplies; and
3. Their individual responsibilities in the event of a lost or missing participant, severe weather emergencies, etc.

### § 3.10. Orientation.

Before assuming job responsibility all staff persons shall receive job orientation training. Items not covered in the training prior to beginning employment shall be completed within one week of the starting date of employment. The orientation shall include training specific to the staff's assigned responsibilities, as well as about the following topics:

1. The purpose of the adult day care center;
2. The policies of the center as they relate to the staff member's responsibilities;
3. Section 63.1-55.3 of the Code of Virginia: procedures for detecting and reporting suspected abuse, neglect, or exploitation of participants to the appropriate local department of social services;
4. Confidential treatment of personal information about participants and their families;
5. The Standards and Regulations for Licensed Adult

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Day Care Centers, as they relate to the employee's responsibilities;

6. Individual capabilities and special needs of the elderly, the impaired adult, or the handicapped, including specific needs of participants in care; and

7. The schedule of activities.

## § 3.11. Staff development.

All staff who are primarily responsible for the direct care of the participants shall attend at least eight hours of staff development activities annually which shall consist of inservice training programs, workshops, or conferences related to adult day care or gerontology provided that both subject areas are addressed during the year.

### Article 5. Administrative Staff.

§ 3.12. During the center's hours of operation, one adult on the premises shall be in charge and responsible for the administration of the center. This person shall be either the director or an adult appointed by the licensee or designated by the director.

### Article 6. Program Staff.

## § 3.13. Director or program director.

A. There shall be one person responsible for the program of the center who shall have the following qualifications:

1. The director shall be at least 18 years of age.
2. The director shall have completed at least 48 semester hours or 72 quarter hours of post secondary education from an accredited college or institution, and shall have completed at least two years of experience working with elderly or handicapped people. This may be paid full-time employment, or its equivalent in part-time employment or in volunteer work.
3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult day care program including: (i) knowledge and understanding of impaired elderly and handicapped individuals, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management sufficient to ensure program development and continuity.
4. The director shall demonstrate knowledge of supervisory and motivational techniques sufficient to: (i) accomplish day-to-day work; (ii) train, support and develop staff; (iii) plan responsibilities for auxiliary

staff to ensure that services are provided to participants.

B. The program director shall be responsible for:

1. The content of the program offered to the participants in care;
2. Programmatic functions, including orientation, training, and scheduling of all staff who directly supervise participants, whether or not the program director personally performs these functions;
3. Management of the supervision provided to all staff who directly supervise participants, whether or not the program director individually supervises such staff;
4. Assignment of a sufficient number of qualified staff to meet the participants' needs for:
  - a. Adequate nutrition,
  - b. Health supervision and maintenance,
  - c. Personal care,
  - d. Socialization,
  - e. Recreation,
  - f. Activities and stimulation,
  - g. Supervision and protection,
  - h. Safety.

5. The duties and responsibilities required by these standards and regulations.

## § 3.14. Assistant director or assistant program director.

If the program director is present in the center less than four hours per day, there shall be an officially designated assistant program director who shall meet the qualifications of the program director and who shall assume responsibility in the absence of the program director.

### Article 7. Volunteers and Volunteer Personnel.

NOTE: Volunteers are persons who come to the center less than once a week and are not counted in the staff to participant ratio. Volunteer personnel are persons who come to the center once a week or more often or who are counted in the staff to participant ratio. Volunteer personnel shall meet all the personnel and health requirements for the applicable position.

§ 3.15. All volunteers and volunteer personnel shall be under the individual supervision of a director, program director, assistant program director, or designated staff person.

§ 3.16. The duties of volunteers and volunteer personnel shall be clearly defined.

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## PART IV. SUPERVISION.

### Article 1. General Supervision.

§ 4.1. There shall be at least two staff persons on duty at the center at all times when one or more participants are present. Both of these staff persons must be at least 16 years of age and one of them must be an adult.

### Article 2. Staff to Participant Ratio.

§ 4.2. There shall be a minimum of one staff person on duty providing direct care and supervision for every six participants in care.

NOTE: Staff members who are under 18 years of age shall not be counted in the staff to participant ratio.

§ 4.3. The number of any additional staff persons required shall depend upon:

1. The program and services the center provides and
2. The functional level of the participants.

## PART V. PHYSICAL ENVIRONMENT.

A center must provide an environment which protects the participants from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional, or social stimulation.

### Article 1. Safety, Health and Comfort.

§ 5.1. No adult care center shall be located where conditions exist that would be hazardous to the physical health and safety of participants.

§ 5.2. Building construction and maintenance.

A. If space used or planned for use by the center is renovated or altered, the plans shall be submitted to the department for review prior to the expected change.

B. Prior to beginning operation and prior to use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided:

1. Inspection and approval of the building(s) from the local building official, if applicable, or approval of a plan of correction; OR
2. Inspection and approval of the building(s) from the Office of the State Fire Marshal, if applicable, or approval of a plan of correction; AND

3. Inspection and approval from the local health department, or approval of a plan of correction related to:

- a. Sanitation and health,
- b. Water supply,
- c. Sewerage system,
- d. Food service.

4. Inspection and approval from the local fire department that the center is free from fire hazards or approval of a plan of correction.

C. At the time of a renewal application, written documentation of annual approval, or approval of a plan of correction, shall be provided from:

1. The office of the State Fire Marshal, if applicable;
2. The local health department; and
3. The local fire department.

D. The buildings shall be free from safety hazards.

§ 5.3. Special requirements for nonambulatory or physically handicapped individuals.

A. If the center is licensed for nonambulatory participants, at least one separate entrance shall be ramped, wheelchair-accessible, or at ground level, with no steps, so that participants can evacuate safely in the event of fire or emergency.

B. Doorways and passageways shall be wide enough to accommodate wheelchairs and walkers, before any participant who uses a wheelchair or a walker is accepted for care.

§ 5.4. Grounds.

A. The grounds shall be well maintained and free from safety hazards.

B. An area shall be available and accessible so that participants shall have opportunities for outdoor activities.

C. A safe area for discharge and pick-up shall be available to accommodate daily arrival and departure of participants.

D. Adequate outdoor lighting shall be provided to ensure safe loading and unloading of participants upon arrival and departure if the center operates during hours of dim light or darkness.

§ 5.5. Sanitation.

A. Cleanliness of the facility and all of its furnishings and equipment shall be properly maintained.

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**B. The facility shall be free from insects, rodents, and other pests.**

**C. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.**

**D. Sufficient working refrigeration shall be available to store perishable food and medicine.**

**E. Drinking water shall be available at all times.**

**F. Drinking fountains, if used, shall be of a type approved by the local health department.**

**G. Individual disposable cups shall be provided for drinking water when fountains are not used.**

**H. If disposable dishes, cups and/or utensils are used, they shall be sturdy enough to prevent them from being a safety hazard. They shall be used once and then discarded.**

## § 5.6. Lighting.

**A. All areas of the facility shall be well lighted for the safety and comfort of the participants during all hours of operation according to the nature of activities.**

**NOTE: Special lighting requirements relating to medications are under paragraph 3 of subsection B of § 6.7 of these standards and regulations.**

**B. Artificial lighting shall be by electricity or battery.**

**C. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as but not limited to stairways, doorways, passageways, changes in floor level, kitchens, bathrooms and basements.**

**D. Hallways, stairwells, foyers, doorways, and exits utilized by participants shall be kept well lighted at all times participants are present in the building(s). Whenever natural light is not sufficient, artificial lighting shall be used.**

**E. Glare shall be kept at a minimum in rooms used by participants.**

**1. When necessary to reduce glare, windows shall be equipped with shades, curtains or other coverings.**

**2. All lights, including fluorescent lights, shall be covered with shades or protective fixtures or specially equipped to reduce glare and ensure protection.**

**F. If used, fluorescent lights shall be replaced if they flicker or make noise.**

**G. All sources of light including windows, light fixtures,**

**bulbs, etc., shall be kept clean.**

## § 5.7. Temperature and ventilation.

**A. Areas used by participants shall be well ventilated to the outside and dry.**

**B. The temperature of the rooms used by participants shall be maintained at a level safe and suitable for elderly, disabled, and impaired adults:**

**1. The minimum inside temperature shall be 68° F.**

**2. There shall be fans and/or air conditioners available. These shall be used when the inside temperature exceeds 84° F.**

**3. Each day care center shall have at least one portable thermometer to assure correct temperature.**

**4. Fans and air-conditioners shall be placed to avoid direct drafts on participants and to avoid safety hazards.**

## § 5.8. Equipment and materials.

**A. All furniture and equipment inside and outside the center shall be maintained in good repair and in safe condition.**

**B. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.**

**C. If elevators are used, the following requirements shall be met:**

**1. They shall be kept in safe running condition.**

**2. They shall have sturdy handrails installed.**

**3. They shall be inspected at least annually by the insurance company, the local housing authority, or the elevator company.**

**4. A copy of the inspection report shall be retained by the center.**

**5. If elevators are used, an alternative exit shall be accessible for use in case of a fire and/or other emergencies.**

**D. Sturdy handrails shall be installed at all stairs, ramps, and changes in floor levels.**

**E. All interior and exterior stairways and ramps shall have nonslip surfaces or carpet.**

**F. All interior and exterior stairways, changes of floor level, and ramps shall be indicated by a warning strip or contrast in color to aid the participants who have impaired**

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vision.

G. Floors shall not be slippery. If rugs or floor coverings are used, they shall be secured to the floor.

## Article 2. Space, Furnishings, and Supplies.

### § 5.9. Activity areas.

A. The center shall provide at least 40 square feet of indoor floor space for each participant, in addition to hallways, office space, bathrooms, storage space, or other rooms or areas that are not normally used for program activities.

B. There shall be sufficient and suitable space for planned program activities, that may be interchangeable or adaptable for a variety of activities.

1. There shall be enough space for the participants to gather together for group activities.

2. There shall be rooms or areas appropriate for small group activities and individual activities.

### C. Furnishings.

1. The furniture shall be sturdy, safe, and appropriate for elderly and impaired adults.

2. All centers shall have:

a. At least one chair for each participant and each staff person, excluding any people who remain in wheelchairs throughout the day;

b. Table space adequate for all participants to take part in activities at the same time; and

c. Recliners, lounge chairs, rockers, or other seating to allow participants to relax and rest.

§ 5.10. Space shall be available to allow total privacy for participants during interviews, visits, telephone conversations, counseling, therapy, and other similar activities.

### § 5.11. Bathroom facilities.

A. There shall be a minimum of one toilet available for every 12 participants in attendance.

B. If 12 or fewer participants are in attendance, there shall be at least one toilet or toilet stall large enough to accommodate a participant who needs personal assistance or who uses a walker or wheelchair.

C. If more than 12 participants are in attendance:

1. There shall be separate bathrooms for men and

women to allow for privacy; and

2. At least one bathroom and toilet stall for men and another bathroom and toilet stall for women shall be large enough to accommodate a participant who may need personal assistance or who uses a walker or wheelchair, if the center is licensed for nonambulatory participants.

D. In bathrooms equipped with more than one toilet, each toilet shall be enclosed for privacy.

E. Sturdy grab bars or safety frames shall be installed by all toilets used by participants.

F. There shall be a minimum of one sink for every two toilets located close enough together to ensure washing of hands after each toileting procedure.

G. There shall be an adequate supply of toilet tissue, soap, and disposable hand towels in each bathroom at all times.

### § 5.12. Dining area.

A. The dining area shall be large enough to provide sufficient table space and chair space to accommodate the participants. However, participants may eat in shifts.

B. If the center is licensed for nonambulatory participants, the dining area shall be large enough to provide sufficient table space and floor space to accommodate participants in wheelchairs.

### § 5.13. Storage.

A. Sufficient space shall be provided for coats, sweaters, umbrellas, toilet articles, and similar personal possessions of participants and staff.

B. Sufficient space shall be available for equipment, materials, and supplies used in the program.

### § 5.14. Telephones.

A. At least one operable, nonpay telephone shall be provided in each building.

B. If the center is licensed for nonambulatory participants, the telephone shall be easily accessible in an emergency and of a height accessible to a person in a wheelchair.

### § 5.15. Rest area.

A separate room or area shall be available for participants who become ill, need to rest, or need to have privacy.

A. The separate room or area shall be equipped with a bed or comfortable cot for every 10 participants.

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**EXCEPTION:** In centers that are open for evening or night care, beds shall be available for participants as necessary.

B. Additional beds or comfortable cots shall be available to accommodate all participants who are scheduled for rest periods.

C. A minimum of one pillow covered with a pillow case, two sheets and one blanket, spread or covering per bed or cot shall be provided.

D. Additional covering or blankets and pillows shall be added as required.

E. All sheets and pillow cases shall be laundered before being used by another person.

F. All blankets, spreads, and coverings shall be laundered or dry cleaned, as needed.

## PART VI. PROGRAMS AND SERVICES.

### Article 1. Admission Policies and Procedures.

#### § 6.1. Admission and Assessment.

##### A. Admission policies.

1. The adult day care center shall have written admission policies consistent with the program statement.

2. The admission policies shall be discussed with each person entering the program, as well as with any family member or any other person who enrolls the participant. A copy of the admission policies shall be available upon request for each of these people.

3. Only those people whose needs can be met by the center's program shall be admitted to the center.

4. All participants shall be 18 years of age or older.

##### B. Assessment policies.

1. The center staff shall be responsible for conducting or securing a written assessment of an applicant prior to admission.

2. The assessment shall be based upon the information presented by the applicant, family members, friends or responsible person, and the report of any physical examination.

3. The assessment shall be used to identify the person's strengths and needs to determine if and how the program can serve the participant.

4. The assessment shall include at minimum a description of the participant's:

##### a. Physical condition, including:

- (1) Ambulatory ability,
- (2) Ability to perform activities of daily living, such as eating and toileting,

b. Social situation, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant;

c. Mental status, including any intellectual impairment and known psychiatric or emotional problems; and

d. Economic conditions, to the extent that the director is able to plan appropriate activities and to make appropriate referrals to other organizations.

5. The initial assessment shall be reviewed and updated on a scheduled basis, but at least annually. This reassessment shall be in writing.

6. A reassessment shall also be made and documented in writing when there are changes to indicate that a participant's needs may no longer be met by the current plan of care.

#### § 6.2. Plan of care for each participant.

A. Prior to admission a beginning/preliminary plan of care, based upon the assessment, shall be developed in writing for each participant. The plan shall be updated and completed within 30 days of admission.

B. The plan shall be designed to improve the functional capabilities of the participant when possible, or to prevent further deterioration. The plan shall include:

1. A description of the participant's needs;

2. The activities and services in which the person will participate in order to meet those needs;

3. Realistic goals for the participant, when appropriate, and suggestions for family members to work toward while the participant is in the program; and

4. If appropriate, the time by which the goals should be achieved.

C. The written plan of care and personal information shall be reviewed and updated on a scheduled basis as needed, but at least annually. The revised plan of care shall be in writing.

D. The revised plan shall conform to the requirements of the initial plan as specified in subsection B. of § 6.2 of



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these standards and regulations.

## § 6.3. Agreement.

A. There shall be a written agreement between the participant and the center. The agreement shall be signed by the participant and the center representative.

B. The agreement shall specify the services to be provided by the center; conditions for dismissal or discharge; and financial arrangements.

EXCEPTION: For some participants, the agreement need not specify financial arrangements provided that the financial arrangements are made, signed for, and handled by the legal guardian or responsible person.

C. A copy of the agreement (or appropriate portion of the agreement) shall be given to the participant; a full copy shall be given to the legal guardian or responsible person, if applicable; and a copy shall be kept at the center.

D. The agreement shall be reviewed and updated whenever there is any change in the services or the financial arrangements.

## § 6.4. Personal information for each participant.

A. The following personal information shall be kept current for all participants, to be used for the initial and ongoing assessments and plans of care, as well as in the event of an emergency:

1. Full name of participant, address, and telephone number;
2. Names, addresses, and telephone numbers of at least two family members, friends, or other designated people to be contacted in the event of illness or an emergency; and
3. Names, addresses, and telephone numbers of the participant's personal physician, and clinics where the participant receives treatment, the name of the preferred hospital in the event of an emergency, and the local social service case worker if the Department of Social Services is involved in the placement.

B. Individual records shall be kept for participants containing all information, reports, and documents required by these standards and regulations.

## § 6.5. Physical Examinations/Medical Information

A. Screening for tuberculosis and a physical examination by or under the direction of a licensed physician shall be obtained either within 30 days prior to acceptance for admission or within 30 days prior to admission.

B. The report of the required physical examination shall

include:

1. The date of the physical examination;
2. All diagnoses and/or significant medical problems;
3. Any special requirements and all recommendations for care including:
  - a. A list of medicines including dosages and times medicines are to be administered,
  - b. Any special diet,
  - c. Any allergies and/or any food intolerance,
  - d. Any therapy the individual in undergoing or should receive, and
  - e. Any restrictions or limitations on physical activities or program participation.
4. A statement that the individual is or is not capable of administering his own medications without assistance;
5. A statement that the individual is or is not physically and mentally able to make an exit from the building in an emergency without the assistance of another person or without the use of a device such as, but not limited to, a wheelchair, walker or leg prosthesis. (This does not apply to participants already in care. However, a participant who is grandfathered by these standards would be required to meet the standard should a transfer be made to another facility.);
6. A statement that the individual does not have tuberculosis in a communicable form, including the type(s) and test(s) used and the results; and
7. The signature of a licensed physician, the physician's designee, or an official of a local health department.

## Article 2. Health Care.

### § 6.6. Medical reports after admission.

A. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall, within 30 days after exposure/development, receive an evaluation in accordance with § 6.5.

B. At the request of the licensee/director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the day care center can no longer provide appropriate or safe care because of changes in

the participant's physical or mental health.

1. The written report of the physical examination shall be dated.
2. The written report of the physical examination shall be signed by a physician, the physicians' designee, or an official of a local health department.
3. The report of the physical examination shall be used in evaluating the participant's continued suitability for adult day care.

C. All medical reports shall be kept at the center.

## § 6.7. Medication management.

A. Unless it is contrary to the day care center's policy, participants may keep and take their own medicine provided that:

1. Their physicians have deemed them capable of administering medicine to themselves, and
2. The center ensures that other participants do not have access to any participant's medicine.

B. If there are any participants whose physicians have deemed them incapable of administering medicine to themselves, or if the day care center chooses to administer or distribute all medication, the following standards apply:

1. The medicine shall be kept in a locked compartment or area.
2. The medicine shall be kept in a darkened area, free from dampness and high temperatures, and refrigerated if required.
3. The area in which the medicine is administered or prepared for distribution shall have sufficient light so that the labels can be accurately read and the correct dosage can be clearly determined.
4. Each staff person who administers the medicine shall be authorized by § 43-524.65 of the Code of Virginia, or by written authorization of the participant's physician. A copy of all physician's authorizations shall be kept in the participant's record so long as they are in effect.

NOTE: When a person authorized to administer medications puts the proper dosage in a medicine cup labeled with the resident's name, a staff person who is not authorized to administer medications may distribute the cups to the appropriate residents.

EXCEPTIONS: Unit dose medications may be distributed by any staff person capable of reading the label and distributing the medications to the person for whom they

were prescribed.

5. A written record shall be kept of all medicine administered or distributed to the participants while at the day care center. This record shall be retained at the center for one year and shall include:

- a. Date,
- b. Name of participant,
- c. Name of drug(s) or prescription number,
- d. Time administered,
- e. Name of person administering, and
- f. Any adverse or unusual reaction that occurs.

## § 6.8. Health care supervision.

A. Changes in a participant's physical or mental health, behavior, attitude, or other significant changes, shall be discussed with the participant, family, physician or clinic, or other responsible person as appropriate. A written notation in the participant's record shall document the change and the person to whom it was reported.

B. If a participant suffers an illness or accident requiring medical attention:

1. The center shall ensure that the participant receives immediate access to medical attention,
2. The family or other responsible person and the participant's personal physician shall be notified immediately, and
3. The notification shall be documented in the participant's record along with the details of the incident and action taken.

## § 6.9. Health care needs.

A. If center staff identify a need for health care services, this need shall be discussed with the participant, family members, or other responsible persons as appropriate. The discussion shall be documented in the participant's record and included in the update of the plan of care.

B. In the event that the center provided health care services to meet these needs, the provider of health care shall be licensed, certified, or registered, as required by law.

## § 6.10. Ill participants.

A. A participant who is apparently ill shall not enter the adult day care center without written approval from a physician.

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## **B. If a participant becomes ill during the day:**

1. He shall be separated from all other participants in care;
2. The responsible person shall be notified immediately in order that the participant may be returned home, if necessary; and
3. The ill participant shall be checked on at least every 15 minutes until leaving the center.

### **Article 3. Discharge Policies.**

§ 6.11. When the participant's needs can no longer be met by the program of care, plans shall be made for the participant's discharge.

§ 6.12. Unless clearly impossible, the participant shall be informed of and participate in discharge planning.

§ 6.13. In the event that the center initiates the discharge, the written plan of discharge shall outline the services needed by the participant upon discharge. The plan shall be discussed with the participant and family members or other responsible persons. Although primary responsibility for the location and delivery of these services falls upon the participant and family members or other responsible people, adult day care staff shall assist, when possible.

§ 6.14. If requested by the participant or responsible person, adult day care staff shall assist the participant with the transition from adult day care to other appropriate programs or services, such as counseling or arranging a visit to the other program or preparing a transfer report for the new program.

### **Article 4. Program of Care.**

§ 6.15. Planning the activities and services.

A. Activities and services shall be planned to support the plans of care for the participants, and shall be consistent with the program statement and the admission policies.

B. Activities and services shall be planned under the supervision of the director who shall encourage involvement of participants and staff in the planning.

#### **C. Schedule of activities.**

1. There shall be planned activities and programs whenever the center is in operation.
2. A written schedule of activities shall be developed at least monthly.
3. The schedule shall include:

a. Group activities for all participants or small groups of participants,

b. Personalized options for individuals with varying interests, and

c. The name or type, date and hour of the activity.

4. If one activity is substituted for another, the change shall be noted on the schedule.

5. The current month's schedule of activities shall be posted in a conspicuous place or otherwise made available to participants and their families.

6. The schedule of activities for the past six months shall be kept at the center.

7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care and shall be kept in the participant's record.

D. The activities shall be varied to appeal to the different interests, abilities, and needs of the participants.

#### **E. All activities shall:**

1. Support the physical, social, mental, and emotional abilities and skills of participants;

2. Promote or maintain the participant's highest level of independence or functioning; and

3. Be within the economic capabilities of the participants and their families.

F. Physical activities shall be encouraged to the extent recommended by each participant's physician.

### **Article 5. Rights of Participants.**

§ 6.16. The participant shall be encouraged and supported in maintaining his highest level of independence.

§ 6.17. The participant shall be encouraged to participate in planning for his care.

§ 6.18. The participant shall be accorded dignity and treated with courtesy and respect at all times.

§ 6.19. The privacy of participants shall be fully respected.

§ 6.20. The participant shall not be abused, exploited, punished, coerced, or threatened in any way.

§ 6.21. The participant shall be protected from solicitation, harassment and unwanted visitors.

# Proposed Regulations

## Article 6. Nutrition and Food Services.

§ 6.22. Meals and snacks shall be provided by the center. The center shall either prepare the food or have it catered.

§ 6.23. Serving of meals and snacks.

A. Centers open before 7 a.m. shall serve breakfast at the center.

B. Centers shall serve appropriate meals and snacks, depending on the hours of operation; i.e., a center open during the hours of 7 a.m. to 1 p.m. must serve a morning snack and a mid-day meal; a center open during the hours of 8 a.m. to 5 p.m. must serve a morning snack, a mid-day meal, and an afternoon snack; a center open during the hours of 2 p.m. to 6 p.m. must serve an afternoon snack; a center open after 6 p.m. to 9 p.m. must serve an evening meal, etc.

C. Participants who have not eaten an evening meal before they are admitted to the center for evening and/or night care shall be served one.

D. Centers open after 9 p.m. shall serve an evening snack.

E. Participants shall be served all meals and snacks scheduled for the period during which they are present.

**EXCEPTION:** Centers are not required to serve breakfast to participants who have had breakfast before arriving at the center.

§ 6.24. There shall be at least two hours between snacks and meals.

§ 6.25. Each meal, including the morning meal, the mid-day meal, and the evening meal, shall provide at least 1/4 of an adult's daily recommended dietary allowance (RDA) or any one meal and any one snack combined shall provide at least 1/3 of the RDA.

§ 6.26. Meals and snacks served to the participants shall be attractive in appearance, consist of a variety of foods, and conform to the following meal patterns:

Pattera	Minimum Amounts
<b>BREAKFAST</b>	
Milk, fluid*	½ cup
Juice** or fruit or vegetable	½ cup
Bread or bread alternate***	1 slice
(including cereal)	½ cup cooked or 3/4 cup dry

### SNACKS

(Select at least two of these four components)

Milk, fluid*	½ cup
Juice** or fruit or vegetable	½ cup
Bread or bread alternate***	1 slice
(including cereal)	½ cup cooked or 3/4 cup dry
Meat, poultry, fish or seafood, or meat alternate****	1 oz.

**NOTE:** Other foods and additional servings may be served to enhance the meals or meet energy needs.

\*Milk, fluid: Includes whole milk, lowfat milk, skim milk or cultured buttermilk which meet state and local standards. It does not include milk mixed from a powder, evaporated milk, or condensed milk.

\*\*Juice: Full strength juices made from fruits or vegetables or frozen concentrate according to directions for full strength juice.

\*\*\*Bread Alternates: 1/2 cup rice, grits, or pasta; cereal; 4 crackers, etc.

\*\*\*\*Meat alternates: 1 egg, 1 oz. cheese, 1/2 cup cooked dry beans or dry peas, or 2 tablespoons peanut butter.

A. At least one good source of Vitamin C must be served per day. Good Vitamin C sources are: cantaloupe, grapefruit, honeydew melon, mango, oranges, papaya, strawberries, tangerines, broccoli, brussels sprouts, cabbage, cauliflower, dark leafy greens, sweet red or green pepper, tomatoes and juices made from these fruits and vegetables.

B. At least one good source of Vitamin A shall be served three times a week. Good Vitamin A sources are: liver, dark leafy green vegetables, broccoli, carrots, sweet red or hot pepper, pumpkin, sweet potatoes or yams, tomatoes, winter squash (deep orange flesh) apricots, cantaloupe, mango, papaya, and juices made from these fruits and vegetables.

§ 6.27. Meals shall be planned in accordance with the needs of the age group in care (i.e. energy needs are less and nutritional needs are higher, special diets may be necessary, participants might have poorly fitting dentures, etc.).

§ 6.28. If a participant needs to follow a special or modified diet recommended by a physician, the day-care center shall ensure that the diet is provided in accordance with the physician's orders while the participant is in the day-care center.

§ 6.29. Assistance in eating shall be provided for

# Proposed Regulations

participants, e.g. to open containers, in cutting foods, etc.

§ 6.30. If catering or contract food service is used, the service shall be approved by the local health department.

§ 6.31. Menus.

A. A menu listing all meals and snacks to be served by the center during the current one week period shall be dated and posted in a location conspicuous to participants and responsible persons.

B. Posted menus shall indicate substitutions.

C. Menus shall be kept at the center for one month.

## Article 7. Assistance with Personal Care.

§ 6.32. Staff shall provide special attention, additional supervision, and assistance in activities of daily living, such as feeding and toileting, to participants who require it.

## Article 8. Transportation Services.

NOTE: If transportation is not provided by the day care center, the following standards do not apply.

§ 6.33. The vehicle shall be accessible and appropriate for the people using it, considering any physical handicaps and impairments they might have.

§ 6.34. Every person must have a seat in the vehicle, except those people who remain in their wheelchairs.

§ 6.35. Wheelchairs shall be secured when the vehicle is in motion.

§ 6.36. Every person shall be seated while the vehicle is in motion.

§ 6.37. Every seat shall be equipped with a seat belt or shoulder harness. Every person shall be directed to use them.

§ 6.38. Participants shall not be left unattended and/or unsupervised while in a vehicle.

§ 6.39. Adequate liability insurance coverage with a minimum limit of at least \$500,000 each occurrence/\$500,000 aggregate shall be maintained according to the size of the vehicle and the number of participants being transported.

## PART VII. EMERGENCIES.

### Article 1. Specialized Staff Training.

§ 7.1. At least one staff person on the premises at all

times during the hours of operation shall have certification in first aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued within the past three years from a source approved by the American Red Cross.

NOTE: Adult day care centers that have licenses in effect on ..... (the date the standards become effective) shall comply with this standard by ..... (six months after the effective date).

§ 7.2. At least one employee or staff member on the premises at all times during the hours of operation shall have certification in cardiovascular pulmonary resuscitation (CPR) issued through the American Red Cross or the American Heart Association within the current year. The CPR certificate must be renewed annually.

NOTE: Adult day care centers that have licenses in effect on ..... (the date the standards become effective) shall comply with this standard by ..... (six months after the effective date).

### Article 2. Buildings and Equipment.

§ 7.3. Each building of the center and all vehicles shall contain a first aid kit which shall include but not be limited to:

1. Scissors,
2. Tweezers,
3. Gauze pads,
4. Adhesive tape,
5. Band-aids, assorted sizes,
6. Triangular bandages,
7. Flexible gauze,
8. An antiseptic cleansing solution,
9. An anti-bacterial ointment,
10. Bee sting swabs or preparation,
11. Ice pack or ice bag,
12. Thermometer,
13. Small flash light.

§ 7.4. The first aid kit shall be stored so that it is not accessible to participants but is easily accessible to staff.

§ 7.5. A first aid instructional manual shall be kept with each first aid kit at all times.

## § 7.6. Heating units.

A. Gas toves, coal stoves, wood stoves, oil stoves, portable electric heaters, kerosene heaters, and portable heating units of a similar nature shall not be used in areas used by participants, except in an emergency such as a power outage in cold weather.

B. When any of the above heating sources are used, care shall be taken to protect participants from injuries.

C. Any heating units used in an emergency shall have been previously inspected and approved by the appropriate fire safety official.

## Article 3.

### Plans and Procedures.

## § 7.7. Plan for medical emergencies.

A. The plan shall include written instructions for handling medical emergencies such as: (i) calling the rescue squad, (ii) ambulance service, or participant's physician, and (iii) providing first aid and CPR, when appropriate.

B. A licensed physician, registered nurse, licensed practical nurse, or other health professional shall be consulted in preparing the plans.

C. In medical emergencies, pertinent medical information and history shall be made available to rescue staff and/or sent with the participant if hospitalized.

## § 7.8. Plan for emergency evacuation.

A. There shall be a written plan for fire and emergency evacuations. The plan shall include:

1. Written procedures to be followed in the event of fire or other emergency. The local fire department or fire prevention bureau shall be consulted in preparing the fire plan, if possible; and

2. A drawing showing exits, telephones, fire extinguishers, and fire alarm boxes, if any, in large numbers and letters so that participants can read.

B. A copy of the fire and emergency plan shall be posted in a conspicuous place on each floor of each building used by participants.

## § 7.9. Emergency evacuation drills.

A. Evacuation drills shall be held at least quarterly.

B. A record of the required evacuation drills shall be kept in the center for one year. The record shall include:

1. The date;

2. The amount of time required to evacuate;

3. The total number of staff and participants involved;

4. Problems encountered, if any; and

5. The names of all participants who were present in the center who did not take part in the drill, and the reasons.

## § 7.10. Other emergency plans.

There shall be written plans and procedures to meet other emergencies, including severe weather, loss of utilities, and missing persons.

## § 7.11. Procedures to meet emergencies.

A. The telephone numbers of the fire department, the rescue squad or ambulance services, the police, and the regional poison control center shall be located in a conspicuous place near each telephone. They shall be written in large enough numbers so that participants can use them.

B. A written record shall be made and kept on file of all emergencies such as, but not limited to, fires, severe weather emergencies, injuries or sudden illnesses requiring medical treatment. The record shall include:

1. Date;

2. Kind of emergency;

3. Names of any participants requiring medical treatment;

4. Description of the results of the emergency; and

5. Date and time other persons or agencies were contacted, utilized and/or notified.

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

### Symbol Key

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

## STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND CERTIFIED LANDSCAPE ARCHITECTS.

**Title of Regulations:** VR 130-01-2. Rules and Regulations of the State Board of Architects, Professional Engineers, Land Surveyors, and Certified Landscape Architects.

**Statutory Authority:** Chapters 1.1 and 3 of Title 54, and Chapter 7 of Title 13.1 of the Code of Virginia.

**Effective Date:** October 18, 1985

**Summary:**

*Chapters 1.1 and 3 of Title 54 and Chapter 7 of Title 13.1 of the Code of Virginia provides the statutory basis for promulgation of regulations governing the practice of architecture, engineering, land surveying, and landscape architecture in Virginia. As a result of regulatory reform efforts, the board entirely revised its regulations governing these practices.*

*The revisions address the following issues, which will affect architects, engineers, land surveyors, and certified landscape architects and professional corporations and business entities of architects, engineers, land surveyors, and certified landscape architects: education and experience necessary to qualify for examination and licensure, provisions for disciplinary actions, suspensions, revocations and fines, and reinstatement of certificates or licenses.*

*The major changes between the proposed and adopted regulations include clarification of § 4.14 B. to assure its consistency with local ordinances; and the revision of §§ 3.6 A. and 3.7 B. to clarify the regulations regarding engineering technology graduates. Section 2.6 A. was also added to allow the board to adopt a national organization's examinations and grading procedures.*

VR 130-01-2. Rules and Regulations of the State Board of Architects, Professional Engineers, Land Surveyors, and Certified Landscape Architects.

### PART I. GENERAL.

§ 1.1. Who is required to obtain a license/certificate.

(Reserved for §§ 54-17.1, 54-26.1, 54-37, 54-37.1 of the Code of Virginia.)

§ 1.2. Determining qualifications of applicants.

In determining the qualifications of an applicant for a license as an architect, a majority vote of only the architect members of the board shall be required. In determining the qualifications of an applicant for a license as a professional engineer, a majority vote of only the engineer members of the board shall be required. In determining the qualification of an applicant for a license as a land surveyor, a majority vote of only the land surveyor members of the board shall be required, and in determining the qualifications of an applicant for certification as a landscape architect, a majority vote of the landscape architect members only shall be required. (§§ 54-1.28 1., 54-25.)

§ 1.3. Expiration, renewal and fees of licensees.

For purposes of this regulation, "licenses" shall also mean certificates and certificates of authority. The word "licensee" shall mean certificate holder when referring to certified landscape architects. All fees are nonrefundable.

A. Licenses that expire on December 31, 1984, for individuals licensed will be renewed in a staggered renewal system whereby an approximately equal number of licenses will be renewed each month during a biennium. Renewal notices mailed in the fall of 1984 will indicate the amount of fee due and the next expiration date. The amount of fees charged to each licensee will be determined by the following schedule on a one-time basis.

<u>Expiration Date</u>	<u>Amount of Fee</u>		
	Architects	Land Surveyors	Professional Engineers
	Landscape Architects		
July 31, 1985	\$15		\$10
August 31, 1985	17		12
September 30, 1985	19		13
October 31, 1985	21		15
November 30, 1985	23		16
December 31, 1985	25		17
January 31, 1986	27		19
February 28, 1986	29		20
March 31, 1986	31		22
April 30, 1986	33		23
May 31, 1986	35		25
June 30, 1986	38		26
July 31, 1986	40		28
August 31, 1986	42		29
September 30, 1986	44		31
October 31, 1986	46		32
November 30, 1986	48		34
December 31, 1986	50		35
January 31, 1987	52		36
February 28, 1987	54		38
March 31, 1987	56		39
April 30, 1987	58		41
May 31, 1987	60		42
June 30, 1987	63		44

Any license expiring on or after July 31, 1985, will be renewed for a two-year period upon payment of a fee of \$50 for architects, land surveyors, and certified landscape architects; and \$35 for professional engineers.

B. Beginning on July 1, 1984, all new licenses will expire two years from the last day of the month in which issued.

C. Failure to receive a renewal notice 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.

D. For any licensee failing to renew the license within one month following the date it expires, a penalty fee of \$50 for architects, land surveyors, and certified landscape architects; and \$35 for professional engineers will be required, in addition to the regular renewal fee. Any licensee failing to renew the license within six months after it expires must apply for reinstatement of the license.

E. 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.

F. Revoked or suspended licenses are not renewable until reinstated by the board.

G. Licenses for professional corporations and business entities shall expire on December 31 of each odd-numbered year. Each license will be renewed upon payment of \$50 for professional corporations and \$10 for business entities. Failure to receive written notice from the department shall not relieve the license holder from the responsibility to renew. (§§ 54-1.28. 4., 54-37.3 C.)

## § 1.4. Reinstatements.

If the licensee fails to renew the license within [ *six* ] months following its expiration date, the licensee will be required to apply for license reinstatement. The applicant will be required to present reasons why the license should be reinstated, and the board may grant reinstatement of the license or require [ *a* ] requalification and/or reexamination. The application fee for reinstatement of a license shall be an amount equal to twice the renewal fee.

A. The date the renewal application and fee are received in the office of the department shall be the factor determining whether a license shall be renewed without penalty fees or shall be subject to reinstatement procedures.

B. Revoked licenses, suspended licenses, and licenses not renewed from past renewal periods shall not be renewable under this regulation. (§ 54-1.28. 4.)

## § 1.5. Replacement of wall certificate.

Any licensee may obtain a replacement for a lost, destroyed, or damaged wall certificate only upon submission of a \$20 fee accompanied by a written request indicating that the certificate was lost, destroyed, or damaged.

## § 1.6. Grounds for suspension, denial of renewal, or revocation.

No license/certificate shall be suspended, denied renewed, or revoked unless a majority of the members of the entire board and a majority of the board members of the profession involved vote for the action. The board may suspend, fail to renew, or revoke any license, certification, certificate of authority, or registration as a business entity, after the granting of a hearing to the holder thereof if the board finds that:

A. 1. The license, certification or registration was obtained or renewed through fraud or misrepresentation; or

B. 2. The holder has been found guilty by the board, or by a court of competent jurisdiction, of any material misrepresentation in the course of professional practice, or has been convicted of any felony or misdemeanor which, in the judgment of the board, adversely affects the individual's ability to perform satisfactorily within the licensed discipline; or

C. 3. The holder is guilty of professional incompetence or negligence; or

D. 4. The holder is addicted to drugs or alcohol to the extent that professional competence is adversely affected; or

E. 5. The holder violates or induces others to violate any provision of Chapters 1.1 and 3 of Title 54, or Chapter 7 of Title 13.1, of the Code of Virginia, or any other statute applicable to the practice of the professions herein regulated or any provision of these rules and regulations. (§§ 54-25., 54-1.20., 54-1.21., 54-1.28.)

## § 1.7. Responsibility to the public.

The primary obligation of the professional is to the public. If the professional judgment of the licensee is overruled under circumstances when the safety, health, property, and welfare of the public are endangered, the professional shall inform [ ~~that~~ *the* ] employer or client of the possible consequences and notify appropriate authorities. (§ 54-25.)

## § 1.8. Public statements.

The professional shall be truthful in all professional matters. When serving as an expert or technical witness, the professional shall express an opinion only when it is based on an adequate knowledge of the facts in the issue and on a background of technical competence in the



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subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the professional shall issue no statements, reports, criticisms, or arguments on matters relating to professional practice which are inspired or paid for by an interested party or parties, unless the licensee has prefaced the comment by disclosing the identities of the party or parties on whose behalf the professional is speaking, and by revealing any self-interest. (§ 54-25. (2))

## § 1.9. Conflicts of interests.

The professional shall promptly and fully inform an employer or client of any business association, interest, or circumstance which may influence the professional's judgment or the quality of service.

A. The professional shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to all parties of current interest.

B. The professional shall neither solicit nor accept financial or other valuable consideration from material or equipment suppliers for specifying their products or services.

C. The professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the professional is responsible. (§ 54-25.)

## § 1.10. Solicitation of work.

The professional shall not bribe. The professional shall not falsify or permit misrepresentation of the professional's work or an associate's academic or professional qualifications, nor shall the professional misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind. (§ 54-25.)

## § 1.11. Improper conduct.

The professional shall not knowingly associate in a business venture with, or permit the use of the professional's name or firm name by any person or firm where there is reason to believe that that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

A. If the professional has direct knowledge that another individual or firm may be violating any of these provisions, or the provisions of Chapters 1.1 and 3, Title 54, or Chapter 7, Title 13.1 of the Code of Virginia, the professional shall immediately inform the Secretary of the

Board in writing and shall cooperate in furnishing any further information or assistance that may be required.

B. Competency for Assignments - The professional shall undertake to perform professional assignments only when qualified by education or experience in the specific technical field of the profession involved. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that services are restricted to those phases of the project in which the professional is qualified. All other phases of such project shall be the responsibility of licensed or certified associates, consultants or employees.

C. If evidence is furnished to the board which creates doubt as to the competency of a regulant to perform professional assignments in a technical field, the board may require that individual to prove competence by interview, presentation, or examination. Failure to appear before the board, pass an examination, or otherwise demonstrate competency to the board shall be basis for revocation or suspension of licenses/certificates. (§ 54-25.)

## § 1.12. Licensee's approval of an unlicensed person's work.

No licensee shall affix a name, seal, or certification to any plat, design, specification, or other work constituting the practice of the professions regulated which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee, either while employed by the licensee or while employed by the same firm as the licensee.

A. For the purposes of this section, an "employee" shall mean an individual who receives compensation for work performed from a firm which employs or which has as a principal on [ a ] full-time basis, a licensee in the appropriate professional discipline.

B. A licensee shall exert control over the end product of professional work performed. (§ 54-25.)

## § 1.13. Organization and styling of practice.

Nothing shall be contained in the name, letterhead, or other styling of a professional practice implying a relationship, ability, or condition which does not exist. (§§ 54-1.20., 54-26.1 C., 13.1-544.1)

## § 1.14. Use of seal.

A principal or authorized licensed employee shall apply a rubber stamp or preprinted seal to final and complete cover sheets and to each original sheet of plans, drawings, and/or plats, prepared by the regulant. The seal shall be applied to the cover sheet of technical reports and specifications prepared by the regulant or by someone directly responsible to the regulant. (§§ 54-1.20., 54-25.)

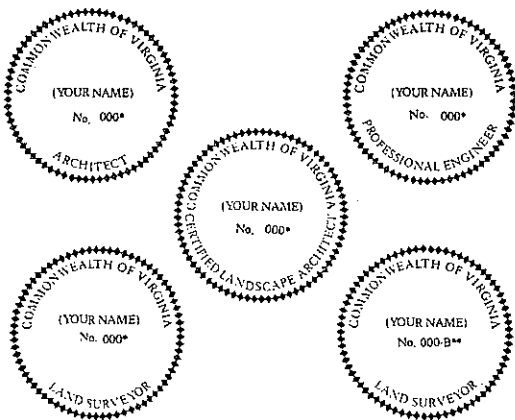
A. All seal imprints on final documents shall be signed.

B. Uncompleted plans, documents, and sketches, whether advance or preliminary copies, shall be so identified and need not be sealed or signed.

C. The seal of each person responsible for each discipline shall be used.

D. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.

E. The seal shall conform in detail and size to the design illustrated below:



\* The number referred to is the number, usually four or five digits, as shown on the wall certificate and not the license renewal number issued each biennium as indicated on the licensee's pocket card. The number will not change every two years, but is permanent.

\*\* The 3A certificate number with a suffix B shown on the land surveyor seal applies only if said the land surveyor is licensed under § 54-17.1(3)(a) and (3)(b).

§ 1.15. Licensee required at each place of business.

Corporations, partnerships, firms, or other legal entities maintaining any place of business in the Commonwealth of Virginia for the purpose of providing or offering to provide architectural, engineering, land surveying, or certified landscape architectural services to the general public, shall have in responsible charge at each place of business a licensed or certified professional in each discipline being offered. (§ 54-37.3., Chapter 7, Title 13.1)

## PART II. QUALIFICATIONS FOR LICENSING OF ARCHITECTS.

§ 2.1. Fees.

A. Deadline for Applications and Examination Fees -

Complete applications with fee in the amount prescribed shall be filed with all references, experience validations, and [ official ] transcripts, not less than 90 days prior to the date of the examination. (§ 54-1.28 4.)

B. Application, Examination and Review Fees - All fees shall be nonrefundable:

1. Application Fee for an Original or a Reciprocal License ..... \$40.
2. Architect registration examination fee ..... \$300.
3. Architect registration reexamination fees:
  - a. Division A - Pre-Design ..... \$44.
  - b. Division B - Site-Design ..... \$43.
  - c. Division C - Building Design ..... \$80.
  - d. Division D - Structural Technology (General) ..... \$22.50
  - e. Division E - Structural Technology (Lateral Forces) ..... \$16.50
  - f. Division F - Structural Technology (Long Span) ..... \$11.50
  - g. Division G - Mechanical Plumbing/Electrical and Life Systems ..... \$21.50
  - h. Division H - Materials and Methods ..... \$29.
  - i. Division I - Construction Documents and Services ..... \$32.
4. Architect Examination Review (Division B or C) each ..... \$25.

[ ~~§ 2.2.~~ § 2.2. Written examination required.

All applicants for original licensing in Virginia are required to pass an Architect Registration Examination after submitting sufficient evidence of education or equivalent education credits and experience.] each ..... \$25.

[ ~~§ 2.2.~~ § 2.3. Character and age.

Applicants must be of good character and be at least 18 years of age. (§§ 54-1.28., 54-25.) ]

§ 2.4. Character of experience.

The applicant shall have 36 months of combined experience or exposure in the essential areas of architectural practice as defined below. Evidence shall be in the form of official records of a structured internship development program approved by the board, or incorporated in the candidate's application and verified by employers. Experience shall include:

A. A minimum of approximately 18 months in the area of design and construction documents directly related to the practice of architecture; and

B. A minimum of approximately five months in the area of construction administration directly related to the

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practice of architecture; and

C. A minimum of approximately three months in the area of office management directly related to the practice of architecture. (§ 54-1.28., § 54-25.)

[ § 2.5. References for Architect Registration Examination.

Eligibility for the examination is determined by an indication of the applicant's demonstrated competence and integrity to engage in the practice of architecture by submitting three references with the application, all of whom are licensed architects in a jurisdiction or territory of the United States. These professionals must have personal knowledge of the applicant's architectural experience and have known the applicant for at least one year. References must be current. (§ 54-1.28 2.)

[ § 2.5- § 2.6. ] Examinations.

[ A. The Virginia Board is a member of the National Council of Architectural Registration Boards (NCARB) and as such is authorized to adopt the NCARB examinations and grading procedures. ]

[ A- B. ] The Architect Registration Examination (ARE) will be offered once a year in the month of June.

[ B- C. ] Applicants approved to sit for an examination must register for the examination and submit the required examination fee not less than 45 days prior to the scheduled examination. Applicants not properly registered for a scheduled examination shall not be allowed into the examination site.

[ C- D. ] Candidates must successfully pass each division of the Architect Registration Examination.

[ D- E. ] Candidates taking the examination for the first time are required to take all divisions.

[ E- F. ] All failed or noncredited divisions must be retaken each time the candidate sits for the examination.

[ F- G. ] A transfer of credits to the ARE from the previous NCARB examinations will be as follows:

PREVIOUS NCARB EXAM SUCCESSFULLY COMPLETED	OLD NCARB EXAMS	CONVERSION CREDITS TO ARE	ARE REQUIREMENTS
			A
			B
	Qualifying Test/Sec.B	Division D, E, & F	C
	Qualifying Test/Sec.C	Division H	D
	Qualifying Test/Sec.D	Division G	E
			F
	Professional Exam - Sec. A (Design/Site)	Division B & C	G
	Professional Exam - Sec. B, Parts I & II	Division A	H
	Professional Exam - Sec. B, Part III	Divisions D, E, F, G & H	I
	Professional Exam - Sec. B, Part IV	Division I	

Division A. Pre-design	Division F. Structural Technology[-]
Division B. Site Design	Long Span
Division C. Building Design	Division G. Mechanical, Plumbing, Electrical & Life Safety Systems
Division D. Structural Technology[-]	Division H. Materials & Methods
General	Division I. Construction Documents & Services
Division E. Structural Technology[-]	
Lateral Forces	

[ G- H. ] Candidates who are taking portions of the examination in accordance with the transition schedule must take all divisions required by the schedule at one sitting.

[ H- I. ] Examinees will be given specific instructions as to the conduct of each division of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination.

[ I- J. ] Examinees will be advised only of passing or failing the examination. Only the board and its staff shall have access to examination papers, scores, and answer sheets.

[ J- K. ] Examination Reviews.

1. Upon written request to the board, examinees will be permitted to individually view only their own failed examinations in the graphic divisions.

2. The board, upon such written request, will schedule a group meeting with failing examinees for the purposes of reviewing the graphic divisions of the examination.

3. Upon agreement of the board that a failed examination of Division B or Division C merits a change in grade from fail to pass, the board will forward that specific examination to the [ ~~Exam~~ *Coordinator's Master Juror's* ] committee for re-review. All decisions made by the [ ~~Exam~~ *Coordinator's Master Juror's* ] committee are final. (§ 54-1.28 2.)

[ § 2.6- § 2.7. ] License by reciprocity.

A. Any person licensed in another state, jurisdiction or territory of the United States may be granted a license without written examination, provided that:

1. The applicant meets all the requirements for licensing in Virginia; and

2. The applicant holds a currently valid license in good standing in the jurisdiction of original licensure.

B. The board may accept a currently valid license in good standing from the applicant's current base state if transferred from the jurisdiction of original licensure. (§ 54-1.28 10.)

TABLE I.  
REQUIREMENTS FOR ARCHITECTURAL LICENSURE

EXPERIENCE DESCRIPTION	Education Credits			Training Credits	
	First 2 Years	Succeeding Years	Max. Credit Allowed	Credit Allowed	Max. Credit Allowed
<p><b>PART I</b> EDUCATION AND TRAINING REQUIREMENTS</p> <p>EDUCATION AND TRAINING REQUIREMENTS RELEASED: JULY, 1984; THIS EDITION SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS.</p> <p>INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS REFER TO PART II FOR THEIR TRAINING REQUIREMENTS. (Information may be obtained from NCARB.)</p> <p>A person seeking licensure is required to have five years of professional education or equivalent education credits and three years of practical training. Education and training may be gained in a variety of ways. This document identifies and explains those education and training equivalents and alternatives.</p>					
A-1 First professional degree in architecture, or credits toward the first professional degree, where the degree program has been approved by the Board not later than two years after termination of enrollment.	75%	100%	5 years	See B-2.1.2	
A-2 First professional degree in architecture, or credits toward that degree, where the degree program has not been approved by the Board.	75%	75%	4 years		
A-3 Bachelor degree, or credits toward that degree, in architectural engineering, architectural technology, or in civil, mechanical, or electrical engineering, or in interior architecture, each of the above being approved by the Board.	50%	75%	3 years		
A-4 Any other bachelor degree.			2 years		
A-5 Diversified experience in architecture as an employee in the offices of licensed architects.	50%	50%	5 years	100%	no limit
A-6 Diversified experience in architecture as a principal practicing in the office of a licensed architect with a verified record of substantial practice.	50%	50%	5 years	100%	no limit
A-7 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	50%	50%	4 years	100%	2 years
A-8 Experience directly related to architecture, when under the direct supervision of a licensed architect but not qualifying as diversified experience or when under the direct supervision of a professional engineer, landscape architect, interior designer, or planner.		0		50%	1 year
A-9 Experience, other than A-5, A-6, A-7 or A-8 experience, directly related to on-site building construction operations or experience involving physical analyses of existing buildings		0		50%	6 months
A-10 A Master or Doctoral degree in architecture (except where the degree is the first professional degree)		0		100%	1 year
A-11 Teaching or research in an architectural program approved by the Board		0		100%	1 year

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A-12  
Other Education or Training Experience  
(see B-4.2)

## EXPLANATION OF REQUIREMENTS

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B-1 Entry to Exam To be approved to sit for the exam, an applicant must;

- B-1.1.1 Be at least 18 years of age;
  - .2 Hold a high school diploma or equivalent;
  - .3 Be of good character as verified by employers and architects;
  - .4 Hold an architecture degree, approved by the Board, or have at least 5 years of education credits;
  - .5 Have at least 3 years of training credits;
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B-2 Education Credits Education Credits shall be subject to the following conditions:

- B-2.1.1 No education credits may be earned prior to graduation from high school.
  - .2 Applicants with the degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program. Applicants without the degree specified in A-1 or A-2 may not accumulate more than 3 years of education credits in the aggregate from all degree programs.
  - .3 32 semester credit hours or 48 quarter credit hours are considered to be 1 year. Fractions of a year of one-half or greater will be considered one-half year, and smaller fractions will not be counted.
  - .4 Foreign education credits will be granted only under classifications A-2 and A-4. Any cost of translation and evaluation will be borne by the applicant.
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B-3 Training Credits Training credits shall be subject to the following conditions:

- B-3.1.1 No training credits may be earned prior to accumulating 2 1/2 education credits.
  - .2 Every applicant must earn at least one year of training credit under A-5 or A-6 and must earn it after earning 5 years of education credits.
  - .3 To earn credit under A-10 or A-11, an applicant's credit hours must be in subjects evaluated by the Board as directly related to architecture. 20 semester credit hours or 30 quarter credit hours of teaching or equivalent time in research will equal 1 year.
  - .4 No credit used as an education credit may be used as a training credit.
  - .5 Organizations will be considered to be "offices of registered architects": (a) the architectural practice of the organization in which the applicant works is in the charge of a person practicing as a principal and the applicant works under the direct supervision of a registered architect, and (b) the organization is not engaged in construction, and (c) the organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.
  - .6 An organization (or an affiliate) is engaging in construction if it customarily engages in either of the following activities:
    - (a) undertakes to provide labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation, or
    - (b) agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.
  - .7 A person practices as a "principal" by being (a) a registered architect and (b) the person in charge of the organization's architectural practice, either alone or with other registered architects.
  - .8 In evaluating training credits the Board may, prior to licensure, require the applicant to substantiate training experience by comparing this experience to the training requirements as indicated for the Intern-Architect Development Program (IDP). See IDP Training Requirements below.
- 

B-4 General Evaluation Criteria

- B-4.1 To earn full education or training credits under A-5, A-6, A-7, A-8 and A-9 an applicant must work at least 35 hours per week for a minimum period of Criteria consecutive weeks under A-5 or 6 consecutive months under A-6, A-7, A-8 or A-9. An applicant may earn one-half the credit specified under A-5 for work of at least 20 hours per week in periods of 6 or more consecutive months; no credit will be given for part-time work in any category other than A-5.
  - .2 Other education and training may be substituted for the requirements outlined above, only insofar as the Board considers them to be equivalent to the required qualifications.
  - .3 In evaluating credits, the Board may, prior to registration, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical education and training requirements set forth above.
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**PART II SPECIAL TRAINING REQUIREMENTS FOR INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS**

**IDP Applicant Defined** An IDP Applicant for registration is a person whose training is evaluated by the following criteria in accordance with procedures accepted by the Board.

**Training Requirements** An IDP Applicant must acquire a total of 700 Value Units (VU's) to satisfy the training requirements. One VU equals 8 hours of acceptable activity.

The following chart lists the IDP Training Categories and Areas and the Value Unit requirements for each.

CATEGORY A		CATEGORY B	
Design and Construction Documents	Minimum VU's Required	Construction Administration	
1. Programming--Client Contact.....10		10. Bidding Procedures.....10	
2. Site and Environmental Analysis..10		11. Construction Phase--Office.....15	
3. Schematic Design.....15		12. Construction Phase--Observation..15	
4. Building Cost Analysis.....10			
5. Code Research.....15			
6. Design Development.....40			
7. Construction Documents.....155			
8. Specifications & Materials Research.....15			
9. Documents Checking and Coordination.....15			
Minimum Total VU's Required	360*	Minimum Total VU's Required	70*

CATEGORY C	
Office Management	
13. Office Procedures.....15	
14. Professional Activities.....10	
Minimum Total VU's Required	35*

CATEGORY D	
Related Special Activities	
No Minimum Required	

The above listing of required minimums in Categories A, B and C totals 465 VU's, allowing for 235 additional VU's to be acquired in any of the listed Categories. All of the 235 additional VU's may be acquired in one Category or distributed among the Categories.

\*The differences between the minimum total VU's required in each of Categories A, B and C and the sum of the minimums required for each Training Area within the Category must be acquired by earning VU's from Training Areas within the same Category.

- |                                    |   |
|------------------------------------|---|
| <b>Explanation of Requirements</b> | <ol style="list-style-type: none"> <li>1. VU's in Categories A, B and C may be acquired only if the applicant meets the time requirements of B-5.1 of Part I. VU's may be acquired in Category D only if the activity is substantial and continuous.</li> <li>2. No VU's may be acquired prior to earning 2½ years of education credits (see Part I).</li> <li>3. A Master or Doctoral degree in architecture (except where the degree is the first professional degree) qualifies for 235 VU's under Category D.</li> <li>4. An IDP applicant may earn VU's by completing Board-approved supplementary education programs; credit to be in accordance with a table of credits established by the Board. No VU's may be earned for supplementary education while enrolled in a first or second professional degree program in architecture.</li> <li>5. To satisfy Categories A and B of the Training Requirements, VU's must be acquired in settings described in A-5 or A-7 of Part I.</li> <li>6. A minimum of 235 VU's must be acquired in the setting described in A-5 of Part I after having earned five years of education credits.</li> <li>7. In evaluating training, the Board may, prior to registration, require substantiation of the quality and character of the training notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.</li> <li>8. For detailed descriptions of the IDP Training Categories and Supplementary education requirements, see <u>IDP Training Guidelines</u> available through NCARB. Refer to Part I for education requirements and registration requirements.</li> </ol> |
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## PART III. QUALIFICATIONS FOR LICENSING AS A PROFESSIONAL ENGINEER.

### § 3.1. Definitions.

The following definitions shall apply in the regulations relating to the licensing of professional engineers.

A. "Approved Engineering Curriculum" means an engineering curriculum of four years or more approved by the board as being of satisfactory standing. ABET approved engineering curricula are acceptable to the board.

B. "Approved Experience" means a specific record of acceptable professional experience which the board, in its discretion, judges to be pertinent in acquiring engineering skills, on engineering projects of a grade and character indicating that the applicant may be competent to practice engineering. Experience required "in responsible charge of important engineering projects" shall also be subject to the board's approval.

C. "Engineering Examination" means the professional examination in engineering consisting of an eight-hour written examination in the fundamentals of engineering and an eight-hour written examination in the principles and practice of engineering and/or the oral examination where required.

D. "Engineering Intern Designation" means the designation of applicants who complete any one of several combinations of education, or education and experience, and pass the fundamentals of engineering examination. (§ 54-25.)

### § 3.2. Fees.

A. The required fees are listed below. All fees shall be nonrefundable, including the registration fee for any examination the applicant fails to appear for or complete.

1. To apply for a professional engineer's license ..... \$ 40.
2. To apply for a professional engineer's examination ..... \$40.
- 3 To apply for the professional engineer's examination when the applicant has previously obtained engineer intern status in Virginia ..... \$ 20.
4. To apply for engineer intern status only ..... \$ 20.
5. To register for the fundamentals-of-engineering examination or reexamination ..... \$ 40.
6. To register for the principles and practice of engineering examination or reexamination ..... \$ 40.

7. To register for an oral examination ..... \$100.

### § 3.3. Character and age.

A. Applicants must be of good character and at least 18 years of age. (§§ 54-1.28., 54-25.)

### § 3.4. References for professional engineering examination.

To be eligible for admission to the principles and practice of the engineering examination, an applicant must indicate competence and integrity to engage in the engineering profession by submitting three references with the application, all of whom shall be licensed professional engineers in some state or territory of the United States. The professional engineers providing the references must have personal knowledge of the applicant's engineering experience and must have known the applicant for at least one year. References must be no more than one year old at the time the applicant is approved to take the requisite examination. (§§ 54-1.28., 54-25.)

### § 3.5. References for fundamentals examination.

Applications for the fundamentals-of-engineering examination only must provide one reference from a professional engineer, or from the dean of the engineering school or a departmental professor in the school attended by the applicant, or an immediate work supervisor. Any reference provided shall be from a person who has known the applicant for at least one year. (§§ 54-1.28., 54-25.)

### § 3.6. Engineering intern status.

The education, and/or experience, and examination requirements for engineering intern status:

A. An applicant who has graduated from an [ *approved* ] engineering [ *or* , ] related science [ *or engineering technology* ] curriculum of four years or more shall pass an eight-hour written examination in the fundamentals of engineering; or

B. An applicant who is not a graduate of a curriculum of four years or more but who, in the judgment of the board, has obtained the equivalent of such graduation as described, by self study or otherwise, and who has acquired six additional years of board-approved professional experience on engineering projects, shall pass the fundamentals-of-engineering examination. Experience used to determine educational equivalency shall not be used in satisfying professional experience. (§§ 54-1.28., 54-25.)

### § 3.7. Requirements for professional engineering license.

Education, experience, and examination requirements for licensing as a professional engineer, except for licensing by endorsement as set forth in § 3.8 of these regulations, are as follows:

A. An applicant who has graduated from an approved engineering curriculum, who has passed the fundamentals-of-engineering examination or an equivalent exam, and who has a specific record of at least four years of progressive professional experience, shall pass the principles and practice of engineering examination; or

B. An applicant who has graduated from an engineering or a related science curriculum of four years or more, other than those approved by the board, [ *or an approved engineering technology curriculum,* ] shall pass the fundamentals-of-engineering examination or an equivalent exam, and who has acquired a specific record of at least six years of progressive professional experience, shall pass the principles and practice of engineering examination; or

C. An applicant who is not a graduate of an approved engineering curriculum of four years or more but who has obtained the equivalent of such graduation by self-study or otherwise, shall pass the fundamentals-of-engineering examination and who acquired ten years of approved professional experience, shall pass the principles and practice of engineering examination. (Experience used to determine educational equivalency not to be used in satisfying professional experience); or

D. An applicant who has graduated from an engineering or related science curriculum of four years or more and who has acquired a specific record of 20 years or more of board-approved professional experience on engineering projects, of which at least 10 years have been in responsible charge of important engineering projects and of a grade and character which the board judges to be pertinent to acquiring professional skills, such that the applicant may be competent to practice engineering, shall pass the examination in the principles and practice of engineering; or

E. An applicant who has graduated from an engineering or related science curriculum of four years or more, and who has acquired a specific record of 30 years or more of board-approved professional experience on engineering projects, of which at least 20 years have been in positions of responsible charge of important engineering projects and of a grade and character which the board judges to be pertinent to acquiring professional skills, demonstrating that the applicant is eminently qualified to practice engineering, shall pass a special oral examination which indicates to the board that the applicant is eminently qualified to practice engineering. If the board has any doubt concerning an applicant's eminent qualifications, the applicant shall be reclassified as an advanced professional engineer candidate. (§§ 54-1.28., 54-25.)

### § 3.8. Licensing by endorsement (reciprocity).

A person holding a license to engage in the practice of engineering, issued to the applicant by another state, territory, or possession of the United States, or the District of Columbia, based on requirements that do not conflict with and are at least as vigorous as these regulations and

supporting statutes of this board, may be licensed without further examination. No person shall be so licensed, however, who has not passed a written examination in another jurisdiction which is comparable to that administered by the board. (§ 54-1.28. 10.)

### § 3.9. Training and experience.

Professional engineering training and experience shall be progressive in complexity and based on a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and fundamental principles of engineering design, provided:

[ ~~A~~: 1. ] In general, experience in sales, estimating, field surveying, nonengineering military service, and inspection are considered nonqualifying; and

[ ~~B~~: 2. ] Engineering experience gained by post-graduate engineering study or by engineering teaching as an instructor or higher in an institution approved by the board may be deemed professional experience; and

[ ~~C~~: 3. ] Engineering experience gained during a board-approved co-op program may be deemed professional experience to a maximum of one year of credit; and

[ ~~D~~: 4. ] The board, in its sole discretion, may permit partial credit, not to exceed 3/4 of that required, for engineering experience obtained prior to graduation from an engineering school when such experience is judged to be pertinent in acquiring engineering skills and involves engineering projects under the direct supervision of a licensed professional engineer, who shall clearly differentiate between subprofessional and professional level experience. (§§ 54-1.28., 54-25.)

### § 3.10. Conduct of the examination.

Written examinations shall be conducted under the following general rules:

A. No candidate shall communicate with any other candidate in any way without the direct permission of the proctor.

B. All papers handed in by a candidate shall bear an assigned code number and shall not bear any other identification which can identify the candidate.

C. Textbooks, bound notes, and standard printed references may be used as aides during any part of any examination.

D. Silent, self-powered, electronic calculators may be used.

E. A candidate eligible for admission to both parts of the examination must first successfully complete the



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fundamentals of engineering examination before being admitted to the principles and practice of engineering examination.

F. Grading - Each part of the written examination will have a value of 100 points. A passing score shall be 70 points. Candidates will be notified of passing or failing and their scores. All requests for score appeals must be received within one year of the date the examination was administered, after which time examinations will no longer be retained.

G. Reexamination - Upon paying a reexamination fee, an applicant may retake either part of the written examination which may have been failed.

H. The oral examination shall consist of a review of the engineering background and examples of the work of the professional engineering candidate in the presence of one or more members of the board and their consultants. This examination may encompass any facts appearing in the application and supporting papers of the candidate and such direct evidence as the candidate may desire to present to the board to substantiate the breadth and depth of professional engineering experience, primarily in experience in engineering design and analysis.

1. Substantiating evidence shall be in the form of drawings, sketches, reports, specifications, calculations, published articles, textbooks, or other suitable information demonstrating the engineering experience of the candidate. Based upon this information, the candidate will be subject to questions regarding principles of engineering followed in the execution of such work.

2. The candidate shall demonstrate that the experience record is of a professional level and shall leave no doubt as to the ability to protect the public in the practice of engineering. To fail to demonstrate this ability shall result in reclassification. (§ 54-1.28. 2.)

## § 3.11. Engineering intern designation.

The engineering intern designation shall remain valid indefinitely.

## PART IV. QUALIFICATIONS FOR LICENSING AS A LAND SURVEYOR.

### § 4.1. Fees.

A. The following nonrefundable fees are required.

Upon application for 3(a) Parts I and II .....	\$ 40.
Upon application for 3(a) Part I only .....	\$ 20.
Upon application for 3(a) Part II only .....	\$ 40.

Upon application for 3(b) ..... \$ 40.

Upon examination or reexamination for Part I or II of 3(a) or 3(b) ..... \$ 40.

B. Applicants approved to sit for an examination must register for the examination and submit the appropriate examination fee not less than 45 days prior to the scheduled examination. Failure to appear for or complete any examination shall result in the forfeiture of said fees. Applicants not properly registered for a scheduled examination shall not be allowed into the examination site. (§ 54-1.28.4.)

### § 4.2. Transcript of educational records.

The application shall be accompanied by an official transcript of the applicant's college, university or technical institute record, with evidence of successful completion of the required courses in algebra, geometry, trigonometry and surveying. (§ 54-25.)

### § 4.3. Character and age.

Applicants must be of good character and at least 18 years of age. (§§ 54-1.28, 54-25.)

### § 4.4. Applicants licensed in other states.

No land surveyor license shall be granted in this state on the basis of reciprocity to any applicant licensed as a land surveyor in another jurisdiction of the United States; however, full credit will be given to the applicant who has passed the NCEE examination for surveyors given in other jurisdictions. In any event, it will be necessary for an applicant to pass a four-hour examination on Virginia principles, practices, and law in order to obtain a license to practice surveying in this state. (§ 54-1.28. 10.)

### § 4.5. Reference.

The applicant shall send to each person listed as a reference on the application form a questionnaire, to be completed according to its accompanying instructions. The references furnished shall be from current business associates or from employees of the same or closely related firm. (§§ 54-1.28, 54-25.)

### § 4.6. Practical 3(a) experience.

"Satisfactory or approved practical experience" means diversified practical training in land surveying under the supervision and direction of a licensed land surveyor. This experience shall have been acquired in positions requiring the exercise of independent judgment, initiative, and professional skill. (§§ 54-1.28, 54-25.)

### § 4.7. Education.

Credit for education shall be allowed as follows:

A. Five years of the six-year 3(a) experience requirement shall be credited to any applicant holding a bachelor of science degree in a board-approved program emphasizing professional land surveying, with courses including a minimum of 20 semester hours (30 quarter hours) in advanced surveying courses; and a minimum of 10 semester hours (15 quarter hours) in supporting courses directly related to land surveying (for example: real property law; land planning; drainage); or

B. In lieu of the foregoing, a program of courses having the prior endorsement and approval of the Land Surveyor Section will be credited with five years of the six-year requirement.

C. Any applicant holding a bachelor of science degree in a board-approved program emphasizing professional land surveying, including less than the 20 semester hours in advanced surveying courses and 10 semester hours in suitable supporting courses, shall be credited with up to a maximum of four years of the six-year experience requirement.

D. An applicant satisfactorily completing at least two academic years of a curriculum satisfactory to the Land Surveyor Section in a college or technical institute shall be credited with 3/4 year for each year completed, limited to a maximum allowance of three years. The curriculum shall have included surveying, geometry, trigonometry, and algebra, in addition to geodesy, mapping, and related courses.

E. Applicants for 3(b) land surveyor licensure shall present satisfactory evidence of having passed a course in hydraulics, acceptable to the board, in addition to meeting the other minimum education requirements. Training in any apprenticeship program shall not be an acceptable equivalent to any approved college-level curriculum, but may satisfy one or more of the minimum requirements in mathematics. (§§ 54-1.28., 54-25.)

#### § 4.8. Combined education and experience requirements.

To be eligible for admission to the land surveyor examination, an applicant shall meet the following requirements:

A. For Part I of the 3(a) examination: Have six years of practical experience, or a combination of six years of formal education and practical experience acceptable to the Land Surveyor Section, as described in regulations § 4.2 of these regulations .

B. For Part II of the 3(a) examination and for license pursuant to § 54-17.1 (3)(a): Pass Part I of the 3(a) examination and have eight years of practical experience, or have a combination of eight years of formal education and practical experience of a nature and character satisfactory to the Land Surveyor Section.

C. For the 3(b) examination: Hold a valid license as a

3(a) land surveyor and present satisfactory evidence of two years of practical experience in 3(b) professional land surveying, as defined in § 54-17.1 (3)(b) of the Code of Virginia, under the supervision and direction of a 3(b) land surveyor or professional engineer. (§§ 54-1.28, 54-25.)

#### § 4.9. Interval and duration of examination.

A. The examination for land surveying under § 54-17.1 (3)(a) of the Code of Virginia shall consist of two parts, each part being of eight hours duration. These examinations shall be given at approximately six-month intervals.

B. The examination for land surveying under § 54-17.1 (3)(b) of the Code of Virginia shall be of eight hours duration and shall be given annually. (§ 54-1.28. 2.)

#### § 4.10. Grading.

Candidates shall be notified of passing or failing but shall not be notified of their grades. All requests for score appeals must be received within one year of the date the examination was administered, after which examinations will no longer be retained.

A. Each part of the written examination for Part I of the 3(a) examination shall have a value of 100. The passing grade for each separate part shall be 70.

B. For Part II of the (3)(a) examination, each applicant must obtain a minimum passing grade of 70 on the four-hour NCEE increment (Part III) and must obtain a grade of 75 for the four-hour increment related to Virginia requirements.

C. For the (3)(b) examination, each applicant must obtain a minimum passing grade of 75 for the entire eight-hour examination. (§ 54-1.28. 2.)

#### § 4.11. Reexamination eligibility.

Should the applicant not pass that examination approved for within two years of the applicant's first sitting, the applicant must reapply for examination. In considering any applicant for requalification, the Land Surveyor Section shall consider all prior examination results as part of the review. The Land Surveyor Section, if notified in advance, will extend the stated time limit up to three years for an applicant serving in the United States armed forces, if the applicant qualifies before entering the military service. (§ 54-1.28. 2.)

#### § 4.12. Minimum standards and procedures for land boundary surveying practice.

The following minimum standards and procedures are to be used in the Commonwealth of Virginia. The application of the land surveyor's seal and signature as required by regulations in § 1.14 of these regulations shall be evidence that the boundary survey or other land survey to be used

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for conveyance of title or mortgage purposes is correct to the best of the land surveyor's knowledge and belief, and complies with the minimum standards and procedures.

A. **Research procedure:** The land surveyor shall search the land records for the proper description of the land to be surveyed and obtain the description of adjoining land as it pertains to the common boundaries. The land surveyor shall have the additional responsibility to utilize any other available data pertinent to the survey being performed from any other source that is known. Evidence found, from all sources, shall be carefully compared with that located and found in the field survey in order to establish the correct boundaries of the land being surveyed. It is not the intent of this rule to require the land surveyor to research the question of title or encumbrances on the land involved.

## B. Minimum field procedures:

1. **Angular Measurement:** Angle measurements made for traverse or boundary survey lines will be made by using a properly adjusted transit type instrument which allows a direct reading to a minimum accuracy of 30 seconds of arc or metric equivalent. The number of angles turned a given station or corner will be the number which, in the judgment of the land surveyor, can be used to substantiate the average true angle considering the condition of the instrument being used and the existing field conditions.

2. **Linear Measurement:** Distance measurement for the lines of traverse or boundary surveys shall be made with metal tapes which have been checked and are properly calibrated as to incremental distances, or with properly calibrated electronic distance measuring equipment following instructions and procedures established by the manufacturer of such equipment. All linear measurements shall be reduced to the horizontal plane and other necessary corrections performed before using for computing purposes.

3. **Field Traverse and Boundary Closure:** The maximum permissible error of closure for a field traverse in connection with a boundary survey located in a rural area shall be one foot in 5,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/5,000 foot closure. The maximum permissible error of closure for a traverse in connection with a boundary survey located in an urban area shall be one foot in 10,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/10,000 foot closure. (§§ 54-1.28., 54-25.)

## § 4.13. Office procedures:

A. **Computations:** The computation of field work data shall be accomplished by using mathematical routines that produce closures and mathematical results that can be

compared with descriptions and data of record. Such computations shall be used to determine the final boundary of the land involved.

B. **Plats and Maps:** The following information shall be shown on all plats and/or maps used to depict the results of the boundary survey:

1. The title of the boundary plat identifying the land surveyed and showing the district and county or city in which the land is located.
2. The owner's name and deed book referenced where the acquisition was recorded.
3. Names of all adjacent owners or subdivision lot designations.
4. Names of highways and roads with route numbers, railroads, streams adjoining or running through the land, and other prominent or well-known objects or areas which are informative as to the location of the boundary survey.
5. Bearings of all property lines to nearest 10 seconds, or metric equivalent.
6. Distances of all property lines to the nearest one hundredth (.01) of a foot or metric equivalent.
7. Area to the nearest hundredth (.01) of an acre or metric equivalent for rural located surveys.
8. Area to the nearest square foot or decimal of an acre or metric equivalent for urban located surveys.
9. North arrow and source of meridian used for the survey.
10. On interior surveys, a reference distance to a property corner of an adjoining owner.
11. Tax Map designation of parcel number if available.
12. Each monument found and each monument set by the land surveyor.
13. A statement that the boundary survey shown is based on a current field survey. If the land boundaries shown on the plat are the result of a compilation from deed and/or plats by others, that fact will be clearly stated and the title of plat shall not represent a current boundary survey.
14. Name and address of the land surveyor. (§§ 54-1.28., 54-25.)

## § 4.14. Monumentation:

A. Each boundary survey of a tract or parcel of land shall be monumented with objects made of permanent

materials at all corners and changes in direction on the boundary with the exceptions of meanders of streams, tidelands, swamps, and roads. Where it is not feasible to set actual corners, appropriate reference markers shall be set, preferable on line, and the location of each shown on the plat or map of the boundary.

B. Original subdivision surveys shall be monumented in accordance with [ ~~local ordinances and regulations A. above~~ ]. Corner monuments are required to be set on subdivision lots or parcels of land to be used for conveyance of title or mortgage purposes, or, if found to be correctly in place, identified by witness stakes. The plat of such survey shall show corner monuments found and those set. (§§ 54-1.28., 54-24.)

**PART V.  
QUALIFICATIONS FOR CERTIFICATION OF  
LANDSCAPE ARCHITECTS.**

**§ 5.1. Fees.**

A. The following nonrefundable fees are required.

Upon application .....	\$ 40.
Upon entire examination .....	\$175.
Upon Part A reexamination .....	\$ 30.
Upon Part B reexamination .....	\$ 30.
Upon Part C reexamination .....	\$ 65.
Upon Part D reexamination .....	\$ 65.

Examination fees must be received at least 45 days prior to the examination. (§ 54-1.28. 4.)

**§ 5.2. Character and age.**

Each applicant shall be of good character and at least 18 years of age. (§§ 54-1.28., 54-25.)

**§ 5.3. Waiver of examination.**

Any applicant who has passed an examination in another jurisdiction of the United States equivalent to the examination required by these regulations may have the required Virginia examination waived. (§ 54-1.28 10.)

**§ 5.4. Experience required.**

An applicant for certification by examination shall provide evidence acceptable to the board of having completed the education, or the combined education and experience requirements as follows specified in § 54-26 of the Code of Virginia. For the purpose of evaluating education and experience, the Table of Equivalents 1-13 shall be used as a guide in determining equivalent status. (See Table II.) (§§ 54-1.28., 54-25.)

**§ 5.5. Written examination required.**

Every applicant for certification as a landscape architect shall be required to pass a written examination, testing competence to plan, design, specify, and supervise the construction or installation of landscape architectural projects. Written examination may be supplemented by such oral examinations in testing these competencies. (§§ 54-1.28. 2., 54-26.)

**§ 5.6. Grading of examination.**

Candidates will be notified of their passing or failing grades. All requests for score appeals must be received within one year of the date the examination was administered, after which time the examination will no longer be retained. (§§ 54-1.28. 2., 54-26.)

**§ 5.7. Experience.**

Professional landscape architectural training and experience shall be progressive in complexity and based on a knowledge of natural, physical and mathematical science, and the principles and methodology of landscape architecture. (§§ 54-1.28., 54-25.)

# Final Regulations

Table II

TABLE OF EQUIVALENTS FOR EDUCATION, TRAINING AND EXPERIENCE FOR CERTIFIED LANDSCAPE ARCHITECTS

EXPERIENCE DESCRIPTION	EDUCATION			TRAINING EQUIVALENTS		PRACTICE EQUIVALENTS	
	FIRST 2 YEARS	SUCCEEDING YEARS	MAXIMUM CREDIT ALLOWED	CREDIT ALLOWED	MAXIMUM CREDIT ALLOWED	CREDIT ALLOWED	MAXIMUM CREDIT ALLOWED
1. Degree in landscape architecture or credits from accredited school of landscape architecture.	100%	100%	5 years				
2. Degree in landscape architecture or credits from non-accredited school of landscape architecture.	100%	67%	4 years				
3. Degree or credits in architecture, civil, mechanical engineering from school accredited by ECPO or NAAB.	100%	50%	3 years				
4. Same as 3, except from non-accredited school.	75%	50%	2 1/2 years				
5. BS or AB Degree or higher education in courses other than landscape architecture.	75%	25%	2 years				
6. Experience as a registered landscape architect, or in a position of responsible charge in the offices of a registered landscape architect, who practices.	50%	50%	5 years	100%	no limit	100%	no limit
7. Practical training prior to acquisition of landscape architecture degree.				100%	no limit		
A. Continuous employment periods, 12 mo. or more.							
B. Continuous employment periods, 3 to 12 mos. in duration after 3 yrs. college.				75%	no limit		
C. Continuous employment periods, 3 to 12 mos. in duration prior to completion of 3 yrs. college.				50%	no limit		
8. Advanced degree from accredited school teaching or research in accredited school.				100%	2 years	100%	5 years
engineers, general contractors, in areas directly related to construction, and those self-employed in one of above.				50%	2 years		
10. Employment by govt. agencies, including the military, when diversified and comparable to employment in the office of a registered landscape architect with a verified record of substantial practice. Such work shall be directly related to landscape architectural work and shall be under the direct supervision of a registered landscape architect. This section shall also apply to those registered landscape architects employed in capacity of managers.				100%	no limit	100%	no limit
11. Employment by organizations that have employees performing landscape architectural services in connection with projects used or owned by that organization when said employment is directly related to landscape architectural work, is under the direct supervision of a registered landscape architect. This section shall also apply to those registered landscape architects employed in capacity of managers.				100%	no limit	100%	no limit
12. Employment or practice in such fields as interior design, architecture, engineering, city planning, and periods of employment with such organizations as VISTA, HUD, PEACE CORPS and ADVOCACY PLANNING.				100%	2 years	100%	5 years
13. Other training, education, teaching or practical experience will not be acceptable.							

## EXPLANATION OF REQUIREMENTS

### 14. Standards for Certification

1. All applicants requesting Council Certification will be required to meet standards as outlined below. Applicants applying under the "Seasoned Practitioner" category for admission to the Oral Examination must conform to requirements a, b, and d only. Other applicants must meet requirements of a, b, c, and e.
  - a. Good character - established by references from Landscape Architects, employers and clients.
  - b. Landscape Architectural degree - graduation from a school of Landscape Architecture with a four or five year program which was accredited not later than two years following graduation.
  - c. Practical training - have had at least three years of practical training in the offices of registered Landscape Architects.
  - d. Seasoned Practitioner - at least ten years of full time legal Landscape Architectural practice of a quality and character satisfactory to the Council. Applicant will be required to submit a verified record of substantial practice.
  - e. Passing grade on the CLARB Uniform National Examination or its equivalent as outlined under Item #5 below.

NOTE: Other education, training and practice credits may be substituted for requirements 1.b., c., and d. in accordance with provisions in the Table of Equivalents.
2. Council Standards require fulfillment of items a., b., and c. above prior to admission of exam. However, the Council recognizes the prerogative of State Boards utilizing the Uniform National Examination to admit candidates prior to fulfillment of practical training requirement. The Council will accept satisfactory grades of these examinations but any deficit in the education or training requirements must be fulfilled before Certification will be granted.
3. In evaluating credit for education, training or experience, employment of less than a standard working week will be converted to an equivalent standard working week. No additional credit will be allowed for employment in excess of a standard working week.
4. For purpose of CLARB Certification, there is no limit to the number of retakes in either individual examination or the total examination.
5. Since 1970 the CLARB Written Examination has been of 32 hours duration. In those instances where an entire State Board Written Examination of less than 32 hours was taken and passed, compensation for each one hour deficiency in duration may be achieved either by two additional years of acceptable training or by one additional year of practice of a quality and character satisfactory to the Council. The above applies in all cases except those who qualify under the "Seasoned Practitioner" category (see Item #6 below).
6. Those individuals who have ten years experience of a quality and character satisfactory to the Council, not including equivalencies, and initial registration by Written Examination, regardless of length of exam, are eligible for Certification under "Seasoned Practitioner" classification.
7. Council Oral Examinations will be given to those individuals who are presently registered by a State Board other than Written Examination and have ten years practice of a quality and character satisfactory to the Council or the equivalent as established in the Table of Equivalents.

### 15. EDUCATION

1. Substitution of education listed in Table of Equivalents for requirements 14 1.b above shall be subject to the following conditions:
  - a. With a passing grade, 32 semester credit hours or 48 quarters credit hours is considered to be one year. Fractions greater than one-half year will be counted one-half year and smaller fractions will not count.

# Final Regulations

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## PART VI. PROFESSIONAL CORPORATIONS AND BUSINESS ENTITIES.

### § 6.1. Professional corporations.

A. Definition: "Landscape architecture," as used in these regulations, means certified landscape architecture.

B. The initial application shall include certified true copies of the articles of incorporation, bylaws, and charter, after the applicant corporation has been issued a charter as a domestic corporation by the State Corporation Commission; or, if a foreign professional corporation, after the corporation has been registered with the State Corporation Commission pursuant to § 13.1-544.2 of the Code of Virginia.

C. Bylaws must specifically state that cumulative voting is prohibited. Bylaws shall include a statement, in each applicable instance, that nonlicensed individuals as authorized by §§ 13.1-549, 13.1-544.2, 13.1-550, and other pertinent sections of applicable law, will not have voice or standing in any matter affecting the practice of the corporation requiring professional expertise and/or considered professional practice as defined in § 54-17.1 of the Code of Virginia.

D. Fees - The application fee for a certificate of authority shall be \$50. All fees shall be nonrefundable. (§ 54-37.3 C.)

E. Certificates of Authority - Certificates of authority shall be issued in two categories, general or limited. A general certificate of authority will entitle the corporation to practice the professions of architecture, professional engineering, land surveying, and landscape architecture. A limited certificate of authority will permit a corporation to practice only the profession or professions shown on its certificate of authority, architecture, engineering, land surveying, landscape architecture, or in any two or three. Professional corporations offering services in landscape architecture under provisions of this section must meet the requirements established in § 13.1-549 of the Code of Virginia.

F. In the event there is a change in the corporate directorship, whether the change is temporary or permanent and whether it may be caused by death, resignation, or otherwise, the certificate of authority shall be automatically modified to be limited to that professional practice permitted by those pertinent licenses held by the remaining directors of the corporation. The corporation shall notify the State Board within 30 days of the occurrence.

G. Joint Ownership Prohibited - Any type of joint ownership of the stock of the corporation is prohibited. Ownership of stock by nonlicensed or noncertified employees shall not entitle those employees to vote in any matter affecting the practice of the professions here

regulated. Cumulative voting is prohibited.

H. Definition of "Employee" - For the purpose of stock ownership, an employee of a corporation is a person regularly employed by the corporation who devotes [ ~~sixty percent~~ 60% ] or more of his gainfully employed time to that of the corporation.

I. Amendments to Charter, Articles of Incorporation, or Bylaws - Each corporation holding a certificate of authority to practice in one or in any combination of the professions covered in these regulations shall file with the Secretary of the Board, within 20 days of its adoption, a certified true copy of any amendment to the articles of incorporation or bylaws.

J. Board of Directors - At least one director appropriately licensed or certified in each discipline offered or practiced by a professional corporation shall devote substantially full time to the business of the corporation to provide effective supervision and control of the final professional product. Nonlicensed or noncertified directors shall not be entitled either to exercise control or to vote in any matters affecting the practice of the professions herein regulated. (§ 13.1-549.)

### § 6.2. Business entities other than professional corporations.

A. Filing of Applications - Each application for registration shall be filed on a form approved by the board. The application shall identify each regulated professional responsible for professional services in architecture, professional engineering, or certified landscape architecture.

B. Fees - The application fee for registration shall be \$20. All fees shall be nonrefundable. (§ 54-37.3 C.)

C. Registration Certification - The application shall contain an affidavit by an authorized official in the corporation, partnership, sole proprietorship, or other entity unit that the practice of architecture, professional engineering, land surveying, or certified landscape architecture to be done by that entity shall be under the direct supervision and control of the individuals identified in the application as responsible for the practice. In addition, the individuals responsible for the practice shall sign their names indicating that they are the responsible individuals and that they understand and shall comply with all statutes and regulations of the board. (§ 54-37.3.)

D. Change of Status - Any change in the information on the application must be reported to the board within 30 days following the change.

## VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

### Safety and Health Codes Board

Title of Regulations: VR 425-02-2. Occupational Exposure

to Ethylene Oxide (EtO) - Virginia Occupational Safety and Health Standards for General Industry.

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** November 1, 1985

**Summary:**

The Ethylene Oxide Standard establishes a permissible exposure level (PEL) for occupational exposure to EtO of one part EtO per million parts of air (1 ppm) determined as an eight-hour time-weighted average concentration. An "action level" of 0.5 ppm as an eight-hour time-weighted average is established as the level above which employers must initiate certain compliance activities such as periodic employee exposure monitoring every six months, a medical surveillance program, recordkeeping, and an information and training program for employees regarding the health hazards associated with EtO and signs and labels also indicating these hazards. Workplaces in which the processing, use or handling of products containing EtO cannot result in airborne concentration at or above the action level are excluded. An employer who claims exemption from the standard must keep records that document this determination.

Other key provisions of the proposed standard must be complied with when the PEL is exceeded; they include:

1. employee exposure monitoring every three months;
2. engineering and work practice controls wherever feasible (rotating employees in and out of EtO areas is prohibited as a means to control exposure);
3. respiratory protection and a respirator program;
4. regulated areas (identify work areas where occupational exposure exceeds the PEL of 1 ppm); and
5. a written compliance program.

**Editor's Note on Incorporation by Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Virginia Occupational Safety and Health Standards for General Industry, Occupational Exposure to Ethylene Oxide (EtO), is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in The Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the office of The Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-2. Occupational Exposure to Ethylene Oxide (EtO) - Virginia Occupational Safety and Health Standards for General Industry.

The Commission of Labor and Industry has adopted, through incorporation by reference to the Virginia Occupational Safety and Health Standards for General Industry, and issue, as recommended to it by the Safety and Health Codes Board of the Commonwealth of Virginia, amendments relating to Occupational Ethylene Oxide (EtO) Standard, as codified in 29 CFR 1910.19 and published in Federal Register, Volume 49, No. 122, Friday, June 22, 1984, Rules and Regulations, Pages 25796 through 25809; to be adopted verbatim by the Virginia Occupational Safety and Health (VOSH) program.

The VOSH program has adopted the Ethylene Oxide Standard which establishes permissible exposure levels, and an "action level" of - 0.5 ppm as an eight-hour time-weighted average as the level above.

Employers must initiate certain compliance activities for employees when the permissible exposure level is exceeded.

Documentation must substantiate employers who claim exemption from this Standard.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

POST OFFICE BOX 3412  
RICHMOND, VIRGINIA 23208  
(804) 786-3561

September 3, 1985

Mr. William G. Bryson, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
P. O. Box 12064  
Richmond, Virginia 23241

Attention: Margaret Gravett  
Administrative Staff Specialist

Dear Mr. Bryson:

This will acknowledge receipt of the Federal Ethylene Oxide (EtO) Standard (29 CFR 1910.1941) for use in private sector employment which was adopted as a Virginia Standard by the Virginia Occupational Safety and Health Codes Board on August 2, 1985, and will become effective on November 1, 1985.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since the Virginia Standard (VR 425-02-3) is identical to the federal regulation.

Sincerely,

*Joan W. Smith*  
Joan W. Smith  
Registrar of Regulations

JWS:sll



# Final Regulations

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**Title of Regulations:** VR 425-02-3. Marine Terminals - Virginia Occupational Safety and Health Standards for General Industry.

**Statutory Authority:** § 40.1-22(5) of the Code of Virginia.

**Effective Date:** November 1, 1985

**Summary:**

Based on accident data compiled by the U. S. Bureau of Labor Statistics, Federal OSHA determined that the marine terminal industry continues to remain one of high risk and of alarming accident severity. Accordingly, OSHA adopted its Marine Terminal Standard (29 CFR 1917) to address the shoreside aspects of marine cargo handling.

OSHA's Marine Terminal Standard is a comprehensive standard which extends to all areas of marine cargo handling ashore. The major provisions of the standard are as follows:

- Employees shall wear personal safety equipment.
- Nighttime working areas shall be lighted to at least five foot-candles in higher risk locales.
- Traffic signs shall be used and traffic rules must be implemented.
- Cranes shall have functioning wind-indicating devices.

Virginia Occupational Safety and Health (VOSH) Program has adopted this Marine Terminal Standard. However, VOSH's standard will apply only to public sector employment.


**Editor's Note on Incorporation by Reference**

Pursuant to § 9-6.18 of the Code of Virginia, the Virginia Occupational Safety and Health Standards for General Industry, Marine Terminals, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in The Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia, and in the office of The Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

VR 425-02-3. Marine Terminals - Virginia Occupational Safety and Health Standards for General Industry.

The Commission of Labor and Industry had adopted, through incorporation by reference to the Virginia Occupational Safety and Health Standards for General Industry, and issues, as recommended to it by the Safety and Health Codes Board of the Commonwealth of Virginia, amendments relating to the Marine Terminals Standard, as codified in 29 CFR 1917 and published in Federal Register, Volume 48, No. 129, Tuesday, July 5, 1983, Rules and Regulations, Pages 30909 through 30935; to be adopted verbatim by the Virginia Occupational Safety and Health (VOSH) program.

The VOSH program has adopted this Marine Terminal Standard, however, VOSH's standards will apply to public sector employment.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION  
General Assembly Building

POST OFFICE BOX 5 AG  
RICHMOND, VIRGINIA 23208  
(804) 784-2595

September 3, 1985

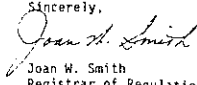
Mr. William G. Bryson, Chairman  
Virginia Safety and Health Codes Board  
Department of Labor and Industry  
P. O. Box 12064  
Richmond, Virginia 23241

Attention: Margaret Gravett  
Administrative Staff Specialist

Dear Mr. Bryson:

This will acknowledge receipt of the Federal Marine Terminals Standard (29 CFR 1917) for use in private sector employment which was adopted as a Virginia Standard by the Virginia Occupational Safety and Health Codes Board on August 2, 1985, and will become effective on November 1, 1985.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since the Virginia Standard (VR 425-02-2) is identical to the federal regulation.

Sincerely,  
  
Joan W. Smith  
Registrar of Regulations

JWS:sll

## STATE MILK COMMISSION

Note: The State Milk Commission is exempted from the Administrative Process Act (§ 9-6.14:4 of the Code of Virginia); however, under the provisions of § 9-6.14:22 of the Code of Virginia, it is required to

# Final Regulations

*publish all proposed and final regulations.*

**Title of Regulation:** VR 475-01-1. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

**Statutory Authority:** § 3.1-430 (6) of the Code of Virginia.

**Effective Date:** August 1, 1985

VR 475-01-1. Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

## § 3. Establishment of market sales areas.

A. The following market sales areas are established and shall include the geographical territories indicated:

1. "Eastern Virginia sales area" means the territory included within the boundaries of the counties of Accomack, Amelia, Brunswick, Buckingham, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Gloucester, Goochland, Greenville, Halifax, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottaway, Powhatan, Prince Edward, Prince George, Richmond, Southampton, ~~Spotsylvania, Stafford~~, Surry, Sussex, Westmoreland, and York; as well as the territory included in the cities of Chesapeake, Colonial Heights, Franklin, ~~Fredericksburg~~, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, South Boston, Suffolk, Virginia Beach and Williamsburg.

2. "Southwest Virginia sales area" means the territory included within the boundaries of the counties of Bland, Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington, and Wise; as well as the territory included in the cities of Bristol and Norton.

3. "Western Virginia sales area" means the territory included within the boundaries of the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Campbell, Carroll, Clarke, Craig, Culpeper, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Louisa, Madison, Montgomery, Nelson, Orange, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth, ~~Spotsylvania, Stafford~~, Warren, and Wythe; as well as the territory included in the cities of Buena Vista, Charlottesville, Clifton Forge, Covington, Danville, ~~Fredericksburg~~, Galax, Harrisonburg, Lexington, Lynchburg, Martinsville, Radford, Roanoke, Staunton, Waynesboro, and Winchester.

§ 8. Class prices for producer's milk; time and method of payment butterfat testing and differential.

A. Class prices, delivery discounts, butterfat differential, time of payment.

### 1. Class I:

- a. Eastern Virginia Market - \$ ~~9.36/cwt.~~ \$ 9.46/cwt.
- b. Southwest Virginia Market - \$ 9.16/cwt.
- c. Western Virginia Market - \$ 9.16/cwt.

d. The above established Class I prices shall be adjusted automatically in accordance with the following procedure:

(1) Class I prices shall be increased by an amount determined by multiplying the number of two (2.0) point brackets that the average bi-monthly composite index exceeds 101.0 by \$ .20 and,

(2) Class I prices shall be decreased by an amount determined by multiplying the number of two (2.0) point brackets that the average bi-monthly composite index decends below 99.0 by \$ .20.

(3) The average bi-monthly composite index brackets shall be in accordance with the following schedule:

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Average Bi-Monthly Composite Index Brackets		Amount of Adjustment
- Nos. through	Nos. -	- Cents -
- Continued	-	- Continued -
96.9	- 98.9	- 20
99.0	- 101.0	- 0 -
101.1	- 103.1	+ 20
103.2	- 105.2	+ 40
105.3	- 107.3	+ 60
107.4	- 109.4	+ 80
109.5	- 111.5	+ 100
111.6	- 113.6	+ 120
113.7	- 115.7	+ 140
115.8	- 117.8	+ 160
117.9	- 119.9	+ 180
120.0	- 122.0	+ 200
122.1	- 124.1	+ 220
124.2	- 126.2	+ 240
126.3	- 128.3	+ 260
128.4	- 130.4	+ 280
130.5	- 132.5	+ 300
132.6	- 134.6	+ 320
134.7	- 136.7	+ 340
136.8	- 138.8	+ 360
138.9	- 140.9	+ 380
141.0	- 143.0	+ 400
143.1	- 145.1	+ 420
145.2	- 147.2	+ 440
147.3	- 149.3	+ 460
149.4	- 151.4	+ 480
151.5	- 153.5	+ 500
153.6	- 155.6	+ 520
155.7	- 157.7	+ 540
157.8	- 159.8	+ 560
159.9	- 161.9	+ 580
162.0	- 164.0	+ 600
164.1	- 166.1	+ 620
166.2	- 168.2	+ 640
168.3	- 170.3	+ 660
170.4	- 172.4	+ 680
172.5	- 174.5	+ 700
174.6	- 176.6	+ 720
176.7	- 178.7	+ 740
178.8	- 180.8	+ 760
180.9	- 182.9	+ 780
183.0	- 185.0	+ 800
185.1	- 187.1	+ 820
187.2	- 189.2	+ 840
189.3	- 191.3	+ 860
191.4	- 193.4	+ 880
193.5	- 195.5	+ 900
195.6	- 197.6	+ 920
197.7	- 199.7	+ 940
199.8	- 201.8	+ 960
201.9	- 203.9	+ 980
204.0	- 206.0	+ 1000
206.1	- 208.1	+ 1020
208.2	- 210.2	+ 1040
210.3	- 212.3	+ 1060
212.4	- 214.4	+ 1080
214.5	- 216.5	+ 1100
216.6	- 218.6	+ 1120
- Continued	-	- Continued -

e. A monthly composite index shall be determined for each month by dividing the sum of the monthly index number of the six factors shown in subsection (1 x 1), (2 x 1), (3 x 1), (4 x 1), (5 x 1), (6 x 2) of this subparagraph by seven. Whenever monthly data for any of the above six factors is not available by the fifth day of the following month, then the latest available published data shall be used in determining the monthly index number.

(1) The U. S. Index of prices paid, taxes, and farm wage rates as published in "Agricultural Prices" by the U.S.D.A.

(2) The U. S. Index of prices received as published in "Agricultural Prices" by the U.S.D.A.

(3) The average price per ton paid by Virginia farmers for 16% percent dairy feed, as published in "Agricultural Prices" by U.S.D.A.

(4) The average cost of the market basket for Richmond-Norfolk-Virginia Beach-Portsmouth, as published in "The Market Basket and Retail Food Prices" by the Virginia Department of Labor and Industry.

(5) The average weekly earnings of workers in Virginia manufacturing industries, as published in "Trends in Employment Hours and Earnings Virginia and Statistical Metropolitan Areas" by the Virginia Labor and Industry.

(6) An average of the prevailing Class I prices in North Carolina, Federal Milk Marketing Order No. 4 and Federal Milk Marketing Order No. 11.

f. The six month average, November 1973 through April 1974, shall equal 100 for each of the above factors for the purpose of determining the monthly index number for each factor.

g. The current month's Class I price adjustment, if any, shall be determined by a bi-monthly composite index which shall be a simple average of the monthly composite indices of the second and third preceding months.

h. On or before the seventh day of each month the commission shall determine the Class I prices for the following month and announce same to all licensed processing general distributors.

2. Class I-A ..... The price used in computing each distributor's obligation for producer milk (of 3.5% butterfat) allocated to Class I-A shall be the Class II price.

3. Class II - The price per cwt. for all markets shall be determined for each month as follows:

a. Adjust the average price per cwt. for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the second preceding month, to a 3.5% butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the simple average of the daily wholesale selling price (using the midpoint of any price range as one price) of Grade "A" (92-score) bulk creamery butter per pound at Chicago, as reported by the U. S. Department of Agriculture for the second preceding month. Such price shall be rounded to the nearest cent.

4. a. The total value of base deliveries made in accordance with Regulation No. 5, subparagraph 2-A(2) shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily basis: The discount for base deliveries from each cooperative association shall be twice the sum of the difference between the cooperative association assigned daily base and daily base deliveries by the cooperative association which are less than the assigned daily base for each day during the delivery period subtracted from the total base deliveries for the delivery period by the cooperative association and the resulting net hundredweight (not less than zero multiplied by \$ .11.

b. Base deliveries made in accordance with Regulation No. 5, subparagraph 1-A(1) shall be discounted in accordance with the following procedure to reflect the cost savings of transporting, storing and handling of producer milk on a uniform daily basis: The discount for base deliveries from producers shall be the hundredweight of base deliveries during the delivery period multiplied by \$ .11.

5. Producers or their agents shall not sell milk or offer milk for sale at prices other than those established.

## B. Butterfat differential.

In making payments to producers and/or cooperative associations of producers required pursuant to § 8, each general distributor shall add for each one-tenth of one percent of average butterfat content above 3.5%, and shall deduct for each one-tenth of one percent of average butterfat content below 3.5%, as a butterfat differential an amount per hundredweight which shall be computed by the commission as follows: Multiply by 0.115 and round to the nearest one-tenth cent the simple average of the daily wholesale selling price (using the midpoint of any price range as one price) per pound of Grade "A" (92-score) bulk creamery butter at Chicago, as reported by the U. S. Department of Agriculture for the month.

## C. Butterfat testing.

# Final Regulations

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1. Butterfat testing shall be conducted in accordance with the following procedure:

a. General distributors shall determine the average butterfat content of all assigned producer milk delivered by each producer who is not a member of a cooperative association, as defined in paragraph 27 of Regulation No. 2, by four or more tests made at approximately equal intervals during each delivery period.

b. All assigned producer milk accompanied by a bill of lading that is delivered by a cooperative association to a licensed distributor and is accepted by the distributor shall be paid for by the distributor at a rate that is determined by the butterfat test specified on the bill of lading accompanying the load of milk.

c. The butterfat content of all assigned cooperative association milk delivered by methods other than specified in paragraph 2 above, shall be determined in accordance with procedures specified by the commission, if mutual agreement between the cooperative association and the distributor cannot be reached as to the butterfat content of such deliveries.

d. All sampling and testing shall be conducted by persons licensed by the Virginia Department of Agriculture and Consumer Services. These tests shall be made by the Babcock Test, or other tests approved by that department and shall, as directed by the commission, be subject to check tests made by a licensed tester.

## D. Time of payment.

1. On or before the last day of a delivery period general distributors shall make a partial payment to producers and/or cooperative associations of producers for base deliveries received during the first 15 days of the delivery period. The partial payment shall be not less than an amount determined by multiplying the current Class I price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period; provided full and final payment for the preceding delivery period was made in accordance with subsection D 2 of this regulation, otherwise the partial payment shall be not less than an amount determined by multiplying the current Class I price for 3.5% milk by the hundredweight of base deliveries for the first 15 days of the delivery period.

2. On or before the 15th day following the close of a delivery period general distributors shall make full and final payment to producers and/or cooperative associations of producers for deliveries received during such delivery period pursuant to these regulations.

3. Certified or registered mail shall be required for all U. S. Postal Service deliveries of producer payments made by general distributors pursuant to subsection D 1 and D 2 of this regulation.

4. The Commission may, after a hearing, require individual general distributors to make settlement with producers and/or cooperative associations of producers for deliveries at intervals other than provided in subsections D 1 and D 2 of this regulation.

5. All licensed producers or association of producers supplying base deliveries to processing general distributors located in Norfolk, Portsmouth, Hampton, Newport News or Chesapeake shall be allocated \$ .10 per hundredweight from the total monthly Eastern Market Class I producer payments. This allocation shall be made pro-rata in accordance with the monthly base deliveries to the processing general distributors located in the aforementioned cities.

6. Before the 15th day of each month the commission shall determine the required monthly equalization payments and give written notice to all affected parties of the amounts payable. The monthly equalization payments shall be made to the Milk Commission Equalization no later than the 25th day of the month subsequent to the end of each delivery period. On or before the last day of each month the commission shall disburse all funds (less a balance necessary to pay all bank charges) paid in during the current month in accordance with paragraph 5 of this subsection.

## DEPARTMENT OF MINES, MINERALS, AND ENERGY

Title of Regulations: VR 480-03-19. Chapter 19, Coal Surface Mining Reclamation Regulations.

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

Effective Date: October 16, 1985

### Notice:

Due to its length, the amendments to the existing Coal Surface Mining Reclamation Regulations, filed by the Department of Mines, Minerals and Energy, is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Mines, Minerals and Energy.

### Summary:

*These regulations consisting of Parts 480-03-19.700 through 480-03-19.882, establish the procedures and*

requirements through which the Department of Mines, Minerals and Energy and its Division of Mined Land Reclamation will implement the Virginia Coal Surface Mining Control and Reclamation Act of 1979, Chapter 19, Title 45.1, of the Code of Virginia, and the Federal Surface Mining Control and Reclamation Act of 1977, (P.L. 95-87, 91 Stat. 445, 30 U.S.C. SS 1201 et seq.), pursuant to the Virginia permanent regulatory program, as approved by the United States Secretary of the Interior.

These Regulations are divided into the following nine Subchapters:

1. Subchapter VA contains introductory information intended to serve as a guide to the rest of the Chapter and to the regulatory requirements and definitions generally applicable to the programs and persons covered by the Act.

2. Subchapter VD identifies the procedures that apply to surface coal mining and reclamation operations conducted on federal lands rather than state or private lands and incorporates by reference the applicable requirements of the state regulatory program: Subchapters VG, VJ, VK, and VL.

3. Subchapter VF implements the requirements of the Act for (i) designating lands which are unsuitable for all or certain types of surface coal mining operations; (ii) terminating designation no longer found to be appropriate; and (iii) prohibiting surface coal mining and reclamation operations on those lands or areas where the Act states that surface coal mining operations should not be permitted or should be permitted only after specified determinations are made.

4. Subchapter VG governs applications for and decisions on permits for surface coal mining and reclamation operations within the Commonwealth. It also governs coal exploration and permit application and decisions on permits for special categories of coal mining on non-Indian and non-federal lands in the Commonwealth. Regulations implementing the experimental practices provision of the Act are also included in Subchapter VG.

5. Subchapter VJ sets forth requirements for performance bonds and public liability insurance for surface mining, underground mining and coal exploration permits.

6. Subchapter VK sets forth the environmental and other performance standards which apply to coal exploration and to surface coal mining and reclamation operations, as well as to special mining situations involved with steep slope mining, mountaintop removal mining, auger mining and prime farmlands.

7. Subchapter VL sets forth the inspection, enforcement, and civil penalty provisions.

8. Subchapter VM sets forth the requirements for the training, examination, and certification of blasters.

9. Subchapter VR sets forth the regulations for the Abandoned Mine Land Program.

Certain areas of change in this final action result from a judgment and order of the U. S. District Court for the District of Columbia, July 15, 1985. The department considered and proposed amendments to its regulations based upon several federal standards which were changed between December 15, 1981, the date of primacy in Virginia, and the date of the proposed amendments. The U. S. District Court ruling overturned some of these changes on the federal level as contrary to the Federal Act, PL 95-87. Because the U. S. Department of the Interior cannot approve amendments to Virginia's Program which have been ruled to be inconsistent with the Federal Act, the department has decided not to adopt amendments which will ultimately be disallowed, but instead to retain its current standards in these areas.

The department has decided to retain the current placement and compaction standards for coal mine waste disposal; portions of the current definitions of lands which are or may be unsuitable for mining; portions of the current stability and spillway standards for impoundments; the current exemption for previously mined areas; and the current qualification and exemptions for variances from returning mined lands to their approximate original contour for steep slope and mountaintop removal mining operations.

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# STATE CORPORATION COMMISSION

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## STATE CORPORATION COMMISSION

### BUREAU OF INSURANCE

August 12, 1985

ADMINISTRATIVE LETTER 1986-16

TO: ALL COMPANIES LICENSED TO WRITE  
AUTOMOBILE LIABILITY INSURANCE IN THE  
COMMONWEALTH OF VIRGINIA

RE: ADMINISTRATIVE ORDER NUMBER 8926  
REVISED UNINSURED MOTORISTS RATES

By Administrative Order Number 8926 dated August 6, 1985, the State Corporation Commission has approved certain revisions to the currently approved uninsured motorists rates. In addition to rules already required for uninsured motorists coverage, the Bureau of Insurance will require that certain additional rules be filed in order to clarify certain statutory requirements. First, the company must at least display and offer the uninsured limits for which the company has filed liability limits. A rule must also be filed which states that the insured may purchase any uninsured motorists limits which the company has filed as long as they are not in excess of the liability limits under the policy. As respects both commercial and personal lines single limit uninsured motorists coverage, a rule must be filed indicating that if the insured rejects all other uninsured motorists limits offered by the company, then the insured may purchase split limit minimum financial responsibility limits of \$25,000/\$50,000/\$10,000 and the applicable rates.

Any questions concerning this matter should be addressed to Patricia A. Brady, Insurance Supervisor, Property and Casualty Rates and Forms Section.

/s/ James M. Thomson  
Commissioner of Insurance

### COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 1985

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO. PUC850019

STATE CORPORATION COMMISSION

Ex Parte: In the matter of  
adopting rules governing telephone  
cooperative rate cases

#### ORDER ADOPTING RULES

On May 31, 1985, the Commission entered an order which established a rulemaking to consider rules governing telephone cooperative rate cases. The purpose of these rules were to implement Va. Code Ann. § 56-501 (Cum. Supp. 1985) which addresses the standard to be applied to Virginia telephone cooperatives' rates and service.

The May 31, 1985 order assigned the matter to a Hearing Examiner, directed the telephone cooperatives subject to regulation by the Commission to give public notice, and invited interested persons, including telephone cooperatives, to file written comments concerning the proposed rules on or before June 25, 1985. This order also directed the Commission's Staff to file a report which analyzed the rules and comments on or before July 1, 1985.

# State Corporation Commission

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Because of a difficulty experienced by North River Telephone Cooperative in affecting publication, the time for filing comments was extended by Hearing Examiner's Ruling until July 10, 1985.

The Commission's Staff requested additional time in which to file its report in order to analyze the comments filed on July 10, 1985. The Hearing Examiner granted the Staff's request and extended the time in which the Staff could file its report to and through July 19, 1985.

Six telephone cooperatives filed joint comments regarding the rules on June 25, 1985. The cooperatives urged the Commission not to adopt the rules as originally proposed.

On July 19, 1985, the Staff filed its report in this proceeding. The Staff report recited that the Staff had met with the telephone cooperatives' consultants and counsel on July 11, 1985, in an effort to formulate rules which would be acceptable to the cooperatives and which satisfied Staff concerns. As a result of the July 11 meeting revised rules were proposed which shortened and simplified the rules while maintaining sufficient financial and accounting data in the event of a contested application to allow the Staff to adequately review and investigate a proposed rate revision.

On July 24, 1985, Glenn P. Richardson, Hearing Examiner, issued his report in this proceeding. In his report, the Examiner found that the revised rules proposed by the Staff in its July 19, 1985 report should be adopted by the Commission. The Examiner recommended that the Commission enter an order adopting the rules attached to his report effective simultaneously with the entry of the final order in the case. The Examiner advised parties to file any responses to the report within 15 days of the report's entry.

On July 31, 1985, the telephone Cooperatives advised the Commission that they would not be filing exceptions to the Hearing Examiner's report. The telephone cooperatives stated that they were in agreement with the proposed rules and that they believed the rules contained in the Examiner's report were consistent with Va. Code § 56-501.

NOW THE COMMISSION, upon consideration of the record made in this proceeding and the Examiner's report filed herein, is of the opinion and finds that the rules governing telephone cooperative, set forth in Attachment A hereto, should be adopted, to become effective as of the date of the entry of this order. We note that the success of any rules adopted pursuant to Va. Code § 56-501 rests primarily with the telephone cooperatives and their rapport with their membership. We urge the cooperatives to meet with their members and to explain the reasons for any proposed rate changes well in advance of these changes.

Accordingly,

IT IS ORDERED that the rules set forth in Attachment A hereto shall be adopted, effective as of the date of the entry of this order.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Donald G. Owens, Esquire, May, Valentine, Davenport and Moore, P. O. Box 1122, Richmond, Virginia 23208; to Anthony Gambardella, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; to all telephone cooperatives subject to the jurisdiction of the Commission; and to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

/s/ George W. Bryant, Jr.  
Clerk

ATTACHMENT A

## RULES GOVERNING TELEPHONE COOPERATIVE RATE APPLICATIONS

I. Telephone cooperatives subject to regulation by the State Corporation Commission shall file all tariffs stating a change in their rates, tolls, charges, or rules and regulations of service with the Division of Communications of the State Corporation Commission in advance of the notice to the public required in Rule II below.

II. Telephone cooperatives subject to regulation by the State Corporation Commission shall complete notice to the public 30 days prior to the effective date of changes in the telephone cooperatives' rates, tolls, charges, or rules and regulation of service. The telephone cooperatives' notice to the public shall at a minimum use the following format to the extent applicable:

NOTICE TO THE PUBLIC OF (INCREASES IN, CHANGES IN) (RATES, TOLLS, CHARGES, RULES AND



# State Corporation Commission

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## REGULATIONS OF SERVICE) OF (INSERT NAME OF COOPERATIVE)

( Insert name of cooperative ) seeks to change its (rates, tolls, charges) on file with the State Corporation Commission, effective for service rendered on and after ( effective date ). As a result of this change, ( insert name of cooperative ) expects its (rates, tolls, charges) to produce an additional \$..... in gross annual revenues, representing an increase of .....% in total revenues.

(If applicable) The cooperative also proposes to change the following portions of its rules and regulations of service.

(Summarize changes).

An interested party may review ( Insert name of cooperative )'s proposed changes during regular business hours at any cooperative office where consumer bills may be paid and at the Commission's Division of Communications located on the 8th Floor of the Jefferson Building, Bank and Governor Streets, Richmond, Virginia.

Any interested party may file written comments in support of or objecting to the proposed changes with the Division of Communications, State Corporation Commission, P. O. Box 1197, Richmond, Virginia 23209. Such comments must be filed with the Division of Communication on or before (Name date 10 days before the effective date of tariff, year).

(NAME OF TELEPHONE COOPERATIVE)

Telephone cooperatives shall mail the foregoing notice to any person subject to the change of rate, toll, charge, rule and regulation, including other common carriers utilizing the Cooperatives' facilities when proposed changes directly affect other common carriers.

III. If the Commission receives protests or objections filed by or on-behalf of 20 or more persons subject to any cooperative's schedules stating a change of rate, toll, charge, rules and regulations, it may suspend the enforcement of any or all of the proposed rates, tolls, charges, rules and regulations for a period not exceeding 150 days from the date of filing. Notice of the suspension shall be given by Commission order to the telephone cooperative prior to the expiration of the 30 days' notice to the public.

IV. If the Commission receives twenty or more protests or objections to the changes of a rate, toll, charge, rules and regulation, which is filed by or on behalf of 20 or more persons subject to same, an order will be issued by the Commission setting a date by which the cooperative shall file an application which shall contain the information set forth in Section V below.

V. An application by a telephone cooperative for a rate increase filed pursuant to Section IV hereof shall include:

(1) The name and post office address of the applicant and the name and post office address of its counsel (if any).

(2) A clear description of the proposed tariff changes, and an explanation of why the changes were made as well as the revenue impact, if any, of these changes.

(3) All direct testimony by which the applicant expects to support the proposed tariff changes. In lieu of prefiling direct testimony, the cooperative may submit an affidavit which certifies that the information in the application is correct and that the cooperative adopts the information contained in the schedules as its evidence in support of the application.

(4) Exhibits consisting of Schedules 1 through 14 shall be submitted with the cooperative's direct testimony or affidavit adopting the information contained in the schedules.

(5) Exhibits consisting of additional schedules may be submitted with the cooperative's direct testimony. Such schedules shall be identified as Schedule 15 et seq.

(6) All applications shall be filed in the original and fifteen (15) copies with the exception of Schedule 11. Two (2) copies of Schedule 11 shall be filed directly with the Commission's Division of Accounting and Finance. Additional copies of Schedule 11 shall be made available to other parties upon request. An application shall not be deemed filed unless all information required by the rules and accompanying schedules are filed in conformity with the rules and

# State Corporation Commission

schedule instructions.

(7) The selection of a test period is up to the applicant. However, the use of overlapping test periods will not be allowed.

(8) The cooperative shall serve a copy of the information required in Rule V, paragraphs (1) through (3) upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in the counties having alternate forms of government) in this State affected by the proposed change and upon the mayor or manager and the Attorney of every city and town (or on equivalent officials in towns and cities having alternate forms of government) in this State affected by the proposed change. The cooperative shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified cooperative officer or location. In addition, the cooperative shall serve a copy of its complete application upon the Division of Consumer Counsel, Office of the Attorney General of Virginia. All such service specified by this rule shall be made either by (a) personal delivery or (b) by first class mail, to the customary place of business or the residence of the person served.

IV. Telephone cooperatives shall maintain their books in accordance with the Uniform System of Accounts, and shall file an annual operating report with the State Corporation Commission.

## APPENDIX A

### Schedule 1

#### Cooperative Financial Performance Profile

Instructions: This schedule should be prepared using the definitions set out below and the format of the attached schedule. It should provide data for the test year. The information should be compatible with the telephone cooperative's Annual State Corporation Commission Operating Report.

#### Definitions

A. TIER =  $\frac{\text{Total Margins or Net Income} + \text{Interest on Long Term Debt}}{\text{Interest on Long Term Debt}}$

Rate of Return on Rate Base =  $\frac{\text{Net Operating Margins or Net Operating Income}}{\text{Rate Base}}$

C. Equity Ratio =  $\frac{\text{Total Margins and Equities}}{\text{Total Capitalization}}$

D. Return of Year End Equity =  $\frac{\text{Total Margins or Net Income}}{\text{Total Margins and Equities}}$

E. Debt Service Coverage =  $\frac{\text{Depreciation and Amortization Expense} + \text{Interest Expense} + \text{Total Margins or Net Income}}{\text{Total Principal and Interest Payments}}$

F. Capital Credit Rotation =  $\frac{\text{Annual Capital Credit Dollars Returned to members (Estates and General Retirements)}}{\text{Total Margins} + \text{Equities}}$

Cash Flow Generated = Total Margins or Net Income + Depreciation and Amortization Expense - Noncash Interest Income - Total Principal and Interest Payments - Capital Credits Rotated

Cash Flow Coverage of Construction Expenditures =  $\frac{\text{Cash Flow Generated}}{\text{Construction Expenditures}}$

### Schedule 1

#### Cooperative Financial Performance Profile

Test  
Year

#### A. Ratios

# State Corporation Commission

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1. TIER
2. DSC
3. Rate of Return
4. Equity Ratio
5. Return on Year  
End Equity
6. Capital Credit Rotation
7. Cash Flow Coverage  
of Construction  
Expenditures

## B. Data for Coverage Ratios

1. Net Income
2. Interest on Long-Term  
Debt
3. Other Interest
4. Total Interest
5. Net Income Before  
Interest on Long-Term  
Debt
6. Depreciation
7. Total Principal Payments
8. Total Interest Payments
9. Total Principal and  
Interest Payments (Debt  
Service Requirements)
10. Net Income Before  
Depreciation and Interest
11. Amortization
12. Capital Credits Retired
13. Cash Flow Generated
14. Construction Expenditures

## Schedule 2

### Total Capitalization and Cost of Debt Statement

Instructions: This schedule shall show the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, the component cost and weighted capital cost, using the format of the attached schedule. This information shall be provided for the test period and the proforma period (the next 12 months following the end of the test period). In Part A, the test period information should be compatible with the SCC Annual Operating Report. The methodology should be consistent, with that approved in the Cooperative's last rate case. If the Cooperative wishes to use a different methodology, it may prepare an additional schedule labelled as Schedule 2(a) explaining the methodology used and justifying any departure from the Cooperative's last rate case.

The amounts and cost for short term debt shall be based on a 13-month average over the year, or preferably a daily average in the test year, if available. All other test period accounts are end-of-year. The weighted cost of capital equals the sum of the products of the capital structure weight times the component costs. Cooperatives should include schedules showing cost of capital calculations, including the cost of equity capital.

A. Capital Structures per Balance Sheet (\$)	<u>Test Year</u>	<u>Proforma Period</u>
Short Term Debt		
Other Current Liabilities		
Long Term Debt-REA		
Long Term Debt-Other		
Cost Free Capital		
Total Margins & Equities		
Other Liabilities		

Total Capitalization

**B. Capital Structure Approved  
for Ratemaking Purposes (\$)**

Short Term Debt  
Long Term Debt-REA  
Long Term Debt-Other  
Cost Free Capital  
Total Margins & Equities  
Total Capitalization

**C. Capital Structure Weights  
for Ratemaking Purposes (%)**

Short Term Debt  
Long Term Debt-REA  
Long Term Debt-Other  
Cost Free Capital  
Total Margins & Equities  
Total Capitalization (100%)

**D. Component Capital Cost  
Rates (%)**

Short Term Debt  
Long Term Debt-REA  
Long Term Debt-Other  
Cost Free Capital  
Total Margins & Equities

Overall Weighted Cost of Capital

**Schedule 3**

**Schedule of Bonds, Mortgages, Other Long Term Debt, and Cost Free Capital**

Instructions: Provide a description of each issue, amount outstanding, percentage of total capitalization, and annualized cost based on the embedded cost rate. This data shall support the debt cost contained in Schedule 2. Also, provide a detailed breakdown of all cost free capital items contained in Schedule 2.

**Schedule 4**

**Schedule of All Short Term Debt**

Instructions: Show monthly balances of all short-term debt and the effective interest for the last thirteen months. This data should support the debt cost contained in Schedule 2.

**Schedule 5**

**Comparative Balance Sheet**

Instructions: Provide a comparative balance sheet for the test period and the corresponding twelve months period immediately preceding the test period.

**Schedule 6**

**Comparative Income Statement**

Instructions: Provide a comparative income statement covering the test period and the twelve month period immediately preceding the test period.

**Schedule 7**

**Rate of Return Statement**

Instructions: Column 1 should show the cooperative's per books results. Adjustments to the test period per books results should be shown in Column 2. If a calendar year test period is used, Column 1 can be prepared from

# State Corporation Commission

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information filed by applicant in its annual report to the Commission. If a calendar year test period is used, operating revenue line items can be found in Schedule 34 of the Annual Report.

"Depreciation and Amortization" is set forth on Line 7 of Schedule 11 of the Annual Report. "Operating and Maintenance Expense" can be derived by subtracting from Line 62 of Schedule 35 [Total Operating Expense] of the Annual Report the amount of depreciation shown on Line 7 of Schedule 11 of the Annual Report. Interest on customer deposits must be calculated from the applicant's books. Column 4 should reflect any new adjustments the cooperative is proposing which differ from the adjustments accepted by the Commission in the cooperative's last rate case. Column 6 should show the increase requested by the cooperative.

## Schedule 7 - Test Period Rate of Return Statement

Total Per Books Col. (1)	Adjustments Previously Approved Col. (2)	Amounts After Adjustments Col. (3)	New Proposed Adjustments Col. (4)	Amounts After All Adjustments Col. (5)	Effect of Proposed Increase Col. (6)	After Proposed Increase Col. (7)
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### Operating Revenues

Local Service  
Toll Service  
Access Charges  
Miscellaneous  
Less: Uncollectible  
Total Revenues

### Operating Expenses

Operating and  
Maintenance Expense  
Depreciation and Amortization  
Taxes Other than Income Taxes  
Total Expenses

### Operating Margins or Operating Income

Less: Interest on Customer  
Deposits

### Net Operating Margins or Net Operating Income

### Other Income and Expenses

Plus: Interest Income  
Miscellaneous Income  
Less: Interest Expense (Exclusive  
of interest on Customer Deposits)  
Total Other Income and Expenses

### Total Margins or Net Income

Allowance for working capital  
Net Utility Plant  
Total Rate Base

### Rate of Return on Rate Base

### TIER

**Schedule 8**

**Statement of Net Original Cost of Utility Plant and Allowances for Working Capital for the Test Year**

Instructions: This schedule should be constructed by using the ratemaking policies, procedures and guidelines last prescribed for the Cooperative by the Commission. The schedule should indicate all property held for future use by account number and the date of planned use should be shown. In a footnote, cooperatives should identify the amount of plant and working capital devoted to non-regulated business activities, if any. Such plant shall not be included in the rate base. Cooperatives should use the format prescribed below.

Columns (2) and (4) adjustments should be explained and detailed in Schedule 9.

**Net Original Cost of Utility Plant and Allowances**

	Total Per Books Col. (1)	Previously Approved Adjustments Col. (2)	Amounts After Adjustments Col. (3)	New Proposed Adjustments Col. (4)	Amounts After All Adjustments Col. (5)
Telephone Plant in Service					
Telephone Plant under Construction					
Property held for Future Use					
<b><u>Gross Plant</u></b>					
Less: Reserve for Depreciation					
<b><u>Net Telephone Plant</u></b>					

**Allowance for Working Capital**

Materials and Supplies  
(13 month average)  
Cash (20 days of O&M  
expense)  
Less: Customer Deposits  
**Total Working Capital**

**Rate Base**

**Schedule 9**

**Explanation of Adjustments to Books Amounts**

Instructions: All ratemaking adjustments (accounting and going-level) shall be fully explained in a supporting schedule to the rate of return statement. Such adjustments shall be numbered sequentially, beginning with operating revenues. Supporting data for each adjustment, including the details of its calculation, should be provided. Categories of adjustments are:

- a. Adjustments to annualize changes occurring during the test period.
- b. Adjustments to reflect depreciation and property taxes based on end-of-period plant balances.
- c. Adjustments to reflect known and certain wage agreements and payroll taxes occurring in the proforma period (the 12-month period following the test period).
- d. Adjustments to reflect the ratemaking treatment approved by the Commission to determine revenue requirements in telephone cooperative rate cases.
- e. Adjustments to interest expense based on proforma capital structure and cost of debt capital shown on Schedule 2. Adjustments to interest expense shall be based on the proposed ratemaking capital structure.

# State Corporation Commission

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f. Additional adjustments not presented to the Commission before, for known or anticipated changes occurring during the test year or proforma period. These adjustments should appear in Column (4) of Schedule 7.

## Schedule 10

### Statement of Compliance

Instructions: Include a statement signed by the responsible individual that the rate of return statement complies with the instructions for Schedule 9. See compliance statement below:

#### Schedule 10 Compliance Statement

As ..... of ....., I affirm that all adjustments herein conform to the instructions established in the Commission's Rules for Telephone Cooperative Rate Applications and that the rate of return statement otherwise complies with the instructions for Schedule 9.

## Schedule 11

### Working Papers

Instructions: Provide detailed work papers and supporting schedules of all proposed adjustments. Two copies of said working papers shall be filed directly with the Commission's Division of Accounting and Finance. Copies shall be provided to parties on request. Each schedule shall identify the sources of all data. Data shall be clearly identified as actual or estimated.

## Schedule 12

### Revenue and Expense

Instructions: A. The Cooperative shall provide information about revenues by primary account (consumer classification) and operating and maintenance expenses by primary account during the test period. This schedule shall also show sales volume by customer class for the test period.

B. The Cooperative shall also provide a detailed explanation of all revenue and expense item increases or decreases of more than 10% during the test period compared to the 12 month period immediately preceding the test period. Worksheets used to compute the percentage change should be available for review upon request.

## Schedule 13

### Explanation of Proposed Revenue Requirement Calculation

Instruction: Provide a schedule describing the methodology used to determine the revenue requirement in Schedule 7, Column 7.

## Schedule 14

### Additional Revenue

Instructions: Show the calculations of the additional gross revenues and percentage increases by customer classes, that would be produced by the new rates during the test period.

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 21, 1985

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

# State Corporation Commission

CASE NO PUE850022

**Ex Parte:** In the matter of  
adopting certain amendments  
to the Rules Governing Utility  
Rate Increase Applications

## FINAL ORDER

On April 30, 1985, the Commission entered an order which established a rulemaking to consider amendments to the Rules Governing Utility Rate Increase Applications ("the rules") which rules were adopted in Case No. PUE820056 on December 4, 1984. The purpose of these rules were to clarify the text of same and to consider whether expedited rate increases should take effect in less than 12 months after an applicant's preceding rate increase so long as rates were not increased more than once in any calendar year.

The April 30 Order directed the Commission's Division of Energy Regulation to publish notice of the rulemaking and invited any person, including utilities subject to the rules, to file written comment on or before June 20, 1985, concerning the proposed amendments to the rules and to request a hearing thereon. The April 30 Order also authorized the Commission's Staff to file a report, analyzing the proposed rule changes and addressing the comments received from interested parties.

Five utilities offered comments on the proposed rule amendments. Most of these comments supported the proposed rule revisions. Only one utility offered further amendments to the rules. This utility proposed to amend Rule I(7) to require only one copy of Schedule 16 to be filed with the Commission Clerk and two copies of Schedule 16 to be filed with the Division of Accounting and Finance, with additional copies available on request to other parties. The same utility requested guidance on the treatment of fuel factor expenses in Schedule 14. No request for hearing was made by any party.

On June 28, 1985, the Staff filed its Report in this matter. In its Report, the Staff suggested that the text of Rule I(7) be amended to permit two copies of Schedule 17 (work papers) to be filed directly with the Commission's Division of Accounting and Finance. In its analysis of utility comments, the Staff agreed that Rule I(7) should be amended to require utilities not seeking rate relief to file one copy of its jurisdictional study directly with the Division of Accounting and Finance and one copy directly with the Division of Energy Regulation. The Staff suggested that for applicants requesting rate relief an original and 20 copies of this study should be filed.

With regard to treatment of the fuel factor expense in Schedule 14, the Staff noted that in an expedited case an applicant would file its fuel data before it files its application. An applicant would then have no difficulty incorporating the proposed fuel factor revisions into the base rate portion of the proceeding. In general rate applications, an applicant would generally file its fuel factor information sometime after it files its general rate application. In such a case, an applicant should use the best information available at the time of the filing to estimate the rate year level of fuel costs for purposes of this adjustment. Before the final conclusion of the general rate case, the utility would have to true-up its estimate.

NOW THE COMMISSION, upon consideration of the record made herein, is of the opinion that the amendments to the Rules proposed by the Staff in its June 28, 1985 Report should be accepted with certain modifications.

We find that the title of the rules should be revised to read "Rules Governing Utility Rate Increase Applications and Annual Informational Filings". This change takes account of Rule I(9) which directs utilities not requesting a base rate increase to file Schedules 1-17. To complement this change in the title of the rules, Rule I(9) should be amended in pertinent part as follows:

(9) Each utility not requesting a base rate increase shall make an annual informational filing consisting of Schedules 1-17 .... (Emphasis added.)

Further, we believe that Rule I(5)C should be amended to read as follows: "The first page of all exhibits shall contain a caption which describes the subject matter of the exhibits." The 40 character caption limitation previously referenced in Rule I(5)C has been deleted because it has become superfluous.

Rule I(7) should also be amended to require telephone utilities to send one copy of their jurisdictional studies directly to the Commission's Division of Communications or to the Division of Energy Regulation as applicable. Rule I(7) shall be revised in pertinent part to read:

.... Utilities not seeking rate relief shall file one copy of Schedule 16 directly with the Division of Energy Regulation or the Division of Communications, as applicable, and one copy of Schedule 16 directly with the Division of Accounting and Finance.

We believe a further change in Rule II should be made to more closely track the language of Virginia Code Ann. § 56-235.4 (1985 Cum. Supp.). Rule II should be amended to read in pertinent part as follows:

.... Prior to public hearing, and subject to applicable provisions of law, an application for expedited rate increase may take effect within 30 days after the date the application is filed. Expedited rate increases may also take effect in less than 12 months after the applicant's preceding rate increase so long as rates are not increased more than once in any calendar year ....



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We also believe that Schedule 3's instructions and the line items shown on Schedule 3 itself should be revised to require utilities to show their calculations of component weighted cost rates for short term debt, long term debt, preferred and preference stock, job development credits, cost free capital, and common equity. Utilities must make these calculations in order to arrive at the weighted cost of capital figure now required by the rules. The weighted cost of capital figure previously required by Schedule 3 represents nothing more than the sum of the foregoing component weighted cost rates. Schedule 36's format (proforma capital structure) has also been revised to include the calculations of component weighted cost rates for short term debt, long term debt, preferred and preference stock, job development credits, cost free capital and equity.

As revised, Schedule 3 instructions should read in pertinent part as follows:

\* \* \*

In Part A, the information shall be compatible with the latest Stockholders' Annual Report (including any restatements). In Parts B, C and D, the methodology shall be consistent with that approved in applicant's last rate case. Reconcile differences between Parts A and B. The amounts and cost for short term debt and revolving credit agreements shall be based on a 13-month average over the year, or preferably a daily average over the test year if available. All other accounts are end-of-year and end-of-test period. *The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate.* The weighted cost of capital is equal to the sum of the component weighted cost rates ..... (Emphasis added).

We have further clarified Rule I(9) and the instructions to Schedule 12 to remove some repetitious language and to correct certain typographical errors which appeared in the rules and associated schedules noticed in our April 30, 1985 Order.

Finally, we incorporate herein the directive contained in our December 4, 1984 Order regarding written notification by a utility of its intent to file a rate case. In this regard, we expect utilities to continue to notify the Commission in writing 60 days in advance of an anticipated rate filing. This written notification must state whether the anticipated rate filing will request expedited or general rate relief and must also indicate the anticipated filing date of the application. We reiterate our expectation that utilities will cooperate with our Staff in scheduling rate filings.

WHEREFORE IT IS ORDERED that the rules contained in Attachment A to this Order, which incorporate the amendments suggested by the Staff as well as the further revisions made herein, shall be adopted and shall be effective as of the date of the entry of this Order.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to all utilities subject to the Commission's jurisdiction with the exception of telephone and electric cooperatives; to Anthony Gambardella, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; to John L. Walker, Jr., Esquire, Woods, Rogers & Thorton, P. O. Box 720, Roanoke, Virginia 24004-0720; to Ralph L. Frye, Executive Director, Virginia Exchange Carrier Association, 700 Building, Suite 1420, 700 East Main Street, Richmond, Virginia 23219; to Stephen H. Watts, II, Esquire, McGuire, Woods & Battle, 1400 Ross Building, Richmond, Virginia 23219; to John W. Riely, Esquire, Hunton & Williams, P. O. Box 1535, Richmond, Virginia 23212; to Evans B. Brasfield, Esquire, Hunton & Williams, P. O. Box 1535, Richmond, Virginia 23212; to Wilbur L. Hazlegrove, Esquire, Hazlegrove, Dickenson, Rea, Smeitzer & Brown, P. O. Box 1218, Roanoke, Virginia 24006-1218; to A. C. Epps, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, Richmond, Virginia 23219; to Philip J. Bray, Esquire, Downsville Pike, Hagerstown, Maryland 21740; to Donald R. Hayes, Esquire, 1100 H Street, N.W., Washington D.C. 20080; to Moira K. Donoghue, Esquire, P. O. Box 231, Wilmington, Delaware 19899; to Warner F. Brundage, Jr., Esquire, 703 East Grace Street, Richmond, Virginia 23219; to Edward A. Caine, Esquire, 1900 Pennsylvania Avenue, N.W., Washington, D.C. 20068; to Allan E. Roth, Esquire, P. O. Box 117, Columbus, Ohio 43216; to Edward L. Flippen, Esquire, Mays, Valentine, to Norris Sission, Dale Service Corporation, 13901 Jefferson Davis Highway, Woodbridge, Virginia 22191; to Virginia American Water Company (Alexandria and Prince William County) 2223 Duke Street, Alexandria, Virginia 22310; to Virginia American Water Company (Hopewell Area), 210 North Second Avenue, Hopewell, Virginia 23860; and to the Commission's Divisions of Energy Regulation, Communications, Accounting and Finance, and Economic Research and Development.

George W. Bryant, Jr.  
Clerk of the State Corporation Commission

Attachment A

## RULES GOVERNING UTILITY RATE INCREASE APPLICATIONS AND ANNUAL INFORMATIONAL FILINGS

I. An application for a rate increase filed by a public utility, as defined in Section 56-232, Code of Virginia, (except Electric Cooperatives, as defined in the Electric Cooperatives Act, Code of Virginia, Section 56-209, and Telephone Cooperatives, as defined in the Telephone Cooperatives Act, Code of Virginia, Section 56-487), having annual revenues exceeding \$1,000,000, which proposes to increase annual operating revenues shall include:

- (1) The name and post office address of the applicant and the name and post office address of its counsel.
- (2) A full clear statement of the facts which the applicant is prepared to prove by competent evidence, the proof of which will warrant the objectives sought.

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(3) A statement of details of the objective sought and the legal basis therefor.

(4) All direct testimony by which the applicant expects to support the objective sought.

(5) Exhibits consisting of Schedules 1 through 36 shall be submitted with the utility's direct testimony. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in the Appendix attached hereto and the following general instructions:

A. Attach a table of contents of the Company's application, including exhibits.

B. The applicant will be expected to verify the accuracy of all data and calculations contained in and pertaining to every exhibit submitted, as well as support any adjustments, allocations or rate design relied upon by the utility.

C. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. ( ..... )  
Witness: (Initials)  
Statement or  
Schedule Number

The first page of all exhibits shall contain a caption which describes the subject matter of the exhibit.

D. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount which differs, together with an explanation describing the nature of the difference.

E. The required accounting and statistical data shall include all work papers and other information necessary to ensure that the items, statements and schedules are not misleading.

(6) Exhibits consisting of additional schedules may be submitted with the utility's direct testimony. Such schedules shall be identified as Schedule 37 *et seq.* and shall conform at a minimum to the general instructions contained in Rule I(5).

(7) All applications (including those discussed in Paragraph (9)) shall be filed in the original and twenty (20) copies with the Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23216. Direct testimony, including Schedules 1-36, shall, with the exception of Schedule 16 and Schedule 17, be filed with the Clerk of the Commission in the original and twenty (20) copies. Two (2) copies of Schedule 17 shall be filed directly with the Commission's Division of Accounting and Finance. Additional copies of Schedule 17 shall be made available to parties upon request. Utilities not seeking rate relief shall file one copy of Schedule 16 directly with the Division of Energy Regulation or the Division of Communications, as applicable, and one copy of Schedule 16 directly with the Division of Accounting and Finance. Additional copies of Schedule 16 shall be made available to parties upon request.

Applications requesting rate relief shall file an original and 20 copies of Schedule 16 in the manner stated above. An application shall not be deemed filed under Section 56-238, Code of Virginia, unless it is in full compliance with these rules.

(8) The selection of a test period is up to the applicant. However, the use of overlapping test periods will not be allowed.

(9) Each utility not requesting a base rate increase shall make an annual informational filing consisting of Schedules 1 - 17. The test period shall be the current 12 months ending in the same month used in the utility's most recent rate application. This information shall be filed with the Commission within 90 days after the end of the new test period. Accounting adjustments reflected in Column (2) of Schedule 12 shall incorporate the ratemaking treatment approved by the Commission in the utility's last rate case and shall be calculated in accordance with the Expedited Rules of Schedule 14. A fully adjusted rate of return on jurisdictional operations is required in order to allow the Commission and its staff to adequately evaluate the Company's financial condition.

II. An applicant which has not experienced a substantial change in circumstances may file for an expedited increase in rates as an alternative to a general rate application. If, upon timely consideration of the expedited application and supporting evidence it appears that a substantial change in circumstances has taken place since the applicant's last rate case, then the Commission may take appropriate action, such as directing that the application be dismissed or treated as a general rate application. Prior to public hearing, and subject to applicable provisions of law, an application for expedited rate increase may take effect within 30 days after the date the application is filed. Expedited rate increases may also take effect in less than 12 months after the applicant's preceding rate increase so long as rates are not increased more than once in any calendar year. An applicant seeking an expedited increase in rates shall comply with the following rules in addition to the rules contained in Section I, above:

(1) In computing its cost of capital, as prescribed in Schedule 3 of the Appendix attached hereto, the applicant shall use the equity return rate approved by the Commission and used to determine the revenue requirements in the utility's most recent general rate case.

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(2) An applicant, in developing its rate of return statement, shall make adjustments to its test period jurisdictional results only in accordance with the instructions accompanying Schedules 12, 13, and 14 in the Appendix attached hereto.

(3) Allocation methodologies and rate design objectives are determined by the Commission in general rate cases. Therefore, a utility seeking an expedited increase in rates shall allocate any proposed increases among its customer classes and shall design its proposed rates consistent with the Commission's order in the applicant's most recent general rate case.

III. Rates authorized to take effect 30 days following the filing of any application for an expedited rate increase shall be subject to refund in a manner prescribed by the Commission. If rates are subject to refund, the Commission may also direct that such refund bear interest at a rate set by the Commission.

#### IV. Fuel Factor-Cogeneration Filing Requirements

1. General Rate Case - When an electric utility files for a rate increase in the context of a general rate case, fuel factor projections and cogeneration rates shall not be filed as apart of the original application. The Commission shall by order, establish a filing date for fuel factor and cogeneration testimony.

2. Expedited Filing - When an electric utility files for an expedited rate increase, it shall file fuel factor projections and cogeneration rates at least six full weeks prior to the anticipated effective date of interim rates. Such filing shall include the projections required by the Commission's Fuel Monitoring System as well as the necessary testimony and exhibits in support of those projections and the proposed cogeneration rates.

3. In the event that an electric utility files an application to increase the fuel factor only, fuel factor projections and proposed cogeneration rates shall be filed six weeks prior to the proposed effective date. The filing shall include projections required by the Commission's Fuel Monitoring System as well as the testimony and exhibits supporting the fuel factor projections and cogeneration rates.

4. Regardless of a utility's filing schedule, fuel factor projections must be filed at least six weeks prior to the expiration of the last projection or as required by the Commission.

V. Nothing in these regulations shall be interpreted to apply to applications for temporary reductions of rates pursuant to Section 56-242 of the Code of Virginia or temporary increases in rates pursuant to Section 56-245 of the Code of Virginia.

VI. The applicant shall serve a copy of the information required in Rule I, paragraphs (1) through (3), upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in the counties having alternative forms of government) in this State affected by the proposed increase and upon the Mayor or Manager and the Attorney of every city and town (or equivalent officials in towns and cities having alternate forms of government) in this State affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia. All such service specified by this rule shall be made either by (a) personal delivery or (b) first class mail, to the customary place of business or to the residence of the person served.

#### APPENDIX

##### Schedule 1 Company Profitability and Capital Markets Data

Instructions: This schedule shall be prepared using the definitions provided below and the format of the attached schedule. It shall provide data for the four most recent calendar years plus the test period. The information shall be compatible with the latest Stockholders' Annual Report (including any restatements). Items A and B shall be compiled for the corporate entity which raises equity capital in the marketplace. Virginia subsidiaries shall file section c, in addition.

#### Definitions

Return on Year End Equity\* =  $\frac{\text{Earnings Available for Common Shareholders}}{\text{Year End Common Equity}}$

Return on Average Equity\* =  $\frac{\text{Earnings Available for Common Shareholders}}{\text{The Average of Year End Equity for the Current \& Previous Year}}$

E.P.S. =  $\frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$

D.P.S. = Common Dividends Paid Per Share During the Year

Payout Ratio = D.P.S./E.P.S.

Average Market Price\*\* =  $(\text{Yearly High} + \text{Yearly Low Price})/2$

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Dividend Yield - D.P.S./Average Market Price\*\*

Price Earnings Ratio = Average Market Price\*\*/E.P.S.

\* Job Development Credits shall not be included as part of equity capital nor shall a deduction be made from earnings for a capital charge on these Job Development Credits in Schedule 1.

\*\* An average based on monthly highs and lows is also acceptable. If this alternative is chosen, provide monthly market prices and sufficient data to show how the calculation was made.

## Schedule 1

<u>Consolidated</u> <u>Company Profitability</u> <u>and Capital Market Data</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>TEST</u> <u>PERIOD</u>
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### A. Ratios

Return on Year End Equity  
Return on Average Equity

Earnings Per Share  
Dividends Per Share  
Payout Ratio

Market Price of  
Common Stock:  
Year's High  
Year's Low  
Average Price

Dividend Yield on  
Common Stock  
Price Earnings Ratio

### B. External Funds Raised

External Funds Raised -  
Bonds:  
Dollar Amount Raised  
Coupon Rate  
Bond Rating  
(Rating Service)

External Funds -  
Preferred Stock:  
Dollar Amount Raised  
Dividend Rate  
Pfd. Stock Rating  
(Rating Service)

External Funds -  
Common Equity:  
Dollar Amount from  
Public Offering  
No. Shares Issued  
Average Offering Price

Dollar Amount from  
All Other Sources  
(Itemized)  
No. Shares Issued  
Average Offering Price

### C. Subsidiary Data

Return on Year End Equity  
Return on Average Equity

External Funds Raised -

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Bonds:  
Dollar Amount Raised  
Coupon Rate  
Bond Rating  
(Rating Service)

External Funds -  
Preferred Stock:  
Dollar Amount Raised  
Dividend Rate  
Pfd. Stock Rating  
(Rating Service)

Equity Capital Transfer  
From Parent  
(Dollar Amount-Net)

## Schedule 2 Coverage Ratios and Cash Flow Profile Data

Instructions: This schedule shall be prepared using the definitions and instructions given below and using the format of the attached schedule for the past four calendar years plus the test period. The information shall be prepared for the consolidated company and for the Virginia subsidiary.

- Interest (Lines 3, 4, 5) shall include amortization of discount expense and premium on debt without deducting an allowance for borrowed funds used during construction.
- Income taxes (Line 2) include federal and state income taxes.
- Earnings before interest and taxes (Line 6) equals net income plus income taxes plus total interest = (line 1) + (line 2) + (line 5).
- Estimated rental interest factor (line 7) is an additional fixed charge as defined in the "SEC Method" documentation.
- Total fixed charges (line 8) = (line 7) + (line 5).
- Earnings defined by SEC method (line 9) = (line 6) + (line 7).
- AFUDC (line 10), where applicable, is total AFUDC – for borrowed and other funds.
- Preferred dividends (line 15) for a subsidiary may need to be allocated from the parent's total preferred dividends. Specify the allocation factor and methodology in a footnote.
- Cash flow generated (line 16) = (line 1) + (line 11) + (line 12) + (line 13) + (line 14) - (line 10) - (line 15).
- Construction expenditures (line 17) is net of AFUDC.
- Common dividends (line 18) for a subsidiary shall be stated per books. If the subsidiary's dividend payout ratio differs from the consolidated company's payout ratio, show in a footnote the subsidiary's common dividends based on the consolidated company's payout ratio.

### Coverage Definitions for Schedule 2

Pre-Tax Interest Coverage =  $\frac{\text{Earnings before Interest \& Taxes}}{\text{Interest}}$  =  $\frac{\text{line 6}}{\text{line 5}}$

SEC Method Coverage =  $\frac{\text{Earnings as defined by SEC Method}}{\text{Fixed Charges as defined by SEC Method}}$  =  $\frac{\text{line 9}}{\text{line 8}}$

Indenture Method Coverage: Since bond indenture provisions vary, there is no common definition for the Indenture Method Coverage ratio. If there is a coverage provision in the utility's bond indenture, provide these coverage ratios, the backup data, and the methodology to explain the calculations.

Common Dividend Coverage =  $\frac{\text{Cash Flow Generated}}{\text{Common Dividends}}$  =  $\frac{\text{line 16}}{\text{line 18}}$

Cash Coverage of Construction Expenditures =  $\frac{\text{Cash Flow Generated}}{\text{Construction Expenditures}}$  =  $\frac{\text{line 16}}{\text{line 17}}$

Cash After Common Dividends Coverage of =  $\frac{\text{line 16}}{\text{line 18}}$

Construction Expenditures                      line 17

Schedule 2

<u>Coverage Ratios and Cash Flow Profile Data</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>Test Period</u>
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**A. Consolidated Company Data**

Interest Coverage Ratios

- a. Pre-Tax Method
- b. SEC Method
- c. Indenture Method

Cash Flow Coverage Ratios

- a. Common Dividend Coverage
- b. Cash Flow Coverage of Construction Expenditures
- c. Cash After Dividends Coverage of Construction Expenditures

Data for Interest Coverage

- 1. Net Income
- 2. Income Taxes
- 3. Interest on Mortgages
- 4. Other Interest
- 5. Total Interest
- 6. Earnings Before Interest and Taxes
- 7. Estimated Rental Interest Factor (SEC)
- 8. Total Fixed Charges (SEC)
- 9. Earnings as Defined by SEC Method

Data for Cash Flow Coverage

- 1. Net Income
- 10. AFUDC
- 11. Amortization
- 12. Depreciation
- 13. Change in Deferred Taxes
- 14. Change in Investment Tax Credits
- 15. Preferred Dividends Paid
- 16. Cash Flow Generated
- 17. Construction Expenditures
- 18. Common Dividends Paid

**B. Subsidiary Data**

Interest Coverage Ratios

- a. Pre-Tax Method
- b. SEC Method
- c. Indenture Method

Cash Flow Coverage Ratios

- a. Common Dividend Coverage
- b. Cash Flow Coverage of Construction Expenditures
- c. Cash After Dividends Coverage of Construction Expenditures

Data for Interest Coverage

- 1. Net Income
- 2. Income Taxes
- 3. Interest on Mortgage
- 4. Other Interest
- 5. Total Interest

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6. Earnings Before Interest and Taxes
7. Estimated Rental Interest Factor (SEC)
8. Total Fixed Charges (SEC)
9. Earnings as Defined by SEC Method

## Data for Cash Flow Coverage

1. Net Income
10. AFUDC
11. Amortization
12. Depreciation
13. Change in Deferred Taxes
14. Change in Investment Tax Credits
15. Preferred Dividends Paid or Allocated
16. Cash Flow Generated
17. Construction Expenditures
18. Common Dividends Paid

## Schedule 3 Capital Structure and Cost of Capital Statement

Instructions: This schedule shall show the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, the component cost and weighted capital cost, using the format of the attached schedule. This information shall be provided for the four most recent calendar years plus the test period. The data shall be provided for the entity whose capital structure was approved for use in the applicant's last rate case. (For general rate applications, a proposed change in the cost of equity capital and/or the capital amounts shall be reflected in Schedule 36).

In Part A, the information shall be compatible with the latest Stockholders' Annual Report (including any restatements). In Parts B, C and D, the methodology shall be consistent with that approved in the applicant's last rate case. Reconcile differences between Parts A and B. The amounts and cost for short term debt and revolving credit agreements (and similar arrangements) shall be based on a 13-month average over the year, or preferably a daily average over the test year if available. All other accounts are end-of-year and end-of-test period. The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates. The Job Development Credits cost is equal to the weighted cost of capital, while cost free capital has zero cost by definition.

## Schedule 3

<u>Capital Structure and Cost of Capital Statement</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>Test Period</u>
<b>A. <u>Capital Structure Per Balance Sheet (\$)</u></b>					
Short Term Debt					
Customer Deposits					
Other Current Liabilities					
Long Term Debt					
Preferred & Preference Stock					
Common Equity					
Investment Tax Credits					
Other Tax Deferrals					
Other Liabilities					
Total Capitalization					
<b>B. <u>Capital Structure Approved For Ratemaking Purposes (\$)</u></b>					
Short Term Debt					
Long Term Debt					
Preferred & Preference Stock					
Job Development Credits					
Cost Free Capital					
Common Equity					
Total Capitalization					
<b>C. <u>Capital Structure Weights</u></b>					

For Ratemaking Purposes (%)

Short Term Debt  
Long Term Debt  
Preferred & Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity  
Total Capitalization (100%)

**D. Component Capital Cost Rates (%)**

Short Term Debt  
Long Term Debt  
Preferred & Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity (Authorized)

**E. Component Weighted Cost Rates (%)**

Short Term Debt  
Long Term Debt  
Preferred & Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity (Authorized)  
Weighted Cost of Capital

**Schedule 4 Schedule of Bonds, Mortgages, Other Long Term Debt, and Preferred and Preference Stock, and Cost Free Capital**

Instructions: Provide a description of each issue, amount outstanding, percentage of total capitalization, and annualized cost based on the embedded cost rate. This data shall support the debt cost contained in Schedule 3. Also, provide a detailed breakdown of all cost free capital items contained in Schedule 3.

**Schedule 5 Schedule of All Short Term Debt, Revolving Credit Agreements and Similar Arrangements**

Instructions: Provide data and explain the methodology used to calculate the cost and balance contained in Schedule 3 for short term debt, revolving credit agreements and similar arrangements.

**Schedule 6 Comparative Balance Sheets**

Instructions: Provide a comparative balance sheet for the test period and the corresponding twelve month period immediately preceding the test period and a comparative balance sheet for the two most recent calendar years for the applicant, and consolidated company if the applicant is a subsidiary.

**Schedule 7 Comparative Income Statement**

Instructions: Provide a comparative income statement covering the test period and a twelve month period immediately preceding the test period and for the most recent calendar year for the applicant, and consolidated company if the applicant is a subsidiary.

**Schedule 8 Comparative Statements of Changes in Financial Position**

Instructions: Provide comparative statements of changes in financial position for the test period and the twelve month period immediately preceding the test period for the applicant, and consolidated company if the applicant is a subsidiary.

**Schedule 9 Annual Stockholders Report**

Instructions: Provide a copy of the most recent Stockholders' Annual Report for the applicant, and consolidated company if the applicant is a subsidiary.

**Schedule 10 SEC 10-K and 10-Q Reports**

Instructions: Provide copies of the most recent Form 10-K Report and Form 10-Q Report filed with the Securities and Exchange Commission by the applicant, and consolidated company if the applicant is a subsidiary.

**Schedule 11 Per Books Rate of Return Statement**



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Instructions: Use the format of the attached schedule.

- Item lines 1 through 12 shall conform to the format of a rate of return statement. Allocation factors used shall be supported in Schedule 16. Worksheets shall be available to show the transition and allocation from "Total Company" to "Virginia Jurisdictional Business".

- Gas utilities shall include in Item line 11, interest paid on supplier refunds. These utilities shall provide a supporting schedule detailing this calculation.

- Item line 13, other income (expense), shall be reflected in Column 1. Sources of other income (expense) shall be explained sufficiently so as to allow these amounts to be traced back to their origin. Column 3 shall reflect only that portion of income or expenses recognized as jurisdictional in the applicant's last rate case.

- Item lines 14, 15, 22 and 23 for the total company column shall be based on the company's per books data. The same items need to be allocated to the Virginia jurisdictional business. The allocation factor shall reflect the proper amount of capital needed to support the Virginia jurisdictional rate base. An allocation or separation factor that may be used is equal to the Virginia jurisdictional rate based divided by the rate making capitalization of the total company. However, before using this particular factor, substantial differences between the rate base for the total company and its supporting capitalization shall be reconciled. As a supplement or footnote to Schedule 11, specify the allocation factor used for capital and capital cost and data to support this allocation factor calculation. Also, a cost component analysis of per books interest expense reconciling to line 14 shall be provided.

- Item line 17 is "income available for common equity". It equals line 12 + line 13 - line 14 - line 15.

- Item line 20, "other rate base deductions", are net reductions such as customer deposits and supplier refunds.

- Items lines 18, 19, 20, and 21 are calculated for the Virginia jurisdictional business in Schedule 13.

- Rate of return earned on common equity, line 25, equals line 17 divided by line 23.

Schedule 11	Total Company	Non-Juris- dictional Business	Virginia Juris- dictional Business
<u>PER BOOKS</u>	Per	Books	Books
<u>RATE OF RETURN</u>	Col. (1)	Col. (2)	Col. (3)
<u>STATEMENT</u>			
1. Total Revenues			
2. Operating & Maintenance Expense			
3. Depreciation and Amortization			
4. Income Taxes			
5. Taxes Other Than Income Taxes			
6. Gain/Loss on Property Disposition			
7. Total Expenses			
8. Operating Income			
9. Plus AFUDC (where applicable)			
10. Less Charitable Donations			
11. Less Interest Expense on Customer Deposits			
12. Adjusted Operating Income			
13. Plus Other Income (Expense)			
14. Less Interest Expense			
15. Less Preferred Dividend			
16. Less JDC Capital Expense	N/A	N/A	N/A
17. Income Available for Common Equity			

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- 18. Allowance for Working Capital
- 19. Plus Net Utility Plant
- 20. Less Other Rate Base Deductions
- 21. Total Rate Base
  
- 22. Total Capital
- 23. Common Equity Capital
  
- 24. Rate of Return Earned on Rate Base
  
- 25. Rate of Return Earned on Common Equity
  
- 26. Authorized Rate of Return on Common Equity N/A N/A

**Schedule 12 Test Period Rate of Return Statement - Adjusted**

Instructions: The applicant's rate of return schedule shall conform to the format of the attached schedule.

- Item line 16 is the "capital expense" of Job Development Credits; this item shall be computed by multiplying the overall rate of return by the percentage of JDC capital reflected in the total ratemaking capital structure, times the rate base.
  
- In an application for an expedited increase in rates, Column 2 shall consist of the ratemaking adjustments approved by the Commission in the applicant's last general rate case. Columns 4 and 5, however, shall be left blank, and the return on equity shown in Column 6 shall be the rate used by the Commission to determine revenue requirements in the applicant's most recent rate case.
  
- In a general rate application, deviations from previously approved adjustments shall be identified separately in Schedule 14(a). Previously approved adjustments shall be shown in Column 2 while deviations and proposed new adjustments are reflected in Column 4.

**Schedule 12**

Adjustments	Additional Revenue Requirements	Amounts	After	New Proposed	Amounts	For a	Additional
TEST PERIOD	Virginia	Previously	Amounts	Adjustments	After All	Return on	Revenue
RATE OF RETURN	Jurisdictional	Approved Per	After	Per Schedule 14	Adjustments	Common Equity	Requirement
STATEMENT-ADJUSTED	Business	Schedule 14	Adjustments	Col. (4)	Col. (5)	Col. (6)	Col. (7)
	Col. (1)	Col. (2)	Col. (3)				

- 1. Total Revenue
  
- 2. Operating & Maintenance Expense
  
- 3. Depreciation and Amortization
- 4. Income Taxes
- 5. Taxes Other Than Income Taxes
- 6. Gain/Loss on Property Disposition
  
- 7. Total Expenses
  
- 8. Operating Income
  
- 9. Plus AFUDC (where applicable)
- 10. Less Charitable Donations
- 11. Less Interest Expense on Customer Deposits
  
- 12. Adjusted Operating Income
  
- 13. Plus Other Income (Expenses) (where applicable)
  
- 14. Less Interest Expense
- 15. Less Preferred Dividend

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- 16. Less JDC Capital Expense
- 17. Income Available for Common Equity
- 18. Allowance for Working Capital
- 19. Plus Net Utility Plant
- 20. Less Other Rate Base Deductions
- 21. Total Rate Base
- 22. Total Capital for Ratemaking
- 23. Common Equity Capital
- 24. Rate of Return Earned on Rate Base
- 25. Rate of Return Earned on Common Equity
- 26. Rate of Return Last Authorized  
on Common Equity .....

## Schedule 13 Statement of Net Original Cost of Utility Plant and Allowance for Working Capital for the Test Period and Adjusted

Instructions: This statement shall include a detailed breakdown of the total company and jurisdictional rate base. It shall also indicate all property held for future use by account number and the date of planned use shall be shown.

- In an application for an expedited increase in rates, the schedule shall be prepared using the same components and ratemaking adjustments approved by the Commission in the applicant's last general rate case.

- In a general rate application, any deviations from the ratemaking adjustments approved by the Commission in the applicant's last rate case shall be shown in a separate column.

## Schedule 14 Explanation of Adjustments to Book Amounts

Instructions: All ratemaking adjustments (test period and proforma) are to be fully explained in a supporting schedule to the applicant's rate of return schedule. Such adjustments shall be numbered sequentially, beginning with operating revenues. Supporting data for each adjustment, including the details of its calculation, shall be provided in Schedule 17.

Adjustments previously adjudicated by the Commission are to be shown in Column (2) on Schedule 12. All proposed new adjustments are to be reflected in Column (4) on Schedule 12. Allowed categories of adjustments are listed below:

### I. Expedited

a. Adjustments to reflect the ratemaking treatment approved by the Commission to determine revenue requirements in the utility's last rate case, such as:

- 1. Adjustments to annualize changes occurring during the test period.
- 2. Adjustments to reflect depreciation and property taxes based on end-of-period plant balances.
- 3. Adjustments to reflect known and certain wage agreements and payroll taxes occurring in the test period and proforma period (the 12-month period following the test period).

b. Proforma adjustments will be limited in expedited cases to the amount of increase or decrease that will be in effect during the proforma period, with the exception of fuel expenses. Electric utilities may adjust fuel factor expenses and revenues to a rate year level to coincide with proposed revisions to the fuel factor.

### II. General

- a. All adjustments allowed per Schedule 14(I)
- b. Additional adjustments not presented to the Commission before, for known or anticipated changes occurring during the test year or proforma period. These adjustments are to be reflected in Column (4) on Schedule 12.
- c. Proforma adjustments shall be limited to the amount of increase or decrease that will be in effect during the rate year. Proforma adjustments are also limited to changes occurring during the 12 months past the test year, with the exception of fuel factor expenses and revenues.

### III. Expedited and General

Financial costs, line items 14, 15 and 16, and common equity capital, line item 23, in Schedule 12 shall be adjusted to reflect the cost and weights embedded in the overall rate of return requested by the applicant.

## Schedule 15 Statement of Compliance

Instructions: Include a statement signed by the principal officer (consultant) for rate applicants and the chief executive officer or manager of the utility that the application conforms to the rules governing rate increase applications and that the schedules filed with this application comply with the instructions contained in Schedules 1-36 of the rules governing utility rate applications.

As the principal officer for rate applications of \_\_\_\_\_ I affirm to the best of my knowledge and belief that this expedited (general) rate filing conforms to the rules governing utility rate increase applications and that the schedules filed with this application comply with the instructions contained in Schedule 1-36.

(Sign) \_\_\_\_\_  
Title:

Date:\_\_\_\_\_

As the (Manager, President, Chief executive officer) of \_\_\_\_\_ I affirm to the best of my knowledge and belief that this expedited (general) rate filing conforms to the rules governing utility rate increase applications and that the schedules filed with this application comply with the instructions contained in Schedules 1-36.

(Sign) \_\_\_\_\_  
Title:

Date:\_\_\_\_\_

## Schedule 16 Jurisdictional Study

Instructions: Provide details on jurisdictional allocations. Show the allocation basis for each primary account. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations which materially change any allocation factor. For electric utilities, provide the calculations supporting the applicant's line loss percentages.

## Schedule 17 Working Papers

Instructions: Provide detailed work papers and supporting schedules of all proposed adjustments. Two copies shall be filed with the Commission's Division of Accounting and Finance. Copies shall be provided to other parties on request. Each schedule shall identify the sources of all data. Data shall be clearly identified as actual or estimated.

## Schedule 18 Revenue and Expense

Instructions:

a. Applicants shall provide information about revenues by primary account and operating and maintenance expenses by primary account during the test period for both the total company and the Virginia jurisdictional operating results. This schedule shall also show sales volume by customer class for the test period.

b. Applicants shall provide a detailed explanation of all jurisdictional revenue and system expense item increases or decreases of more than 10% during the test period compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than one-hundredth of one percent (.0001) of total O&M expenses for utilities with O&M expenses exceeding \$100 million, and one-tenth of one percent (.001) of total O&M expenses for utilities with O&M expenses below \$100 million. Workpapers shall be available for review on request.

c. Gas utilities shall include the following information:

- ACA calculation with details showing base rate and PGA recoveries during the test period.
- Gross supplier refunds to customers during the test period and the impact of such refunds on revenues and expenses.
- Thirteen month average of supplier refunds reflected on balance sheet.

d. Electric utilities shall include the following information:

- A schedule detailing, by month, the over- or under-recovery of fuel cost during the test period and from the end of the test period to the date of filing. The schedule should show monthly Virginia jurisdictional and system fuel cost, and monthly fuel recovery through the fuel factor. Any difference between fuel cost for fuel factor purposes and allocated rate case fuel amounts shall be reconciled.

# State Corporation Commission

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## Schedule 19 Out-of-Period Book Entries

Instructions: A summary schedule prepared from an analysis of the journal entries showing "out of period" items booked during the test period shall be provided. Show journal entry number, amount, account and explanation of charge.

## Schedule 20 Advertising Expense

Instructions: A schedule detailing advertising expenses by media and grouped as informational, promotional, and conservational shall be provided. State the basis for the respective groupings.

## Schedule 21 Miscellaneous Expenses

Provide a description, amounts paid and accounts charges for all charitable and educational donations, payments to associated industry organizations, and all other miscellaneous general expenses.

## Schedule 22 Taxes

Instructions:

a. Include a schedule of prepaid and accrued taxes for each type of tax showing: beginning balances, accruals, amortizations, payments, adjustments and ending balances by month for the last taxable year and for the test period. The distribution of taxes charged to construction shall be included.

b. For federal income taxes, clearly identify balances of accrued income taxes applicable to tax contingencies and interest on possible prior years' taxes due to Internal Revenue Service ("IRS") audits. Data shall be submitted showing the effect of a final settlement with the IRS. Also include a statement discussing tax issues pending with the IRS, in litigation, or otherwise in contest.

c. Provide a detailed reconciliation between per books net income and taxable income associated with utility operations. Identify those book/tax differences which are normalized.

### Transactions

Instructions: Provide a narrative description of the services received and/or provided for each type of affiliated transaction in which the applicant is involved. Provide a summary of all charges during the test period by affiliate, by month, and by type of transaction. Also, describe the basis of the allocations for all such charges.

## Schedule 25 Profit Sharing

Instructions: Provide details of any profit sharing or bonus programs instituted since the applicant's last rate case.

## Schedule 26 Litigation Cost

Instructions: Provide information about litigation in which the applicant has become involved since its last rate case that have resulted in settlements, judgements, damages, legal fees, or other costs of \$100,000 or more.

## Schedule 27 Reimbursed Cost

Instructions: Indicate if any expenses or rate base items in the test period may be reimbursed by insurance, settlements, judgements, grants, or from any other sources.

## Schedule 28 Organizational Changes

Instructions: Provide details of any material corporate reorganization since the applicant's last rate case. Explain the reasons for such reorganization.

## Schedule 29 Changes in Accounting Procedures

Instructions: Note any material changes in accounting procedures adopted since the applicant's last rate case.

## Schedule 30 AFUDC (IDC)

Instructions: Indicate changes in either the AFUDC rate or in the method of calculating the AFUDC amount since the

# State Corporation Commission

applicant's last rate case.

## Schedule 31 Storm Damage

Instructions: Include a schedule summarizing the annual amount of storm damage and property insurance reserve for storm damage for the test period and preceding four years. Indicate desired levels of reserve balances and the basis for determining such balances.

## Schedule 32 Proposed Rates

Instructions: Provide a copy of the rates designed to effect the proposed revenue increase. (In expedited rate applications filed by telephone utilities, the rates used to implement the proposed revenue increase shall be determined by using annualized pricing unit data consistent with the methodology used by the Commission in the utility's most recent general rate case.)

## Schedule 33 Additional Revenue

Instructions: Show the calculations of the additional gross revenues, by customer classes, that would be produced by the new rates during the test period.

## Schedule 34 Sample Billing

Instructions: (electric, gas and water utilities).

Provide a sample billing analysis detailing the effect on each rate schedule at representative levels of consumption.

## Schedule 35 Block Billing

Instructions: (electric, gas and water utilities)

(a) Show the total revenues generated by the various billing blocks using test period sales and tariff rates in effect at the end of the test period.

(b) Show the total revenues generated by the various billing blocks using adjusted sales and proposed tariff rates.

## Schedule 36 Proforma Cost of Capital Statement

Instructions: (general rate applications only)

Provide the attached schedule to show test period and proforma amounts of capital and the proposed costs of capital. The proforma period is the next 12-months following the end of the test period. Also, include schedules showing capital cost calculations including the cost of equity capital.

For general rate applications, the proposed return rate on equity should be shown in Schedule 12, Column 6.

## Schedule 36

<u>Proforma</u> <u>Capital Structure and</u> <u>Cost of</u> <u>Capital Statement</u>	<u>Test</u> <u>Period</u>	<u>Proforma</u> <u>Period</u>
<b>A. <u>Capital Structure Per</u></b>		
<b><u>Balance Sheet (\$)</u></b>		
Short Term Debt		
Customer Deposits		
Other Current Liabilities		
Long Term Debt		
Preferred & Preference Stock		
Common Equity		
Investment Tax Credits		
Other Tax Deferrals		
Other Liabilities		
Total Capitalization		
<b>B. <u>Capital Structure For</u></b>		
<b><u>Rate-making Purposes (\$)</u></b>		
Short Term Debt		
Long Term Debt		

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Preferred & Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity  
Total Capitalization

C. Capital Structure Weights

For Ratemaking Purposes (%)

Short Term Debt  
Long Term Debt  
Preferred and Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity  
Total Capitalization (100%)

D. Component Capital Cost Rates (%)

Short Term Debt  
Customer Deposits  
Long Term Debt  
Preferred & Preference Stock  
Job Development Credits  
Cost Free Capital  
Common Equity

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

AT RICHMOND, AUGUST 21, 1985

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE850027

Ex Parte: In the matter of  
adopting regulations to govern  
the preservation of records of  
electric, gas and water utilities

FINAL ORDER

On May 30, 1985, the Commission entered an order establishing a rulemaking to consider regulations governing the preservation of records of electric, gas, and water utilities ("regulations"). The purpose of these regulations was to establish uniform regulations governing the preservation and retention of records by electric, gas, and water utilities. These regulations have been adopted by the NARUC Accounting Committee.

The May 30, 1985 Order gave notice of the proposed rulemaking and invited persons, including utilities subject to the regulations, to file comments and requests for hearing no later than July 19, 1985.

Five utilities filed comments on the proposed regulations. Most of the commentors complained that the NARUC retention periods differed significantly from those required by FERC. In particular most of the utilities took issue with Regulation 54 dealing with collection reports and records. Regulation 54 requires periodic reports, lists and summaries of collections of operating revenues by collectors, agents and local or divisional or district offices as well as bill stubs, copies of bills, collection slips, and other records pertaining to collections to be retained by a utility for three years. The commentors deemed that this retention requirement was excessive and that compliance with the regulation could be expensive.

While we recognize that retention of this data may be important for tax purposes or in the event a customer complains about a billing, we believe that a rational solution to the problem raised by the commentors is to require utilities to maintain these records for only six months when the utility has other sources of this information. For example, as Appalachian Power Company's ("Apco's") comments make clear, it is not necessary to retain these reports if the information is available from other sources. In Appalachian Power Company's case that source is its Customer Information System, a computer system which contains customer, meter and premises information, including billing data, customer payment history and pertinent records used in the customer billing procedure. Apco also stores this data on microfilm for a minimum of three years. Utilities which do not have an alternate source from which to obtain the information governed by Regulation 54 must, however, maintain the specified records for three years.

# State Corporation Commission

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Finally, if a utility still finds this requirement onerous, it can, consistent with "General Instruction", Part A, 5 of the Regulations, petition the Commission to authorize a shorter retention period for any record upon a showing by the utility that preservation of such record for a longer period is not necessary or appropriate in the public interest or for the protection of investors or consumers.

It is further our intent that these regulations apply only to electric, gas and water companies for which the Virginia Commission serves as the "primary" public service commission. We define "primary" public service commission for record retention purposes as that public service commission in whose jurisdiction a majority of the utility's customers reside. If the primary public service commission, as thus defined, is other than this Commission and such other commission has record retention regulations different from those we are now promulgating, the utility may follow that differing record retention policy. If such other primary public service commission has not promulgated regulations concerning record retention, the utility must follow Virginia regulations.

With regard to FERC regulations concerning record retention, we find that to the extent that NAURC regulations differ from FERC record retention rules for electric and gas utilities, the electric or gas utility may employ the FERC rule if a shorter retention period is specified. However, these utilities shall employ the NARUC specified retention period when the FERC rules permit destruction of records at the utility's option.

The Commission agrees with Old Dominion Power Company's comments concerning the need for Commission approval in the event a utility's records are destroyed and the utility reconstructs these records. While we would expect a utility to inform the Commission if its records have been regenerated, we do not see that the public interest is served by obtaining Commission approval prior to regeneration of records.

Old Dominion Power Company also complains about regulation 9(b) which addresses automatic data processing. The Company claims that due to an almost constant evolution of its programming languages, operating system, and computer hardware, the presentation of an accurate chronological record of changes required by regulation 9(b) is impractical. The Company elaborates that it would be difficult to interpret program language written over ten years ago and practically impossible to run the old programs on today's systems.

We recognize the validity of Old Dominion Power Company's comments, but we do believe it is valuable to track recent program changes. Therefore, we adopt the Company's recommendation that program documentation be maintained for the current active source coding and the source coding immediately preceding the current one.

NOW THE COMMISSION, upon consideration of the record made herein, is of the opinion that the regulations contained in Appendix A hereto and as modified herein shall be adopted, effective as of the date of the entry of this order.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to: all electric, gas and water utilities subject to the Commission's jurisdiction; Anthony Gambardella, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; John L. Walker, Jr., Esquire, Woods, Rogers & Hazlegrove, P. O. Box 720, Roanoke, Virginia 24004-0720; and the Commission's Divisions of Energy Regulation, Accounting and Finance, Economic Research and Development, and Public Service Taxation.

/s/ George W. Bryant, Jr.

Clerk



REGULATIONS TO GOVERN THE PRESERVATION  
OF RECORDS OF ELECTRIC, GAS AND WATER UTILITIES

Prepared by the  
Committee on Accounts  
of the  
National Association of  
Regulatory Utility Commissioners

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REVISED MAY, 1985

Published by the  
National Association of  
Regulatory Utility Commissioners  
1102 Interstate Commerce Commission Building  
Post Office Box 684, Washington, D.C. 20044  
Telephone (202) 628-7324

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## GENERAL INSTRUCTIONS

### A. SCOPE OF THIS PART

1. The regulations in this part apply to all books of account and other records prepared by or on behalf of the public utility or licensee for which the Virginia Commission serves as the "primary" public service commission. See Item 64 of the schedule for those records which come into possession of the public utility or licensee in connection with the acquisition of property, such as purchase, consolidation, merger, etc.
2. The regulations in this part shall not be construed as excusing compliance with any other lawful requirement for the preservation of records for periods longer than those prescribed herein.
3. Unless otherwise specified in the Schedule, duplicate copies of records may be destroyed at any time: Provided, however, that such duplicate copies contain no significant information not shown on the originals.
4. Records other than those listed in the Schedule may be destroyed at the option of the public utility or licensee: Provided, however, that records which are used in lieu of those listed shall be preserved for the periods prescribed for the records used for substantially similar purposes. And, provided further, that retention of records pertaining to added services, functions, plant, etc., the establishment which cannot be presently foreseen, shall conform to the principles embodied herein.
5. Notwithstanding the provisions of the Records Retention Schedule, the Commission may, upon the request of the Company, authorize a shorter period of retention for any record listed therein upon a showing by the Company that preservation of such record for a longer period is not necessary or appropriate in the public interest or for the protection of investors or consumers.

### B. DESIGNATION OF SUPERVISORY OFFICIAL

Each public utility or licensee subject to the regulations in this part shall designate one or more persons with official responsibility to supervise the utility's or licensee's program for preservation and the authorized destruction of its records.

### C. PROTECTION AND STORAGE OF RECORD

The public utility or licensee shall provide reasonable protection for records subject to the regulations in this part from damage by fires, floods, and other hazards and, in the selection of storage spaces, safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of proper ventilation.

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## D. DEFINITION OF RECORD MEDIA

For the purpose of these regulations, the data constituting the records listed in the Schedule may be retained in any of the media forms in Figure 1 below, or in any other generally accepted electronic or photographic media form, provided that the media selected has a standard life expectancy equal to or in excess of the specified retention period. However, records supporting plant and licensed project cost shall be retained in their original form unless microfilmed. (See General Instruction J, for periods of retention.)

If the media form of the record retained is other than a readable paper copy, then reader and/or printer equipment and related printout programs, if required, shall be provided by the utility for data reference.

The media form initially selected for the record becomes the "original" for that particular record. If subsequent conditions (e.g.: improved media life expectancy, increased utility resources, environmental factors) require and the remaining retention period permits a change in the media forms, the utility may convert to another media, provided the certification processes described in Paragraph E below are observed and data referencing capability is maintained.

FIGURE 1  
RECORD MEDIA

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Record Media/Form	Media Expected Life	Comments and Standards
1. Paper & Card Stock (Hardcopy)	Archival Permanency	For each document, paper stock should be selected with a life expectancy equal to or greater than the retention period specified for that document.

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the company must develop a written standard procedure to ensure the integrity of permanent computer records and must furnish the name and title of the official responsible for validating the information. These computer records should be generated according to "accepted general business practices."

2. Tape Magnetic	5 Years	Assumes storage in a controlled environment with a temperature and humidity range of 60°-80°F and 40-60% respectively. (Ref. Paragraph G for specific storage conditions.)
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# State Corporation Commission

Record Media/Form	Media Expected Life	Comments and Standards
Punched	Archival Permanency	For each record, tape media (paper, mylar, metallic base) should be selected with a life expectancy equal to or greater than the retention period specified for that record.
3. Microforms		
a. Microfilm	Archival Permanency	Assumes storage in a controlled environment with a temperature and humidity range of 60°-80° F and 40-50% respectively. (Ref. ANSI STD #PH 1.28-1969 and PH 5.4-1970.)
b. Metallic Recording Data Strips	Archival Permanency	Same storage conditions as for microfilm.

## E. MICROFORM AND TAPE CERTIFICATION

1. As the initial recording media
  - a. Each microform record series shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the individual responsible for validating the data contained therein. Each microform record series shall be closed with a clear and standard microform notation indicating the completion of the series and the date.
  - b. If after validation, supplemental data and/or corrections (i.e.: resulting from computer programming) are required, said microform may be produced separately or as a part of the series rerun, but shall be affixed to the original microform certificate as described in (1a) above.
  - c. Each tape record series shall include, as a basic part of the program, at the beginning of that series an introduction stating the record series title, date prepared, the name of the individual responsible for validating the data contained therein and an index where appropriate. Each record series shall be closed with a clear and standard notation indicating the completion of that series and the date.

# State Corporation Commission

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## 2. Conversion from other media

- a. Each microform record series shall include, as an integral part, a certificate(s) stating that the microforms are direct and facsimile reproductions of the original records and that they have been made in accordance with prescribed instructions. Such certificate(s) shall be executed by a person(s) having personal knowledge of the facts covered thereby.
- b. Each microform record series shall commence and end with a statement as to the nature and arrangement of the records reproduced, and the date. Rolls of film shall not be cut. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of microform found to be defective, shall be attached to the beginning of the microform record series and in such an event, the aforementioned certificate shall cover the supplemental or retaken film and shall state the reasons for the subsequent action.
- c. If, in accordance with the provisions of Paragraph F below, the utility or licensee elects to convert records to the tape media, the same certification provision specified in Paragraph E-1-c above must be provided in the conversion program.

## F. CHANGE OF MEDIA FOR EXISTING RECORDS

Those records prepared and maintained under previous regulations in a paper media and whose remaining retention period falls within the life expectancy range of any of the media detailed in Figure 1, may be converted to that media at the Public Utility's and/or Licensee's option, provided the applicable certification processes described in Paragraph E above are observed and an audit referencing capability maintained.

## G. MEDIA

All records created or maintained in a media and a format other than readable entries on paper shall:

1. be prepared, arranged, classified, identified and indexed as to permit the subsequent location, examination and reproduction of the record to a readable media;
2. be stored in such a manner as to provide reasonable protection from hazards such as fire, flood, theft, etc. and maintained in a controlled environment;
3. be regenerated, including proper certification, when damaged.

The company shall be prepared to furnish, at its own expense, standard facilities for reading media and shall additionally provide, if the Commission so directs, copies of the record in a readable form.

All film stock shall be of approved operationally-permanent-record microcopying type, which meets the current specifications of the National Bureau of Standards.

## H. DESTRUCTION OF RECORDS

The destruction of the records permitted to be destroyed under the provisions of the regulations in this part may be performed in any manner elected by the public utility concerned. Precautions should be taken, however, to macerate or otherwise destroy the legibility of records, the content of which is forbidden by law to be divulged to unauthorized persons.

## I. PREMATURE DESTRUCTION OR LOSS OF RECORDS

When any records are destroyed before the expiration of the prescribed period of retention, a certified statement listing, as far as may be determined, the records destroyed and describing the circumstances of accidental or other premature destruction shall be filed with the Commission within ninety (90) days from the date of discovery of such destruction. Discovery of loss of records is to be treated in the same manner as in the case of premature destruction.

## J. SCHEDULE OF RECORDS RETENTION PERIODS

The schedule of records annexed hereto shows the period of time designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory Commission having jurisdiction and either continuing plant inventory records are maintained or unitization of construction costs appear in work orders except that records related to the construction of licensed projects, or additions or betterments thereto, for which the Commission has not determined the actual legitimate original cost shall be retained until such cost has been determined and records affecting the determination of amortization reserves related to licensed projects shall be retained until Commission determination and final adjudication is made.

## K. RETENTION PERIODS DESIGNATED "DESTROY AT OPTION"

Use of the retention period, "Destroy at Option", in the regulations in this part constitutes authorization for such destruction under the conditions specified for the particular types of records, only if such optional destruction is appropriate to limited managerial interest in such records and if such optional destruction is not in conflict with other legal retention requirements or usefulness of such records in satisfying pending regulatory actions or directives.

## L. RECORDS OF SERVICES PERFORMED BY ASSOCIATED COMPANIES

The public utility or licensee to which the regulations in this part apply shall assure the availability of records of services performed by associated companies for the periods indicated herein, as are necessary, to support the cost of services rendered to it by an associated company.



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## M. INDEX OF RECORDS

At each office of the Public Utility or Licensee where records are kept or stored, such records as are herein required to be preserved shall be so arranged, filed and currently indexed that they may be readily identified and made available to representatives of the Commission.

## N. SCHEDULE OF NOTES

- 1/ For the purposes of the regulation, a stockholder's account may be treated as a closed account at the time that such stockholder ceases to be a holder of record of the particular class and series of stock of the company and the six-year retention period prescribed herein shall run from that date. If such person subsequently acquires shares of capital stock of the company and thus again becomes a stockholder of the company, the record of such acquisition shall be treated as a new stockholder account.
- 2/ The terms "bonds" and "debentures," as used in captions (a) through (f) of this item, shall include all debt securities, such as bonds, debentures or notes other than debt securities which evidence temporary borrowings and which are expected to be repaid out of the proceeds of the sale of longer term securities. Typical of such temporary debt securities as described in 4(i) would be notes issued to banks evidencing temporary working capital and construction loans and gas storage loans.
- 3/ Canceled bonds and debentures and paid interest coupons pertaining thereto may be destroyed, provided that a certificate of destruction giving full description reference to the documents destroyed shall be made by the person or persons authorized to perform such destruction and shall be retained by the company for the period herein prescribed. The certificate of destruction evidencing the destruction of paid interest coupons pertaining to bonds and debentures need not contain a listing of the bond or debenture serial numbers pertaining to such paid interest coupons. When documents represent debt secured by mortgage, the certificate of destruction shall also be authorized by a representative of the Trustee(s) acting in conjunction with the person or persons destroying the documents or shall have the Trustee(s) acceptance thereon. The certificate of destruction above described may be destroyed six years after the payment and discharge of the bonds or debentures or interest coupons described in such certificate.
- 4/ If a retention period is prescribed elsewhere in the schedule with respect to any document which is included as an exhibit to any filing retained pursuant to the requirements of this item, the company need retain only one copy of such document in its files provided appropriate cross references are established.
- 5/ Life or mortality study data for depreciation purposes should be retained for 25 years or for 10 years after plant is retired, whichever is longer.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL</u>	
1. Capital stock records:	
(a) Capital stock ledgers or other records showing the same information.	Destroy at option.
(b) Capital stock subscription accounts, warrants, requests for allotments and other essential papers related thereto.	Ditto.
(c) Stubs or similar records of capital stock certificate issuance where not used as capital stock ledger record.	Ditto.
(d) Stock transfer registers or sheets or similar records.	Ditto.
(e) Papers pertaining to or supporting transfers of capital stock:	
(1) Papers that are recorded officially in a court or in the office of some other public recording authority; and other papers presented by any bank or trust company requesting transfers in its capacity as a fiduciary and miscellaneous papers.	Ditto.
(f) Canceled capital stock certificates where not used as capital stock ledger records.	Ditto.
(g) Change of address notices of stockholders.	Destroy at option.
(h) Bonds of indemnity and affidavits covering issuances of stock certificates to replace lost certificates.	Ditto.
(i) Letters, notices, reports, statements and other communications distributed to all stockholders of a particular class:	

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL (Cont'd)</u>	
(1) Formal communications addressed to all stockholders of a particular class, including annual reports to stockholders, notices of annual and special meetings of stockholders, and other notices, reports, letters or statements relating to corporate or stockholder actions.	Ditto
(2) Interim reports of operations, speeches of corporate officers, notices of change of corporate address or telephone numbers, etc.	Ditto.
(j) Dividend registers, lists or similar records.	Ditto.
(k) Paid dividend checks.	Ditto.
(l) Third party dividend orders.	Ditto.
(a) proxies of holders of voting securities.	Destroy at option.
(b) Lists of holders of voting securities represented at meetings.	Ditto.
3. Reports to stockholders:	
(a) Annual reports or statements to stockholders.	Retain until receipt of FERC audit report or 2 years after auditors exit conference whichever occurs first.
(b) Written acknowledgments of receipts of reports to stockholders and written requests for copies of such reports.	Destroy at option.
4. Debt security records: N-2/	
(a) Registered bond and debenture ledgers.	Destroy at option.
(b) Bond and debenture subscription accounts, warrants, subscription notices, requests for allotment and essential papers related thereto.	Ditto.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL (Cont'd)</u>	
(c) Stubs or similar records of bond and debenture certificates issued.	Ditto.
(d) Papers pertaining to or supporting transfers of registered bonds and debentures:	
(1) Papers that are recorded officially in a court or in the office of some other public recording authority; and other papers presented by any bank or trust company requesting transfers in its capacity as a fiduciary, plus other miscellaneous papers.	Destroy at option.
(e) Records of bond and debenture interest coupons paid and unpaid.	Destroy at option.
(f) Canceled bonds and debentures and paid interest coupons pertaining thereto.	Ditto.
(g) Trust indentures, loan agreements or other contracts or agreements securing debt securities issued. (If such papers or documents are included among the records covered by Item 5 of the Regulation, this instruction will not apply.)	Ditto.
(h) Copies of reports, statements, letters or memoranda filed with Trustee(s) pursuant to provisions of trust indenture or other security instrument or agreement securing debt securities issued.	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL (Cont'd.)</u>	
(h) (Cont'd.)	Destroy at option.
(i) Paid or canceled debt securities evidencing temporary borrowings.	3 years after payment or cancellation, provided other records of issuance and payment or cancellation are maintained.
(j) Paid interest checks.	6 years.
5. Filings with and authorization by regulatory agencies:	
(a) Authorizations from regulatory bodies for issuance of securities:	
(1) Copies of applications to regulatory bodies for authority to issue stocks, bonds, and other securities, including copies of exhibits in support of such applications.	Destroy at option.
(2) Official copies of opinions and orders of regulatory bodies granting authority to issue securities.	Destroy at option.
(3) Reports filed with regulatory bodies in compliance with authorizations to issue securities. (Reports of sales of securities of application of proceeds, etc). File copies of such reports and supporting papers.	Ditto.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<b>CORPORATE AND GENERAL (Cont'd.)</b>	
(b) Copies of registration statements and other data filed with the Securities and Exchange Commission:	
(1) In connection with offerings of securities for sale to the public or the listing of securities on exchanges, including supporting papers.	Ditto.
(2) Copies of periodic reports and supporting papers filed in compliance with either the Securities Act of 1933 or the Securities Exchange Act of 1934.	Ditto.
6. Organizational documents:	
(a) Minute books of stockholders', directors', and directors' committee meetings.	50 years.
(b) Titles, franchises, and licenses:	
(1) Deeds and other title papers (including abstracts of title and supporting data).	6 years after property is disposed of unless surrendered to transferee.
(2) Corporate charters or certificates of incorporation.	Life of corporation.
(3) Franchises and certificates authorizing operations as a public utility.	Ditto.
(4) Licenses (including amendments thereof) granted by Federal or State authorities for construction and operation of utility plant.	25 years after plant is retired or expiration of license, whichever is shorter.
(5) Copies of formal orders of regulatory commissions served upon the utility.	Life of corporation.
(c) Permits:	
(1) Permits and granted applications for the use of facilities of others.	6 months after expiration or cancellation.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL (Cont'd.)</u>	
(2) Copies of permits and applications granted others for the use of the utility's facilities.	Ditto.
(3) Applications for the use of facilities not granted and copies of such applications.	Destroy at option.
(4) Permits of a temporary nature of municipalities or others to perform specific work, such as permits to open streets.	Destroy at option.
(d) Organization diagrams and charts.	Destroy at option after expiration or supersession.
7. Contracts and agreements (except contracts provided for elsewhere):	
(a) Service contracts, such as for management, accounting and financial services.	6 years after expiration or cancellation.
(b) Contracts with other utilities for the purchase, sale or interchange of product.	Ditto.
(c) Leases pertaining to rentals of property to or from others.	3 years
(d) Contracts and agreements with individual employees, labor unions, company unions, and other employee organizations relative to wage rates, hours and similar matters.	Ditto.
(e) Contracts, agreements, and/or other essential records necessary to the carrying out of the functions of an employee's stock purchase or other type of employees' saving plan.	Ditto.
(f) Contracts or agreements for the acquisition or disposal of investments (Excluding temporary cash investments).	3 years after disposal.

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>CORPORATE AND GENERAL (Cont'd)</u>	
(g) Memoranda essential to clarifying or explaining provisions of contracts listed above.	For the same period as contracts to which they relate.
(h) Card or book records of contracts, leases, and agreements made showing dates of expirations and of renewals, memoranda of receipts and payments under such contracts, etc.	Ditto.
8. Accountants' and auditors' reports:	
(a) Reports of examination and audits by accountants and auditors not in the regular employ of the utility (Such as reports of public accounting firms and regulatory commission accountants).	7 years after date of report or Commission audit, whichever comes last.
(b) Internal audit reports and work papers.	Ditto.
<u>AUTOMATIC DATA PROCESSING</u>	
9. Automatic data processing records	
(a) Punched cards, tapes or similar media used as intermediate records or steps in data processing for assembling data to be posted to the records of the company or used in a report or study.	Destroy at option.
(b) Program documentation and revisions thereto.	Retain program documentation for current active source coding and the source coding immediately preceding the current one.



# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>GENERAL ACCOUNTING RECORDS</u>	
10. General and subsidiary ledgers:	
(a)    (1) General ledgers	50 years.
(2) Ledgers subsidiary or auxiliary to general ledgers except ledgers provided for elsewhere.	Ditto.
(b)    (1) Indexes to general ledgers.	Ditto.
(2) Indexes to subsidiary ledgers except ledgers provided for elsewhere.	Ditto.
(c) Trial balance sheets of general and subsidiary ledgers.	2 years
11. Journals:	
(a) General and subsidiary.	50 years.
12. Journal vouchers and journal entries including supporting detail:	
(a) Journal vouchers and journal entries.	Ditto.
(b) Analyses, summarizations, distributions, and other computations which support journal vouchers and journal entries:	
(1) Charging plant accounts.	6 years. <u>J/</u>
(2) Charging all other accounts.	Ditto.
(c) Schedules for recurring journal entries.	Destroy at option.
(d) Lists of standard journal entry numbers.	Ditto.
13. Cash books:	
(a) General and subsidiary or auxiliary books.	10 years after close of fiscal year. (See Item 12(a)).

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>GENERAL ACCOUNTING RECORDS (Cont'd.)</u>	
14. Voucher registers:	
(a) Voucher registers or similar records when used as a source document.	6 years. <u>J/</u>
15. Vouchers:	
(a) Paid and canceled vouchers (1 copy-analysis sheets showing detailed distribution of charges on individual vouchers and other supporting papers).	Ditto. <u>J/</u>
(b) Original bills and invoices for materials, services, etc., paid by vouchers.	6 years. <u>J/</u>
(c) Paid checks and receipts for payments by voucher or otherwise.	Ditto.
(d) Authorization for the payment of specific vouchers.	Ditto. <u>J/</u>
(e) Lists of unaudited bills (accounts payable), lists of vouchers transmitted and memoranda regarding charges in unaudited bills.	Destroy at option.
(f) Voucher indexes.	Ditto.
16. Accounts receivable (see Items 53 and 54 for accounts with customers for utility service and for merchandise sales):	
(a) Records of accounts receivable pertaining to sales of utility plant.	Ditto.
(b) Record or register of accounts receivable and indexes thereto and summaries of distribution.	3 years after settlement.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>GENERAL ACCOUNTING RECORDS (Cont'd.)</u>	
(c) Accounting department copies of invoices issued and supporting papers which do not accompany the original invoices and authorizations for charges including supporting papers.	Destroy at option.
(d) Periodic statements of unsettled accounts, except trail balances.	Destroy at option.
(e) Schedule of invoices to be issued.	Ditto.
17. Records of securities owned:	
(a) Records of securities owned, in treasury, or with custodians (excluding temporary investment of cash).	3 years after disposal of the investment.
18. Payroll records:	
(a) Payroll sheets or registers of payments of salaries and wages.	3 years. <u>J/</u>
(b) Records showing the distribution of salaries and wages paid and summaries or recapitulation statements of such distribution.	Ditto. (See Item 12(b)).
(c) Time tickets, time sheets, time books, time cards, workmen's reports and other records showing hours worked, description of work and accounts to be charged:	
(1) When used as a basis for payment of salaries and wages supporting records described in 18(a).	Ditto. <u>J/</u>
(2) When used solely as basis for supporting records described in 18(b).	Destroy at option. <u>J/</u>
(d) Paid checks, receipts for wages paid in cash and other evidences of payments for services rendered by employees.	3 years. <u>J/</u>

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>GENERAL ACCOUNTING RECORDS</u> (Cont'd.)	
(e) Applications and authorizations for changes in wage and salary rates, summaries and reports of changes in payrolls, and similar records.	Ditto.
(f) Applications for payroll changes not authorized.	Destroy at option.
(g) Payroll authorizations and records of authorized positions.	3 years.
(h) Records of deductions from payrolls.	Destroy at option.
(i) Comparative or analytical statements of payrolls.	Ditto.
(j) Employee's individual earnings record.	3 years after termination of employment.
19. Assignments, attachments, and garnishments:	
(a) Record of assignments, attachments, and garnishments of employees' salaries, including files of notices, etc. pertaining thereto.	Destroy at option.
(b) Minors' salary releases.	Ditto.
<u>INSURANCE</u>	
20. Insurance records:	
(a) Records of insurance policies in force, showing coverage, premiums paid and expiration dates.	Destroy at option after expiration of such policies.
(b) Insurance policies.	3 years after expiration.
(c) Records of amounts recovered from insurance companies in connection with losses and of claims against insurance companies, including reports of losses and supporting papers.	6 years. J/
(d) Inspectors' reports and records of condition of property.	Destroy at option.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>GENERAL ACCOUNTING RECORDS (Cont'd.)</u>	
(e) Insurance maps of property and structures erected thereon.	Ditto.
(f) Records and statements relating to insurance requirements.	Destroy at option.
21. Injuries and damages:	
(a) Claim registers, card or book indexes and similar records in connection with claims presented against the company in connection with accidents resulting in damage to the property of others or personal injuries.	3 years after settlement.
(b) Papers, reports, statements of witnesses, etc., necessary to the support or rejection of individual claims against the company.	Ditto.
(c) Other papers, reports or statements, pertaining to accidents resulting in property damages or personal injuries, not necessary to the support or rejection of claims.	3 years.
(d) Detailed schedules or spread sheets of payments to others for personal injuries or for property damages.	3 years after settlement.
<u>OPERATIONS AND MAINTENANCE</u>	
22.1 Production-Electric:	
(a) Boiler room, condenser room, turbine room, and pump room logs, including supporting data.	3 years.
(b) Boiler room and turbine room reports of equipment in service and performance.	3 years.
(c) Boiler-tube failure report.	Ditto.
(d) Generation and output logs with supporting data.	6 years.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
(e) Station and system generation reports.	25 years for hydro and 6 years for steam and other.
(f) Generating high-tension and low-tension load records.	3 years.
(g) Oil and waste reports.	Destroy at option.
(h) Load curves, temperature logs, coal, and water logs.	3 years.
(i) Gage-reading reports.	2 years, except river-flow data collected in connection with hydro-operation shall be retained for life of corporation.
(j) Recording instrument charts.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained six months provided the record containing the basic data is retained one year.
(k) Load dispatcher's and station permits.	Destroy at option.
22.2 Production-Gas:	
(a) Boiler and gas machine logs, including supporting data.	3 years.
(b) Gas generation and output logs with supporting data.	Ditto.
(c) Temperature and atmospheric pressure logs.	Ditto.
(d) Coal, coke and oil reports.	Ditto.
(e) Residual reports.	Ditto.
(f) Recording instrument charts such as pressure (static and/or differential), temperature, specific gravity, heating value, etc.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained six months provided the record containing the basic data is retained one year.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
(g) Test of heating value at stations and outlying points.	6 years.
(h) Records of gas produced, gas purchased, gas sent out and holder stock.	Ditto.
(i) Analysis of gas produced and purchased including Btu and sulphur content.	Ditto.
(j) Records of general inspection and operating tests.	3 years.
(k) Well records, including clearing, bailing, shooting, etc., records; rock pressure; open flow; production, gas analysts' reports, etc.	1 year after field or relevant production area abandoned.
(l) Gasoline production.	Destroy at option.
(m) Gas production by counties.	Destroy at option.
(n) Gas measuring records.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained six months provided the record containing the basic data is retained one year.
(o) Tool record.	Destroy at option.
(p) Royalty record.	Ditto.
(q) Records of meter tests.	Until superseding test, but not less than two years.
(r) Meter history records.	For life of meter.
22.3 Production - Nuclear:	
(a) Records of normal plant operation, including power levels and periods of operation at each power level.	3 years/operating charts for the first year's operation will be stored for the life of the corporation.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
(b) Records of principal maintenance activities, including inspection, repair, substitution or replacement of principal items of equipment pertaining to nuclear safety.	Ditto.
(c) Records of abnormal occurrences.	Ditto.
(d) Records of periodic checks, inspections and calibrations performed to verify that surveillance requirements are being met.	Ditto.
(e) Records and prints of changes made to the plant as described in the Final Safety Analysis Report.	10 years.
(f) Records of new and spent fuel inventory and assembly histories.	Ditto.
(g) Records of monthly plant radiation and continuation surveys.	Ditto.
(h) Records of off-site environmental monitoring surveys.	Ditto.
(i) Records of radiation exposure of all plant personnel, including all contractors and visitors to the plant who enter radiation control areas.	Ditto.
(j) Records of radioactivity in liquid and gaseous wastes released to the environment.	Ditto.
(k) Records of any special reactor tests or experiments.	Ditto.
(l) Records of changes made in the operating procedures.	Ditto.



# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
22.4 Production-Water Supply, Purification and Pumping:	
(a) Record of water supplied to distribution system, by sources.	15 years or 3 years after the source is abandoned, whichever is shorter.
(b) Boiler room, condenser room, turbine room, and pump room logs, including supporting data.	3 years.
(c) Boiler room and turbine room reports of equipment in service and performance.	Ditto.
(d) Equipment failure report.	Ditto.
(e) Pumping output logs with supporting data.	6 years.
(f) Station output reports.	25 years for hydro and 6 years for steam or other.
(g) Oil and waste reports.	3 years.
(h) Coal and water logs.	Ditto.
(i) Gage-reading reports.	Ditto.
(j) Recording instrument charts.	Ditto.
23.1 Transmission and Distribution - Electric: N-5/	
(a) Substation and transmission line logs.	Ditto.
(b) System operator's daily logs and reports of operation.	Ditto.
(c) Storage battery and other equipment logs and records.	3 years.
(d) Interruption logs and reports.	6 years.
(e) Records of substation general inspections and operation tests.	3 years.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
(f) Apparatus failure reports.	6 years.
(g) Line-trouble reports and records.	3 years.
(h) Lightning and storm data.	Destroy at option.
(i) Insulator test records.	Ditto.
(j) Reports on inspections and repairs of all street openings.	Ditto.
(k) Records of meter tests.	Until superseding test but not less than 2 years, or as may be necessary to comply with service rules regarding refunds on fast meters.
(l) Meter shop reports (monthly reports summarizing tests, repairs, etc.).	3 years.
(m) Meter history records.	For life of meter.
(n) Transformer history records.	For life of transformer.
(o) Records of transformer inspections, oil tests, etc.	Destroy at option.
(p) Pole, tower, structure, equipment and other history records.	For life of equipment.
23.2 Transmission and Distribution - Gas: N-5/	
(a) Transmission line logs.	3 years.
(b) Transmission and distribution department load dispatching operating logs.	Ditto.
(c) Service interruption logs and reports.	6 years.
(d) Records of general inspection and operating tests.	3 years.
(e) Reports on inspections and repairs of all street openings.	Ditto.
(f) Apparatus failure reports.	Ditto.
(g) Records of meter tests.	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
(h) Meter history records.	For the life of the meter.
(i) Meter shop reports (monthly reports summarizing tests, repairs, etc.).	3 years.
(j) Gas measuring records.	Ditto.
(k) Transmission line operating reports.	Ditto.
(l) Compressor operation and reports.	Ditto.
(m) Gas pressure department reports.	Ditto.
(n) Recording instrument charts such as pressure (static and differential), temperature, specific gravity, heating value, etc.	1 year, except where the basic chart information is transferred to another record, the charts need only be retained 6 months provided the record containing the basic data is retained 1 year.
23.3 Transmission and Distribution Water: N-5/	
(a) Operator's daily logs and reports of operation.	6 years.
(b) Equipment logs and records.	3 years.
(c) Apparatus failure reports.	6 years.
(d) Reports on inspections and repairs of all street openings.	Ditto.
(e) Records of meter tests.	Until superseding test, but not less than 3 years or as may be necessary to comply with service rules regarding refunds on fast meters.
(f) Meter history records.	For life of meter.
(g) Pipelines, structures, equipment and other history records.	For life of equipment.
(h) Meter shop reports (monthly reports summarizing tests, repairs, etc.).	6 years.

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>OPERATIONS AND MAINTENANCE (Cont'd.)</u>	
24. Customers' service:	
(a) Reports of inspections of customer's premises.	5 years.
(b) Records and reports of customers' service complaints.	Ditto.
(c) Survey of customers' premises to determine type of service and equipment to be installed.	Destroy at option.
(d) Records of installed customers' appliances.	Ditto.
25. Records of auxiliary and other operations:	
(a) Records of operations other than utility operations.	3 years.
26. Maintenance work orders and job orders:	
(a) Authorization for expenditures for maintenance work to be covered by work orders, including memoranda showing the estimates of costs to be incurred.	6 years.
(b) Work order sheets to which are posted in detail the entries for labor, material, and other charges in connection with maintenance, and other work pertaining to utility operations.	Ditto.
(c) Summaries of expenditures on maintenance and job orders and clearances to operating and other accounts (exclusive of plant accounts).	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PERSONNEL</u>	
27. Personnel records:	
(a) Employees' service records, length of service and other pertinent data.	3 years after termination of employment.
(b) Applications for employment, requests for medical examination, medical examiner's report, photographs, and other identification records, and other miscellaneous records pertaining to the hiring of employees.	Destroy at option.
28. Employees' benefit and pension records:	
(a) Detailed records showing computations of accruals for pension liabilities.	3 years after supersession of the study or report or termination of plan.
(b) Pension or annuity payrolls.	Ditto.
(c) Pension paychecks.	Ditto.
(d) Records pertaining to employees' benefit programs.	Ditto.
29. Instructions to employees and others:	
(a) Bulletins or memoranda of general instructions issued by the company to employees pertaining to changes in accounting, engineering, operating, maintenance and construction policies.	Ditto.
(b) Bulletins or memoranda of general instructions issued by the company to employees pertaining to accounting, engineering, operating, maintenance and construction methods and procedures.	3 years.
(c) Notices to employees on matters of discipline, deportment, and other similar subjects.	Destroy at option.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PLANT AND DEPRECIATION</u>	
30. Plant ledgers:	
(a) Ledgers of utility plant accounts including land and other detailed ledgers showing the cost of utility plant by classes.	50 years.
(b) Continuing plant inventory ledger, book or card records showing description, location, quantities, cost, etc., of physical units (or items) of utility plant owned.	6 years after plant is retired, provided mortality data are retained.
31. Construction work in progress ledgers, work orders, and supplemental records:	
(a) Construction work in progress ledgers.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise six years after plant is retired.
(b) Work order sheets to which are posted in summary form or in detail the entries for labor, materials and other charges for utility plant additions and the entries closing the work orders to utility plant in service at completion.	Ditto.
(c) Authorizations for expenditures for additions to utility plant, including memoranda showing the detailed estimates of cost and the bases therefor (including original and revised or subsequent authorizations ).	10 years.
(d) Requisitions and registers of authorizations for utility plant expenditures.	10 years.
(e) Completion or performance reports showing comparison between authorized estimated and actual expenditures for utility plant additions.	Ditto.

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PLANT AND DEPRECIATION</u> (Cont'd.)	
(f) Analysis or cost reports showing quantities of materials used, unit costs, number of manhours, etc., in connection with completed construction project.	10 years after clearance to the plant account, provided continuing property plant inventory records are maintained; otherwise 6 years after plant is retired.
(g) Records and reports pertaining to progress of construction work, the order in which jobs are to be completed and similar records which do not form a basis of entries to the accounts.	Destroy at option.
(h) Well-drilling logs and well-construction records.	1 year after field or relevant production area abandoned.
32. Retirement work in progress ledgers, work orders, and supplemental records:	
(a) Work order sheets to which are posted the entries for removal costs, materials recovered, and credits to utility plant accounts for cost of plant retired.	10 years after plant is retired, provided mortality data are retained. N-5/
(b) Authorizations for retirement of utility plant, including memoranda showing the basis for determination of cost of plant to be retired and estimates of salvage and removal costs.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise six years after plant is retired. N-5/
(c) Registers of retirement work orders.	10 years.
33. Summary sheets, distribution sheets, reports, statements, and papers directly supporting debits and credits to utility plant accounts not covered by construction or retirement work orders and their supporting records.	10 years after clearance to the plant account, provided continuing plant inventory records are maintained; otherwise six years after plant is retired.
34. Appraisals and valuations:	
Appraisals and valuations made by the company of its properties or investments or of the properties or investments of any associated companies. (Includes all records essential thereto.)	3 years after disposition, termination of lease, or write-off of property or investment.

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PLANT AND DEPRECIATION (Cont'd.)</u>	
35. Maps and map reproductions:	
(a) Geological maps and aerial photographs of field showing the location and physical characteristics of production, transmission, and distribution systems of the utility or natural gas company.	Until map is superseded or 6 years after plant is retired, provided mortality data are retained.
36. Engineering records in connection with construction projects:	
(a) Maps, diagrams, profiles, plans, photographs, records of engineering studies and similar records in connection with proposed construction projects:	
(1) If construction of project results wholly or in part.	Until receipt of FERC audit report or 2 years after auditors' exit conference whichever occurs first.
(2) If construction of project does not result.	Destroy at option after completely accounting for expenses incurred.
37. Contracts and other agreements relating to utility or natural gas company records:	
(a) Contracts relating to acquisition or sale of plant.	6 years after plant is retired.
(b) Contracts and other agreements relating to services performed in connection with construction of utility plant (including contracts for the construction of plant by others for the utility and for supervision and engineering relating to construction work.)	Ditto.
(c) The primary records of gas acreage owned, leased or optioned excluding deeds and leases but including such records as lease sheets, leasehold cards, and option agreements.	6 years after rights to the gas acreage have expired or otherwise dissolved.



# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PLANT AND DEPRECIATION (Cont'd.)</u>	
38. Records pertaining to reclassifications of utility plant accounts to conform to prescribed systems of accounts, including supporting papers showing the bases for such reclassifications.	6 years (See Item 12(b)(1)).
39. Records of accumulated provision for depreciation and depletion of utility plant:	
(a) Detailed records or analysis sheets segregating the accumulated provision for depreciation according to functional classification of plant.	25 years.
(b) Records supporting computation of depreciation and depletion expense of utility plant, including such data as life and salvage studies.	Ditto.
<u>PURCHASES AND STORES</u>	
40. Procurements:	
(a) Agreements entered into for the acquisition of goods or the performance of services. Includes all forms of agreements not specifically set forth in Item 7 such as, but not limited to: letters of intent, exchange of correspondence, master agreements, term contracts, rental agreements and the various types of purchase orders:	
(1) For goods or services relating to plant construction.	6 years. J/
(2) For other goods or services.	6 years.
(b) Supporting documents including bids or proposals evidencing all relevant elements of the procurement.	Ditto. (See Item 12(b)).

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PURCHASES AND STORES (Cont'd.)</u>	
(c) All other procurement records such as requisitions, advices from suppliers, registers or similar records of invoices.	Destroy at option after company's accounts have been examined by independent accountants.
41. Material ledgers:	
(a) Ledger sheets and card records of materials and supplies received, issued and on hand.	Ledger sheets of M and S received, issued, on hand will be retained until receipt of the FERC audit report or 2 years after the auditors exit conference, whichever occurs first. 3 years.
(b) Statements of materials and supplies on hand, per ledgers.	
42. Materials and supplies received and issued:	
(a) Records and reports pertaining to receipt of materials and supplies.	3 years.
(b) Records of inspecting and testing materials and supplies.	Ditto.
(c) Records showing the detailed distribution of materials and supplies issued during accounting periods.	6 years. (See Item 12 (b)).
(d) Records of material issued, transferred or returned to stock:	
(1) Showing quantities, unit prices, and accounts to be charged.	3 years.
(2) Showing only quantities and accounts to be charged.	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>PURCHASES AND STORES (Cont'd.)</u>	
(e) Minor records and reports pertaining to materials and supplies not involving costs or final disposition, such as reports of unfilled requisitions, authorizations for additions to stock, and similar records; also store-room copies of purchase orders and price records, other copies being retained in files of purchasing department.	Destroy at option.
43. Records of sales of scrap and materials and supplies:	
(a) Authorizations for sale of scrap and materials and supplies.	3 years.
(b) Contracts for sale of scrap and materials and supplies.	3 years.
(c) Memoranda pertaining to sale of scrap and materials and supplies.	3 years.
44. Inventories of materials and supplies:	
(a) General inventories of materials and supplies on hand with records of adjustments of accounts required to bring stores records into agreement with physical inventories.	Ditto.
(b) Stock cards, inventory cards, and other detailed records pertaining to the taking of inventories if abstracted into records covered by (a).	Destroy at option.
(c) Minor inventories of materials and supplies on hand if not reflected in adjustments of accounts.	3 years.

## REVENUE ACCOUNTING AND COLLECTING

45. Customers' service applications and contracts:

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>REVENUE ACCOUNTING AND COLLECTING (Cont'd.)</u>	
(a) Applications for utility service for which contracts have been executed.	3 years.
(b) Applications for utility service used in lieu of contracts.	Destroy at option.
(c) Contracts and card files or other records thereof with customers for utility service (See also Item 7(b)).	Ditto.
(d) Applications for utility service which were withdrawn by applicant or not granted by the utility.	Ditto.
(e) Contracts or sales agreements with customers and others for sale of merchandise and appliances.	1 year after sales agreement is discharged.
(f) Contracts for lease of equipment to customers, including receipts for same.	Destroy at option.
(g) Applications and contracts for extensions covered by refundable deposits or guarantees of revenue, also records pertaining to such contracts.	1 year after entire amount is refunded.
(h) Applications and contracts for extensions for which donations or contributions are made by customers or others.	Until receipt of FERC audit report or 2 years after the auditor's exit conference, whichever occurs first.
 46. Rate schedules:	
(a) General files of published rate sheets and schedules of utility service. (Including schedules suspended or superseded).	Ditto.
(b) Divisional or local office copies of rate sheets and schedules of utility service.	Destroy at option.
 47. Customers' guarantee deposits:	
(a) Customers' deposit ledgers or card records.	3 years after termination.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>REVENUE ACCOUNTING AND COLLECTING (Cont'd.)</u>	
(b) Customers' deposit certificate books.	Ditto.
(c) Receipts for customers' deposits refunded.	Ditto.
(d) Receipts for interest on customers' deposits.	Ditto.
48. Meter reading sheets and records:	
(a) Superseded meter reading sheets.	2 years or as may be necessary to comply with service rules regarding refunds on fast meters.
(b) Meter reread sheets (special readings to check high or low consumption).	Ditto.
(c) Customers' reading cards.	Ditto.
(d) Connection and disconnection orders.	Ditto.
(e) Superseded indexes to meter books.	Destroy at option.
(f) Mark sensed meter reading cards.	Ditto.
49. Maximum demand, pressure, temperature, and specific gravity charts and demand meter record cards.	1 year, except where the basic chart information is transferred to another record the charts need only be retained 6 months, provided the record containing the basic data is retained 1 year.
50. Miscellaneous billing data:	
(a) Billing department's copies of contracts with customers (in addition to contracts in general files).	Destroy at option.
(b) Service and inspection orders from which customers are charged and sundry charge advices.	3 years.
(c) Authorizations for charges under utility service contracts.	Ditto.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>REVENUE ACCOUNTING AND COLLECTING (Cont'd.)</u>	
(d) Standard billing sheets or schedules (showing computed bills of varying consumption according to rates).	Ditto.
51. Revenue summaries:	
(a) Summaries of monthly operating revenues according to classes of service for entire utility.	6 years.
(b) Summaries of monthly operating revenues according to classes of service by towns, districts, or divisions. (Including summaries of forfeited discounts and penalties).	6 years.
52. Customers' ledgers and other records used in lieu thereof:	
(a) Customers' ledgers.	3 years or as may be necessary to comply with service rules regarding refunds on fast meters.
(b) Records used in lieu of customers' ledgers, such as bill summaries, registers, bill stubs, etc.	Ditto.
(c) Copies of large bills:	
(1) If details are transcribed to ledgers covered by Item (a) above.	Ditto.
(2) If details are not transcribed to ledgers.	Ditto.
(d) Trial balances of ledgers referred to above.	3 years.
(e) Indexes to customers' accounts.	3 years.
(f) Change of address notices.	Destroy at option.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>REVENUE ACCOUNTING AND COLLECTING (Cont'd.)</u>	
(g) Cards and other records relating to forfeited discounts.	3 years.
55. Merchandise sales - accounting and collecting:	
(a) Merchandise sales tickets (duplicates) and charge slips for work done.	Destroy at option after annual audit and 6 months after account is settled.
(b) Merchandise registers and summaries of sales.	3 years.
(c) Merchandise ledgers and installment records.	3 years after completion of payments.
(d) Merchandise sales returns and adjustment tickets.	Destroy at option after annual audit and 6 months after account is settled.
(e) Cashiers' stubs for merchandise collections.	3 years.
(f) Cashiers' periodic reports and statements of collection on merchandise accounts.	Destroy at option.
(g) Records of monthly statements to customers.	Destroy at option.
(h) Reports relating to status of merchandise accounts receivable.	Ditto.
(i) Job orders and supporting details of charges to customers for work done.	Ditto.
(j) Indexes and trial balances of merchandise ledgers.	3 years.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
REVENUE ACCOUNTING AND COLLECTING (Cont'd.)	
54. Collection reports and records:	
(a) Periodic reports, lists, and summaries of collections of operating revenues by collectors, agents, and local or divisional or district offices. (See Item 60(d)).	3 years if no other sources of this information are available.
(b) Bill stubs, copies of bills, collection slips, and other records pertaining to collections, summarized or detailed in daily or periodic cash reports.	Ditto.
(c) Memorandum records of remittances from local or branch offices.	Destroy at option.
Note: See Item 59 pertaining to deposits of cash with banks. Item 59 applies to all bank accounts whether at general, local, or divisional offices.	
55. Customers' account adjustments:	
(a) Detailed records pertaining to adjustments of customers' accounts for overcharges, undercharges, and other errors, results of which have been transcribed to other records.	3 years.
(b) Detailed records of high-bill complaints whether or not resulting in adjustments to customers' accounts.	Ditto.



# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>REVENUE ACCOUNTING AND COLLECTING (Cont'd.)</u>	
56. Uncollectible accounts and customers' credit records:	
(a) Records of rating, credit classifications, and investigations of customers.	3 years.
(b) Ledger accounts and supporting details of customers' accounts considered to be uncollectible.	Ditto.
(c) Reports and statements showing age and status of customers' accounts.	Ditto.
(d) Data on unpaid final bills.	Ditto.
(e) Authorizations for writing off customers' accounts.	Ditto.
<u>TAX</u>	
57. Tax records:	
(a) Copies of returns and schedules filed with taxing authorities, supporting work papers, records of appeals, tax bills and receipts for payment. (See Item 15(b) for vouchers evidencing disbursements):	
(1) Federal income tax returns.	7 years after settlement.
(2) State income and property tax returns.	2 years after settlement.
(3) Sales and use taxes.	3 years.
(4) Other taxes.	2 years after settlement.
(5) Agreements between associate companies as to allocation of consolidated income taxes.	7 years after settlement.
(6) Schedule of allocation of consolidating federal income taxes among associate companies.	Ditto.
(b) Summaries of taxes paid.	Destroy at option.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>TAX (Cont'd.)</u>	
(c) Filings with taxing authorities to qualify employee benefit plans.	7 years after settlement of federal return or discontinuance of plan, whichever is later.
(d) Information returns and reports to taxing authorities.	3 years, or for the period of any extensions granted for audit.
<u>TREASURY</u>	
58. Statements of funds and deposits:	
(a) Summaries and periodic statements of cash balances on hand and with depositories.	Destroy at option.
(b) Statement of managers' and agents' cash balances on hand and with depositories.	Destroy at option.
(c) Authorizations for and statements of transfer of funds from one depository to another.	Ditto.
(d) Requisitions and receipts for funds furnished managers, agents, and others.	Destroy at option after funds have been returned or accounted for.
(e) Records of fidelity bonds of employees and others responsible for funds of the utility.	Destroy at option after liability of bonding company has expired.
(f) Reports and estimates of funds required for general and special purposes.	Destroy at option.
59. Records of deposits with banks and others:	
(a) Copies of bank deposit slips.	Destroy at option after completion of annual audit by independent accountants.
(b) Advice of deposits made when information thereon is shown on other records which are retained.	Ditto.
(c) Statements from depository showing the details of funds received, disbursed, transferred, and balances on deposit.	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>TREASURY (Cont'd.)</u>	
(d) Bank reconciliation papers.	Destroy at option after completion of annual audit by independent accountants.
(e) Statements from banks of interest credits.	Ditto.
(f) Check stubs, registers, or other records of checks issued.	6 years.
(g) Correspondence and memoranda relating to the stopping of payment of bank checks and to the issuance of duplicate checks.	6 years or destroy at option after check is recovered.
60. Records of receipts and disbursements:	
(a) Daily or other periodic statements of receipts or disbursements of funds.	Destroy at option after completion of annual audit by independent accountants.
(b) Records or periodic statements of outstanding vouchers, checks, drafts, etc. issued and not presented.	3 years.
(c) Reports of associates showing working fund transactions and summaries thereof.	Destroy at option.
(d) Reports of revenue collections by field cashiers, pay stations, etc.	Ditto.
<u>MISCELLANEOUS</u>	
61. Statistics and miscellaneous:	
(a) Annual financial, operating and statistical reports regularly prepared in the course of business for internal administrative or operating purposes (and not used as the basis for entries to accounts of the companies concerned) to show the results of operations and the financial condition of the utility.	10 years after date of report.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>MISCELLANEOUS</u>	
(b) Quarterly, monthly, or other periodic financial, operating and other statistical reports as above.	2 years after date of report.
(c) All other statistical reports (not covered elsewhere in these regulations) prepared for internal administrative or operating purposes only and not used as the basis for entries to the accounts of the company.	Destroy at option.
62. Budgets and other forecasts: (Prepared for internal administrative or operating purposes) of estimated future income, receipts and expenditures in connection with financing, construction and operations and acquisitions or disposals of properties or investments by the company and its associate companies, including revisions of such estimates and memoranda showing reasons for revisions; also records showing comparison of actual income and receipts and expenditures with estimates.	3 years.
63. Correspondence:	
(a) Correspondence and indexes thereto relating to offices covered by other items of these regulations.	Destroy at option.
(b) Stenographers' notebooks and dictaphone or other mechanical device records.	Destroy at option.
(c) Mailing lists of prospects for appliance sales, securities, etc.	Ditto.

# State Corporation Commission

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<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>MISCELLANEOUS (Cont'd.)</u>	
64. Records of predecessors and former associates.	Retain until the records of utility plant acquired have been integrated with the utility's plant records and the original cost of the acquired plant is adequately supported by cost details and until it is ascertained that such records are not necessary to fulfillment of any unsatisfied regulatory requirement, such as: (a) approval and recording of accounting adjustments resulting from reclassification and original cost studies and acceptance of property acquisition journal entries, (b) cost, depreciation and amortization reserve determinations for licensed projects, (c) establishment of continuing plant inventory records or accounting evidence of the cost of long-lived property in the absence of such continuing plant inventory records.
65. Reports to federal and state regulatory commissions:	
(a) Annual financial, operating and statistical reports.	Life of corporation.
(b) Monthly and quarterly reports of operating revenues, expenses, and statistics.	3 years after date of report.
(c) Special or periodic reports on the following subjects:	
(1) Transactions with associated companies.	6 years.
(2) Budgets of expenditures.	3 years.

# State Corporation Commission

<u>DESCRIPTION</u>	<u>RETENTION PERIOD</u>
<u>MISCELLANEOUS (Cont'd.)</u>	
(3) Accidents.	Destroy at option.
(4) Employees and wages.	5 years.
(5) Loans to officers and employees.	3 years after fully paid.
(6) Issues of securities.	Data filed with the SEC retain 25 years or until all securities covered are retired, whichever is shorter; other reports retain until securities covered are retired.
(7) Purchases and sales, utility properties.	Life of corporation.
(8) Plant changes - units added and retired.	Ditto.
(9) Service interruptions.	6 years.
66. Other miscellaneous records:	
(a) Copies of advertisements by the company in behalf of itself or any associate company in newspapers, magazines and other publications including records thereof. (Excluding advertising of product, appliances, employment opportunities, services, territory, routine notices and invitations for bids for securities, all of which may be destroyed at option.)	6 years.
(b) Indexes of forms used by company.	Destroy at option.

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-8.14:9.1 of the Code of Virginia)

Title of Regulation: **Maximum Resource Limit in the Aid to Dependent Children (ADC) and General Relief (GR) Programs (VR 615-01-3)**

Agency: Department of Social Services, Division of Benefit Programs

### Governor's Comments:

Adoption of the proposed regulation would increase the number of families eligible for assistance under the Aid to Dependent Children and General Relief Programs with a corresponding increase in the expenditures for these programs. Section 4-5.05, Chapter 619, Acts of Assembly, requires the Governor's approval to alter factors that would increase the number of people eligible for authorized payments.

While the Department and Board of Social Services have presented significant evidence supporting the need for the change in the maximum resource level allowable under these programs, I recommend that final action on these proposals be deferred until the conclusion of the 1986 General Assembly session. This action will permit consideration of the 1986-88 budget addendum request to be submitted as well as action by the 1986 General Assembly on the budgets for these programs.

/s/ Charles S. Robb  
Date: August 21, 1985

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Title of Regulation: **Disclosure of Information to Law-Enforcement Officers in the Aid to Dependent Children (ADC) Program (VR 615-01-4)**

Agency: Department of Social Services, Division of Benefit Programs

### Governor's Comments:

I approve the proposed regulation as presented.

/s/ Charles S. Robb  
Date: August 21, 1985

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Title of Regulation: **Collection of Overpayments in the Aid to Dependent Children (ADC) and Refugee Other Assistance Programs (VR 615-01-5)**

Agency: Department of Social Services

### Governor's Comments:

I am withholding final comment on this proposal pending review of the public comments received and the department's response to those public comment prior to final adoption.

/s/ Charles S. Robb  
Date: August 22, 1985

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## EXECUTIVE ORDER NUMBER 60 (85)

### DECLARATION OF A STATE OF EMERGENCY FOR PATRICK COUNTY, VIRGINIA

Beginning on the evening of August 17, 1985, and continuing into the early morning hours of August 18, 1985, Patrick County, and in particular the Town of Stuart, Virginia, sustained a torrential rainfall caused by the remnants of Hurricane Danny, estimated at up to ten inches in approximately a twelve-hour period. The resultant flooding caused extensive damage to the water treatment plant, primary and secondary roads, and other public and private property. Preliminary damage estimates indicate damage costs are in excess of \$10 million to homes businesses, and agriculture. Similar but less extensive damage, primarily to roads, occurred in other areas of the state.

The health, safety, and economic and general welfare of the citizens of the affected jurisdiction require that immediate action be taken to alleviate the conditions brought about by this situation which constitutes an emergency as contemplated under the provisions of Section 44-146.16 of the Code of Virginia.

NOW, THEREFORE, I, Charles S. Robb, pursuant to Section 44-146.17, do hereby proclaim a state of emergency to exist in the affected area of the Commonwealth and direct that appropriate assistance be rendered by agencies of state and local government to alleviate these conditions.

This Executive Order will terminate on June 30, 1986, unless otherwise extended by the Governor.

Given under my hand and under the seal of the Commonwealth of Virginia, at Richmond, this 21st day of August, 1985.

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register
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## NOTICES OF INTENDED REGULATORY ACTION

### VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **Rules and Regulations for Enforcement of the Virginia Seed Law**. The purpose of the proposed regulations is to amend current regulations by identifying and adopting annual bluegrass, bentgrass, bermudagrass, meadow fescue, orchardgrass, redtop, rough bluegrass, tall fescue, timothy and velvetgrass as restricted noxious weed seeds when present in bentgrasses, Kentucky bluegrass, chewings fescue, red fescue, hard fescue, varieties of perennial ryegrass, varieties of named turf type tall fescue, and/or mixtures containing these grasses.

Those adopted as "Noxious" and found to incidentally occur must be listed on the label under the heading of Noxious Weed Seeds or Undesirable Grass Seed by name and rate of occurrence. Also, annual bluegrass and bermudagrass will be deleted as restricted noxious weed in agricultural seed and wild radish will be renamed as radish - *raphanus* spp.

Statutory Authority: § 3.1-271 of the Virginia Seed Law.

Written comments may be submitted until October 15, 1985.

CONTACT: R. D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3501.

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### DEPARTMENT OF COMMERCE

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **Private Security Services Businesses**

**Regulations.** The purpose of the proposed regulations is to allow private security registrations to be issued directly to individuals rather than issued through licensed private security services business as current regulations require. Other changes will be considered.

Statutory Authority: § 54-729.30 of the Code of Virginia.

Written comments may be submitted until October 18, 1985.

CONTACT: David E. Dick, Assistant Director, Commonwealth of Virginia, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515 (toll-free number 1-800-552-3016).

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### VIRGINIA BOARD OF DENTISTRY

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Dentistry intends to consider promulgating, amending and repealing regulations entitled: **Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed regulations is to regulate the practice of dentistry and dental hygiene.

Statutory Authority: § 54.1-163 of the Code of Virginia.

Written comments may be submitted until November 25, 1985.

CONTACT: Nancy T. Feldman, Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-0311.

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### DEPARTMENT OF HEALTH

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Health intends to consider amending regulations entitled: **Regulations Governing Hotels**. The purpose of the proposed amendments is to provide standards for the health regulation of hotels, including swimming pools,



# General Notices/Errata

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saunas and other similar facilities.

Statutory Authority: §§ 35.1-11 and 35.1-13 of the Code of Virginia.

CONTACT: Joseph W. Moschler, Director, Bureau of TES, 500 Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-2087.

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## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **Uniform Statewide Building Code**. The proposed regulations will prohibit the use of 50/50 lead solder or lead-containing fluxes in plumbing that supplies drinking water in buildings, as proposed by the State Health Commissioner based on a study that showed a significant number of instances of lead levels exceeding the present standard. The State Health Commissioner's report is available for inspection at the address below.

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

Written comments may be submitted until September 16, 1985.

CONTACT: C. S. Mullen, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., 4th Floor, Richmond, Va. 23219, telephone (804) 786-4751.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **Urban Enterprise Zone Program Regulations**. The purpose of the proposed regulations is to bring the Urban Enterprise Zone Program Regulations in line with the 1985 amendments to the Code of Virginia.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Written comments may be submitted until September 16, 1985, to Neal J. Barber, Acting Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, Virginia 23219.

CONTACT: Stanley S. Kidwell, Jr., Associate Director, Virginia Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4966.

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## VIRGINIA SAFETY AND HEALTH CODES BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Safety and Health Codes Board intends to consider promulgating regulations entitled: **Virginia Confined Space Standard**. The purpose of the proposed regulations is to provide persons engaged in confined space operations with a clear, concise, and safe method for confined space entry, which includes training, work practices and procedures, and atmospheric testing. The proposed regulation would also replace numerous references to confined space provisions already found in the Virginia Occupational Safety and Health Standards for General Industry and Construction.

Statutory Authority: § 40.1-22 (5) of the Code of Virginia.

Written comments may be submitted until November 4, 1985, to Eva S. Teig, Commissioner, Virginia Department of Labor and Industry, 205 North Fourth Street, P. O. Box 12064, Richmond, Virginia 23241.

CONTACT: Tom Rother, Supervisor, Voluntary Health Consultation and Training, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-6285.

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## 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 promulgating regulations entitled: **Regulation for Criminal Record Check: Licensed Child Care Centers and Child Caring Institutions**. The purpose of the proposed regulations is to provide guidelines and clarification for the implementation of Chapter 360 of the 1985 Acts of Assembly. This statute requires criminal record checks for all individuals participating in the operation of a child care center or child caring institution subject to licensure.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until October 16, 1985.

CONTACT: Sheila B. Rich, Supervisor, Children/Adult Programs, Division of Licensing Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025.

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## 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: **Virginia Cigarette Tax Regulations, § 630-25-1009C. Discount on Sale of Stamps to Qualified Wholesalers.** The proposed change amends the computation of the cigarette tax discount on sale of state stamps to qualified wholesalers.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until October 4, 1985.

CONTACT: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010.

## GENERAL NOTICES

### ERRATA

Agency: Industrial Commission of Virginia, Department of Workmen's Compensation

Title of Regulation: Rules of the Industrial Commission of Virginia - 405.

Issue: 1:23 V.A.R., page 2027, August 19, 1985

Rule 5. Posting Notices. Last sentence should read:

Failure by an employer to give such notice to an employee may be considered by the Commission to be waiver of the notice defense, pursuant to § 65.1-85.

### NOTICE TO THE PUBLIC

Third Annual Conference on Ethics and Health Care

ACCESS TO HEALTH CARE IN THE 1980's:  
ETHICAL AND LEGISLATIVE DIMENSIONS

Friday, October 18, 1985  
John Marshall Hotel  
Richmond, Virginia

FEES: Conference and Coffee Breaks - \$30.  
Conference, Coffee Breaks and Luncheon - \$45.

- 8:00-8:45 Registration  
8:45-9:00 Welcome and Introductions  
9:00-9:30 Access, Indigent Care and Reimbursement Today  
Gail R. Wilensky  
Vice President  
Domestic Affairs  
Project HOPE  
9:30-10:15 The Ethical Considerations of Marketplace Health Care  
Tom Beauchamp  
Professor of Philosophy  
Georgetown University  
10:15-10:30 Break  
10:30-11:15 Provider Behavior in the Past and the Future  
Alain C. Enthoven  
Professor of Public and Private Management  
Stanford University  
11:15-12:00 Panel Discussion and Questions  
12:00-1:30 Lunch  
1:30-2:00 The Federal Role in Access to Care  
Stephen Long  
Deputy Assistant Director for Health and Income Security  
Congressional Budget Office  
U.S. Congress  
2:00-2:30 Access, Indigent Care and Reimbursement in Virginia Today  
Joseph Fisher, Secretary  
Human Resources, Virginia  
2:30-3:15 A Summary of Legislative Approaches in Other States  
Daniel Borque  
Executive Director  
National Committee for Quality Health Care  
3:15-3:30 Break  
3:30-4:15 The South Carolina Approach  
South Carolina State Legislator or State Policy Maker  
4:15-5:00 Afternoon Presenters and Reactor Panel of Nominees From Each Sponsoring Organization

#### Sponsors:

Department of Health Administration, MCV/VCU;  
Health Policy Office, MCV Campus;  
Committee on Ethics in Health, MCV Campus;

#### Participating Organizations:

Virginia Hospital Association;  
Richmond Academy of Medicine;  
Department of Philosophy and Religious Studies,  
VCU Campus;  
Virginia Department of Health;  
Virginia Health Care Association;  
Virginia Nurses Association;  
Richmond Business - Medical Coalition on Health;  
Blue Cross and Blue Shield of Virginia  
Medical Society of Virginia

Contact: Judy Collins, Vice President's Office, MCV/VCU,  
Richmond, Va., telephone (804) 786-9770

# General Notices/Errata

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## STATE MILK COMMISSION

### PUBLIC HEARING

Notice is hereby given that the Virginia State Milk Commission will hold a hearing on Wednesday, September 18, 1985, beginning at 11 a.m., in House Room C, General Assembly Building, Richmond, Virginia.

This hearing is being held pursuant to § 3.1-437 of the Code of Virginia and Regulation No. 12 of the Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.

The purpose of this hearing is to receive evidence and testimony relative to adjusting all Class I prices established by Amended Order No. 13 and/or Regulation No. 8. In accordance with § 3.1-437 of the Code of Virginia, the Commission shall be guided by all pertinent economic factors relevant to production, processing, and distribution of milk as they affect the public interest in maintaining an adequate supply of milk within Virginia.

All interested parties will be afforded an opportunity to be heard and to submit written proposals, objections, amendments, evidence and arguments. The commission will allow examination of witnesses only by those persons who have reserved their right of examination by filing a written notification of intent with the commission at 1015 Ninth Street Office Building, Richmond, Virginia 23219, by 12 noon on Monday, September 16, 1985.

## NOTICE 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: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

### FORMS:

Proposed (Transmittal Sheet) RR01  
Final (Transmittal Sheet) RR02  
Notice of Meeting RR03  
Notice of Intended Regulatory Action RR04  
Notice of Comment Period RR05  
Agency Response to Legislative  
or Gubernatorial Objections RR06

## NOTICE TO STATE AGENCIES

A list of major meetings of various trade associations and organizations is maintained in the office of the Registrar of Regulations. Upon request, this list will be made available to you in order that you can avoid conflicts when setting up meetings and hearings.

## NOTICE TO TRADE ASSOCIATIONS AND ORGANIZATIONS

The 1985-1986 listing of major meetings of certain organizations and associations is being updated. If you would like your organization's annual or semi-annual meeting listed, please advise the office of the Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Virginia 23208, telephone (804) 786-3591.

# CALENDAR OF EVENTS

## Symbol Key †

† Indicates entries since last publication of the Virginia Register

**NOTICE:** Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

## THE VIRGINIA CODE COMMISSION

### EXECUTIVE

#### VIRGINIA DEPARTMENT FOR THE AGING

**September 24, 1985 - 1:30 p.m. – Public Hearing**  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department for the Aging intends to repeal regulations entitled: **Regulations Concerning Area Plans for Aging Services.**

#### STATEMENT

**Description:** The regulations (i) set forth methods for designating planning and service areas and area agencies on aging in Virginia, (ii) describes the process of allocating funds among the planning and service areas, and (iii) provides guidance to the area agencies on aging in the development and implementation of their area plans for aging services.

**Subject, Substance, Issues, Basis, and Purpose:** The Virginia Department for the Aging is taking this action because some sections of the regulations are outdated and other sections duplicate provisions in the State Plan for Aging Services approved by the Governor.

Statutory Authority: § 2.1-373(7) of the Code of Virginia.

Written comment may be submitted until September 27,

1985.

**Contact:** Betty J. Reams, Assistant Commissioner, Virginia Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219, telephone (804) 225-2271

#### VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† **December 11, 1985 - 10 a.m. – Public Hearing**  
Virginia Department of Agriculture and Consumer Services, Washington Building, 1100 East Bank Street, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend regulations entitled: **Rules and Regulations for Enforcement of The Virginia Pest Law - Cotton Boll Weevil Quarantine.** The Cotton Boll Weevil Quarantine declares *Anthonomus grandis* as a pest and provides rules and regulations to monitor for and eradicate this pest when found.

#### STATEMENT

Cotton boll weevil, *Anthonomus grandis*, has been described as the most costly insect in the history of American agriculture. It is thought to have crossed the Rio Grande at Brownsville, Texas in 1892, and was first detected in Virginia in 1922. The adult feeds on cotton bolls and leaves and the larva feeds only on the cotton bolls. Egg punctures on the bolls cause bolls to flare, turn yellow, and fall to the ground.

The regulations amend the current Cotton Boll Weevil Quarantine so Virginia can participate in a continued multistate cooperative effort to monitor and eradicate, if necessary, cotton boll weevil from Virginia, North Carolina, and South Carolina by requiring: (i) cotton growers to declare their intentions of acreage in cotton to be grown each year; and (ii) require a payment of \$10 per acre of cotton grown to defray the cost of the program.

The requested amendments were part of the original boll weevil quarantine adopted December 14, 1977, but were deleted on February 26, 1981, when eradication was achieved. Additional efforts are now needed to keep Virginia free of cotton boll weevil.

Statutory Authority: §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

# Calendar of Events

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Written comments may be submitted until December 10, 1985.

Contact: Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3501

## STATE AIR POLLUTION CONTROL BOARD

October 7, 1985 - 9 a.m. - Open Meeting  
Holiday Inn on the Ocean, 39th Street and Oceanfront, Virginia Beach, Virginia

A regular business meeting of the board.

### State Advisory Board on Air Pollution

† October 8, 1985 - 8:30 a.m. - Open Meeting  
Holiday Inn, 39th Street and Oceanfront, Virginia Beach, Virginia

This meeting is a forum for the exchange of ideas about air pollution control among government officials, industry representatives and citizens. Speakers include: Sam C. Brown, Jr., Senior Vice President, Virginia Power; Louis R. Lawson, Jr., Research Coordinator, Oldover Corporation; E. Eugene Mason, TAC Acid Rain Committee Chairman; Dr. James N. Galloway, UVA Professor; Dr. Bruce W. Karrh, Vice President for Safety, Health and Environmental Affairs, DuPont; Dr. Robert C. Harriss, NASA Senior Scientist; Barry F. Malac, Technical Director, Union Camp Woodlands; George C. Freeman, Partner, Hunton and Williams Law Firm.

Contact: Dick Stone, State Air Pollution Control Board, Ninth Street Office Bldg., Room 801, Richmond, Va. 23219, telephone (804) 786-5478

## ALCOHOLIC BEVERAGE CONTROL BOARD

September 24, 1985 - 9:30 a.m. - Open Meeting  
2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

The commission will meet to receive and discuss reports on activities from staff members. They will consider other matters not yet determined.

Contact: Larry E. Gillman, 2901 Hermitage Rd., Richmond, Va. 23220, telephone (804) 257-0616

## DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

October 22, 1985 - 10 a.m. - Public Hearing  
2901 Hermitage Road, 1st Floor Hearing Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Alcoholic Beverage Control intends to amend, rescind and adopt rules and regulations concerning the possession, sale, distribution and consumption of alcoholic beverages. For the purpose of clarity, these proposed regulations are being reorganized and renumbered to conform to the Administrative Process Act. The proposed amendments will affect the following seven categories:

Procedural Rules for the Conduct of Hearings Before the Commission and its Hearing Officers and the Adoption or Amendment of Regulations (VR 125-01-1);

Advertising (VR 125-01-2);

Tied-House (VR 125-01-3);

Requirements for Product Approval (VR 125-01-4);

Retail Operators (VR 125-01-5);

Manufacturers and Wholesalers Operations (VR 125-01-6);

Other Provisions (VR 125-01-7).

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**Title of Regulation:** VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and its Hearing Officers and the Adoption or Amendment of Regulations.

### PART I.

#### Hearings Before Hearing Officers.

**Summary:** Six sections of these procedural rules are amended by these proposals. The amendment proposed which will add a new § 1-15 entitled Consent Settlement will be addressed separately. The first five amendments in this part clarify some of the procedural provisions.

**Basis:** These amendments are proposed under the authority contained in §§ 4-7 and 4-11 of the Code of Virginia.

**Purpose:** The amendment to § 1.1 is the addition of some language to clarify that the hearing officer may proceed in the absence of an appearance by an interested party. The amendment to § 1.5 clarifies that a person who wishes to complain against the continuation of a license should put the grounds for such complaint in writing. The amendment to § 1.6 is to clarify the language with no substantive change. The amendment to § 1.7 E clarifies the language to make it clear that the hearing officer has authority to immediately implement his decision regarding either the issuance of a license or the surrender of a license. The amendment to § 1.17 adds the word "certified" to ensure a transcript is certified by the hearing reporter.

**Issues:** These are procedural rules and the only issue was whether clarity was needed.

§ 1-15. Consent Settlement.

**Basis:** This new rule is proposed under the authority contained in §§ 4-7 and 4-11 of the Code of Virginia.

**Purpose:** The new rule is proposed to provide another means for the board to expedite the hearing process and to settle cases which are not of such a serious nature that a hearing must be held in order to protect the public interest.

**Issues:** Does the board need a procedure whereby it initiates a settlement of a case?

**Substance:** The board is of the opinion that many cases are appropriate for settlement. Such cases are mainly technical ones, for example, a charge that a licensee kept inaccurate records or submitted a bad check in payment for alcoholic beverages. In some of these cases the licensees, through ignorance of our rules, may not make an offer in compromise but may come to a hearing instead which involves considerable time and trouble for both the licensee and the staff of the board. This procedure will allow the board to initiate a consent settlement thereby avoiding the hearing process. This should speed up the overall hearing process by allowing more time for more serious cases to be heard. The offer of consent settlement would be mailed by the chief hearing officer to the licensee along with a notice of the violation. The consent settlement would not be negotiable. The licensee would either accept it or reject it and go to a hearing. The rule also provides that an unaccepted consent settlement would not become part of the record until after completion of the hearing process.

PART II.  
Hearings Before the Board.

§§ 2-1 and 2-11.

**Basis:** The amendments are proposed under the authority contained in §§ 4-7 and 4-11 of the Code of Virginia.

**Purpose:** To amend § 2.1 to clarify that an interested party may waive further hearing proceedings when he submits written exceptions to the hearing officer's decision and have the board decide on those written exceptions. The other amendment to this section clarifies that if an interested party fails to appear at the hearing the board may proceed in his absence and render a decision. Section 2-11 is amended to clarify that the request for a rehearing or reconsideration should contain a full and clear statement of the facts pertaining to the request, the grounds therefor, and a statement of the relief desired.

**Issues:** The only issue with these amendments was whether to clarify the rules.

**Substance:** See Purpose.

PART III.  
Wine and Beer Franchise Acts.

**Basis:** These amendments are proposed under the authority contained in §§ 4-7 and 4-11 of the Code of Virginia.

**Purpose:** These amendments add provisions for wine to these procedural rules to comply with the enactment of the Wine Franchise Act at the 1985 session of the legislature. Previously, this part applied only to proceedings under the Beer Franchise Act, but technical amendments had to be made to include the Wine Franchise Act.

**Issues:** These changes are mandated by the statutory enactment.

**Substance:** See Purpose.

PART IV.  
Telephone Hearings.

**Basis:** This rule is proposed under the authority contained in §§ 4-7 and 4-11 of the Code of Virginia.

**Purpose:** This new rule is proposed to expedite the hearing processes and to save time and expense to the board, and parties to the hearings.

**Issues:** Can parties to a hearing by telephone receive a full and fair hearing?

**Substance:** In its continuing efforts to expedite the hearing process and save time, trouble and expense for itself and the parties to a hearing, the board has experimented with telephone hearings. Of course, the hearings are purely voluntary and parties to the hearings have an option as to whether to conduct their hearing by telephone. There have been no significant problems and the board proposes these rules to explain to all concerned how a telephone hearing can be obtained and would be conducted. The rules are very simple and straightforward.

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**Title of Regulation:** VR 125-01-2. Advertising.

§ 1. Advertising generally; cooperative advertising; federal laws; beverages and cider; exceptions; restrictions.

**Basis:** This regulation is proposed under the authority contained in §§ 4-7, 4-11, 4-69, 4-98.10, 4-98.14 and 4-103 of the Code of Virginia.

**Purpose:** To allow prominent living people to appear in alcoholic beverage advertising.

**Impact:** The issue is: Does the appearance of prominent living people in advertising influence consumers to

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purchase an alcoholic beverage they otherwise would not, or influence impressionable young people to drink?

**Substance:** The answers to the above questions are subjective and some people would answer "yes" and "no". However, many people are of the opinion that Virginia should not prohibit such advertising because the federal government doesn't, and advertising on television and in magazines which is distributed nationwide including Virginia has prominent living people in it. Therefore, the argument is that nothing is accomplished by prohibiting Virginia radio and television stations and Virginia newspapers and magazines from using such advertising.

§ 2. Advertising; interior; retail licensees; show windows.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-60, 4-69, 4-69.2, 4-98.10 and 4-98.14 of the Code of Virginia.

**Purpose:** The amendment would permit programs regarding responsible drinking or moderation in drinking to be advertised inside retail establishments under certain conditions.

**Issues:** Does the benefit of advertising responsible drinking, and moderation in drinking programs, outweigh the possible harm of references to manufacturers of alcoholic beverages?

**Substance:** Several manufacturers of alcoholic beverages have begun to conduct advertising programs with the message being moderation or drinking responsibly. These programs, of course, contain references to the manufacturer and such references are currently prohibited under the provisions of this section inside retail places. This amendment would allow such programs with the primary restriction being that no more than minor references to the name of the alcoholic beverage manufacturer or its logo could be contained on the materials. Further, the materials are limited to posters of reasonable size and table tents and must be approved in advance by the board.

§ 3. Advertising; exterior; signs; trucks; uniforms.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-69, 4-98.10 and 4-98.14 of the Code of Virginia.

**Purpose:** The amendment is to allow the terms "liquor" and "spirits" to be used because there have been numerous requests for such and the board is of the view that those two words are commonly used to refer to distilled spirits and sees no harm to the public in allowing them to be used. The prohibition against the term "happy hour" appearing on the exterior of licensed places is done in conjunction with the adoption of the regulation on happy hours. See VR 125.01-5 § 16 for explanations of that regulation.

**Issues:** The issue is: Are the two permitted terms similar to those prohibited, i.e., "bar" "saloon" or "speakeasy"?

**Substance:** See Purpose.

§ 4. Advertising; Newspapers, Magazines, Radio, Telephone; Trade Publications, etc.

**Statement:** The proposed amendments to VR 125.01-2 § 4, formerly § 63 accomplish the exact same things in this section as were accomplished in VR 125.01-2 § 3. Please see the notice for that section which is applicable to this proposal.

§ 6. Advertising; Novelties and Specialties.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-69, 4-98.10 and 4-98.14 of the Code of Virginia.

**Purpose:** The amendment recognizes that \$1 in wholesale value does not allow very many novelty and specialty items to be given away. The \$2 limit is considered to be one which allows a reasonable amount of such items to be given away, but prohibits the expensive ones which may be an inducement to purchase alcoholic beverages.

**Issues:** The only issue is: Is \$1 a reasonable limit on the value of such items?

**Substance:** See Purpose.

§ 9. Advertising; Coupons.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-69, 4-98.10, 4-98.14 and 4-103 of the Code of Virginia.

**Purpose:** The amendment is proposed to allow wine wholesalers to put coupons on bottles of wine at their premises.

**Issues:** Should wine wholesalers be permitted to place refund coupons on containers of wine for retailers?

**Substance:** Currently, the only way that refund coupons may be on a bottle of wine is if the winery put them on at the winery premises. It is considerable trouble for wine wholesalers to open cases and put coupons on bottles of wine at their premises, however, some wholesalers have expressed a need to do so under certain circumstances. For example, it may be impractical for a winery to put coupons on the part of a particular product designated for a particular state thereby making a coupon promotion impossible in Virginia. However, if wine wholesalers could receive a shipment of coupons and put them on the bottles, then the promotion could be run in Virginia and consumers could benefit from the reduced price.

§ 10. Advertising; Sponsorship of Public Events; Restrictions and Conditions.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11 and 4-69 of the Code of Virginia.

**Purpose:** The purpose of the amendments is to make it easier for charitable organizations to provide point-of-sale materials to retail licenses and to prohibit wholesalers from having to pay for events which they may not sponsor or to gain advertising value from the sponsorship of such an event.

**Issues:** The issues are:

1. Should it be easier for charities to furnish point-of-sale advertising materials to retailers?
2. Should wholesalers have to pay for events they may not sponsor or obtain advertising value from such an event?

**Substance:** The first amendment simply provides that a wholesale licensee can obtain point-of-sale material relating to charitable events directly from the supplier thereof rather than requiring the charity to obtain the materials from the supplier and deliver them to the wholesaler. This saves the charity considerable trouble. The second amendment will make it clear that wholesalers may not donate money to a charitable organization which will be used to sponsor a public event. The third amendment will make it clear that no wholesaler may obtain advertising value from the sponsorship of a public event. The latter two amendments represent existing interpretations and these amendments clarify the issue.

\* \* \* \* \*

**Title of Regulation:** VR 125.01-3. Tied-House.

§ 2. Rotation and exchange of stocks of retailers by wholesalers; permitted and prohibited acts.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-22.1, 4-33, 4-37, 4-79, 4-103 and 4-115 of the Code of Virginia.

**Purpose:** The purpose of the amendment is to allow wholesalers to restock wine and beer for a retailer at any time, except Sunday, not just at the time of sale or delivery; to allow wholesalers to build displays using the wine or beer only and to incorporate the provisions of former § 35 of the regulations concerning exchange of products into this section with changes which liberalize the rules concerning exchanging beer for retailers.

**Issues:** The issues are:

1. Should a wholesaler be permitted to restock a retailer's shelves at any time?
2. Should a wholesalers be permitted to build displays for a retailer?
3. Should wholesalers be allowed to exchange beer on an

identical quantity, brand and package basis, because it has been on the retailer's shelf too long?

**Substance:** The amendments in subsection A. simply allow a wholesaler to restock shelves at any time, except Sunday, and to build displays of wine and beer. Currently, wholesalers may only restock at the time a sale or delivery takes place and may not build displays. This is deregulation.

The amendments relating to exchange of product are also deregulation. Currently, a wholesaler may not replace beer because it has been on the shelf too long. Brewers and wholesalers are concerned that beer may develop an "off taste" if it is allowed to stay on the shelf too long. This proposal allows wholesalers to replace beer on an identical quantity, brand and package basis with no time restrictions, if the beer is on the shelves too long.

The other amendments in subsection B. 3 incorporate the provisions of current § 35 which basically set forth the other conditions under which a refund or replacement may be made. The provisions are the same as in § 35 except the time limits of 30 days for erroneous delivery and 90 days for defective merchandise have been removed.

This amendment also makes it clear that wholesalers are not to make a sale with the privilege of return.

The definitions section is deleted because the terms defined are no longer in the regulation.

§ 35. Replacement, Refunds and Adjustments; Exceptions.

**Statement:** The Board proposes to rescind § 35 in its entirety and transfer its basic provisions to a section which was formerly § 34 and in now VR 125.01-3 § 2. Please see the explanation of the amendments to that section which cover the reasons for the rescission.

§ 9. Inducement to retailers; tapping equipment; bottle or can openers; banquet licensees; cut case cards.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-69.1, 4-79 and 4-98.14 of the Code of Virginia.

**Purpose:** To adjust for inflation and to allow a larger number openers to be given and to inform retailers.

**Issues:** The issue is: Is the current limitation too restrictive?

**Substance:** The current limitation is a cumulative value of 50¢ per calendar year for all openers. This amendment would allow an unlimited number of openers as long as each one has a wholesale value less the \$1. The other amendment simply puts in the regulation what is stated in the law to ensure that all retailers know they are just as guilty as the wholesaler if they consent to something being



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furnished to them which is prohibited by this regulation.

## § 10. Routine Business Entertainment; Definition; Permitted Activities; Conditions.

**Basis:** This regulation is proposed under the authority contained in §§ 4-7(1), 4-11, 4-79, 4-98.14 and 4-103 of the Code of Virginia.

**Purpose:** This proposal is made to comply with the statutory mandate to provide guidance to those affected. The regulations will inform them what they may and may not do with respect to entertaining retail licensees.

**Issues:** The issues are as follows:

1. How is routine business entertainment defined? In other words, what activities are permitted as routine business activities?
2. What limits shall be place on the permitted activities?

**Substance:** § 4-79 of the Code of Virginia, generally prohibits manufacturers and wholesalers of alcoholic beverages from furnishing anything of value, including services, to retailers. The statute has always been interpreted to prohibit manufacturers and wholesalers from entertaining retailers. The legislature created an exception to the general rule, but intended for the Alcoholic Beverage Control Board to place limits on such entertainment.

This proposal limits entertainment which may be furnished to retailers by wholesalers to five activities:

1. Meals and beverages;
2. Concerts, theatre and arts entertainment;
3. Sports participation and entertainment;
4. Entertainment at charitable events;
5. Private parties.

The proposal incorporates the statutory guidance in subsections C. 1, 2 and 3. This guidance is that the entertainment should not engendered an obligation on the part of the retailer; wholesaler personnel must accompany the retailer during the activity and no property or other thing of value may be furnished to a retailer.

Entertainment involving overnight stay is prohibited in subsection C.4 because it would involve greater cost and yield greater inducement.

C.5 makes it clear that manufacturers may not furnish entertainment because the statute only permits wholesalers to do so.

C.6 places a limit of \$100 per 24-hour period which may be spent on the specified person. \$100 was used because

all five permitted events could reasonably be engaged in for that figure in the highest cost area of the state.

C.7 places a limit on four entertainment activities per person per year which is deemed to be a reasonable number of times.

C.8 requires records to be kept to allow the agents of the board to monitor this activity. The records are a minor burden and are necessary for enforcement purposes.

C.9 exempts retailers who are personal friends of a wholesaler from the restrictions.

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## **Title of Regulation:** VR 125-01-4. Requirements for Product Approval.

§ 2. Wines, qualifying procedures; disqualifying factors; samples; exceptions.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, and 4-11 of the Code of Virginia.

**Purpose:** This amendment is proposed to eliminate a burden and expense for persons who wish to obtain approval of certain wines for sale in Virginia.

**Issues:** Should all wine be required to be analyzed by the state laboratory or in lieu thereof a certification, acceptable to the board, from an analysis done by another laboratory be required to be furnished? In particular, is the requirement necessary for wine which is rare or expensive?

**Substance:** The amendment gives the board discretion to exempt a wine from the analysis or certification requirement for good cause shown. Good cause is defined to include, but not be limited to, rare wine. It is envisioned that only a small part of all wine sold in Virginia will be exempt and only when there is no reason to believe the wine is otherwise than what the label says it is.

\* \* \* \* \*

## **Title of Regulation:** VR 125.01-5. Retail Operators.

§ 1. Restrictions upon sale and consumption of alcoholic beverages and beverages.

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-37, 4-62, 4-103 and 4-112 of the Code of Virginia.

**Purpose:** This amendment incorporates statutory language.

**Issues:** The issues on the question of a legal drinking age are many, all of which were addressed by the legislature.

**Substance:** As of July 1, 1985, only those people who attained the age of 19 years by July 1, 1985, and those who are 21 years of age, may legally purchase and consume beer and 3.2 beverages.

**§ 6. Procedures for mixed beverage licensees generally; mixed beverage restaurant licensees; sales of spirits in closed containers; employment of minors; mixed beverage stamps.**

**Basis:** This amendment is proposed under the authority contained in §§ 4-7, 4-11, 4-98.2, 4-98.10, 4-98.11 and 4-98.14 of the Code of Virginia.

**Purpose:** To allow a hotel which holds a mixed beverage license to put miniatures of distilled spirits in bedrooms and sell them to persons in attendance at a private function. A miniature contains 50 milliliters, approximately two ounces, and is not currently permitted to be sold in Virginia except by carrier licensees such as airlines.

**Issues:** Does the convenience to hotel patrons outweigh the slight risk that distilled spirits will be obtained by intoxicated persons or those below the age of 21?

**Substance:** Several hotel licensees desire to put miniatures of distilled spirits in the rooms in locked storage facilities as a convenience to guests. This is now permitted for all sizes of distilled containers larger than a miniature, but is prohibited for them because no one is permitted to sell miniatures. The board is of the view that the hotel licensees can control this and prevent those not entitled to consume from obtaining the miniatures.

**§ 16. Happy hour and related promotions; definitions; exceptions.**

**Basis:** This regulation is proposed under the authority of §§ 4-7, 4-11, 4-98.14 and 4-103 of the Code of Virginia.

**Purpose:** The regulation is proposed to restrict practices engaged in on retail premises which may lead to accidents on highways and disturbances of the peace.

**Issues:** The issues are:

1. Should happy hours be prohibited during late evening hours?
2. Should advertising of happy hours be allowed?
3. Should other practices which tend to encourage consumption, such as, "all you can drink for a set price," be limited?

**Substance:** The proposed regulation defines "happy hour" and "drink" in subsection A. These definitions are simply the common understanding of those terms. The proposal prohibits happy hours after 9 p.m. each day in subsection B.1 because excessive consumption late at night, beyond the normal meal time, is believed to be more likely to

cause intoxication.

Subsection B.2 prohibits a consumer from stacking up inexpensive drinks right before the happy hour period ends.

Subsections B. 3 and 4 prohibit the selling of multiple drinks for one price and also the serving of a "double" drink for the single price, both of which practices are considered to encourage consumption to excess.

Subsection B.5 prohibits the sale of pitchers of mixed beverages which is already prohibited through interpretation and this proposal makes it clear.

Subsections B. 6 and 7 prohibit free drinks and all you drink for a set price which are already prohibited now through interpretation and this makes it clear.

Subsection B.8 prohibits advertising of happy hour in the media and on the exterior of licensed places. This doesn't prevent offering a consumer a reduced price if he wants to consume alcoholic beverages, but helps prevent him from being induced to consume because of the low price.

The regulation exempts private functions on retail premises from these restrictions because it would impose too great a burden on retail licensees to prevent these practices in such a situation.

The ad hoc advisory panel formed pursuant to our Public Participation Guidelines recommended the major restrictions provided for in this proposal.

\* \* \* \* \*

**Title of Regulation:** VR 125.01-6. Manufacturers and Wholesalers Operations.

**§ 2. Wines: Purchase Orders Generally; Wholesale Wine Distributors.**

**Basis:** These amendments are proposed under the authority contained in §§ 4-7, 4-11, 4-22.1 and 4-84 of the Code of Virginia.

**Purpose:** The purpose of the amendment in subsection B.2 is to put in the regulations a requirement that has long been complied with by wine wholesalers, but has not been in the regulations. The purpose of the amendment in subsection B.6 is to clarify when a report is due. It is no longer required to be received by the board by the 15th, only postmarked by the 15th, or the next business day.

**Issues:** The issues are:

1. Should the requireemnt to furnish invoices be added to the regulations?
2. Should the time the report is due be clarified?

**Substance:** Wine wholesalers are required to submit a

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monthly report showing purchases and sales and the amount of taxes collected and to accompany the report with the payment for such taxes. They are allowed to subtract from the wine taxes due each month, the amount of tax-exempt sales such as to the military or out-of-state. The invoices of such sales are the proof that the sale was exempt and without the invoice the board can't exempt the wholesaler from payment of tax. Therefore, the wholesalers have always furnished the invoices to the board and this amendment simply makes it official.

The second amendment clarifies, for the benefit of the wine wholesaler, when the report is due and should eliminate any confusion.

\* \* \* \* \*

**Title of Regulation: VR 125.01-7. Other Provisions.**

§ 2. Procedures for handling cider; authorized licensees; containers; labels; markup; age limits.

**Basis:** The amendments are proposed under the authority contained in §§ 4-7, 4-11, 4-25.1 and 4-27 of the Code of Virginia.

**Purpose:** The amendments are proposed to delete the exemption from markup for cider made by farm winery licensees and to raise the legal age for purchase and consumption of cider to 21.

**Issues:** None, because the amendments are made pursuant to a U. S. Supreme Court decision and a statutory change.

**Substance:** The U. S. Supreme Court in the Bacchus case ruled that a statute which gives favorable tax treatment to an in-state alcoholic beverage product is unconstitutional. Accordingly, the board cannot discriminate in favor of cider made in Virginia and this amendment simply deletes the discriminatory language.

The second amendment complies with the recent statutory change and raises the legal age for cider to 21 years. Absent a change to § 4-27 of the Code of Virginia, which deals with cider, the board has no authority to provide for those who attain the age of 19 years by July 1, 1985, to purchase and consume cider.

§ 9. Records to be kept by licensees generally; additional requirements for certain retailers; "sale" and "sell" defined; gross receipts; reports.

**Basis:** These proposals are made under the authority contained in §§ 4-7, 4-11, 4-44, 4-98.6, 4-98.7, 4-98.14, 4-103 and 4-111 of the Code of Virginia.

**Purpose:** The first proposal is made to conform the regulation to § 58.1-709 of the Code of Virginia, to increase the required time records must be maintained on beer to three years. The second proposal is simply to inform all licensees that microfilm or other modern record keeping

methods may be used. The third proposal is to make clear the original intent of the board, that the only exemption from reporting changes in ownership is a change in stock ownership of a company where stock is publicly traded.

**Issues:** There are no significant issues as the proposals are merely housekeeping.

**Substance:** See Purpose.

§ 13. Special mixed beverages licenses; locations; special privileges; taxes on licenses.

**Basis:** This amendment is proposed under the authority contained in §§ 4-98.2, 4-98.14 and 7.1-21.1 of the Code of Virginia.

**Purpose:** To conform the section to changes made last year in another section. Those changes eliminated the restrictions on table sizes and number of tables making this language unnecessary.

**Issues:** None - This is housekeeping.

**Substance:** See Purpose.

§ 15. Wholesale beer and beverage sales; discounts, price-fixing; price increases; price discrimination; retailers.

**Basis:** These amendments are proposed under the authority contained in §§ 4-7, 4-11, 4-103, 4-118.12, 4-118.12-1, 4-118.15, 4-118.32, 4-118.33 and 4-118.35 of the Code of Virginia.

**Purpose:** One amendment is required by the Wine Franchise Act and makes the regulation cover wine as well as beer. The other amendment clarifies statutory language which says manufacturers of wine and beer may discriminate in price only on reasonable grounds and defines those grounds as the same ones already provided in the regulation for wholesalers to discriminate among retail licensees.

**Issues:** The only issue is: Should there be different grounds for discrimination by manufacturers than there are for wholesalers?

**Substance:** One amendment is required by statute and there appears to be no rational basis to set up different grounds of discrimination. Thus, this latter amendment only clarifies the current interpretation.

§ 16. Alcoholic Beverage Control Commission.

**Summary:** To change the name of the Alcoholic Beverage Control Commission to the Alcoholic Beverage Control Board to comply with the legislative enactment of a standard nomenclature system which provides for all permanent collegial bodies such as the governing body of the Department of Alcoholic Beverage Control to be called a "Board."

**Basis:** This amendment is proposed under the authority contained in §§ 4-3 and 4-6.1 of the Code of Virginia.

**Purpose:** See Summary.

**Issues:** None

**Substance:** See Summary.

§ 17. Farm Wineries; Percentage of Virginia Products; Other Agricultural Products; Remote Outlets.

**Basis:** This regulation is proposed under the authority contained in §§ 4-2 (10a), 4-7, 4-11 and 4-25.1 of the Code of Virginia.

**Purpose:** This regulation is proposed to clarify several points in the basic statutes by incorporating several positions previously taken on this subject.

**Issues:** The issues requiring clarity are:

1. The statute limits grapes or other agricultural products obtained from outside Virginia to 25%, but it doesn't inform those affected whether the limitation applies to each brand of wine produced or to total production.

2. The statute provides that the 25% limitation applies to fruits, fruit juices "or other agricultural products," but doesn't indicate if wine is included in the term. In other words, can wine be obtained from outside Virginia and be blended with the other wine?

3. The statute provides for a retail outlet at the winery and one additional retail outlet within a reasonable distance, but doesn't specify if the additional, remote outlet must be permanent.

**Substance:** The proposed regulation provides that the 25% limitation applies to the total production of the farm winery because it would be extremely difficult to keep records to determine the percentage of out-of-state products used in each brand. Further, federal law requires 75% of the grapes or other products used in making wine to come from Virginia if the label will state that the wine is Virginia wine and the intent of the farm winery statutes was to encourage the growing of grapes in Virginia which this interpretation supports.

The term "other agricultural products" would be considered to include wine under this proposal because it would give farm wineries flexibility to blend wines to achieve the kind of wine desired and is consistent with the intent of the basic statutes.

The proposal would allow the remote outlets to be temporary and move from place to place as long as only one such outlet operated at any given time. This is also consistent with the intent of the statute which was to encourage growing grapes and making wine in Virginia. Farm wineries are usually located in rural areas and

special events such as festivals are one of the best ways to obtain exposure for their products. Such events are at various locations and thus the need for this provision. All three provisions make compliance with the law easier for farm winery licensees.

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted until October 21, 1985.

**Contact:** Larry E. Gilman, Secretary to the Board, P. O. Box 27491, Richmond, Va. 23261, telephone (804) 257-0616

## STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

† **November 15, 1985 - 9 a.m.** – Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to approve minutes of the July 10, 1985, meeting; and to review investigative cases.

### Architects

† **September 20, 1985 - 9 a.m.**  
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to approve minutes of the May 3, 1985, meeting; and to review applications and investigative cases.

### Professional Engineers

† **October 2, 1985 - 9 a.m.** – Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to approve minutes of the August 27, 1985, meeting; and to review applications and investigative cases.

**Contact:** Johnnie Williams, Assistant Director, State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8512

## STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **September 20, 1985 - 10 a.m.** – Open Meeting

## Calendar of Events

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Fourth Street State Office Building, 205 North Fourth Street, Second Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to consider requests for interpretation of the Virginia Uniform Statewide Building Code; to consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code, and to approve minutes of previous meeting.

Contact: C. Sutton Mullen, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

### CHESAPEAKE BAY COMMISSION

September 26, 1985 - - Open Meeting

September 27, 1985 - - Open Meeting

Belvedere Hotel, Baltimore, Maryland

First Biennial Review of the Action Agenda: Choices for the Chesapeake.

Contact: Susan Dull, Chesapeake Bay Commission, 60 West Street, Suite 200, Annapolis, Md. 21401, telephone (301) 263-3420

### GOVERNOR'S ADVISORY COMMITTEE ON CHILD ABUSE AND NEGLECT

† October 4, 1985 - 11 a.m. - 2 p.m. - Open Meeting  
Junior League, 205 West Franklin Street, Richmond, Virginia

A working meeting of the Prevention Subcommittee to discuss current prevention projects.

Contact: Sue Gibson, 6109 Studeley Ave., Norfolk, Va. 23508, telephone (804) 423-3983

### COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

† September 25, 1985 - 8:30 a.m. - Open Meeting  
Department of Corrections, 4615 West Broad Street, Room 105, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to organize the coordinating committee, including election of a chairman, pursuant to Executive Order Number 58 (85); and to receive a progress report from the coordinator, including progress on revisions to Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Contact: Barry P. Craig, Blair Bldg., 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9025

### VIRGINIA BOARD OF COMMERCE

† September 24, 1985 - 10 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to discuss and adopt a report on the need for regulation of flea market operators. The board will also review the progress of studies on enforcement and testing.

Contact: Thomas A. Dick, Policy Analyst, Virginia Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8564

### STATE BOARD FOR COMMUNITY COLLEGES

† September 19, 1985 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Board Room, 15th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A general board meeting (agenda unavailable).

Contact: Dr. Ann L. Williams/Nancy Finch, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, Va. 23219, telephone (804) 225-2117

### DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Division of Historic Landmarks and the Virginia Historic Landmarks Board

† September 17, 1985 - 10 a.m. - Open Meeting  
221 Governor Street, Richmond, Virginia

A joint meeting of the two boards to consider the 1985-86 Work Program for the Division of Historic Landmarks and to consider the addition of 520 Peaks Street, Bedford (city) to the Virginia Landmarks Register and its nomination to the National Register of Historic Places.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

### DEPARTMENT OF CONSERVATION AND ECONOMIC DEVELOPMENT

Division of Parks and Recreation

September 26, 1985 - 7:30 p.m. - Public Hearing

## Calendar of Events

Rappahannock Community College Auditorium, Glens, Virginia

A public hearing to gather citizen input on the proposed scenic river designation of 25.5 miles of the Dragon Run and Piankatank Rivers from Route 17 Bridge to Gwynn's Island.

**Contact:** Ronald D. Sutton, Commissioner, or Richard G. Gibbons, Planning Director, Division of Parks and Recreation, 1201 Washington Bldg., Capitol Square, telephone (804) 786-2132/2280

Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review investigative reports of complaints and determine disposition, (ii) consider general correspondence pertinent to the operation of the board, and (iii) review proposals from examination services.

**Contact:** Gale G. Moyer, Assistant Director, Virginia Board of Cosmetology, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8509

### BOARD OF CORRECTIONS

**October 16, 1985 - 10 a.m. - Open Meeting**  
4615 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting to consider such matters as may be presented to the Board of Corrections.

**Contact:** Vivian Toler, Secretary to the Board, 4615 W. Broad St., P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274

\* \* \* \* \*

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to amend regulations entitled: **Public Participation Guidelines**. These regulations will set forth procedures for public participation in the regulatory process for the Department of Corrections. The amendments will incorporate changes in the Code of Virginia related to the Administrative Process Act enacted in 1985.

#### STATEMENT

These amended regulations incorporate changes to the Administrative Process Act that became effective July 1, 1985, regarding the formation, development and adoption of regulations that the State Board of Corrections and the Director of the Department of Corrections are required to promulgate by state law.

**Statutory Authority:** §§ 53.1-5 and 53.1-10 of the Code of Virginia.

Written comments may be submitted until October 1, 1985.  
**Contact:** Robert E. Cousins, Agency Regulatory Coordinator, 4615 W. Broad St., P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-1943

### VIRGINIA BOARD OF COSMETOLOGY

**September 30, 1985 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West

### CRIMINAL JUSTICE SERVICES BOARD

**October 2, 1985 - 9:30 a.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Courthouse and Courtroom Security Officers**. The proposed amendments will effect existing training standards for deputy sheriffs and other law-enforcement and designated personnel to provide security for the courthouse and courtroom.

#### STATEMENT

**Basis and Purpose:** The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170(5) of the Code of Virginia. The protection of property and persons during the judicial process is a specialized function requiring certain knowledge, skills and abilities. The purpose of the proposed rules is to provide training necessary for effective protection of the courthouse and courtroom.

**Subject and Substance:** The proposed amendments to the rules mandate minimum training standards for those criminal justice personnel designated to provide courthouse and courtroom security.

**Impact:** This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. No fiscal impact is anticipated.

**Compliance Cost:** Rules pertaining to this subject matter currently exist. No additional compliance costs are anticipated.

**Implementation Cost:** Implementation cost to the Department of Criminal Justice Services is not expected to exceed those costs associated with compliance with the requirements of the Administrative Process Act, Executive

# Calendar of Events

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Order No. 51 and the board's Public Participation Guidelines. No additional costs are anticipated.

Statutory Authority: § 9-170(1)(5) of the Code of Virginia.  
Contact: Mr. J. R. Marshall, Administrative Assistant, 805  
E. Broad St., Richmond, Va. 23219, telephone (804)  
786-4000

\* \* \* \* \*

**October 2, 1985 - 9:30 a.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C,  
Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Deputy Sheriffs Designated to Serve Process.** This regulation establishes compulsory minimum training standards for deputy sheriff designated to serve process.

## STATEMENT

**Basis and Purpose:** The rules, as proposed, are being considered for adoption pursuant to the provisions of § 9-170(1)(5a) of Code of Virginia. The service of legal process is a specialized function requiring certain knowledge, skills and abilities. The purpose of the proposed rules is to provide training necessary for the safe, efficient and effective service of legal documents.

**Subject and Substance:** The proposed rules mandate minimum training standards for deputy sheriffs designated to serve process and sets forth requirements and procedures for schools requesting approval to conduct such training.

**Impact:** These rules will impact those deputies designated by a sheriff to serve legal process. Further, those schools approved to conduct such training will be required by participating localities to schedule and conduct sufficient training offerings to meet their needs.

**Compliance Cost:** Sheriffs with the legal responsibility to serve process will be required to send designated deputies to approved training sessions. The cost to those departments will vary, dependent upon the number of personnel so designated and the amount of turnover of such personnel annually.

**Implementation Cost:** Implementation cost to the Department of Criminal Justice Services is not expected to exceed those costs associated with compliance with the requirements of the Administrative Process Act, Executive Order No. 51 and the board's Public Participation Guidelines. Additional responsibilities and duties are expected to be absorbed by existing staff and in concert with existing duties of the same nature.

Statutory Authority: § 9-170(1)(5a) of the Code of Virginia.  
Contact: Mr. J. R. Marshall, Administrative Assistant, 805  
E. Broad St., Richmond, Va. 23219, telephone (804)  
786-4000

\* \* \* \* \*

**October 2, 1985 - 1:30 p.m. – Public Hearing**  
General Assembly Building, Capitol Square, House Room C,  
Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **Rules Relating to the Compulsory Minimum Training Standards for Private Security Services Business Personnel.** These regulations mandate and prescribe compulsory Minimum Training Standards and Procedures for Private Security Services Business Personnel.

## STATEMENT

**Basis and Purpose:** The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-182 of the Code of Virginia. The purpose of these rules is to protect the public safety and welfare against incompetent or unqualified persons performing private security duties.

**Subject and Substance:** The proposed rules mandate minimum training requirements for private security services business personnel and set forth standards and procedures for schools conducting private security services training.

**Impact:** These regulations will apply directly to all persons registering with the Department of Commerce as private security services business personnel (approximately 7,000 persons annually), all schools that are approved to provide mandated private security services training (approximately 92), and all private security services business personnel who carry a firearm in the performance of duty (estimated 7,000). Indirectly, these regulations will affect the approximate 300 private security services business licensees, their clients and individuals who may come in contact with licensees or their employees.

**Compliance Cost:** It is anticipated that there will be no material increase in compliance cost to the public or this agency; however, since private security services is part of an agency that generates operating funds from licensees, any increase in cost would be borne by the licensees.

**Implementation Cost:** It is anticipated that there will be no substantial increase in cost to the regulated entities for implementation. The implementation cost to this agency should not exceed \$2,000. This amount includes the cost of informational meetings, mailing services, and the publication of notices of intent to promulgate regulations.

Statutory Authority: § 9-182 of the Code of Virginia.

**Contact:** Mr. J. R. Marshall, Administrative Assistant, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

## STATE BOARD OF DENTISTRY

† **September 18, 1985 - 2 p.m.** – Open Meeting  
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The Executive Committee of the Virginia Board of Dentistry will meet to review the proposed budget for 1986-1988 and to discuss routine agenda items.

**September 19, 1985 - 9 a.m.** – Open Meeting  
**September 20, 1985 - 10:30 a.m.** – Open Meeting  
**September 21, 1985 - 8:30 a.m.** – Open Meeting  
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to consider the proposed regulations approved on December 8, 1984.

**Contact:** Nancy T. Feldman, Executive Director, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0311

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **September 20-21, 1985 - Friday night and Saturday morning until** – Open Meeting  
Radisson Hotel, 223 West Main Street, Charlottesville, Virginia

A general board meeting.

**Contact:** Mark L. Forberg, Executive Secretary, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0076

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

† **October 4, 1985 - 10 a.m.** – Open Meeting  
† **November 1, 1985 - 10 a.m.** – Open Meeting  
Virginia Museum of Fine Arts, Main Conference Room, Richmond, Virginia

The council will advise the Director of the Department 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:** Dorothy E. Ivankoe, Department of General Services, 209 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-3311

## State Insurance Advisory Board

**October 11, 1985 - 9:30 a.m.** – Open Meeting  
Department of General Services, Ninth Street Office Building, Suite 209, Conference Room of the Director, Richmond, Virginia. (Location accessible to handicapped.)

A quarterly meeting of the State Insurance Advisory Board.

**Contact:** Charles F. Scott, Director, Department of General Services, Division of Risk Management, 805 E. Broad St., Room 117, Richmond, Va. 23219, telephone (804) 786-5968

## VIRGINIA STATE BOARD OF GEOLOGY

† **November 13, 1985 - 9 a.m.** – Open Meeting  
Department of Commerce, Travelers Building, Conference Room 1, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes from the August 20, 1985, meeting, (ii) review examination results and work on additional examination questions, and to (iii) review applications.

**Contact:** Johnsie Williams, Assistant Director, Geology Board, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8555

## GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

**September 16, 1985 - 10:30 a.m.** – Open Meeting  
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A general meeting of the council.

**Contact:** Gladys Walker, Governor's Employment and Training Department, 417 E. Grace St., P. O. Box 12083, Richmond, Va., telephone (804) 786-8085

## HAZARDOUS WASTE FACILITY SITING COUNCIL

**September 24, 1985 - 7 p.m.** – Public Hearing  
Lord Fairfax Community College, Technical Building, Conference Room, Middletown, Virginia  
**October 1, 1985 - 7 p.m.** – Public Hearing  
Martha Washington Inn, 150 West Main Street, Grand



# Calendar of Events

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Ballroom, Abingdon, Virginia

October 2, 1985 - 7 p.m. - Public Hearing

Roanoke County Administration Center, 3738 Brambleton Ave., S.W., Community Room, Roanoke, Virginia

October 3, 1985 - 7 p.m. - Public Hearing

City Hall, City Council Chambers, 113 East Beverly Street, 2nd Floor, Staunton, Virginia

October 9, 1985 - 7 p.m. - Public Hearing

Lynchburg Public Library, The Plaza, 2315 Memorial Avenue, Lynchburg, Virginia

October 10, 1985 - 7 p.m. - Public Hearing

Westinghouse Electric Corporation, Highway 58 West, South Boston, Virginia

October 21, 1985 - 7 p.m. - Public Hearing

Dinwiddie County Administration Building, U.S. Route 1, Board Meeting Room, Dinwiddie, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Hazardous Waste Facility Siting Council intends to adopt regulations entitled: **Administrative Procedures for Hazardous Waste Facility Site Certification**. The proposed regulations establish the council's administrative procedures for processing applications for site certification.

## STATEMENT

The proposed administrative procedures detail the steps in the process of obtaining site certification. The administrative procedures parallel the process established by the Siting Act and describe submission requirements for the applicant's notice of intent, draft impact statement, final impact statement, application for site certification, and the public review and public hearing process for decision-making. The regulations also outline the procedures for the required negotiation process between the applicant and the local government (host community).

Statutory Authority: § 10-186.5 of the Code of Virginia.

Written comments may be submitted until October 25, 1985.

Contact: Harry E. Gregori, Jr., Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-3235

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Hazardous Waste Facility Siting Council intends to adopt regulations entitled: **Schedule of Fees for Hazardous Waste Facility Site Certification**. The proposed regulations establish fees and the procedures for fee assessment for applicants proposing to site hazardous waste facilities in the Commonwealth of Virginia.

## STATEMENT

The proposed regulations establish a fee structure which

consists of three parts. The first element requires payment by the applicant of all costs for legal notices, copies of reports and notices, and postage for the notice of intent submission. These costs may range from \$2,000 to approximately \$4,500, depending upon the geographic location of the proposal. The second element, the application fee, which is paid at the time the application is submitted, is set at a \$20,000 for major facilities (categories II-V). Smaller storage facilities (category I) will be charged \$10,000, or 1% of the estimated construction cost (whichever is greater), not to exceed \$20,000. The third element is for consultant services required by the council to review applications. This amount, to be paid by the applicant, will be determined at the time the application is made and will vary according to the complexity of the proposed facility.

Statutory Authority: § 10-186.5 of the Code of Virginia.

Written comments may be submitted until October 25, 1985.

Contact: Harry E. Gregori, Jr., Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-3235

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Hazardous Waste Facility Siting Council intends to adopt regulations entitled: **Hazardous Waste Facility Siting Criteria**. The proposed regulations establish the criteria, both prohibitions and limitations, for assessing applications for site certification.

## STATEMENT

The proposed Hazardous Waste Facility Siting Criteria regulations provide the principal decision-making tool for the council. Any person, including the Commonwealth of Virginia, must meet the criteria proposed before a facility can be given certification by the council. The regulations organize hazardous waste facilities into five categories: I. Containerized or enclosed storage (a group of tanks); II. Closed treatment process - with spill containment (treatment in tanks); III. Open treatment process - with spill containment (incinerator); IV. Above-ground treatment - no spill containment (waste piles and land treatment); and V. Disposal without complete treatment, and all other treatment/disposal methods (land disposal).

The first set of criteria, the "Prohibitions," indicate areas where no facilities are allowed. Proposed prohibitions include wetlands, 100-year flood plains, dam failure inundation zones, sinkholes (karst topography), locations near active faults and within areas designated as national natural landmarks or lands in public trust.

The second set of criteria, "Siting Limitations," place restrictions which are based on the type of facility proposed. Generally, these limitations control the location

# Calendar of Events

based on impacts for categories I, II and III with respect to public and private surface and ground water supplies, subsurface mining activity, steep slopes and faults, and seismic risk areas. Categories IV and V (land treatment/disposal) are prohibited in these areas. The council will also evaluate impacts on air quality, endangered species, risk of accident, proximity to population, impact on local government, and potential for fire and explosion.

Statutory Authority: § 10-186.5 of the Code of Virginia.

Written comments may be submitted until October 25, 1985.

Contact: Harry E. Gregori, Jr., Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-3235

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Hazardous Waste Facility Siting Council intends to adopt regulations entitled: **Technical Assistance Fund Administrative Procedures**. The proposed regulations specify procedures for application, disbursement and accounting for local technical assistance funds distributed by the Siting Council.

## STATEMENT

The Local Technical Assistance Fund proposed regulation provides for the distribution of state general funds to a locality in which a facility is proposed. The purpose of this fund is to financially assist local governments in evaluating a proposal. The proposed regulations provide \$20,000 outright to a local government with an additional \$10,000 available based on a 50/50 state and local match. Any unused funds are to be returned to the council. Funds may not be used for legal services or the services of a negotiator. The total amount of funds available for FY 1985-86 is \$50,000.

Statutory Authority: § 10-186.5 of the Code of Virginia.

Written comments may be submitted until October 25, 1985.

Contact: Harry E. Gregori, Jr., Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-3235

## STATE BOARD OF HEALTH

November 13, 1985 - 10 a.m. - Open Meeting

November 14, 1985 - 10 a.m. - Open Meeting

Westpark Hotel, Rosslyn, Virginia. (Location accessible to handicapped.)

A regular business meeting of the board. An agenda

for the meeting may be obtained after November 1, 1985.

Contact: Sally Camp, James Madison Bldg., Room 400, Richmond, Va. 23219, telephone (804) 786-3561

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† November 15, 1985 - 10 a.m. - Public Hearing  
James Madison Building, Main Floor Conference Room,  
Richmond, Virginia. (Location accessible to handicapped.)

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 regulations entitled: **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (VR 355-30-01)**. The purpose of the proposed amendments is to amend the capital and operating expenditure limits for review of COPN projects, not to include expenditures for major medical equipment.

## STATEMENT

### Summary, Purpose, Need:

A. Purpose: To amend the capital and operating expenditure limits for review of COPN projects excluding expenditures for major medical equipment. Affected provisions of the regulations:

Part I - Definitions "Acquisition" and "Project"

Part III - Mandatory Requirements - § 3.3.

Part V - Process for Exempting Medical Care Facility Projects from Review Procedures - § 5.1.A. and 5.1.B.

Part VI - Administrative Review Process - § 6.1

Need: To potentially reduce the number of medical care facility projects that are subject to review.

Without the regulation, a substantial increase in the proliferation of capital expenditures and duplicative health services would occur thereby affecting the total costs of health care borne by the public.

B. Consideration of alternative approaches were obviated based on general concurrence of the proposed capital and operating expenditure limits by the Virginia Hospital Association and Health Systems Agencies. Approximately 80% of the projects considered under the COPN program are hospital-related. The proposed regulations also comply favorably with the increased capital expenditure limits proposed by the federal government.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Written comments may submitted until November 15, 1985.  
Contact: Marilyn H. West, Director, Division of Resources

# Calendar of Events

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Development, James Madison Bldg., 109 Governor St.,  
Room 1005, Richmond, Va. 23219, telephone (804)  
786-7463

## DEPARTMENT OF HEALTH

**September 16, 1985 - 7 p.m. - Public Hearing**  
Roanoke County Administrative Complex, 3738 Brambleton  
Avenue, S.W., Community Room, Roanoke, Virginia  
**September 17, 1985 - 7 p.m. - Public Hearing**  
Harrisonburg Electric Commission, 89 West Bruce Street,  
Community Room, Harrisonburg, Virginia  
**September 18, 1985 - 7 p.m. - Public Hearing**  
Mary Washington College, 104 Monroe Hall,  
Fredericksburg, Virginia  
**September 19, 1985 - 7 p.m. - Public Hearing**  
Peninsula Health District, Newport News City, Health  
Department, 416 J. Clyde Morris Boulevard, (US 17 South),  
Main Auditorium, Newport News, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Department of Health  
intends to amend regulations entitled: **Sewage  
Handling and Disposal Regulations**. The Sewage  
Handling and Disposal Appeals Review Board  
adjudicates all appeals of denials of on-site sewage  
disposal system permits. This regulation establishes an  
\$800 fee to be charged to applicants in order to cover  
direct cost of their hearing before the review board.

## STATEMENT

**Purpose:** The purpose of this regulation is to establish an  
\$800 fee to be charged applicants for each appearance  
before the review board.

**Summary and Analysis:** The Sewage Handling and Disposal  
Advisory Committee, at their April 15, 1985, meeting,  
passed a motion that the appeals fee should be set at \$800  
per appeal (which is based upon average direct cost of  
hearing) unless the Health Department is willing to absorb  
some portion of the costs.

Direct costs per appeal are estimated to be as follows:

Travel: 20.5¢/mile/7 members .....	\$258.30
Meals: \$20/day/person .....	70.00
Lodging: \$40/night .....	120.00
Misc: parking, phone calls, etc. ....	35.00
Court Reporter .....	327.00
Totaling .....	\$810.30

**Impact:** Applicants for formal hearing in the past paid no  
fee in order to have a formal adjudicatory hearing before  
an administrative law judge. The adoption of an \$800 fee  
will financially impact future applicants, however, the cost  
to taxpayers will be reduced due to the adoption of this  
fee.

**Evaluation:** The department will track actual costs for  
each appeal and evaluate direct costs on an annual basis.  
If fees are too high or too low, then the department will  
suggest the appropriate modification.

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

Written comments may be submitted until September 20,  
1985.

**Contact:** P.M. Brooks, Public Health Engineer C, 109  
Governor St., 502 James Madison Bldg., Richmond, Va.  
23219, telephone (804) 786-1931

## VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

**September 16, 1985 - 9 a.m. - Open Meeting**  
**September 17, 1985 - 3:30 p.m. - Open Meeting**  
**September 17, 1985 - 8:30 p.m. - Open Meeting**  
**September 18, 1985 - 8:30 a.m. - Open Meeting**  
Abingdon, Virginia. (Location accessible to handicapped.)

Various subcommittees of the Statewide Health  
Coordinating Council will be meeting Monday,  
September 16, beginning at 9 a.m.

The Analysis & Plans Development Committee and the  
Progress & Evaluation Committee will begin meeting  
at 3:30 p.m. on September 17.

The Virginia Statewide Health Coordinating Council  
will hold its regular business meeting at 8:30 p.m. on  
September 17.

The Executive Committee of the Statewide Health  
Coordinating Council will begin its meeting at 8:30  
a.m. on September 18.

Regular business of the council, other committees, and  
subcommittees will be conducted.

**Contact:** Raymond O. Perry, 109 Governor St., Room 1010,  
Richmond, Va. 23219, telephone (804) 786-6970

## VIRGINIA HEALTH SERVICES COST REVIEW COMMISSION

**September 25, 1985 - 9:30 a.m. - Open Meeting**  
Blue Cross and Blue Shield of Virginia, 2015 Staples Mill  
Road, Virginia Room, 2nd Floor, Richmond, Virginia.  
(Location accessible to handicapped.)

A monthly business meeting to address financial,  
policy or technical matters which may have arisen  
since last meeting.

**Contact:** Dr. Ann Y. McGee, Director, 805 E. Broad St.,  
9th Floor, Richmond, Va. 23219, telephone (804)  
786-6371

# Calendar of Events

## VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION BOARD

**September 19, 1985 - 10 a.m. - Open Meeting**  
Lynchburg City Hall, 901 Church Street, Lynchburg, Virginia. (Location accessible to handicapped; 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:** Oscar K. Mabry, Deputy Commissioner, Virginia Department of Highways and Transportation, 1221 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2703

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

### Board of Commissioners

**September 17, 1985 - 10 a.m. - Open Meeting**  
The Tides Inn, Irvington, Virginia. (Location accessible to handicapped.)

This will be the regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority. The board will (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

**Contact:** Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**September 16, 1985 - 1 p.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

The board's regular formal business meeting to (i) review and approve the minutes from the prior meeting; (ii) provide an opportunity for public comments; (iii) review the report of the director on the operation of the Department of Housing and Community Development since the last board meeting; (iv) to hear reports of the committees of the board; and (v) to consider other matters as they may deem

necessary. The planned agenda of the meeting will be available one week prior to the date of the meeting.  
**Contact:** Neal J. Barber, 205 N. 4th St., 7th Floor, Richmond, Va. 23219-1747, telephone (804) 786-1575

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**September 16, 1985 - 11 a.m. - Public Hearing**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Location accessible to handicapped.)

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: **Virginia Industrialized Building Unit and Mobile Home Safety Regulations/1984.**

### STATEMENT

**Subject and Substance:** Proposed change to the plumbing requirements in the previously proposed adoption of a 1984 edition of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations to amend and replace the 1981 edition thereof. The change will prohibit the use of lead bearing solders and fluxes in water service and distribution piping.

**Issues:** 1. Estimated impact with respect to number of persons affected: all citizens of Virginia who use buildings hereafter constructed will be affected.

2. Projected costs for implementation somewhat less expensive than acceptable substitutes. However, the overall increase in costs of plumbing systems for water service and distribution will apparently be small. Discussions with industry sources indicate that the added cost is not a matter of material concern.

**Basis:** §§ 36-70 and 36-85.1 of the Code of Virginia.

**Purpose:** To prevent unsafe levels of lead in drinking water in buildings, as recommended by the State Health Commissioner.

Statutory Authority: §§ 36-70 and 36-85.1 of the Code of Virginia.

Written comments may be submitted until September 16, 1985.

**Contact:** C. S. Mullen, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

\* \* \* \* \*

**September 16, 1985 - 11 a.m. - Public Hearing**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and

# Calendar of Events

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Community Development intends to amend regulations entitled: **Virginia Uniform Statewide Building Code - Volume I - New Construction Code/1984.**

## STATEMENT

**Subject and Substance:** Proposed change to the plumbing requirements in the previously proposed adoption of a 1984 edition of the Virginia Uniform Statewide Building Code - Volume I - New Construction Code to amend and replace the 1981 edition thereof. The change will prohibit the use of lead bearing solders and fluxes in water service and distribution piping.

**Issues:** 1. Estimated impact with respect to number of persons affected: all citizens of Virginia who own buildings hereafter constructed will be affected.

2. Projected costs for implementation and compliance: the lead bearing solders which are in current use are somewhat less expensive than acceptable substitutes. However, the overall increase in costs of the plumbing system for water service and distribution will apparently be very small, and discussions with industry sources indicate that the added cost is not a matter of material concern.

**Basis:** §§ 36-97 - 36-107 of the Code of Virginia.

**Purpose:** To prevent unsafe levels of lead in drinking water in buildings, as recommended by the State Health Commissioner.

**Statutory Authority:** §§ 36-97 - 36-107 of the Code of Virginia.

Written comments may be submitted until September 16, 1985.

**Contact:** C. S. Mullen, Deputy Director, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4751

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**September 16, 1985 - 10 a.m. - Public Hearing**  
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. (Location accessible to handicapped.)

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: **Urban Enterprise Zone Program Regulations.** The proposed regulations set forth the administrative procedures for implementing the Urban Enterprise Zone Act and requirements for business firms in applying for state tax credits.

## STATEMENT

**Subject:** Revision of the Urban Enterprise Zone Program Regulations to follow 1985 amendments to the Urban

Enterprise Zone Act.

**Substance:** The 1985 amendments allow a locality to ask for permission to enlarge the boundaries of its enterprise zone. This proposed amendment establishes procedures for a locality to follow in requesting permission to enlarge its zone.

**Issues and Impact:** This proposed amendment could impact no more than the 14 localities which have enterprise zones or portions of enterprise zones within their boundaries. The total population within the state's enterprise zone is 130,000. Jurisdictions that seek to enlarge their enterprise zones would incur relatively small staff costs in preparing the application for changing zone boundaries. The state costs which would also be small would result from staff time spent in reviewing applications to enlarge enterprise zones.

**Basis:** § 59.1-278 of the Code of Virginia.

**Purpose:** To bring the Urban Enterprise Zone program regulations in line with recent amendments to the Code of Virginia.

**Statutory Authority:** § 59.1-278 of the Code of Virginia.

Written comments may be submitted until September 16, 1985 to Neal J. Barber, Acting Director, Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

**Contact:** Stanley S. Kidwell, Jr., Associate Director, Virginia Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219, telephone (804) 786-4966

## COMMISSION ON LOCAL GOVERNMENT

† **September 24, 1985 - 2 p.m. - Open Meeting**  
One Market Square, Center in the Square, Board of Directors Meeting Room, Roanoke, Virginia. (Location accessible to handicapped.)

A meeting to discuss pending issues on the commission's agenda including (i) City of Petersburg/City of Hopewell/Prince George County issues, (ii) City of Lexington annexation action and Rockbridge County's partial immunity action; (iii) presentation of financial report, (iv) approval of minutes from last meeting, and (v) establishment of the next commission meeting date.

† **September 30, 1985 - 9 a.m. - Open Meeting**  
City of Lynchburg, Campbell County area (site to be determined)

Oral presentations regarding the City of Lynchburg's and County of Campbell's voluntary settlement of annexation and growth sharing.

# Calendar of Events

† **September 30, 1985 - 7 p.m.** – Public Hearing  
City of Lynchburg, Campbell County area (site to be determined)

A public hearing regarding the City of Lynchburg's and County of Campbell's voluntary settlement of annexation and growth sharing.

**October 14, 1985 - 9 a.m.** – Open Meeting  
**October 15, 1985 - 9 a.m.** – Open Meeting  
**October 16, 1985 - 9 a.m.** – Open Meeting  
City of Lexington - Rockbridge County area (site to be determined)

Oral presentations regarding the City of Lexington's proposed annexation action and Rockbridge County's partial immunity action.

**October 15, 1985 - 7:30 p.m.** – Public Hearing  
City of Lexington - Rockbridge County area (site to be determined)

A public hearing to receive testimony from the public regarding the City of Lexington annexation action and Rockbridge County partial immunity action.

† **October 28, 1985 - 9 a.m.** – Open Meeting  
† **October 29, 1985 - 9 a.m.** – Open Meeting  
† **October 30, 1985 - 9 a.m.** – Open Meeting  
† **October 31, 1985 - 9 a.m.** – Open Meeting  
City of Petersburg, Prince George County area (site to be determined)

Oral presentations regarding the City of Petersburg annexation action.

† **October 29, 1985 - 7:30 p.m.** – Public Hearing  
City of Petersburg, Prince George County (site to be determined)

A public hearing regarding the City of Petersburg annexation action.

**Contact:** Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

## MARINE RESOURCES COMMISSION

**October 22, 1985 - 9:30 a.m.** – Open Meeting  
2401 West Avenue, Newport News, Virginia

The Marine Resources Commission normally meets on the fourth Tuesday each month, at 9:30 a.m., at the agency office, 24th Street and West Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It 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 five days.

**Contact:** Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**September 24, 1985 - 9 a.m.** – Public Hearing  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **Intermediate Care Criteria for the Mentally Retarded**. This regulation establishes criteria for care provided to eligible mentally retarded persons in intermediated care situations which would then qualify for Medicaid reimbursement.

### STATEMENT

**Basis and Authority:** Section 32.1-325 of the Code of Virginia gives the State Board of Medical Assistance the authority to promulgate regulations subject to the Governor's approval. Section 1902 of the Social Security Act and federal regulations in 42 CFR 456.432 and 456.435 requires that there be written criteria for admission and continued stay in intermediate care facilities for the mentally retarded.

**Purpose:** The purpose of the proposed regulations is to establish an intermediate care criteria for the mentally retarded that can be applied to all recipients when Medicaid payment has been requested for institutional or noninstitutional services.

**Summary and Analysis:** In 1972, federal regulations allowed for the inclusion of federal financial payment for care in intermediate care facilities for the mentally retarded. At that time broadly defined criteria were developed and continues in use today.

**Estimated Impact:** Approximately 3,600 Medicaid recipients in state and private facilities will be affected by these new criteria. No appreciable negative impact is expected as the result of the implementation of this proposed criteria since the criteria redefinition will not result in a change in the number of eligible recipients. No new staff will be required to implement or enforce these regulations. There should be no impact on Medicaid funding.

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

# Calendar of Events

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Written comments may be submitted until September 22, 1985.

**Contact:** Tinnie B. Conover, Manager, Institutional Services Section, Department of Medical Assistance Services, 109 Governor St., Room 817, Richmond, Va. 23219, telephone (804) 786-7986

## STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

**September 24, 1985 - 10 a.m. - Open Meeting**  
Portsmouth Community Services Board, Portsmouth, Virginia. (Location accessible to handicapped.)

A regular monthly meeting. The agenda will be published on September 18, and may be obtained by calling Jane Helfrich.

**Contact:** Jane V. Helfrich, State Mental Health and Mental Retardation Board Secretary, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

## STATE MILK COMMISSION

† **September 18, 1985 - 10 a.m. - Open Meeting**  
Ninth Street Office Building, Room 1015, Richmond, Virginia. (Location accessible to handicapped.)

A routine monthly meeting.

† **September 18, 1985 - 11 a.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

A public hearing to receive evidence and testimony relative to adjusting all Class I prices established by Amended Order No. 13 and/or Regulation No. 8.

**Contact:** C. H. Coleman, Administrator, Ninth Street Office Bldg., Room 1015, Richmond, Va. 23219, telephone (804) 786-2013

## DEPARTMENT OF MOTOR VEHICLES

**September 18, 1985 - 10:30 a.m. - Open Meeting**  
2300 West Broad Street, Richmond, Virginia

A project committee meeting to review provisions of the Motor Vehicle Dealer Licensing Act for consideration of changes, additions, or deletions.

**Contact:** Joe Chandler, Committee Chairman, Department of Motor Vehicles, Richmond, Va., telephone (804) 257-0463

## VIRGINIA MUSEUM OF FINE ARTS

### Accessions Committee

**September 18, 1985 - 2 p.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Conference Room - Street level, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to consider gift offers and purchases of works of art; and loan requests for works of art.

### Board of Trustees

† **September 17, 1985 - 9:30 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Lounge of the Virginia Museum Members' Suite, Richmond, Virginia. (Location accessible to handicapped.)

A meeting of the Entertainment Committee to receive their entertainment assignments for the 1985-86 season.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, Va. 23221, telephone (804) 257-0553 or 327-0553 (SCATS)

## VIRGINIA STATE BOARD OF NURSING

† **September 16-18, 1985 - Open Meeting**  
Barclay Towers, 809 Atlantic Avenue, Virginia Beach, Virginia. (Location accessible to handicapped.)

A regular meeting of the Virginia State Board of Nursing to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, P. O. Box 27708, 517 W. Grace St., Richmond, Va. 23261, telephone (804) 786-0377

## VIRGINIA OUTDOORS FOUNDATION

**September 19, 1985 - 10:30 a.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. (Location accessible to handicapped.)

A general business meeting and administration of gifts to the Foundation.

**Contact:** Tyson B. Van Auken, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-5539

## PERINATAL SERVICES ADVISORY BOARD

† **October 31, 1985 - 12:30 p.m.** – Open Meeting  
James Madison Building, 109 Governor Street, Room 1000,  
Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting of the Perinatal Services Advisory Board. (Agenda will be provided upon request two weeks prior to the meeting.)

**Contact:** Dr. Alice Linyear, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, Va. 23219, telephone (804) 786-7367

## POLYGRAPH EXAMINERS ADVISORY BOARD

† **September 17, 1985 - 10 a.m.** – Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet for the purpose of reviewing and formulating questions for the Virginia Polygraph Examiners examination.

**Contact:** Iva B. Frizzell, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8515/8563

## VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

**November 4, 1985 - 10 a.m.** – Public Hearing  
Department of Health Regulatory Boards, 517 West Grace Street, Board 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 Professional Counselors intends to adopt regulations entitled: **Public Participation Guidelines**. This regulation will establish guidelines for soliciting participation of interested parties in the revision and adoption of regulations.

### STATEMENT

**Subject and Substance:** Proposed adoption by the Virginia Board of Professional Counselors of Public Participation Guidelines to be used to solicit participation by interested parties in the formulation, development and adoption of regulations that the board may promulgate as required or authorized by state law.

**Issues:** 1. Estimated impact with respect to number of persons affected:

The guidelines will provide a means for all persons affected by regulations of the agency to participate in their development, formulation and adoption.

2. Projected cost for implementation and compliance:

Since the Board of Professional Counselors is part of

an agency that generates operating funds from licensees, any additional costs would be borne by them. At present a one-day board meeting costs approximately \$1,000. If additional meetings would be required to fulfill the requirements of a biennial review of regulations' effectiveness and continued need, this cost would also be borne indirectly by the licensees.

The cost of a public hearing and transcript, which should not exceed \$500.

There is no enforcement cost.

**Basis:** § 54-929 of the Code of Virginia.

**Purpose:** To solicit participation of interested parties in the development of regulations prior to and during the entire drafting, formulation, promulgation, and final adoption process.

**Statutory Authority:** § 54-929 of the Code of Virginia.

Written comments may be submitted until November 4, 1985.

**Contact:** John W. Braymer, Ph.D., Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804)

## VIRGINIA BOARD OF PSYCHOLOGY

**November 4, 1985 - 10 a.m.** – Public Hearing  
Department of Health Regulatory Boards, 517 West Grace Street, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Psychology intends to adopt regulations entitled: **Public Participation Guidelines**. This regulation will establish guidelines for soliciting participation of interested parties in the revision and adoption of regulations.

### STATEMENT

**Subject and Substance:** Proposed adoption by the Virginia Board of Psychology of Public Participation Guidelines to be used to solicit participation by interested parties in the formulation, development and adoption of regulations that the board may promulgate as required or authorized by state law.

**Issues:** 1. Estimated impact with respect to number of persons affected:

The guidelines will provide a means for all persons affected by regulations of the agency to participate in their development, formulation and adoption.

2. Projected cost for implementation and compliance:



# Calendar of Events

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Since the Board of Psychology is part of an agency that generates operating funds from licensees, any additional costs would be borne by them. At present a one-day board meeting costs approximately \$1,000. If additional meetings would be required to fulfill the requirements of a biennial review of regulations' effectiveness and continued need, this cost would also be borne indirectly by the licensees.

The cost of a public hearing and transcript, which should not exceed \$500.

There is no enforcement cost.

Basis: § 54-929 of the Code of Virginia.

Purpose: To solicit participation of interested parties in the development of regulations prior to and during the entire drafting, formulation, promulgation, and final adoption process.

Statutory Authority: § 54-929 of the Code of Virginia.

Written comments may be submitted until November 4, 1985.

Contact: John W. Braymer, Ph.D., Executive Director, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-7702

## VIRGINIA REAL ESTATE BOARD

September 18, 1985 - 10 a.m. - Open Meeting  
City Hall, Albemarle Drive and Holt Street, Civic Center Complex, Council Chambers, Chesapeake, Virginia

A meeting to conduct a formal fact-finding hearing regarding Virginia Real Estate Board v. R. Wayne Whitsett; Chesapeake, Virginia.

† September 26, 1985 - 10 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal fact-finding hearing regarding Virginia Real Estate Board v. David L. Gibson, Jr., Salesman; Richmond, Virginia.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## STATE REFUGEE ADVISORY COUNCIL

† October 9, 1985 - 9 a.m. - 3:30 p.m. - Open Meeting  
Saint Mary's Catholic Church, Fredericksburg, Virginia

A regular quarterly meeting of the State Refugee

Advisory Council. The general order of business will be seating of new council members, set council priorities, and presentation by the new State Refugee Coordinator.

Contact: Donna T. Douglas, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9029

## VIRGINIA RESOURCES AUTHORITY

September 24, 1985 - 10 a.m. - Open Meeting  
The Mutual Building, 909 East Main Street, Authority Board Room, Suite 305, Richmond, Virginia

The board will meet to (i) approve minutes of the July 24, board meeting, (ii) review the authority's operations for the prior month, and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, P. O. Box 1300, Richmond, Va. 23210, telephone (804) 644-3100

## STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† October 9, 1985 - 10 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits. The review board will also hold a general meeting of members.

Contact: P. M. Brooks, 502 Madison Bldg., Richmond, Va. 23219, telephone (804) 786-1931

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† September 17, 1985 - 9 a.m. - Public Hearing  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

† October 18, 1985 - 9 a.m. - Public Hearing  
Martha Washington Inn, 150 West Main Street, Ballroom, Abingdon, Virginia

† November 19, 1985 - 9 a.m. - Public Hearing  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of

general circulation. Prior to the public hearing, which starts at 10 a.m., the Authority will conduct its regular business meeting.

Contact: Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-3791

STATE BOARD OF SOCIAL SERVICES

September 18, 1985 - - Open Meeting
September 19, 1985 - - Open Meeting
Radisson Hotel, 235 West Main Street, Charlottesville, Virginia. (Location accessible to handicapped.)

A work session and formal business meeting.
Contact: Phyllis J. Sisk, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9236

DEPARTMENT OF SOCIAL SERVICES

Departments of Social Services, Education and Corrections

October 29, 1985 - 10 a.m. - Public Hearing
State Capitol, Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Departments of Social Services, Education and Corrections intends to adopt regulations entitled: Rules of the Interdepartmental Committee on Rate-Setting: The Joint Regulations on Rate-Setting for Children's Facilities of the Board of Education, the Board of Social Services and the Board of Corrections. These rules of the interdepartmental committee describe the method for implementing a consistent rate-setting and appeals process through the three state departments.

STATEMENT

Basis: These regulations are issued under authority granted by § 2.1-703 of the Code of Virginia which requires the development and adoption of these rules.

Subject: These regulations establish a uniform process to approve rates for all day or special education schools for the handicapped, residential providers of child care or regional public special education programs for the handicapped that accept publicly funded children. The rates established through this process will be paid by all school boards, court service units, and social service departments.

Substance: The current process is similar to the process

proposed in these regulations. The process sets unit costs for each service provider depending on the proposed cost of each service provider. The process lists allowable costs and unallowable costs and prescribes minimum utilization rates to be used in determining unit costs.

Issues: These regulations formalize a uniform rate-setting process among the three departments. The process establishes uniform rates to be paid for any publicly funded child. In the absence of these regulations each department could have a different rate-setting process and determine different rates for the same service provider. This would cause duplication of effort for the service providers and the possibility that different rates would be set for the same service provider.

Purpose: The purpose of these regulations is to approve uniform rates for any service provider in the state that accepts publicly funded children.

Statutory Authority: § 2.1-703 of the Code of Virginia.

Written comments may be submitted until October 19, 1985, to Patricia Tuck, Department of Education, 101 North 14th Street, James Monroe Building, 23rd Floor, Richmond, Virginia 23219.

Contact: James D. Donohue, State Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9037 (toll-free number 1-800-552-7091)

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Division of Licensing Programs

† December 10, 1985 - 11 a.m. - Public Hearing
Henrico Government Center, Parham and Hungry Springs Roads, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Social Services, Division of Licensing Programs intends to adopt and repeal regulations entitled: Standards and Regulations for Licensed Adult Day Care Centers. The areas addressed by the requirements of this regulation include: administration, personnel, supervision, physical environment, programs and services, and emergencies.

STATEMENT

Basis: The statutory basis for these regulations is § 63.1-174 of the Code of Virginia. The Department of Social Services has approved draft standards and regulations for licensed adult day care centers for a 60-day public comment period.

Purpose: The purpose of standards and regulations for adult day care centers is to ensure a minimum level of health, safety, and well-being for the participants receiving

# Calendar of Events

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care. The proposed revisions are designed to provide protective oversight of participants in group care in a flexible enough manner to accommodate changes during the lifetime of these standards. Emphasis has been placed on clarity and ease of comprehension.

**Issues:** The document is comprised of the following issues which impact adult care centers subject to licensure by the Department of Social Services: administration, personnel, supervision, physical environment, management of emergencies and programs and services which include: admission policies, health care, management of behavior, nutrition, food service and activities.

**Impact:** Under the current definition in the Code of Virginia, an adult day care center is a facility, which is either operated for profit or which desires licensure, for four or more aged, infirm or disabled adults which is operated during a part of a day only, which provides supplementary care and protection of individuals who reside elsewhere. Section 63.1-172C of the Code of Virginia exempts a facility or portion of a facility licensed by the State Board of Mental Health and Mental Retardation, and the home or residence of an individual who cares for only persons related to him by blood or marriage from adult day care center licensure.

As of July 1985, 30 centers were licensed for a total capacity of 1,171 participants. Of these, 15 were private, not-for-profit; 11 were public not-for-profit; and 4 were operated for profit.

**Statutory Authority:** § 63.1-174 of the Code of Virginia.

Written comments may be submitted until December 10, 1985.

**Contact:** E. Louise Sparrer, Supervisor, Standards/Policy, Adult Programs, Division of Licensing Programs, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9025 (toll-free number 1-800-552-7091)

## VIRGINIA BOARD OF SOCIAL WORK

**November 4, 1985 - 10 a.m. - Public Hearing**  
Department of Health Regulatory Boards, 517 West Grace Street, Board 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 Social Work intends to adopt regulations entitled: **Public Participation Guidelines**. This regulation will establish guidelines for soliciting participation of interested parties in the revision and adoption of regulations.

### STATEMENT

**Subject and Substance:** Proposed adoption by the Virginia

Board of Social Work of Public Participation Guidelines to be used to solicit participation by interested parties in the formulation, development and adoption of regulations that the board may promulgate as required or authorized by state law.

**Issues:** 1. Estimated impact with respect to number of persons affected:

The guidelines will provide a means for all persons affected by regulations of the agency to participate in their development, formulation and adoption.

2. Projected cost for implementation and compliance:

Since the Board of Social Work is part of an agency that generates operating funds from licensees, any additional costs would be borne by them. At present a one-day board meeting costs approximately \$1,000. If additional meetings would be required to fulfill the requirements of a biennial review of regulations' effectiveness and continued need, this cost would also be borne indirectly by the licensees.

The cost of a public hearing and transcript, which should not exceed \$500.

There is no enforcement cost.

**Basis:** § 54-929 of the Code of Virginia.

**Purpose:** To solicit participation of interested parties in the development of regulations prior to and during the entire drafting, formulation, promulgation, and final adoption process.

**Statutory Authority:** § 54-929 of the Code of Virginia.

Written comments may be submitted until November 4, 1985.

**Contact:** John W. Braymer, Ph.D., Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-7702

## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**September 19, 1985 - 9 a.m. - Open Meeting**  
Division of Soil and Water Conservation Board, 203 Governor Street, Room 200, Richmond, Virginia. (Location accessible to handicapped.)

A regular bimonthly business meeting of the board.  
**Contact:** Donald L. Wells, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064

## STATE BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

**September 25, 1985 - 10 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West

Broad Street, Conference Room 1, Richmond, Virginia.  
(Location accessible to handicapped.)

The board will meet to elect officers, and will consider (i) Board of Commerce Resolution; (ii) Ron Layne's motion; (iii) move to Health Regulatory Boards; (iv) board meetings for 1986; (v) signing of certificates; and (vi) complaints.

Contact: Gerald W. Morgan, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8554

**VIRGINIA SUBSTANCE ABUSE CERTIFICATION BOARD**

**November 4, 1985 - 10 a.m. - Public Hearing**  
Department of Health Regulatory Boards, 517 West Grace, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Substance Abuse Certification Board intends to adopt regulations entitled: **Public Participation Guidelines**. This regulation will establish guidelines for soliciting participation of interested parties in the revision and adoption of regulations.

**STATEMENT**

**Subject and Substance:** Proposed adoption by the Virginia Substance Abuse Certification Committee of Public Participation Guidelines to be used to solicit participation by interested parties in the formulation, development and adoption of regulations that the board may promulgate as required or authorized by state law.

**Issues:** 1. Estimated impact with respect to number of persons affected:

The guidelines will provide a means for all persons affected by regulations of the agency to participate in their development, formulation and adoption.

2. Projected cost for implementation and compliance:

Since the Board of Psychology is part of an agency that generated operating funds from licensees, any additional costs would be borne by them. At present a one-day board meeting costs approximately \$1,000. If additional meetings would be required of regulations' effectiveness and continued need, this cost would also be borne indirectly by the licensees.

The cost of a public hearing and transcript, which should not exceed \$500.

There is no enforcement cost.

**Basis:** § 54-929 of the Code of Virginia.

**Purpose:** To solicit participation of interested parties in the development of regulations prior to and during the entire drafting, formulation, promulgation, and final adoption process.

**Statutory Authority:** § 54-929 of the Code of Virginia.

Written comments may be submitted until November 4, 1985.

Contact: John W. Braymer, Ph.D., Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-7702

**DEPARTMENT OF TAXATION**

**November 5, 1985 - 10 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, Senate Room C, Richmond, Virginia. (Location accessible to handicapped.)

A public informational proceeding to solicit comments on proposed regulation VR 630-3-446.1 Corporation Income Tax: Foreign Sales Corporations.

Contact: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

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**November 12, 1985 - 10 a.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room , Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-446.1. Corporation Income Tax: Foreign Sales Corporations**. This regulation sets forth the treatment of corporations which own and/or transact business with an FSC, Small FSC or interest charge DISC.

**STATEMENT**

**Basis:** This regulation is issued under authority granted by § 58.1-203 of the Code of Virginia.

**Purpose:** This regulation sets forth the policies and procedures relating to the Virginia tax treatment of corporations which own and/or transact business with affiliated corporations qualifying under the Internal Revenue Code as Foreign Sales Corporations, Small Foreign Sales Corporations and Domestic International Sales Corporation for taxable years beginning on and after January 1, 1985.

**Issues:** The Federal Tax Reform Act of 1984 created three new types of corporations which could be used to defer or

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exempt from federal income tax a portion of foreign trade income of a taxpayer. For state tax purposes, use of one of these three new types of corporations also changes the character of income to the form of dividends. In many, if not most, cases these corporations will be "paper" corporations exempt from the arms length standards of the Internal Revenue Code § 482. The issue raised by this new federal device is whether or not Virginia will recognize the artificial shifting and recharacterization of income under federal law.

**Substance:** This regulation specifies that no adjustments or consolidation will be required under Virginia Code § 58.1-446 for Foreign Sales Corporations and Small Foreign Sales Corporations.

An adjustment will be required in the case of taxpayers owning or transacting business with affiliated interest charge Domestic International Sales Corporations. The adjustment will normally be based upon consolidation of the DISC with the parent/taxpayer. This parallels the established policy with respect to DISC's under prior law.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until November 5, 1985.

**Contact:** Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

### BOARD OF THE VIRGINIA DEPARTMENT FOR THE VISUALLY HANDICAPPED

**October 9, 1985 - 11 a.m. - Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board will review and approve the department's budget, executive agreement, and operating plan.

**Contact:** Wanda D. Tompson, Confidential Secretary, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 264-3145

### SOLID WASTE COMMISSION

† **September 17, 1985 - 2 p.m. - Open Meeting**  
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. (Location accessible to handicapped.)

A general business meeting including discussion of SJR 105 and low-level radioactive waste.

**Contact:** Cheryl Cashman, P. O. Box 3-AG, Richmond, Va.

23208, telephone (804) 786-4169

### STATE WATER CONTROL BOARD

**September 19, 1985 - 9 a.m. - Open Meeting**

**September 20, 1985 - 9 a.m. - Open Meeting**  
Ramada Inn, Duffield, Virginia

Regular board meetings.

**Contact:** Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 257-6829

## LEGISLATIVE

### AMUSEMENT RIDE SAFETY JOINT SUBCOMMITTEE

**October 9, 1985 - 10 a.m. - Public Hearing**  
Municipal Building, 215 Church Street, City Council Chambers, Room 450, Roanoke, Virginia

The joint subcommittee will hold a public hearing on amusement park safety inspections and how such an inspection program might best be implemented in the Commonwealth (HJR 331).

**November 12, 1985 - 10 a.m. - Public Hearing**  
George Mason University, 4400 University Drive, Student Union 2, Rooms 3 and 4, Fairfax, Virginia

The joint subcommittee will hold a public hearing on amusement park safety inspections and how such an inspection program might best be implemented in the Commonwealth. A work session on proposed legislation will follow the public hearing.

**Contact:** Barbara H. Hanback, House of Delegates, General Assembly Bldg., Richmond, Va. 23219, telephone (804) 786-7681 or Jessica Bolecek, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Richmond, Va. 23219, telephone (804) 786-3591

### HOUSE APPROPRIATIONS COMMITTEE

**September 16, 1985 - 9:30 a.m. - Open Meeting**  
General Assembly Building, Capitol Square, 9th Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting.

**Contact:** Donna C. Johnson, House Appropriations

Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

## VIRGINIA COAL AND ENERGY COMMISSION

† September 26, 1985 - 9:30 a.m. - Open Meeting  
Martha Washington Inn, Abingdon, Virginia

A meeting to update the Coal and Energy Commission members on new technologies for the use of coal and to tour United Coal Company's new coal research facilities.

Contact: Michael D. Ward, Staff Attorney or Martin G. Farber, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## VIRGINIA CODE COMMISSION

† October 10, 1985 - 10 a.m. - Open Meeting  
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

The commission will complete its revision of Title 38.1 (Insurance laws) and begin work on the revision of Title 60.1 (Unemployment compensation).

Contact: Joan W. Smith, Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## COMMISSION ON DEINSTITUTIONALIZATION

September 18, 1985 - 9:30 a.m. - Open Meeting  
General Assembly Building, Capitol Square, House Appropriations Committee Room, 9th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The commission will continue discussion of proposals presented to it and development of its own recommendations. (SJR 42)

Contact: Susan C. Ward, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## HUMAN RIGHTS STUDY COMMISSION

September 17, 1985 - 10 a.m. - Public Hearing  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. (Location accessible to handicapped.)

September 17, 1985 - 7:30 p.m. - Public Hearing  
(Location to be announced), Norfolk, Virginia

September 18, 1985 - 7:30 p.m. - Public Hearing  
(Location to be announced), Fairfax, Virginia

A public hearing to receive comments on all matters relating to the question of whether the Commonwealth should adopt a comprehensive human rights act and establish a Human Rights Commission to administer and enforce such an act. (HJR 339/SJR 140)

Contact: Ann Howard, House Clerk's Office, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681 or Dr. Jack Austin, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## INDIGENT HEALTH CARE JOINT SUBCOMMITTEE

September 16, 1985 - 1 p.m. - Open Meeting  
General Assembly Building, Capitol Square, 9th Floor Committee Room, Richmond, Virginia. (Location accessible to handicapped.)

Study alternatives for a state indigent health care policy. (HJR 210)

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

## DEFENSE OF THE INDIGENT IN THE COMMONWEALTH JOINT SUBCOMMITTEE

September 17, 1985 - 10 a.m. - Open Meeting  
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. (Location accessible to handicapped.)

The subcommittee will meet to study the issue of defense of the indigent with particular emphasis upon the cost and quality of defense. First meeting of the interim to consider HJR 324.

Contact: Anne R. Howard, House of Delegates, Committee Coordinator, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681 or Mary P. Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

## MONITORING LONG-TERM CARE JOINT SUBCOMMITTEE

September 17, 1985 - 10 a.m. - Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

The joint subcommittee will hear reports from task forces and agencies studying (i) housing needs of the

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disabled, (ii) post-educational transition services for the handicapped, (iii) reserve requirements for continuing care retirement communities, (iv) new methods of Medicaid reimbursement to nursing homes, and (v) assessment of public and private costs of maintaining the elderly in their communities.

**Contact:** Susan Ward, Staff Attorney, Division of Legislative Services, 2nd Floor, General Assembly Bldg., Richmond, Va., telephone (804) 786-3591

### MACHINE DEPENDENT INDIVIDUALS JOINT SUBCOMMITTEE

† **October 22, 1985 - 10 a.m.** — Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

The joint subcommittee will meet to consider SJR 99.

**Contact:** Thomas C. Gilman, Senate Committee Clerk, P. O. Box 396, Richmond, Va. 23219, telephone (804) 786-5742

### MARITAL RAPE JOINT SUBCOMMITTEE

**September 19, 1985 - 10 a.m.** — Public Hearing  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

This public hearing shall be held specifically for the purpose of receiving testimony relating to marital rape. There will be a work session in the afternoon following this hearing.

**Contact:** Barbara H. Hanback, House of Delegates, Richmond, Va. 23219, telephone (804) 786-7681 or Oscar Brinson, Staff Attorney, Division of Legislative Services, Richmond, Va. 23219, telephone (804) 786-3591

### ADVISABILITY OF ESTABLISHING TAX AMNESTY

**September 20, 1985 - 2 p.m.** — Open Meeting  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

The joint subcommittee will meet to receive data on states which have collected large and small amounts of tax amnesty revenue and how Virginia would fare under such a program. (HJR 269)

**Contact:** Anne R. Howard, House of Delegates, Committee Coordinator, P. O. Box 406, Richmond, Va. 23203, telephone (804) 786-7681 or John A. Garka, Economist, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### TAXATION OF PUBLIC SERVICE CORPORATIONS JOINT SUBCOMMITTEE

† **October 9, 1985 - 10 a.m.** — Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. (Location accessible to handicapped.)

The subcommittee will meet to consider SJR 135.

**Contact:** John Garka, Economist, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### UNEMPLOYMENT TRUST FUND JOINT SUBCOMMITTEE

**October 17, 1985 - 2 p.m.** — Open Meeting  
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to hear report from the Virginia Employment Commission.

**Contact:** Bill Cramme', Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

### CRIME VICTIMS' COMPENSATION ACT JOINT SUBCOMMITTEE

† **September 17, 1985 - 11 a.m.** — Public Hearing  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

A Joint Subcommittee Studying Crime Victims' compensation has been formed to examine and propose changes to Virginia's laws governing compensation for victims of violent crime and their dependents. Specifically, the joint subcommittee will be considering changes to Chapter 21.1 of Title 19.2 of the Code of Virginia which will provide statutory flexibility for late discovery of crimes against minors. It has been found that many children and their families are barred from recovery under the Crime Victims' Compensation Act due to the child's failure to report sexual assault/molestation to a parent or authority in a timely manner. Other issues to be explored by the joint subcommittee are: improvements in public information procedures; award eligibility; and state participation in the federal Victims of Crime Act of 1984.

**Contact:** Bess Hodges, Senate Finance Office or Thomas Gilman, Senate Committee Clerk, P. O. Box 396, Richmond, Va. 23219, telephone (804) 786-4400/5742

## STATE WATER COMMISSION

† September 24, 1985 - 7:30 p.m. - Public Hearing  
Southside Planning District Commission, 123 South  
Mecklenburg Avenue, Conference Room, South Hill,  
Virginia

A public hearing on draft legislation dealing with the  
withdrawal of groundwater and surface water.

Contact: Michael D. Ward, Staff Attorney or Martin G.  
Farber, Research Associate, Division of Legislative  
Services, P. O. Box 3-AG, Richmond, Va. 23208,  
telephone (804) 786-3591

## CHRONOLOGICAL LIST OPEN MEETINGS

### September 16

Appropriations Committee, House  
Governor's Job Training Coordinating Council  
Health Coordinating Council, Virginia Statewide  
Housing and Community Development, Board of  
Indigent Health Care  
Joint Subcommittee  
Nursing, Virginia State Board of

### September 17

Conservation and Historic Resources, Department of  
Division of Historic Landmarks  
Health Coordinating Council, Virginia Statewide  
Housing Development Authority  
Board of Commissioners  
Indigent in the Commonwealth  
Joint Subcommittee  
Monitoring Long-Term Care  
Joint Subcommittee  
Museum of Fine Arts, Virginia  
Board of Trustees  
Nursing, Virginia State Board of  
Polygraph Examiners Advisory Board  
Waste Commission, Solid

### September 18

Deinstitutionalization, Committee on  
Dentistry, State Board of  
Milk Commission, State  
Motor Vehicles, Department of  
Museum of Fine Arts, Virginia  
Accessions Committee  
Nursing, Virginia State Board of  
Real Estate Board, Virginia  
Social Services, State Board of

### September 19

Community Colleges, State Board for  
Dentistry, Board of  
Highways and Transportation Board,  
Virginia Department of

Outdoors Foundation, Virginia  
Social Services, State Board of  
Soil and Water Conservation Board, Virginia  
Water Control Board, State

### September 20

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, Board of  
Virginia State Board of Architects  
Building Code Technical Review Board, State  
Funeral Directors and Embalmers, Virginia Board of  
Tax Amnesty, Advisability of  
Joint Subcommittee  
Water Control Board, State

### September 21

Funeral Directors and Embalmers, Virginia Board of

### September 24

Alcoholic Bevergae Control Board  
Commerce, Virginia Board of  
Local Government, Commission on  
Mental Health and Mental Retardation Board, State  
Resources Authority, Virginia

### September 25

Children's Residential Facility, Coordinating  
Committee for Interdepartmental Licensure and  
Certification of  
Health Services Cost Review Council, Virginia  
Speech Pathology, State Board of Examiners for  
Audiology and

### September 26

Chesapeake Bay Commission  
Coal and Energy Commission, Virginia  
Real Estate Commission, Virginia

### September 27

Chesapeake Bay Commission

### September 30

Cosmetology, Virginia Board of  
Local Government, Commission on

### October 2

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, Board of  
Professional Engineers, Virginia State Board of

### October 4

Child Abuse and Neglect, Governor's  
Advisory Committee  
General Services, Department of  
Art and Architectural Review Board

### October 7

Air Pollution Control Board, State

### October 8

Air Pollution, State Advisory Board on



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**October 9**

Refugee Advisory Council, State  
Sewage Handling and Disposal Appeals Review  
Board, State  
Taxation of Public Service Corporations  
Joint Subcommittee  
Visually Handicapped, Board of Virginia  
Department for the

**October 10**

Code Commission, Virginia

**October 11**

General Services, Department of  
State Insurance Advisory Board

**October 14**

Local Government, Commission on

**October 15**

Local Government, Commission on

**October 16**

Corrections, Board of

**October 17**

Unemployment Trust Fund  
Joint Subcommittee

**October 22**

Machine Dependent Individuals  
Joint Subcommittee  
Marine Resources Commission

**October 28**

Local Government, Commission on

**October 29**

Local Government, Commission on

**October 30**

Local Government, Commission on

**October 31**

Local Government, Commission on  
Perinatal Services Advisory Board

**November 1**

General Services, Department of  
Art and Architectural Review Board

**November 5**

Taxation, Department of

**November 13**

Geology, Virginia State Board of  
Health, State Board of

**November 14**

Health, State Board of

**November 15**

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, State Board of

## PUBLIC HEARINGS

**September 16**

Health, Department of  
Housing and Community Development, Board of

**September 17**

Human Rights Study Commission  
Small Business Financing Authority, Virginia  
Victims' Compensation Act  
Joint Subcommittee

**September 18**

Human Rights Study Commission  
Milk Commission, State

**September 19**

Marital Rape  
Joint Subcommittee

**September 24**

Aging, Virginia Department for the  
Hazardous Waste Facility Siting Council  
Medical Assistance Services, Department of  
Water Commission, State

**September 26**

Conservation and Historic Resources, Department of  
Division of Parks and Recreation

**September 30**

Local Government, Commission on

**October 1**

Hazardous Waste Facility Siting Council

**October 2**

Criminal Justice Services Board  
Hazardous Waste Facility Siting Council

**October 9**

Amusement Ride Safety  
Joint Subcommittee  
Hazardous Waste Facility Siting Council

**October 10**

Hazardous Waste Facility Siting Council

**October 15**

Local Government, Commission on

**October 18**

Small Business Financing Authority, Virginia

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**October 21**

Hazardous Waste Facility Siting Council

**October 22**

Alcoholic Beverage Control, Department of

**October 29**

Local Government, Commission on  
Social Services, State Board of

**November 4**

Professional Counselors, Virginia Board of  
Psychology, Virginia Board of  
Social Work, Virginia Board of  
Substance Abuse Certification Board, Virginia

**November 12**

Amusement Ride Safety  
Joint Subcommittee  
Taxation, Department of

**November 15**

Health, Board of

**November 19**

Small Business Financing Authority, Virginia

**December 10**

Social Services, Virginia Department of  
Division of Licensing Programs

**December 11**

Agriculture and Consumer Services, Virginia  
Department of

