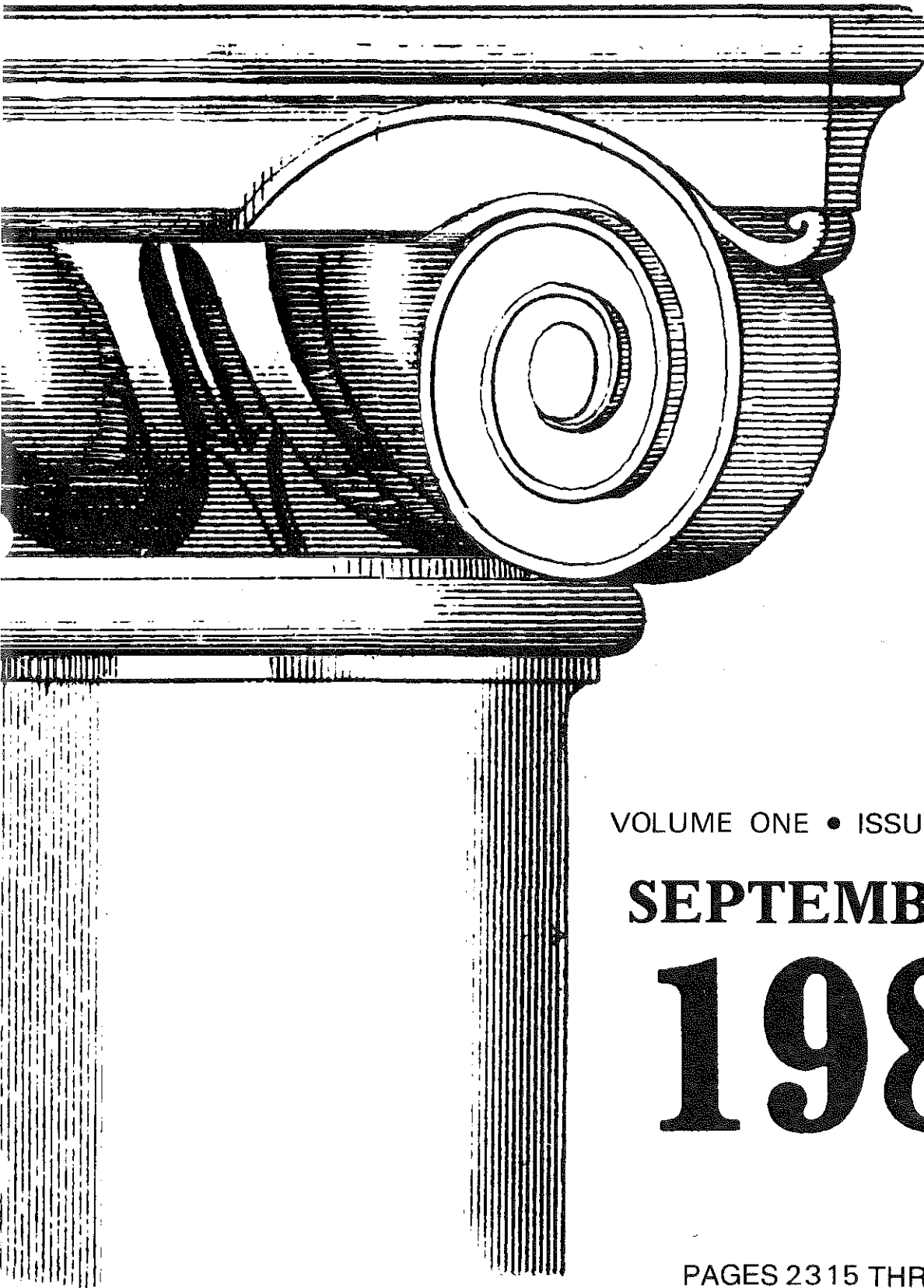


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THE VIRGINIA REGISTER

OF REGULATIONS

VA
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VOLUME ONE • ISSUE TWENTY-SIX

SEPTEMBER 30

1985

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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

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

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PUBLICATION DEADLINES AND SCHEDULES

PUBLICATION DATE	MATERIAL SUBMITTED BY 12 noon Wednesday
July 8	June 21
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July 22	July 3
Aug. 5	July 17
Aug. 19	July 31
Sept. 2	Aug. 14
Sept. 16	Aug. 28
Sept. 30	Sept. 11
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Nov. 11	Oct. 23
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Dec. 9	Nov. 20
Dec. 23	Dec. 4
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Jan. 20	Dec. 31 (Tuesday)
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Symbol Key

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

DEPARTMENT OF GENERAL SERVICES Division of Consolidated Laboratory Services

Title of Regulations: VR 330-02-01. Regulations for Breath Alcohol Testing.

Statutory Authority: §§ 18.2-267 and 18.2-268 of the Code of Virginia.

Public Hearing Date: December 5, 1985 - 2 p.m.
(See Calendar of Events Section
for additional information)

Summary:

The Department of General Services, Division of Consolidated Laboratory Services ("DCLS"), is amending its regulations for Breath Alcohol Testing, previously adopted on May 30, 1980, effective July 1, 1980, pursuant to §§ 18.2-267 and 18.2-268 of the Code of Virginia. These amendments to the regulations (i) establish criteria for approval of preliminary and evidential breath test devices, (ii) prescribe methods for the determination of the alcohol content in the blood by chemical analysis of the breath of a person arrested or suspected of driving a motor vehicle in violation of § 18.2-266 of the Code of Virginia, or a parallel local ordinance, (iii) establish procedures for licensing of persons to perform such analyses for evidential use and (iv) prescribe certain reporting requirements relative to evidential breath test devices.

VR 330-02-01. Regulations for Breath Alcohol Testing.

DIVISION OF CONSOLIDATED LABORATORY SERVICES REGULATIONS FOR BREATH ALCOHOL TESTING.

PART I.

Article 1. Definitions.

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

"Agency" means any town, city, county, or state law enforcement agency under whose auspices breath tests are performed.

A. Division - the term "Division" shall mean the Division of Consolidated Laboratory Services.

B. Blood Alcohol Level - The term "blood alcohol level" shall mean "*Blood alcohol level*" means percent by weight of alcohol in a person's blood based upon milligrams of alcohol per 100 milliliters of blood.

C. Breath Test Device - The term "breath test device" as used in Part I shall mean "*Breath test device*" means, as used in Part II, an instrument designed to perform a quantitative chemical test for alcohol on a sample of breath of a person lawfully arrested for any an offense of operating a motor vehicle while under the influence of alcoholic intoxicants as provided in subjecting such person to the provisions of § 18.2-268 of the Code of Virginia or a parallel local ordinance .

"Division" means the Division of Consolidated Laboratory Services.

"Licensee" means a person holding a valid license from the division to perform a breath test of the type set forth within these regulations under the provisions of § 18.2-268 of the Code of Virginia, or a parallel local ordinance.

D. Preliminary Breath Test Device - The term "preliminary breath test device" as used in Part 2 shall mean "*Preliminary breath test device*" means, as used in Part III, an instrument designed to perform a quantitative chemical test for alcohol on a sample of breath of a person suspected of and an offense of operating a motor vehicle while under the influence of alcoholic intoxicants pursuant to Section subjecting such person to the provisions of § 18.2-267 of the Code of Virginia.

E. Licensee - The term "licensee" shall mean a person holding a valid license from the Division to perform a breath test of the type set forth within these regulations under provisions pursuant to Section 18.2-268 of the Code of Virginia.

F. Agency - The term "agency" shall mean any town, city, county, or state law enforcement agency under whose auspices breath tests are performed.

G. Forms and Records - The term "forms and records" shall mean the prescribed manner of documentation of all information necessary for the implementation of Sections 18.2-267 and 18.2-268 of the Code of Virginia.

"Supplies and accessories" means any item, device, chemical, reagent, tube, mouthpiece, replacement part, ampoule, or glassware, whether or not reusable, which is used in conjunction with a breath test device or a preliminary breath test device to determine the blood

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alcohol level of any person subject to the provisions of §§ 18.2-267 or 18.2-268 of the Code of Virginia, or a parallel local ordinance.

§ 1.2. These regulations and the steps set forth herein relating to the taking, handling, identification and disposition of breath samples, the testing of such samples, and the completion and filing of any form or record prescribed by these regulations are procedural in nature and not substantive. Substantial compliance therewith shall be deemed sufficient.

PART I II.

BREATH TESTS UNDER § 18.2-268 OF THE CODE OF VIRGINIA.

Section 1 - General

Article 1. General.

A. § 2.1. Breath test devices shall be tested for accuracy by the division at least once every six months. All new breath test devices or those having been repaired by the manufacturer or the manufacturer's authorized repair service shall be tested for accuracy before their return to service.

B. § 2.2. The breath test device must be stored in a clean, dry location which is only accessible to an authorized licensee for the purpose of actually administering a breath test, preventative maintenance check, or other official uses.

C. § 2.3. Proper care shall be taken at all times to ensure that the breath test device shall be kept free from excessive moisture, excessive heat and dust, as well as any unintentional jars, knocks or falls which may damage the internal mechanism.

D. § 2.4. No modifications shall be made on any breath test device without the written consent of the division.

Article 2. Approval of Breath Test Devices.

§ 2.5. All evidential breath tests shall be performed on a breath test device approved by the division. Those breath test devices listed in the "Conforming Products List of Evidential Breath Measurement Devices" as established by the National Highway Traffic Safety Administration ("NHTSA"), United States Department of Transportation, or in such other list as may be established by NHTSA evidencing that such device meets criteria, standards or specifications promulgated by it, as published from time to time in the Federal Register, may be approved by the division as a breath test device. In approving such devices, the division will consider factors including, but not limited to, costs, maintenance, necessity of instruction and/or training by the division, ease of operation, availability of parts and service facilities, reliability, maintenance

instruction and the historical performance record of the device.

§ 2.6. The division shall periodically publish in the Virginia Register of Regulations a list of devices approved for use as breath test devices. Such list shall be published forthwith after any addition or deletion of any device(s) to or from the division's approved list. The division may, in addition, provide copies of its approved list to any agency subject to these regulations.

Section 2 - Methods of Conducting Breath Tests

Article 3. Methods of Conducting Breath Tests.

§ 2.7. The division shall approve such methods of performing breath tests as are demonstrated to the satisfaction of the division to produce accurate and reliable determinations in a reasonable, convenient and effective manner. The Division shall approve methods of performing breath tests on a specific device and model when it is shown to its satisfaction that such device meets high standards of accuracy, reliability and convenience and efficiency of operation. The division hereby approves the following breath test methods and procedures:

A. All breath test devices must be operated substantially in accordance with the manufacturer's specifications those sections of the instructional manual published by the division that are applicable to the particular breath test device. Licensees shall follow any additional instructions or modifications of instructions published by the division in supplements to the foregoing instructional manual.

B. Breath tests shall be conducted on a breath test device which has been tested for accuracy by the Division within the past six (6) months.

C. All breath tests shall be performed by an individual possessing a valid license to conduct such tests as provided by Section 2. In no case may the officer making the arrest or anyone with him at the time of arrest or anyone participating in the arrest of the accused perform the breath test or analyze the results thereof.

D. B. Observe the The person to be tested must be observed for at least twenty 20 minutes prior to collection of the breath specimen, during which period the person must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten, or smoked. Should this occur, an additional twenty 20 minute waiting period must be observed.

E. C. Verify The licensee must verify that the instrument breath test device is properly calibrated and in proper working order by conducting a room air blank analysis prior to analysis of the breath of the person ; and then by conducting a validation test with a control sample analysis immediately following the analysis of the breath of the person.

F. Follow the operational procedures except as provided for herein, set out in the current instruction manual of the manufacturer of the instrument in use.

G. Follow the preventative maintenance procedures as set forth by the Division at least once each month, with a signed copy of the Division's preventative maintenance check list to be kept on file for at least three (3) years.

H. Follow any additional instructions or modifications of instructions as may be set out in supplementary written instructions governing the operation or maintenance as may be issued by the Division.

D. The licensee must use only supplies and accessories issued by or approved by the division in conducting breath tests on approved breath test devices.

All breath tests shall be performed on breath test devices approved by the Division. The Division shall maintain a current list of approved devices and shall advise the respective police and sheriff's departments of all approved devices.

Section 3 - Licensing Procedures

Article 4. Licensing Procedures.

A. § 2.8. The division shall issue, renew, terminate and revoke licenses for individuals to perform breath alcohol tests on the basis of standards herein set forth.

1- A. Application for an initial license to perform breath tests shall be made in writing to the division. The applicant shall have the endorsement of the appropriate supervisory law-enforcement officer or designated representative unless an exception is granted by the division.

2- B. The initial licenses shall be granted to individuals who demonstrate the ability to perform breath tests accurately and reliably in accordance with the method or methods approved by the division ; and who satisfactorily explain the theoretical basis for such chemical analysis ; and offer satisfactory proof of good character .

3- C. Only individuals successfully completing a course of instruction of a minimum of 40-hours in the operation of the breath test device testing and the administration of such tests shall be deemed to have demonstrated sufficient ability competence to qualify for the issuance of a license.

4- D. Licenses shall be limited in scope to the methods or those breath test devices for performing breath tests to those for on which the individual applying for a an initial or renewal license has demonstrated competence. This limitation may be upon the basis of the method or devices that device(s) on which the applicant received primary emphasis in the course of instruction attended by the applicant in the course referred to in subsection C of § 2.8

or in such further instruction as may be necessary to qualify the individual for additional breath test device(s) .

5- E. Licenses shall state the date upon which they are to expire, which date shall, in no event, be longer later than twenty-four (24) months from after the date of issuance. Licenses shall be subject to renewal at expiration or at such time prior to expiration as is convenient for the division ; on demonstration by the licensee of continuing ability competency to perform accurate and reliable breath tests ; and upon proof of administering a minimum of twenty-four (24) tests, actual or simulated, during a the twenty-four (24) - month period ; and upon renewed proof, if desired by the Division, of good character immediately preceding the application for renewal . The division may at any time examine licensees to determine such continuing ability competency . Licenses shall be terminated terminate at the expiration of the period for which issued for failure to renew of issuance . Licenses shall may be terminated or revoked by the division at any time upon its finding that the licensee does not meet or no longer meets the qualifications necessary for the issuance of a license.

6- F. Any individual whose license has expired may renew his license within one (1) year after its expiration date by successfully completing a recertification class and by demonstrating his competence in the performance of breath tests. Any individual whose license has expired and who does not renew his license within one (1) year after its expiration date may renew his license by again attending and successfully completing the basic 40-hour course of instruction and demonstrating competence in the performance of breath tests as otherwise required.

G. The failure of a licensee to comply with these regulations may be grounds for revocation of such individual's license.

B. § 2.9. The division shall issue, terminate and revoke instructor certificates for individuals to teach breath alcohol testing on the basis of the following standards : thereafter set forth:

1- A. The instructor certificate shall be granted only to individuals who (i) demonstrate the ability to teach the breath test method or methods approved by the division , (ii) possess a valid breath test license and (iii) satisfactorily complete a 40-hour course for Breath Alcohol Instructors. The division may issue instructor certificates to persons who have acquired the necessary ability by past experience or formal education .

2- Individuals who possess a valid breath test license and have satisfactorily completed a 40-hour course for Breath Alcohol Instructors shall be deemed to have demonstrated sufficient ability to qualify as an instructor. The Division may issue instructor certificates to persons who have acquired this ability by past experience or formal education.

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3. B. Instructor certificates shall be limited in scope to the methods or devices for which the individual has demonstrated competence.

4. C. The division may, at any time, examine instructors to determine continuing ability.

5. D. Instructor certificates shall be terminated or revoked by the division upon its finding that the instructor does not meet or no longer meets the necessary qualifications.

6. E. § 2.10. All Any revocation of a license or instructor certificate shall be upon by notice sent by registered or certified mail from the division to the licensee or instructor.

7. D. Licenses previously issued by the State Health Commissioner shall continue to be valid until the expiration date thereof.

Section 4 - Forms and Records

Article 5. Forms and Records.

A. § 2.11. Each agency is required to to which a breath test device is assigned shall keep a permanent log (Exhibit A) of all tests concerning each test administered by the licensees of that agency of other agencies . This log will be so constructed that the individual pages are not removable and shall contain entries with the date of the test, time of the test, the serial number of the instrument, name of the subject to whom the test is administered, the reading of percent of blood alcohol, licensee's name and his license number. This log shall be provided by the division and must be kept in the same location with the breath test device and . The log shall be subject to periodic inspection by the division : at any time. At least once each month, a copy of the log entries for the preceding month shall be submitted to the division to be kept on file for at least three years.

B. § 2.12. Preventative At least once each month, each agency to which a breath test device is assigned shall complete a preventative maintenance procedures as set forth checklist (Exhibit B) provided by the division shall be conducted at least once each month . A record of signed copy of this preventative maintenance checklist shall be recorded on the preventative maintenance check list with the signed copy submitted to the division to be kept on file for at least three (3) years.

C. The certificate of breath alcohol analysis as provided by the division shall be completed and forwarded by the operator to the appropriate Clerk of the Court, the Division of Consolidated Laboratory Services, and the accused.

PART 3 III. PRELIMINARY BREATH TESTS UNDER § 18.2-267 OF THE CODE OF VIRGINIA.

Section 1 - Methods and Equipment for Conducting Preliminary Breath Test

Article 1. Methods and Equipment for Conducting Preliminary Breath Tests.

A. § 3.1. All preliminary breath tests shall be performed on a preliminary breath test device approved by the division. Such devices must satisfy the following requirements:

A. The device must have a systematic error not exceeding +/- 10%.

B. The device offers convenience and efficiency in operation as determined by the division.

§ 3.2. The division shall periodically publish in the Virginia Register of Regulations a list of devices approved for use as preliminary breath test devices. Such list shall be published forthwith after any addition or deletion of any device(s) to or from the division's approval list.

B. § 3.3. All preliminary breath test shall be conducted substantially in accordance with the operational procedures set forth in the instruction manual of the manufacturer of the instrument in use except as may be modified by the division .

C. All preliminary breath tests shall be performed by any police officer of the Commonwealth, of any county, city or town, or by any member of the sheriff's department of any county in the normal discharge of his duties.

D. § 3.4. It shall be the responsibility of each agency using the preliminary breath test devices to provide preventive maintenance and repairs according to the manufacturer's instructions or procedures except as may be modified by the division .

E. All preliminary breath tests shall be conducted substantially in accordance with any additional instructions or modifications of instruction as may be set forth by the manufacturer.

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF GENERAL SERVICES
DIVISION OF CONSOLIDATED LABORATORY SERVICES
BUREAU OF FORENSIC SCIENCE

(Exhibit B)

BREATHALYZER MONTHLY PREVENTATIVE MAINTENANCE CHECKLIST

- Temperature of Sample Chamber rises to and stabilizes at $50 \pm 3^{\circ}\text{C}$
- Optical System balances. Null meter indicates center scale before instrument is turned "ON"
- Delivery Time is _____ seconds (tolerance is 20-45 seconds)
record
- Timer Cycle is _____ seconds (tolerance is 85-95 seconds)
record
- Simulator Temperature rises to and stabilizes at $34 \pm 0.2^{\circ}\text{C}$
- Simulator Test results 0. _____ % (tolerance is 0.090 to 0.110%)
record
- General Condition
- Date simulator solution last changed _____
record
- No Corrective Measures Taken
- Corrective Measures Taken (explain)

Checked by _____ Date _____
PRINT

SIGNATURE Instrument No. _____

Name of Agency _____

Location of Instrument _____

Instructions: Complete on or about the 1st day of the month. Place in envelope with the laboratory copy (copies) of the BREATH ALCOHOL ANALYSIS LOG from the previous month and mail before the 15th day of the month to:

Division of Consolidated Laboratory Services
Bureau of Forensic Science
P. O. Box 999
Richmond, VA 23208

Attn: Breath Alcohol Program

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTE: The Virginia Housing Development Authority 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, it is required to publish all proposed and final regulations.

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

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

Public Hearing Date: N/A

NOTICE

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

Summary:

The proposed regulation will increase certain of the maximum allowable sales prices and maximum allowable adjusted incomes for the Northern Virginia portion of the Washington, DC-MD-VA MSA, the Norfolk-Virginia Beach-Newport News MSA and the remainder of the state and will establish maximum allowable sales prices and maximum allowable adjusted incomes for certain areas of the state to be designated North Piedmont/Richmond-Petersburg MSA/Roanoke MSA.

VR 400-02-0003. Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons of Low and Moderate Income.

PART I. GENERAL.

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

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the

authority's rules and regulations) must have an "adjusted family income" (as determined in accordance with the authority's rules and regulations) which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. Such income and sales price limitations shall be set forth in the Processing and Disbursing Guide described in § 1.2 C hereof.

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

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

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

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

§ 1.2. Processing/disbursing/servicing agents.

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

1. Be authorized to do business in the Commonwealth of Virginia;

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2. Have a satisfactory rating from any state and/or federal agencies responsible for the regulation of the applicant;

3. Have a net worth equal to or in excess of \$100,000 or, in the case of a savings and loan association, have its deposits insured by the Federal Savings and Loan Insurance Corporation;

4. Have aggregate servicing and originating volume during the preceding five years at least equal to 10 times the principal amount of loans expected to be initially serviced and originated for the authority;

5. Have a staff with demonstrated ability and experience in mortgage loan origination and servicing;

6. Each branch office of the applicant that is to originate mortgage loans must have demonstrated experience in the origination of mortgage loans;

7. Have a delinquency rate on its portfolio of serviced mortgage loans not in excess of 5.1%;

8. Have a foreclosure rate on portfolio of serviced mortgage loans not in excess of 1.0% annually;

9. Have reasonable business hours - i.e. be open to the public at least five hours every banking day; and

10. Such other qualifications as the executive director shall deem to be related to the performance of its duties and responsibilities.

If the applicant is to originate (but not service) mortgage loans, the applicant must satisfy the qualification set forth in (4) and (5) above only with respect to the origination of mortgage loans.

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

B. Allocation of funds.

The executive director shall allocate funds for the making or financing of mortgage loans hereunder in such manner, to such persons and entities, in such amounts, for such period, and subject to such terms and conditions as

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

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

2. The need and demand for the financing of mortgage loans with such funds in the various geographical areas of the Commonwealth;

3. The cost and difficulty of administration of the allocation of funds;

4. The capability, history and experience of any PDS agents, state and local governmental agencies and instrumentalities, builders, or other persons and entities (other than mortgage loan applicants) who are to receive an allocation; and

5. Housing conditions in the Commonwealth.

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

1. The builder must have a valid contractor's license in the Commonwealth;

2. The builder must have at least three years' experience of a scope and nature similar to the proposed construction or rehabilitation; and

3. The builder must submit to the authority plans and specifications for the proposed construction or rehabilitation which are acceptable to the authority.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for allocation of funds hereunder. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to

determine the manner and conditions under which funds of the authority are to be allocated and such other matters as he shall deem appropriate relating thereto. The authority may also consider and approve applications for allocations of funds submitted from time to time to the authority without any solicitation therefor on the part of the authority.

C. Processing and Disbursing Guide and Servicing Guide.

The Processing and Disbursing Guide attached hereto as Part II is incorporated into and made a part of these procedures, instructions and guidelines. The executive director is authorized to prepare and from time to time revise a Servicing Guide which shall set forth the accounting and other procedures to be followed by the PDS agents in the servicing of the mortgage loans under the PDS agreements. Copies of the Servicing Guide shall be available upon request. The executive director shall be responsible for the implementation and interpretation of the provisions of the Processing and Disbursing Guide and the Servicing Guide.

D. Making and purchase of new mortgage loans.

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

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to

the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

F. Delegated underwriting.

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

PART II.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY PROCESSING AND DISBURSING GUIDE.

Article I.

Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible, but the authority will restrict the number of loans that the PDS agent can originate for such persons and has established sales price limits for such households. An individual who is 62 or more years of age or who is handicapped or disabled shall not be deemed a one-person household for these purposes.

B. Family.

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

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unit.

1. Allocation to one-person households.

The maximum number of one-person households will be limited to 17% of all units financed. Units will be allocated by planning district with each planning district to receive funds based on its relative need. Allocation of one-person households to PDS agents and builders will be made based upon the dollar amount of their allocation and geographical location. The maximum number of one-person households allowed will be specified in the Forward Commitment Agreement and Builder Commitment Agreement.

§ 2.2. Compliance with certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

The federal Mortgage Subsidy Bond Tax Act of 1980 imposes certain new requirements and restrictions on the eligibility of mortgagors and residences for financing with the proceeds of tax-exempt bonds. In order to comply with this federal law, VHDA is establishing certain procedures which must be performed by the PDS agent in order to determine such eligibility. The eligibility requirements for the borrower and the dwelling are described below as well as the procedures to be performed. The PDS agent will certify to the performance of these procedures and evaluation of a borrower's eligibility by completing, initialing and signing the "Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980" (the "checklist") (Section II, Exhibit A) prior to VHDA approval of each loan. No loan will be approved by VHDA unless all of the federal eligibility requirements are met as well as the usual VHDA requirements set forth in other parts of this guide.

§ 2.2.1. Eligible borrowers.

A. General.

An applicant will be considered an eligible borrower for a VHDA mortgage loan, if the applicant meets all of the following federal criteria:

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

4. Has contracted to purchase an eligible dwelling. (See § 2.2.2. Eligible dwelling);

5. Has executed a borrower affidavit at the time of loan application (to be confirmed on the date of loan closing); and

6. Agrees not to sell, lease or otherwise transfer an interest in the residence or permit the assumption of his mortgage loan without the prior written consent of VHDA.

B. Three-year requirement.

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

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

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

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

- a. A remainder interest,
- b. An ordinary lease with or without an option to purchase,
- c. A mere expectancy to inherit an interest in a

principal residence,

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

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

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

3. **Prior tax returns.** To verify that the eligible borrower meets the three-year requirement, the PDS agent must obtain copies of signed federal income tax returns filed by the eligible borrower for the three years preceding execution of the mortgage or certified copies of the returns. If the eligible borrower was not required by law to file a federal income tax return for any of these three years and did not so file, and so states on the borrower affidavit, the requirement to obtain a copy of the federal income tax return for such year is waived.

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

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

C. Principal residence requirement.

1. **General.** An eligible borrower must intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan. Unless the residence can reasonably be expected to become the principal residence of the eligible borrower within 60 days (90 days in the case of a rehabilitation loan) of the mortgage loan closing date, the residence will not be considered an eligible dwelling and may not be financed with a mortgage loan from VHDA. An eligible borrower must covenant to intend to occupy the eligible dwelling as a principal residence within 60 days (90 days in the case of rehabilitation loan) after the closing of the mortgage loan on the borrower affidavit and as part of the attachment to the deed of

trust.

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

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

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

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

c. He does not intend to subdivide the property.

4. **Lot size.** Only such land as is reasonably necessary to maintain the basic livability of the residence may be financed by a mortgage loan. The financed land must not exceed the customary or usual lot in the area. Generally, the financed land will not be permitted to exceed two acres even in rural areas.

5. **Review by PDS agent.** The borrower affidavit must be reviewed by the PDS agent for consistency with the eligible borrower's federal income tax returns and the credit report in order to support an opinion that the eligible borrower is not engaged in any employment activity or trade or business which has been conducted in his principal residence. Also, the PDS agent shall review the appraiser report of a VHDA-approved appraiser and the required photographs to determine based on the location and the structural design and other characteristics of the dwelling that the residence is suitable for use as a permanent residence and not for use primarily in a trade or business or for recreational purposes. Based on such review, the PDS agent shall certify to its opinions in the checklist at the time the loan application is submitted to VHDA for approval.

6. **Post-closing procedures.** The PDS agent shall establish procedures to (i) review correspondence, checks and other documents received from the borrower during the 120-day period following the loan closing for the purpose of ascertaining that the address of the residence and the address of the

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borrower are the same and (ii) notify VHDA if such addresses are not the same. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with this requirement.

D. New mortgage requirement.

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

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

2. **Temporary financing.** In the case of a mortgage loan made to refinance a loan for the construction of an eligible dwelling, VHDA shall not make such mortgage loan until it has determined that such construction has been satisfactorily completed.

3. **Review by PDS agent.** Prior to closing the mortgage loan, the PDS agent must examine the borrower affidavit, the seller affidavit, and related submissions, including (i) the eligible borrower's federal income tax returns for the preceding three years, and (ii) credit report, in order to determine whether the eligible borrower will meet the new mortgage requirements. Upon such review, the PDS agent shall certify to VHDA that the agent is of the opinion that the proceeds of the mortgage loan will not be used to repay or refinance an existing mortgage debt of the borrower and that the borrower did not have a mortgage loan on the eligible dwelling prior to the date hereof, except for permissible temporary financing described above.

E. Multiple loans.

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

§ 2.2.2. Eligible dwellings.

A. General.

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

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

B. Acquisition cost requirements.

1. **General.** The acquisition cost of an eligible dwelling may not exceed certain limits established by the U.S. Department of the Treasury in effect at the time of the application. Note: In all cases such federal limits equal or exceed the VHDA sales price limits shown in § 2.4 . Therefore, the residence is an eligible dwelling if the acquisition cost is not greater than the VHDA sales price limit. In the event that the acquisition cost exceeds the VHDA sales price limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling.

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

a. Acquisition cost includes:

(1) All amounts paid, either in cash or in kind, by the eligible borrower (or a related party or for the benefit of the eligible borrower) to the seller (or a related party or for the benefit of the seller) as consideration for the eligible dwelling. Such amounts include amounts paid for items constituting fixtures under state law, but not for items of personal property not constituting fixtures under state law. (See Exhibit R for examples of fixtures and items of personal property.)

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

(3) Where the eligible dwelling is subject to a

ground rent, the capitalized value of any ground rent calculated using a discount rate equal to the yield of the VHDA bonds from which the mortgage loan was made. VHDA will supply bond yield information to PDS agents on request for the purpose of calculating capitalized ground rent.

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

b. Acquisition cost does not include:

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

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

3. Acquisition cost worksheet. The PDS agent is required to obtain from each eligible borrower a completed acquisition cost worksheet which shall specify in detail the basis for the purchase price of the eligible dwelling, calculated in accordance with this Subsection B. The PDS agent shall assist the eligible borrower in the correct completion of the worksheet. The acquisition cost worksheet of the eligible borrower shall constitute part of the borrower affidavit required to be submitted with the loan submission. The seller affidavit shall also certify as to the acquisition cost of the eligible dwelling on the worksheet.

4. Review by PDS agent. The PDS agent shall determine that the acquisition cost of the eligible dwelling does not exceed the authority's sales price limit shown in § 2.4. If the acquisition cost exceeds such limit, the PDS agent must contact VHDA to determine if the residence is an eligible dwelling. As part of its review, the PDS agent must review the acquisition cost worksheet submitted by each mortgage loan applicant, and the appraiser report, and must certify to VHDA that it is of the opinion that the acquisition cost of the eligible dwelling has been calculated in accordance with this Subsection B. In addition, the PDS agent must compare the information

contained in the acquisition cost worksheet with the information contained in the seller affidavit and other sources and documents such as the contract of sale for consistency of representation as to acquisition cost.

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

§ 2.3. Targeted areas.

A. General.

In accordance with the Mortgage Subsidy Bond Tax Act of 1980, VHDA will make a portion of the proceeds of an issue of its bonds available for financing eligible dwellings located in targeted areas for at least one year following the issuance of a series of bonds. VHDA will exercise due diligence in making mortgage loans in targeted areas by advising PDS agents and certain localities of the availability of such funds in targeted areas and by advising potential eligible borrowers of the availability of such funds through advertising and/or news releases. The amount, if any, allocated to a PDS agent exclusively for targeted areas will be specified in the Forward Commitment Agreement.

B. Eligibility.

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

1. Definition of targeted areas.

a. A targeted area is an area which is a qualified census tract, as described in (1) below, or an area of chronic economic distress, as described in (2) below.

(1) A qualified census tract is a census tract in the Commonwealth in which 70% or more of the families have an income of 80% or less of the state-wide median family income based on the most recent "safe harbor" statistics published by the U.S. Treasury. Maps indicating the location of current qualified census tracts will be supplied to the PDS agents by VHDA.

(2) An area of chronic economic distress is an area designated as such by the Commonwealth and approved by the Secretaries of Housing and Urban Development and the Treasury under criteria specified in the Mortgage Subsidy Bond Tax Act of 1980. PDS agents will be informed by VHDA as to the location of areas so designated.

§ 2.4. Sales price limits.

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The authority's maximum allowable sales prices shall be as follows:

MAXIMUM ALLOWABLE SALES PRICES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

	New Construction	Substantial Rehabilitation	Existing
<u>Northern Virginia</u> portion of Washington, DC-MD-VA MSA			
1/	\$ 104,200**	\$ 104,200**	\$ 90,300**
Norfolk-Virginia Beach Newport News MSA			
2/	\$ 78,500	\$ 78,500	\$ 68,300
<u>North Piedmont/ Richmond-Petersburg MSA/Roanoke MSA</u>			
3/	\$ 71,000	\$ 71,000	\$ 67,500
Remainder of State			
4/	\$ 61,100	\$ 61,100	\$ 56,500

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

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

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

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

3/ 4/ Any jurisdiction not a part of the *Northern Virginia portion of the Washington, DC-MD-VA MSA or the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/Roanoke MSA*.

* NOTE: For information regarding maximum allowable sales prices of residences financed by the 1981A (13.7%), 1982A (13.85%) or "blend" of 1982A and 1982B (11.75%), please contact the VHDA Staff.

** For mortgage loans to be financed by 1980 Series B Bonds (12.5%) or by any of the Residential Mortgage Bonds (10.42%, 10.67%, 10.84%, 10.77% and 10.61%) issued prior to 1985, the maximum allowable sales prices for new construction and substantial rehabilitation shall be \$104,200 and for existing shall be \$90,300.

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

§ 2.5. Net worth.

To be eligible for VHDA financing, an applicant cannot have a net worth exceeding \$20,000 plus an additional \$1,000 of net worth for every \$5,000 of adjusted income over \$20,000.

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

§ 2.6. Income requirements.

A. Maximum income.

The maximum adjusted incomes for eligible borrowers shall be as follows:

MAXIMUM ALLOWABLE ADJUSTED INCOMES

Applicable to all bond issues except 1981A (13.7%), 1982A (13.85%) and "blend" of 1982A and 1982B (11.75%)*

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	New Construction	Substantial Rehabilitation	Existing
<u>Northern Virginia</u>			
<u>Portion of</u>			
Washington, DC-MD-VA MSA			
1/	\$ 41,200**	\$ 41,200**	\$ 36,500**
Norfolk-Virginia Beach Newport News MSA			
2/	\$ 34,300	\$ 34,300	\$ 29,000
<u>Northern Piedmont/</u>			
<u>Richmond-Petersburg</u>			
MSA/Roanoke MSA			
3/	\$ 29,900	\$ 29,900	\$ 28,700
Remainder of State			
4/	\$ 29,400	\$ 29,400	\$ 27,200

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

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

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

Roanoke MSA includes: Botetourt County, Roanoke County, Roanoke City, Salem City.

North Piedmont includes: Albemarle County, Caroline County, Charlottesville City, Culpeper County, Fauquier County, Fluvanna County, Fredericksburg City, Greene County, King George County, Louisa County, Madison County, Orange County, Rappahannock County, Spotsylvania County.

3/ 4/ Any jurisdiction not a part of the Northern Virginia portion of the Washington, DC-MD-VA-MSA or the Norfolk-Virginia Beach-Newport News MSA or the North Piedmont/Richmond Petersburg MSA/Roanoke MSA .

* NOTE: For information regarding the maximum allowable adjusted incomes of persons or families acquiring residences financed by 1981 Series A (13.7%), 1982 Series A (13.85%) and "blend" of 1982A

and 1982B (11.75%), please contact the VHDA staff.

** For mortgage loans to be finished by 1980 Series B Bonds (12.5%) or by any of the Residential Mortgage Bonds (10.42%, 10.67%, 10.84%, 10.77%, and 10.61%) issued prior to 1985, the maximum allowable adjusted incomes for new construction and substantial rehabilitation shall be \$40,200 and for existing shall be \$42,400.

B. Minimum income.

An applicant is eligible for VHDA financing if the monthly principal and interest, tax, insurance (PITI) and other additional monthly fees such as condominium assessments, townhouse assessments, etc. do not exceed 32% of monthly gross income. Also, the applicant is eligible when monthly PITI plus outstanding monthly installment loans with more than six months duration do not exceed 40% of monthly gross income. (See Section II, Exhibit B)

§ 2.7. Calculation of loan amount.

Single family detached residence and townhouse (fee simple ownership) - Maximum of 95% of the lesser of the sales price or appraised value, except as may otherwise be approved by the authority.

Condominiums - 95% of the sales price or appraised value, whichever is less.

For the purpose of the above calculations, the value of personal property to be conveyed with the residence shall be deducted from the sales price. (See Exhibit R for examples of personal property.) Also, the value of personal property included in the appraisal must be deducted from the appraised value. (See Appraiser Report, Section II, Exhibit H.)

§ 2.8. Mortgage insurance requirements.

Unless the loan is insured or guaranteed by FHA or VA, the borrower is required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on all loans which exceed 80% of the lesser of sales price or appraised value. The PDS agent is required to escrow for annual payment of mortgage insurance. If VHDA requires FHA or VA insurance, the loan will be closed in the PDS agent's name and purchased by VHDA once the FHA Certificate of Insurance or VA Guaranty has been obtained. In the event VHDA purchases an FHA or VA insured loan, the PDS agent must enter into a purchase and sale agreement. (See Section II, Exhibit C.)

§ 2.9. Underwriting.

A. Employment and income.

B. Length of employment.

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

C. Self-employed applicants.

1. Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. The following information is required at the time of application:

a. Federal income tax returns for the two most recent tax years.

b. Balance sheets and profit and loss statements prepared by an independent public accountant.

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

D. Income derived from sources other than primary employment.

E. Alimony and child support.

1. A copy of the legal document and sufficient proof must be submitted to VHDA verifying that alimony and child support are court ordered and are being received.

F. Social security and other retirement benefits.

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

G. Part-time employment.

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

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

NOTE: Under the Mortgage Subsidy Bond Tax Act of 1980, no part of the residence may be used in a trade or business.

H. Overtime, commission and bonus.

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

I. Credit.

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

J. Bankruptcies.

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

K. Judgments.

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

§ 2.10. Funds necessary to close.

A. Cash.

Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. VHDA does not permit the applicant to borrow funds for this purpose. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

B. Gift letters.

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

C. Housing expenses.

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

ability to pay the additional expenses.

§ 2.11. Loan assumptions, leasing, terms and owner occupancy.

A. Loan assumptions.

VHDA does not currently permit loan assumptions, except that loan assumptions shall be permitted with respect to mortgage loans financed from the proceeds of the authority's single-family bonds issued on or after December 17, 1981, (loans numbered 40,000 and on) if the requirements set forth in § 2.2.1 B and C and § 2.2.2. B herein are satisfied and if the assumption satisfies the VHDA underwriting criteria set forth herein. Such policy of permitting loan assumptions is subject to change at any time without notice by the authority in its discretion.

B. Leasing.

The owner may not lease the property without VHDA's prior written consent.

C. Loan term.

Loan terms may not exceed 30 years.

D. Owner occupancy.

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

§ 2.12. Preparation of application package.

A. The application package submitted to VHDA for approval must contain the following:

1. Reservation card.
2. Application - the application must be made on Virginia Housing's approved application form.
3. Preliminary underwriting form.
4. Credit report issued by local credit bureau and miscellaneous information as applicable - explanation of bankruptcies, etc., (and any additional documentation).
5. Verification of employment (and any additional documentation).
6. Verification of other income.
7. Verification of deposits (and any additional documentation).
8. Gift letters (and verification).
9. Sales contract - contract must be signed by seller and all parties entering into the contract and state

which parties are paying points and closing costs.

10. Appraisal (FHLMC No. 70) - form should be FNMA or FHLMC and should be completed by an appraiser who has been approved by FHLMC or a private mortgage insurer acceptable to Virginia Housing or who has a certification from a trade organization approved by Virginia Housing (photos and required supporting documentation).

11. Loan submission cover letter.

12. Appraiser's report.

13. Acquisition cost worksheet.

14. Affidavit of seller.

15. Affidavit of borrower.

16. Federal income tax returns - copy of borrower's federal income tax returns to the extent required by Item 10 in the affidavit of borrower. (NOTE: If a letter from the IRS is to be delivered pursuant to paragraphs § 2.2.1 B3 of the Processing, Disbursing Guide, such letter must be enclosed herewith).

17. Checklist for certain requirements of the Mortgage Subsidy Bond Tax Act of 1980.

18. Signed request for copy of tax returns (No. 4506).

19. HUD information booklet - acknowledgement by applicant of receipt of HUD information booklet and estimate of the charges the borrower is likely to incur as required by the Real Estate Settlement Procedures Act of 1974, the Real Estate Settlement Procedures Act Amendments of 1975 (RESPA), and Regulations Z (Truth-In-Lending) as amended April 1, 1981. Acknowledgement can be made part of the application or can be a separate statement. Applicant must receive HUD information book the day application is made.

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

21. Truth-in-lending disclosure.

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

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

§ 2.13. Commitment.

Upon approval of the applicant, VHDA will send a

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mortgage loan commitment (see Section II, Exhibit J) to the borrower in care of the agent. Also enclosed in this package will be other documents necessary for closing. The PDS agent shall ask the borrower to indicate his acceptance of the mortgage loan commitment by signing and returning it to the agent. A commitment must be issued in writing by an authorized officer of VHDA and signed by the applicant before a loan may be closed.

§ 2.13.1. Loan rejection.

If the borrower fails to meet VHDA underwriting criteria or if the property fails to meet VHDA property standards, a loan rejection letter will be issued by VHDA (see Section II, Exhibit L). If the application is resubmitted, the credit documentation cannot be more than 90 days old and the appraisal more than six months old.

§ 2.14. Loan settlement.

A. Loan closing.

Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send VHDA's letter of closing instructions (see Section II, Exhibit N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. VHDA will provide the PDS agent with the documents which the closing attorney is required to complete. After VHDA reviews the closing attorney's preliminary work and approves closing, a loan proceeds check will be sent to the the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions (see Section II, Exhibit M). Closing attorneys may use loan proceeds checks when in a position to conduct the loan closing and disburse proceeds in accordance with Virginia Housing's letter authorizing the closing and instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with Virginia Housing's requirements, Regulation Z and ECOA. A certified or cashier's check is to be provided at loan closing for the buy-down points, if any. The check is to be payable to VHDA. Under the applicable federal regulations the original proceeds of the bond issue may not exceed the amount necessary for the "governmental purpose" thereof by more than 5.0%. Payment of buy-down points out of mortgage loan proceeds would be using bond proceeds to pay interest rather than the proper "governmental purpose" of making mortgage loans. Therefore, it is required that buy-down fees be paid from the seller's own funds. Buy-down points may not be deducted from loan proceeds.

B. Post-closing requirements.

In accordance with § 9 of the PDS agreement, all post-closing documents, including the post-closing cover letter (see Section II, Exhibit P), should be forwarded as follows to:

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

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

Within 45 days after loan closing, the PDS agent shall forward to VHDA the original recorded deed of trust and title insurance policy.

During the 120-day period following the loan closing the agent shall review correspondence, checks and other documents received from the borrower for the purpose of ascertaining that the address of the property and the address of the borrower are the same, and also to ascertain any change of address during such period and shall notify VHDA if such addresses are not the same or if there is any such change of address. Subject to VHDA's approval, the PDS agent may establish different procedures to verify compliance with the principal residence requirement in § 2.2.1.C. In the event the agent at any time otherwise becomes aware of the fact that any item noted on the checklist for certain requirements of the Mortgage Subsidy Bond Tax Act may not be correct or proper, the agent shall immediately notify the authority.

§ 2.15. Property guidelines - existing housing.

All existing houses must meet the following minimum requirements; however, each house will be reviewed on a case-by-case basis with regard to marketability and security of the loan:

1. 100 amp electrical service is required.
2. No space heaters or circulators are allowed; however, a floor furnace or wall furnace is acceptable in a one-story house if such a furnace adequately heats the house.
3. Pier foundations are considered on a case-by-case basis.
4. All property must be located on a state-maintained road with a minimum frontage of 30 feet. No easements or right-of-ways are allowed as access to properties. House should not be located more than 200

feet from the state-maintained road.

5. Joint ownership of well and septic is not allowed and the well must be on the subject property.

6. Any easements which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis.

7. The floor plan must be acceptable with bathrooms and bedrooms centrally located and providing maximum privacy. Primary bathroom locations are not acceptable if the traffic patterns require entrance through another living area (e.g. a bathroom which opens directly into the kitchen).

8. The house must have a sufficient number of bedrooms to properly serve the borrower. Only bedrooms will be used as sleeping quarters, with each bedroom to be occupied by no more than two persons.

9. Mobile homes are not acceptable.

§ 2.16. Property guidelines - New construction.

A. All new homes must meet the Uniform Statewide Building Code (the "Code") and the Department of Housing and Urban Development Minimum Property Standards (MPS) in addition to the following VHDA underwriting requirements:

1. Minimum of 4/12 pitch roof.
2. Storm windows or double glazed windows are required.
3. Insulated exterior doors or storm doors are required.
4. All property must be located on state-maintained roads.
5. Energy package in conformance with FHMA energy standards.
6. Mobile homes are not acceptable.

B. Also, the following standards are preferred:

1. All ceilings and 75% of the walls be 1/2 inch drywall or plaster.
2. Kitchen cabinets should comply with the following: doors should be a minimum of 5/8 inch and end panels should be a minimum of 1/2 inch thick. Materials should be wood or plywood. All stiles and rails should be of wood. Drawer fronts should be a minimum of 5/8 inch and sides should be a minimum of 3/8 inch wood or plywood, bottoms should be 1/4 inch plywood. Shelves should be a minimum of 5/8

inch wood, plywood or particle board. Plywood and particle board shelves should have edging.

3. Ceiling height of eight feet or greater.

4. Pier foundations are discouraged except where brick or block curtain wall completely covers piers.

5. Insulated sheathing.

6. If vertical siding is used, fir, cedar or redwood is preferred.

7. Fiberglass insulation in ceiling, floor and wall.

8. The use of wood foundations is discouraged unless the type of construction results in substantial savings to be passed on to the buyer.

9. Hardwood floors unless a 30 ounce carpet is used.

§ 2.17. Substantially rehabilitated.

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

1. Substantially rehabilitated means improved to a condition which meets VHDA underwriting/property standard requirements from a condition requiring more than routine or minor repairs or improvements to meet such requirements. The term includes repairs or improvements varying in degree from gutting and extensive reconstruction to cosmetic improvements which are coupled with the cure of a substantial accumulation of deferred maintenance, but does not mean cosmetic improvements alone.

2. For these purposes a substantially rehabilitated housing unit means a dwelling unit which has been substantially rehabilitated and which is being offered for sale and occupancy for the first time since such rehabilitation. The value of the rehabilitation must equal at least 25% of the total value of the rehabilitated housing unit.

3. The appraisal submitted with the loan application, must list the improvements and estimate the value of the improvements. Virginia Housing's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards.

4. VHDA will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the Mortgage Subsidy Bond Tax Act of 1980, the proceeds of VHDA cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D. (New mortgage requirement). VHDA will

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approve loans to cover the purchase of a residence, including the rehabilitation:

- a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and
- b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Policy on condominiums.

1. The PDS agent must provide evidence that the condominium is approved by any two of the following: FNMA, FHLMC or VA. The PDS agent must submit evidence at the time the borrower's application is submitted to Virginia Housing for approval.

2. At the time the borrower's loan application is submitted for the financing of a unit in any condominium in which Virginia Housing has not previously financed the purchase of any units, Exhibit U providing basic information about the condominium must be completed by the Unit Owners Association. The most recent financial statement and operating budget of the condominium (or, in the case of a newly constructed or converted condominium, a copy of the projected operating budget and a copy of the most recent financial statement, if any) must also be submitted. Virginia Housing will review the above described form and financial information. If on the basis of such review Virginia Housing finds the condominium to be acceptable, the condominium will be approved and the individual loan application will be processed. Exhibit U requires that the Unit Owners Association agree to submit to Virginia Housing upon its request, the condominium's annual financial statements, operating budget and other information as Virginia Housing may require. The association is also required to agree that Virginia Housing shall have a right to inspect the condominium and its records. The form states that failure to comply with the foregoing shall be grounds for Virginia Housing's termination of its approval of the condominium.

3. Each year Virginia Housing will send Exhibit V to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the VA, FNMA and/or FHLMC approvals and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, Virginia Housing may terminate its approval of the condominium. Virginia Housing will review the

financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, Virginia Housing will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event Virginia Housing determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of Virginia Housing, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by Virginia Housing.

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

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

Title of Regulations: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

Statutory Authority: §§ 37.1-179.1 and 37.1-84.1 of the Code of Virginia.

Public Hearing Date: December 2, 1985 - 10 a.m.
(See Calendar of Events Section for additional information)

Summary:

The Department of Corrections has in its custody prisoners who would be in need of psychiatric hospitalization if they were not incarcerated. The Department of Corrections has sought and received funding to expand the inpatient hospital-type of mental health services. In order to legally treat prisoners admitted for inpatient mental health services provided by the Department of Corrections, the facility must be licensed by the Department of Mental Health and Mental Retardation in accordance with §§ 37.1-179.1 and 37.1-84.1 of the Code of Virginia.

There are no existing regulations for correctional psychiatric facilities. Federal court rulings have stated

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that prisoners are eligible for mental health services. It is impractical to treat prisoners in state hospitals because of space, manpower and security constraints. Therefore it is necessary to establish and expand psychiatric services in correctional facilities. Because state law requires that psychiatric facilities be licensed, the Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are proposed.

The proposed rules and regulations establish minimum requirements for organization and management, treatment programs and services, staffing patterns, health and safety procedures and record-keeping in the correctional psychiatric facilities. The proposed rules and regulations have been developed by using regulations governing private psychiatric hospitals and rewriting the private psychiatric hospital regulations to be more conducive to implementation in a correctional psychiatric facility.

Each correctional facility establishing a psychiatric facility will submit an application for licensure to the Department of Mental Health and Mental Retardation, Licensing Office. The information in the application will provide preliminary data to determine compliance with the proposed regulations. Following the review and approval of the application, staff from the licensing office will conduct an on-site inspection to determine compliance with the proposed rules and regulations. Those facilities found to be in compliance will be issued a license by the Commissioner of Mental Health and Mental Retardation. Those facilities not in compliance with the proposed regulations must submit corrective action plans and substantially comply with the proposed rules and regulations before a license is issued.

The proposed rules and regulations will affect seven correctional units in which psychiatric facilities are planned to be established. The total number of beds involved is approximately 414.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

PART I. INTRODUCTION.

§ 1.1. These proposed Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are designed to establish minimum requirements for treatment programs for the mentally ill inmate in correctional facilities in the Commonwealth of Virginia. The rules and regulations delineate the minimum requirements for program design, treatment supervision, admission requirements, staffing, services and the physical facility to ensure the health, safety and welfare of program participants.

The Rules and Regulations for the Licensure of Correctional Psychiatric Facilities shall apply to all

correctional facilities that propose to establish treatment programs for the mentally ill inmates.

Article 1. Definitions.

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

"Board" means the State Mental Health and Mental Retardation Board.

"Commissioner" means the Commissioner of Mental Health and Mental Retardation.

"Department" means the Department of Mental Health and Mental Retardation.

"Director" means the chief executive officer of a correctional psychiatric facility.

"Facility" means the psychiatric unit of a correctional institution under the management and control of the Department of Corrections, devoted to the care and treatment of the mentally ill.

"Mentally ill" means any person afflicted with mental disease to such an extent that for his own welfare or the welfare of others he requires care and treatment.

"Patient or inmate" means a person voluntarily or involuntarily admitted to a facility.

Article 2. Legal Base.

§ 1.3. The statutory authority for the Rules and Regulations for the Licensure of Correctional Psychiatric Facilities is §§ 37.1-84.1 and 37.1-179.1 of the Code of Virginia.

PART II. LICENSING PROCEDURES.

Article 1. Facilities Requiring Licensure.

§ 2.1. A separate license shall be required of facilities maintained on separate premises even though they are operated under the same management. A separate license is not required for separate buildings on the same grounds. In the event alterations or additions increase the bed capacity of the facility, a new or amended license shall be obtained before beginning operation of the additional facilities.

Article 2. Application for License or License Renewal.

§ 2.2. Request for an application shall be made in writing

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to the Department of Mental Health and Mental Retardation.

§ 2.3. Application for a license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department on the application form secured from the department.

§ 2.4. There shall be written verification of compliance with all applicable local and state zoning requirements, occupancy requirements, building code requirements, health, safety, sanitation and fire safety requirements prior to the issuance of a license.

A. Ongoing compliance with these requirements shall be a condition of license renewal.

§ 2.5. Every facility shall be designated by a permanent and distinctive name and address which shall appear on the application and license or license renewal and which shall not be changed without first securing approval of the commissioner.

A. Post office boxes shall not be acceptable as the address.

§ 2.6. A license may expire no later than two years from the date of issuance. Application for license renewal shall be submitted to the department at least 60 days prior to the expiration date of the license.

Article 3. Rated Capacity.

§ 2.7. Each license issued by the commissioner shall specify the maximum allowable number of beds. The number of beds allowed shall be determined by the department and shall so appear on the license issued by the commissioner. If the facility conducts daytime programs the license shall state the maximum number of persons in daytime programs, if applicable.

A. No facility shall maintain a bed capacity more than the number for which it is licensed or have more persons in daytime programs than the number for which it is licensed except in emergency when temporary permission may be granted by the commissioner.

B. At no time shall patients be housed or served in areas which have not been approved by the department and which have not been given prior approval by the state or local fire marshal when required.

C. Request for rated client capacity changes shall be made in writing to the commissioner and shall not be granted without written approval of the commissioner.

Article 4. Posting of License.

§ 2.8. The license issued by the commissioner shall be

available for inspection upon request by any interested person.

Article 5. Change of Name or Location.

§ 2.9. The facility shall notify the department immediately in writing of any proposed change in name or location of the facility.

A. A new application shall be submitted prior to a change of location or name.

B. A license shall not be transferable from one facility to another or from one location to another.

Article 6. Inspection and Reports.

§ 2.10. Each applicant or licensee agrees as a condition of the application or license, to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, to verify information contained in the application, or to assure compliance with all laws, rules and applicable regulations, during all hours of operation of the facility and at any other reasonable hour.

A. Following any site visit or inspection the licensee shall be notified in writing of any violation or noncompliance.

1. The licensee shall, in the prescribed time-frame, present to the commissioner for approval, a written corrective plan of action to be taken to resolve noncompliance or violation issues, complete with the time needed to assure compliance.

§ 2.11. Each licensee shall file reasonable written reports and provide other information at such times as the commissioner from time to time may require.

Article 7. Provisional License.

§ 2.12. A provisional license, not to exceed 180 days, may be issued by the commissioner to those applicants who have been found not to be in full compliance with these regulations, but who have initiated the necessary corrective actions to satisfy such requirements.

A. Such license shall not be renewable.

§ 2.13. The commissioner may issue a provisional license to a facility or institution which has been previously fully licensed when such facility or institution is temporarily unable to comply with all the necessary regulations.

A. Such license may be issued for period not to exceed 90 days and shall not be renewable.

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Article 8. Denial, Revocation or Suspension.

§ 2.14. The commissioner may deny, revoke or suspend a license if, in the opinion of the commissioner, the applicant or licensee has violated applicable sections of the Code of Virginia, or:

1. Has engaged in conduct or practices which are determined to be detrimental to the welfare or safety of any patient in such facility.
2. Has not presented a program of diagnosis, care, training or treatment.
3. Has significantly deviated from the program for which a license was issued, without obtaining prior written approval from the commissioner.
4. Has presented a pattern of noncompliance or violations to these regulations regardless of satisfactory corrective plans of action.

§ 2.15. Notices and reasons for denial, suspension or revocation of a license shall be given by the commissioner to an applicant or licensee in writing by certified mail.

Article 9. Notification of Closure.

§ 2.16. A licensee shall notify the department of impending closure of the licensed facility at least 30 days prior to such closure.

A. The licensee shall be responsible for removal and placement of patients engaged in care, training, treatment, or rehabilitation programs and for the preservation of all records. Upon closure, the license shall be immediately returned to the department.

Article 10. Return of License.

§ 2.17. The facility shall return the license issued by the commissioner within five days by certified mail to the department on:

1. Receipt of renewal license.
2. Receipt of the written notice of revocation.
3. Written notice to the department of change of location, name or ownership.
4. Receipt of written notice of approval from the department for change in rated client capacity.
5. Voluntary closure.
6. Receipt of written notice of approval from the department for change of facility classification.

PART III. CLIENT RIGHTS.

Article 1. Code Compliance.

§ 3.1. Each facility or program operated, funded or licensed by the Department of Mental Health and Mental Retardation shall guarantee client rights as outlined in § 37.1-84.1 of the Code of Virginia and the applicable regulations promulgated on the rights of clients unless the agency or institution is exempt from these regulations.

Article 2. Compliance with the Civil Rights Act.

§ 3.2. All facilities subject to these regulations shall comply with Title VI and Title VII of the 1964 Civil Rights Act, unless the agency or institution demonstrates that such rights must be limited for security reasons.

Article 3. Rights of the Handicapped.

§ 3.3. Where applicable, all facilities shall comply with public laws and all applicable Virginia statutes regarding rights of access by the physically handicapped to physical facilities, employment and services.

Article 4. Refusal of Medication by Patients.

§ 3.4. Voluntary patients may not be given medication over their objections.

A. Upon refusal by a voluntary patient to accept their prescribed medication, the following procedure shall be followed:

1. The attending physician shall determine the patient's reasons for refusing the medication.
2. The patient shall be advised of the reasonably anticipated medical consequences of not taking the prescribed medication, if any.
3. The physician shall review with the patient all available alternative treatment modalities and medications, seeking to employ a viable treatment alternative which is acceptable to the patient.
4. If no viable alternative is available or all alternatives are refused by the patient, the physician may seek the discharge of the patient unless the patient's mental condition necessitates involuntary hospitalization and treatment because:
 - a. The patient would be dangerous to others if discharged.
 - b. The patient would be dangerous to themselves if

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discharged.

c. The patient would be substantially unable to care for themselves upon discharge and there is no less restrictive alternative placement outside the hospital available and appropriate to the patient's condition.

B. If involuntary hospitalization is required, a petition shall be filed.

1. The physician shall then comply with the procedures for involuntary patients below, prior to involuntary medication, unless emergency treatment is necessitated.

§ 3.5. Involuntary patients may receive medication over their objections.

§ 3.6. Upon a patient's objections to prescribed medication, the attending physician shall comply with the following procedures:

1. The physician shall determine the reasons for the patient's refusal of prescribed medication.

2. The physician shall advise the patient of the reasonable anticipated medical consequences of not taking the proposed medication.

3. The physician shall review with the patient all available alternative treatment modalities and medications, seeking to find a viable treatment alternative acceptable to the patient.

4. If no viable alternative is available or if the patient refuses the alternative treatment, the attending physician shall have the director appoint a physician who is not actively involved with the patient's treatment to personally examine the patient and review the suggested treatment and alternatives.

5. When the review confirms the need for the medication prescribed by the attending physician or when the reviewing physician and the attending physician are in agreement as to the medication indicated, medication may be approved by the director over the objection.

6. If medication is administered to unconsenting, involuntary patient pursuant to procedures set out in this article and the patient continues to object to such medication, the patient may request a review before the Institutional Review Committee.

a. Thereafter, the procedures as set forth in the "Rules and Regulations to Assure the Rights of Patients and Residents of Hospitals and Other Facilities Operated by the Department of Mental Health and Mental Retardation" shall be followed.

b. The patient is not prohibited from use of the

procedures in this article at any time in the process established by this article.

§ 3.7. These procedures govern medication for the treatment of the patient's mental illness only.

A. Treatment of physical injuries or diseases requires only the consent of an adult, competent patient or the committee, or the guardian of an incompetent or legally incapacitated adult except in cases of medical emergencies where no consent is required if the patient's life is in danger.

§ 3.8. These procedures apply only to involuntary patients who are dangerous to others, dangerous to themselves or substantially unable to care for themselves.

A. If an involuntary patient no longer meets these criteria, the physician may seek the discharge of the patient and may not involuntarily medicate such a patient.

§ 3.9. Where a patient has been accepting medication without objections and then objects to continued medication, then medication may be continued while the procedures in § 3.6 are being followed if discontinuance of the medication poses a threat to the health and safety of the patient or the safety of others.

§ 3.10. Medication which is still considered experimental in nature may not be administered pursuant to this article.

§ 3.11. For the purpose of this article, legally incompetent or incapacitated adults shall be treated as if they were under no legal infirmities except that their consent to treatment shall also be consented to by their committees or guardians.

A. If a committee or guardian refuses to allow treatment, the assistant attorney general for the department shall be contacted for further advice.

§ 3.12. Nothing in this article shall be construed to prevent emergency mental health treatment required for the preservation of the patient's health.

A. When the emergency subsides, the physician shall comply with this article.

§ 3.13. A progress note detailing the procedures of this article shall be prepared by the attending physician and cosigned by the reviewing physician and approved by the director prior to involuntary treatment.

A. If this procedure concludes because the patient withdraws his objections or accepts alternative treatment, the progress note is to be signed by the patient to show his consent to treatment as outlined therein and by the attending physician.

B. Once a patient objects to medication and this procedure is implemented, the final result, whether it is

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involuntary medication or subsequent consent by the patient, will remain in effect for 45 days.

C. Any subsequent refusal of medication within the 45-day period shall not require further compliance with this article unless the medication has been changed.

D. An increase or decrease in the dosage shall not constitute a change in medication for the purposes of this article.

Article 5.

Composition of Institutional Review Committees.

§ 3.14. Each committee shall have at least five members, appointed by the head of the institution, with varying backgrounds to provide complete and adequate review of patient refusal of treatment or medication.

A. The committee shall be sufficiently qualified through the maturity, experience and diversity of its members to ensure respect for its advice and counsel for safeguarding the rights and welfare of patients.

B. In addition to possessing the professional competence necessary to review specific activities, the committee shall be able to ascertain the acceptability of applications and proposals in terms of regulations, applicable law and standards of professional conduct and practice.

C. No more than two members of the committee may be affiliated with the institution.

D. No member of the committee shall participate in the review of any patient refusal in which the member is involved in the treatment of the patient.

1. The committee has the responsibility for determining whether a member has a conflicting interest.

2. The committee's size shall be increased in the case of conflicting interests resulting in a decrease of the committee below five persons.

§ 3.15. A committee may, in its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee.

A. These individuals may not vote with the committee.

§ 3.16. A quorum of the committee shall be a majority of the members.

§ 3.17. The committee and the institution shall establish procedures and rules of operation necessary to fulfill the requirements of these regulations.

PART IV.

PHYSICAL FACILITY AND SAFETY.

Article 1.

Compliance with Building Regulations.

§ 4.1. The facilities for correctional psychiatric facilities shall be in conformance with Uniform Statewide Building Code of 1973, as amended, where applicable.

Article 2.

Safety and Sanitation.

§ 4.2. The psychiatric facility shall be equipped, operated and maintained so as to sustain its safe and sanitary characteristics and to minimize all health hazards in the facility for the protection of patients, employees and visitors.

Article 3.

Service Departments.

§ 4.3. Housekeeping, laundry, maintenance and other service functions shall be effectively organized, directed and staffed by qualified personnel.

Article 4.

Infection Control.

§ 4.4. Responsibility for the control of infection within the facility and for the evaluation of the infection potential of the related environment, shall be vested in the medical staff or a multi-disciplinary committee of the medical staff.

Article 5.

Disaster Plan.

§ 4.5. The facility shall have written plans for the proper and timely care of casualties arising from external or internal disasters, and civil disorders and shall periodically rehearse these plans.

PART V.

HEALTH AND SAFETY REGULATIONS.

Article 1.

Compliance with Local and State Regulations.

§ 5.1. Compliance with all applicable local and state health, safety, sanitation, building and zoning codes shall be certified in the application submitted to the department when the application so requires.

Article 2.

Building Structure and Inspection Requirements.

§ 5.2. A suitable structure is essential to the safe and efficient operation of a psychiatric facility. Care should be exercised in selecting a structure including such considerations as follows:

1. The adequacy of space for program, administrative, medical, educational or other activities.

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2. Suitability of electrical, plumbing, heating, and hot water accommodations; in consideration of the number of patients and the intended provision of washing, cooking, laundering and sanitary equipment.

3. Cleanliness and suitability of facilities for food preparation and storage.

4. The extent of renovations which may be necessary to provide adequate facilities to meet state and local laws, ordinances and regulations.

Article 3. New Construction.

§ 5.3. When new construction or additions to existing facilities are considered, preliminary plans and outlined specifications shall be submitted to the department for review and approval.

A. All construction of new buildings and additions, alterations or repairs to existing buildings for occupancies as psychiatric facilities shall conform to the Uniform Statewide Building Code, state and local fire safety, zoning and building ordinances.

B. In case of conflict, codes with the highest standards shall apply.

C. Evidence of conforming to local zoning ordinances shall be presented to the department.

D. All codes applicable to the project shall be noted on the preliminary and working drawings.

Article 4. Alterations.

§ 5.4. When alterations are considered which do not affect the structural integrity of the existing building, but which do change the functional operation or affect fire safety by change or relocation of corridors or exits or add beds to the facility, plans and specifications shall be submitted to the department for review and approval prior to beginning construction.

A. Plans shall be drawn to scale and shall indicate location of all walls, partitions, windows, doors, closets, corridors, fire doors, exits, stairs, fire escapes, baths, kitchens, etc.

B. Plans shall be dimensioned in feet and inches, showing size of rooms, room number, halls, corridors, stairs, closets, etc.

Article 5. Minor Remodeling.

§ 5.5. Minor remodeling changes which do not affect the structural integrity of the building, which do not change the functional operation, which do not affect the fire

safety, and which do not add beds or facilities in excess of those for which the facility is licensed, need not be submitted to the department for approval, but shall meet applicable standards for new construction.

Article 6. Conversion of Existing Structure to a Facility.

§ 5.6. Conversion of an existing structure to a facility shall be considered as a new construction. No existing building shall be converted to a psychiatric facility unless it complies with all requirements for new institutional buildings. Life safety during construction or alterations or conversions shall be maintained. Additions shall conform to new construction regulations. It is recommended that an inspection be made by the department before any definite action is taken toward converting an existing structure to a facility. These inspections shall be made before physical conversion is begun.

Article 7. Fire Procedures, Protection Measures and Storage of Flammables.

§ 5.7. In addition to compliance with state or local fire ordinances, the facility shall meet the following as a minimum:

1. A written fire procedure shall be established indicating the facility's fire detection system, fire alarm procedures, responsibilities of staff and evacuation routes.

a. The fire procedures shall, furthermore, be implemented through the conduct of fire drills, at least one each three months.

b. A written record of all fire drills shall be maintained for inspection.

2. The facility shall, in addition to the establishment of a written fire procedure, maintain operable fire extinguishers, on each floor post evacuation route signs or lights, fire escapes and other such detection, evacuation and fire fighting equipment as required under local or state law.

3. Paints, varnishes, lacquers, thinners, cleaning fluids, and other flammable materials and liquids shall be stored outside of the building, or within closed metal cabinets or other fire resistant facilities. The storage of combustible materials shall not be permitted within heated rooms or within 20 feet of any heater or open flame.

Article 8. Space, Facilities, and Accommodations.

§ 5.8. The applicant shall provide space for administrative activities, including provisions for the storage and safeguarding of personnel, administrative and client

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records and materials.

A. Facilities providing for physical examinations or other medical or surgical procedures shall designate a specific area for this purpose, and shall follow accepted standard medical procedure.

B. Bath and toilet facilities shall be kept clean, ventilated and in operating condition. Toilet and bath facilities shall be available in the following minimum ratios or in accordance with state law whichever is more stringent;

1. Toilets: one for each eight persons
2. Wash Basins: one for each 12 persons
3. Bath Facilities: one for each eight persons

Article 9. Kitchen Facilities and Dining Area.

§ 5.9. Cooking, or preparation of hot meals, shall be restricted to kitchen areas, which shall be adequately cleaned and maintained in a sanitary condition.

A. Precautions shall be taken to assure safe operating conditions of all kitchen equipment. Installation of exhaust ducts, exhaust fans, electrical, gas or other accommodations or equipment shall be in accordance with local or state laws.

B. Dining areas shall be adequately furnished and maintained separate from kitchen facilities.

C. Preparation of snack foods in patient care areas may be authorized upon application when conducted under safe and sanitary conditions.

Article 10. Communal Facilities.

§ 5.10. All space provided for recreation, visiting, educational, and group therapeutic or other activities, shall be well lighted and ventilated, and suitable for intended usage.

A. All facilities used for vocational, educational, or other training or therapeutic purposes, shall meet the requirements of the appropriate state or local regulating agency when applicable.

Article 11. Sleeping Accommodations.

§ 5.11. Facilities shall provide adequate and clean sleeping accommodations.

A. Facilities shall provide adequate storage and protection for personal belongings and clothing.

B. Facilities shall assure that consideration of usable bed space include provisions for adequate and safe passage between beds, and appropriate ventilation.

C. Each resident shall have a separate bed.

D. There shall be a minimum 80 square feet of floor space per bed in a multi-bedroom with a minimum of three feet between beds.

E. A sufficient supply of clean bed linens, pillows, blankets, washcloths, and towels shall be provided for each patient. The use of common washcloths, towels and other toilet articles is prohibited.

F. A record of valuables and money deposited at the facility for patient use shall be maintained.

G. Cubicle curtains, or some other means of providing visual privacy for personal care of any patient shall be available in multi-patient rooms when indicated.

Article 12. Laundry Facilities.

§ 5.12. Facilities shall make provisions for the laundering and regular maintenance of residents' clothing.

A. Any facility which installs laundering, dry cleaning, or clothes drying equipment, shall assure appropriate inspection and compliance with local ordinances or state law. These services shall be provided in a separate room and adequate provision shall be made for the storage of soiled clothing and linen. Appropriate measures shall be taken to ensure proper ventilation and protection against misuse.

Article 13. Grounds.

§ 5.13. Yard space or grounds surrounding the property shall be maintained free of debris and other hazards.

Article 14. Stairways, Halls and Exits.

§ 5.14. Stairways, hallways, handrails, and exits shall be kept free and clear of obstructions at all times. A fire escape, when required, shall be constructed and maintained in conformity with local and state fire standards.

Article 15. Other Facilities.

§ 5.15. The applicant or licensee shall keep the department informed of the utilization of all space at the facility.

Article 16. General Housekeeping and Sanitation.

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§ 5.16. Provision shall be made to guard against infestation by insects and vermin including periodic inspection and extermination.

§ 5.17. The facility shall provide for trash and garbage disposal, including provisions for storage in enclosed containers until removal.

Article 17. Health Supervision.

§ 5.18. Facilities shall place responsibility for the provision of health services with the medical staff or under the supervision of a licensed physician who may be directly employed or serving on a contractual basis. In addition to the establishment and supervision of the facilities' medical policies, the medical staff or the physician shall:

1. Institute procedures for the control and treatment of communicable diseases.
2. Encourage personal hygiene.
3. Assure maintenance of personal health records, and inventories of all medical equipment, supplies, medicines, and medical paraphernalia.
4. Abide by all state and federal laws and regulations pertaining to the storage, maintenance, or inventories of drugs or drug related paraphernalia.
5. Provide for the control, supervision and distribution of prescription medication.

PART VI. ORGANIZATION AND MANAGEMENT.

Article 1. Governing Body.

§ 6.1. There shall be an effective, organized governing body or other legal authority responsible for the management, control, and operation of the facility. The governing body may be a governmental unit, board of directors or a board of trustees.

Article 2. Governing Body By-Laws.

§ 6.2. The governing body shall adopt and maintain written by-laws in accordance with legal requirements, identifying the purposes of the facility and the means of fulfilling them. A copy of the by-laws and rules and regulations including amendments or revisions thereto, shall be made available to the department on request. They shall include, but not be limited to the following:

1. Definition of powers and duties of the governing body officers, its committees and the executive officer of the facility.

2. Qualifications for membership, type of membership, method of selecting members, officers, and chairmen of committees, and terms of appointment, or election.

3. Method for periodic selection of new members.

4. Provision for indoctrination, orientation, and continuing education of governing body members.

5. Definition of the authority and responsibility delegated to the executive officer of the facility and the medical staff.

6. Provision for periodic review of the by-laws.

7. Provision for review periodically of each department of the facility, to evaluate its efficiency in providing quality services.

Article 3. Disclosure.

§ 6.3. There shall be full disclosure of facility ownership and control.

Article 4. Appointment of Chief Administrative Officer.

§ 6.4. The governing body shall appoint a chief administrative officer whose qualifications, authority and duties shall be defined in writing, and adopted by the governing body.

Article 5. Clinical Director.

§ 6.5. The clinical director, if such a position exists within the facility, should be certified by the American Board of Psychiatry and Neurology, or be board eligible.

Article 6. Staffing.

§ 6.6. The governing body shall provide professional staff with the number of qualified professional, technical, and supporting personnel and consultants required to carry out an intensive and comprehensive treatment program.

Article 7. Governing Body and Ethics of Medical Profession.

§ 6.7. The governing body shall require that the medical staff establish medical by-laws and controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practice, and that each member observe all ethical principles of his profession.

Article 8. Evaluation of Professional Competence.

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§ 6.8. The governing body shall delegate to the medical staff the authority to evaluate the professional competence of all members and applicants for staff privileges; however, the governing body shall render final decision relating thereto.

Article 9.

Governing Body to Approve Medical Staff, By-Laws, Rules and Regulations.

§ 6.9. The medical staff by-laws shall be subject to governing body approval, which shall not be unreasonably withheld. These shall include an effective formal means for the medical staff to participate in the development of policy relative to both facility management and patient care.

Article 10.

Governing Body Committees.

§ 6.10. The governing body shall develop committees necessary to fulfill its responsibilities and to assess the results of its programs.

A. Committees should include but not be limited to executive committee, planning committee, or joint conference committee with the medical staff.

Article 11.

Governing Body Responsibilities Through Its Executive Officer.

§ 6.11. Through its executive officer, the governing body shall:

1. Provide for the control and use of the physical and financial resources of the facility.
2. Provide appropriate physical resources required to meet the needs of the patients, and participate in planning to meet the health needs of the community.
3. Provide written personnel policies and practices that adequately support sound patient care.
4. Provide a written plan of organization of the facility which includes all departments functioning in the facility, and which indicates all categories of personnel employed in the facility and the lines of communication. The organizational plan shall be periodically reviewed and revised as needed, showing dates of reviews and revisions.
5. Require that the sections of the organizational plan and job descriptions pertaining to each department of the facility be placed in the supervisor's office of the department to which it relates and job descriptions be furnished to all employees.
6. Require that the organizational plan be the product of the combined efforts of the professional and

technical department heads of the facility, subject to governing board approval.

7. Provide a master manual of administrative policies and procedures for each department of the facility. The manual of policies and procedures shall be periodically reviewed and revised as needed, showing dates of reviews and revisions.

8. Require that the sections of the manual of policies and procedures pertinent to each department of the facility shall be placed in the supervisor's office of the department to which it relates, and be available to all personnel in that department upon request.

9. Require that the policies and procedures manual be the product of the combined efforts of the professional and technical department heads of the facility, subject to governing board approval.

10. Provide a written plan for continuing programs of in-service education and training for the development and maintenance of a high standard of performance of nonprofessional duties to implement and carry out programs of care developed by the professional staff.

PART VII.

PSYCHIATRIC FACILITY-GENERAL.

Article 1.

Primary Functions.

§ 7.1. The primary functions of the facility shall be to diagnose and treat persons with psychiatric disorders, to restore them to optimal level of functioning and return them to the community. The psychiatric facility may include programs to:

1. Provide general psychiatric inpatient, outpatient, partial hospitalization, emergency services for psychiatric emergencies and medical management for detoxification of alcoholics and drug addicted persons, and consultation and education programs, with utilization of community facilities and organizations contributing to the care and treatment of the mentally ill or prevention of such disorder.
2. Provide specialized services in the care and treatment of mentally ill individuals including, but not limited to:
 - a. Adult mentally ill.
 - b. Alcohol and drug abuse treatment.
 - c. Chronically mentally ill.
 - d. Geriatric mentally ill.
 - e. Rehabilitation services.

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3. Provide public education in the prevention of mental illness.

4. Provide data and facilities and programs for self evaluation, research, and development in the care, treatment, and prevention of mental illnesses.

Article 2. Compliance with Applicable Standards.

§ 7.2. The psychiatric facility shall comply with the standards set forth in these regulations which are included in the type and scope of service defined in facility programs for which application is made to the Department of Mental Health and Mental Retardation for license.

Article 3. Availability of Services.

§ 7.3. The psychiatric facility shall make its services available as needed by the mentally ill within the correctional population.

PART VIII. PSYCHIATRIC FACILITY SERVICES.

Article 1. Essential Elements of Care.

§ 8.1. All psychiatric facilities shall establish the following services or affiliate with a licensed facility providing such services:

1. Emergency services to include but not limited to the medical management of detoxification and 24-hour services needed for the psychiatric emergency.
2. Acute psychiatric inpatient services.

§ 8.2. All psychiatric facilities may establish the following or affiliate with a licensed facility providing such services:

1. Outpatient services.
2. Partial hospitalization.
3. Consultation and education toward utilizing domiciliary facilities, nursing homes, and service through a licensed community mental health program, where they are available.

Article 2. Adult Mentally Ill.

§ 8.3. The facility program for the care and treatment of adult mentally ill, shall be under the direct supervision of an experienced physician licensed by the Virginia State Board of Medicine.

§ 8.4. Adult mentally ill patients admitted involuntarily shall be provided the full range of psychiatric services the

same as voluntary admissions, with special services focused toward acceptance of care and treatment needed.

Article 3. Chronically Mentally Ill.

§ 8.5. The facility program for the chronically mentally ill, when provided, shall be under the direct supervision of a licensed physician.

A. The chronically mentally ill patient shall be provided the full range of psychiatric services the same as other patients admitted to the facility.

B. The chronically mentally ill patient care program shall be organized to ensure flexibility in care as indicated by needs of each patient with special focus at time of periodic review on evaluation of treatment.

C. The chronically mentally ill patient shall receive all disciplines of care and treatment indicated by the order reflected in the individual patient care plan which shall be reviewed and revised the same as other patients.

Article 4. Geriatric Mentally Ill.

§ 8.6. The geriatric mentally ill patient program when provided, shall be under the direct supervision of a licensed physician.

§ 8.7. The geriatric mentally ill patients shall be provided the full range of services the same as other patients admitted to the facility.

PART IX. REHABILITATION SERVICE (When Provided).

Article 1. Rehabilitation Plan.

§ 9.1. There shall be a written organization plan which identifies the rehabilitation service and its place in the overall organizational plan; defines the responsibility, authority and relationship of all positions within the service and which is periodically reviewed and revised.

A. The rehabilitation service should be under the direction of a licensed physician who is an active member of the medical staff and who, on basis of training and experience, is competent in rehabilitation medicine; or a medical staff committee composed of physicians knowledgeable in the needs of the patient population and the ability of the psychiatric facility to meet these needs.

B. All rehabilitation services shall be provided by or under the supervision of licensed or registered personnel in accordance with state laws and regulations.

C. The staffing requirements of a rehabilitation service will depend upon the scope and volume of services offered

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and utilized. An adequate staffing pattern should provide professional, supportive and clerical personnel in numbers sufficient to achieve the goals and objectives of the facility rehabilitation program.

D. The staff of the rehabilitation service should include the services of a qualified rehabilitation counselor whose involvement with patients begins at the time the patient is admitted to the facility.

Article 2. Scope of Service.

§ 9.2. The rehabilitation service in the psychiatric facility may provide, but not to be limited to, the following services:

1. Physical therapy.
2. Occupational therapy.
3. Speech and hearing.
4. Testing, fitting or training in the use of prosthetic and orthopedic devices.
5. Pre-vocational conditioning.
6. Recreational therapy.
7. Vocational training (in combination with other rehabilitation services).
8. Personal and work adjustment services.
9. Extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor markets.
10. Dental services.
11. Rehabilitation counseling.

Article 3. Policies and Procedures.

§ 9.3. The rehabilitation services policies and procedures shall be in writing, and shall include but not be limited to:

1. Scope of service.
2. Responsibility for patient transportation to and from service.
3. Method by which the medical and treatment orders and information shall be transferred to and from the service.
4. Responsibilities for recording all treatments in the patient's medical record.

Article 4. Starting Service.

§ 9.4. The rehabilitation process provided by the service should start with the patient's admission to the facility.

Article 5. Records.

§ 9.5. A record of all therapy shall be written in the patient's medical record, dated and signed.

Article 6. Evaluation.

§ 9.6. All patients receiving rehabilitation services shall receive comprehensive evaluation by the total treatment team (the physician, psychologist, nurse, social worker, rehabilitation counselor, and representatives of other therapeutic disciplines needed by the patient) at frequent intervals and revisions made in the plan of treatment as the patient's need for care changes.

Article 7. Orders for Treatment.

§ 9.7. All treatments shall be provided only on the order of a physician and recorded in the patient's medical record.

Article 8. Transfer of Records.

§ 9.8. Patients requiring rehabilitation service and who are transferred from other facilities shall be accompanied by their medical record showing level of rehabilitation accomplished before admission to the psychiatric facility rehabilitation service.

Article 9. Space.

§ 9.9. There shall be adequate space and equipment for the reception, examination and rehabilitative treatment of patients, for the related clerical work and for conference or teaching sessions.

Article 10. Equipment.

§ 9.10. The equipment shall be adequate and of a type, quality and quantity to provide safe and effective patient care and kept in good repair.

Article 11. Equipment Service.

§ 9.11. All equipment shall be calibrated according to manufacturer's directions and should be periodically serviced as part of a preventive maintenance program.

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PART X. PERSONNEL PRACTICES.

Article 1. Staff Development and Personnel Policies.

§ 10.1. All staff positions shall be identified as to title, function, authority and responsibility, minimal educational or experience requirements. Such identification shall be in writing, and made available to the staff person employed within the position.

A. All full and part-time staff shall be apprised of all policies, standards, and procedures, which relate to the care of patients or carrying out of activities related to licensure.

B. Each employee of the facility and volunteer, whether full or part-time, shall be required to have, within 30 days of employment, a physical examination and a T.B. test. At least a yearly physical checkup of each employee shall be obtained thereafter to ensure that he offers no health hazard to patients or other personnel. A tuberculin skin test may be substituted for the chest X-ray. Any person who shows evidence of serious communicable disease shall be excluded from work or reassigned and not permitted to resume his regular duties until such time as a licensed physician states that he offers no hazard to the patients or personnel.

C. The facility shall be encouraged to provide structured in-service training programs on a regularly scheduled basis. A record of all such training sessions shall be kept, including notation of date held, topic presented or discussed, number and position of persons in attendance, and the position or credentials of the persons conducting the session.

PART XI. PROFESSIONAL STAFF.

Article 1. Professional Staff Organized.

§ 11.1. The professional staff shall be organized to accomplish its required functions.

A. It shall provide written procedures for the election or appointment of its officers, executive committee, department heads and service chiefs.

Article 2. Professional Staff By-Laws, Rules, and Regulations.

§ 11.2. The professional staff shall develop and adopt, subject to the approval of the governing body, written by-laws to establish a framework for governance and a means of accountability to the governing body.

Article 3. Committees of Professional Staff.

§ 11.3. The professional staff shall participate in the maintenance of high professional standards, by representation on committees concerned with patient care whether the patient care functions are activated by organization of the following separate committees:

1. Executive.
2. Credentials.
3. Medical records.
4. Aspesis.
5. Utilization review.
6. A committee of the whole.
 - a. There shall be written documentation of these activities.

§ 11.4. There shall be written procedures of formal and official means of liaison among the professional staff, the governing body, and the executive officer to provide a channel for medico-administrative advice through a joint conference committee which should meet at least two times annually.

Article 4. Clinical Director.

§ 11.5. In facilities where the chief administrative officer, or executive officer, is not a psychiatrist, there may be a clinical director certified by the American Board of Psychiatry and Neurology, or board eligible.

Article 5. Neurology.

§ 11.6. If a qualified neurologist is not on the staff of the facility, arrangements shall be made for scheduled services, as needed.

PART XII. ADMISSIONS TO PSYCHIATRIC FACILITY.

Article 1. Admission Policies and Procedures.

§ 12.1. Each psychiatric facility shall establish, in writing, its admission policies and procedures, the range of diagnostic and treatment services it offers, and the manner in which these are routinely accomplished, including but not limited to the following:

1. A basic definition of services offered setting forth the areas of competence.
2. A statement of the range of diagnostic and evaluation procedures the facility is prepared to render and the range of treatment services offered

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within the facility, or by an affiliate, specifying each affiliate and its services.

3. Procedures for referring patients to another resource for care as an alternate to admission, or as a supplemental treatment during patient's stay in the facility.

4. Procedures for emergency admissions.

5. Procedures for emergency referral.

6. Statement of conditions under which the facility will accept referrals from other sources.

Article 2. Compliance with State Statutes.

§ 12.2. Written provision shall be made for conformance with the current laws of Virginia for admission of patients to a psychiatric facility and provision for a change of admission policies as existing state statutes are amended.

Article 3. Patients Admitted Only on Physician's Order.

§ 12.3. All patients shall be admitted to the facility by a member of the medical staff, and shall be required to have an admitting diagnosis to justify facility admission during the initial diagnostic process.

PART XIII. DIAGNOSIS AND TREATMENT.

Article 1. Admitting Diagnosis.

§ 13.1. Admitting psychiatric and physical evaluations, including a neurological examination, when indicated, should be completed and recorded within 24 hours of admission.

Article 2. Social and Psychological Evaluations.

§ 13.2. Social and psychological evaluations, when indicated, shall be conducted under the supervision of a licensed social worker or a licensed psychologist, and should be completed as soon as possible after patient's admission.

Article 3. Provisional Diagnosis.

§ 13.3. A provisional diagnosis shall be made and reviewed at least every two months and additional informative observations as to patient's condition shall be recorded in patient's medical record.

Article 4. Final Diagnosis.

§ 13.4. The final diagnosis shall be set forth clearly in the medical record which shall be completed upon discharge.

Article 5. Nomenclature.

§ 13.5. All diagnosis shall be rendered in standard nomenclature as provided in the American Psychiatric Association's latest edition of the Diagnostic and Statistical Manual of Mental Disorders.

Article 6. Coordination, Communication, and Collaboration of Treatment Planning Efforts.

§ 13.6. There shall be, in writing, a workable method to provide appropriate coordination, communication, and collaboration among all staff members contributing to the evaluation, treatment planning and treatment efforts, as needed by the patient including, though not limited to: individual, family, and group therapy, play therapy, behavior modifications, indicated somatic therapies such as chemotherapy and appropriate occupational and recreational therapies.

Article 7. Nonpsychiatric Illnesses.

§ 13.7. Prompt diagnosis and effective treatment of medical and surgical contingencies which may occur may be needed by patients hospitalized for mental disorders; therefore, shall be the same range of services available for treatment of a nonpsychiatric illness and maintenance of their general welfare as would be available to them in an accredited general hospital whether they are available within the psychiatric facility or by contractual arrangement in a nearby general, special, state or community hospital.

Article 8. Oxygen Therapy.

§ 13.8. Oxygen therapy when needed, shall be ordered by a physician, in writing, dated, and signed in the medical record, showing specific dosages of medication or mixtures of gasses, and given by a licensed therapist or a registered nurse certified by the medical staff as to adequate training to administer oxygen therapy.

Article 9. Special Medical and Para-Medical Services.

§ 13.9. When neurological examinations are provided in the psychiatric facility, technicians, diagnostic tools and equipment must be available to provide an accredited neurological service. In the absence of this service, there shall be written arrangements with hospital neurology department or consultant neurologist to carry out these tests when they are indicated.

§ 13.10. Provision shall be made for the rendering of

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dental services by a qualified dentist when required.

Article 10.

Determining Need for Somatic Treatment.

§ 13.11. Drug therapy, electro-convulsive therapy and other somatic treatment modalities shall be given only upon the specific order of a physician.

A. Standard routines shall be established, in writing, and followed for preparation of patient for such somatic treatments, and the immediate post-treatment recovery phase.

B. Routines for these treatments shall be reviewed periodically to ensure they are current and in keeping with generally accepted standards of practice.

C. Adverse reactions, sensitivities to specific drugs and other pertinent information shall be recorded in the patient's medical record immediately.

Article 11.

Psychiatric Plan of Treatment.

§ 13.12. There shall be a psychiatric plan of treatment in writing for each patient based on an evaluation of his condition, his treatment or his potential for rehabilitation, and the resources of the facility to meet these needs. The treatment plan shall include, but not be limited to, the following:

1. A statement of the nature of the problem and the needs of the patient.
2. A statement of the rationale and the plan of treatment, and management, including goals.
3. A description of the staff's involvement with the patient in order to attain the treatment goals.
4. Specification of the use of specific modalities, psychotherapy, drug therapy, and other measures to be incorporated into the total plan.
5. Projections of anticipated aftercare to ensure continuity of care the patient will need.
6. Frequent reviews and revision of the psychiatric plan of treatment as the patient's needs for care change.

Article 12.

Research.

§ 13.13. When research or study is carried out in a facility such research shall conform to requirements of Chapter 13, Title 37.1 of the Code of Virginia and applicable rules and regulations.

Article 13. Special Care Rooms.

§ 13.14. There may be special care or isolation rooms available where a disturbed or ill patient can be housed.

A. Any incident resulting in serious injury or death shall be investigated by the director of the facility, appropriately reported to the local authorities and reported to the department. A written report of the incident shall be made and kept on file at the facility and made available to the commissioner or his authorized representative upon request.

PART XIV. EMERGENCY SERVICES.

Article 1.

Type and Scope of Services Defined.

§ 14.1. The type and scope of the emergency service of the psychiatric facility shall be clearly defined, in writing.

Article 2.

Emergency Service Policies.

§ 14.2. There shall be written policies specifying the extent of treatment to be carried out in the emergency service. Such policies shall be approved by the medical staff and reviewed periodically, and revised as necessary, showing dates of reviews and revisions.

Article 3.

Emergency Service Procedures.

§ 14.3. There should be written procedures including, but not limited to the following:

1. Specification of staff coverage, and consultants on call.
2. Instructions relative to identification of patient's personal physician and the transmission of relevant reports.
3. Plans for communication with the nearest poison control center, and with police and local emergency authorities relative to accident victims and to individuals in other reporting situations such as being victims of suspected criminal acts.
4. Procedures for prompt treatment of various types of emergencies: suicidal, anxious persons showing panic, confusion or bizarre behavior; intoxicated persons as the result of alcohol or drugs; the aggressively mentally ill individuals, etc.

Article 4.

Emergency Service Medical Records.

§ 14.4. A medical record shall be kept on every individual receiving emergency service and shall become a

permanent record of the psychiatric facility. The record shall include, but not be limited to, the following:

1. Identification data including the patient's legal status.
2. The time of arrival, and the time of discharge.
3. By what means patient was transported to the emergency service.
4. Pertinent history including emergency care given prior to the arrival of the patient at the psychiatric facility emergency service.
5. A description of significant clinical data.
6. The treatment given in the emergency service.
7. The condition of the individual on transfer to inpatient service, or discharge.
8. The final disposition of patients discharged, including written instructions given to the patient, his family or others.
9. The records must contain the signature of the professional staff member rendering the care, and responsible for its clinical accuracy.

Article 5.
Emergency Service Record Filing.

§ 14.5. The patient's emergency service record shall be incorporated in his medical records, if he has one; made a part of his inpatient medical record if he is admitted to the facility; and upon discharge, the record shall be retained with the facility medical records.

Article 6.
Instructions To Patient Upon Discharge.

§ 14.6. Instructions given to patients upon discharge from the emergency service shall be given in writing, dated, and signed. A copy of such instructions shall be made a part of the patient's medical record.

Article 7.
Emergency Service Record Review.

§ 14.7. A selection of emergency medical records shall be made for periodical review by the appropriate medical staff record review committee.

PART XV.
NURSING SERVICE.

Article 1.
Director of Nursing Service.

§ 15.1. The director of nursing service in a psychiatric

facility shall be a registered nurse currently licensed to practice professional nursing by the Commonwealth of Virginia, with adequate experience and demonstrated ability to assume the responsibilities of directing the nursing service in the management of mentally ill patients. Based on credentials of education, experience and demonstrated ability, the director of nursing service should be qualified in the fields of psychiatric nursing and administration, and have the ability to organize, coordinate, and evaluate the work of the service. The director should be responsible to the facility's administration for clinical nursing services, for developing and implementing policies and procedures of the service within the facility.

Article 2.
Registered Nurse's Responsibilities.

§ 15.2. There shall be a sufficient number of licensed registered nurses on duty at all times to plan, assign, supervise, and evaluate nursing care, as well as to assure that patients receive the nursing care that requires the judgement and specialized skills of a registered nurse.

A. The registered nurse shall be responsible for determining nursing care needs, the professional skill and judgement required, and the assignment and supervision of nursing tasks that can be safely performed by other nursing personnel.

B. In all instances, a registered nurse should plan, supervise, and evaluate the nursing care of each patient.

C. Registered nurses shall be currently licensed in the Commonwealth of Virginia with experience demonstrating ability to assume the responsibilities of the nurse member of the professional nursing staff of the facility.

Article 3.
Licensed Practical Nurses.

§ 15.3. Licensed practical nurses, psychiatric aides, and other ancillary nursing personnel shall be qualified by education, training, experience and demonstrated abilities to give such nursing care.

A. Their performance shall be supervised by a registered nurse.

Article 4.
Organization Plan of Nursing Service.

§ 15.4. The nursing service shall have a current written plan of organization that delineates its functional structure and mechanisms for cooperative planning and decision making which is an integral part of the overall organizational plan of the facility. The plan shall include;

1. The staffing plan for nursing personnel throughout the facility and individual staffing patterns for each treatment unit which reflect consideration of the

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nursing goals, standards of psychiatric nursing practice, and of characteristics of the patient assignment.

2. Functions for which nursing service is responsible, and positions required to carry out such functions.

3. The functions, responsibilities, and desired qualifications of each classification of personnel which should, in turn, be reflected in job descriptions for each position classification.

4. The lines of communication within nursing service.

5. The relationships of nursing staff in the participation and evaluation of the total therapeutic plan for patient care.

6. The coordination of nursing service activities with those of other services of the facility.

Article 5. Nursing Service Committees.

§ 15.5. The organizational plan for nursing service shall provide for committees to facilitate the establishment and attainment of goals and objectives of nursing services; and for nursing service representation in any planning, decision making, and formulation of policies that affect the operation of the nursing service, the nursing care of patients, or patient environment.

Article 6. Policies and Procedures of Nursing Service.

§ 15.6. A written manual of nursing care and administrative policies and procedures shall be developed to provide the nursing staff with acceptable methods of meeting its responsibilities and achieving projected goals, including, but not limited to, the following:

1. Noting physician's orders.
2. Management of agitated and disturbed patients.
3. Assigning nursing care of patients.
4. Medication administration including reporting of medication errors.
5. Records maintenance by nursing personnel.
6. Infection control, including policies and procedures for sending specimens, or cultures, to a laboratory.
7. Patient safety, including provisions for ingress and egress to special care rooms at all times.

Article 7. Availability of Nursing Policies and Procedures Manual.

§ 15.7. The nursing care manual shall be available to the nursing staff in every nursing care unit and service area, and other departments of the facility.

Article 8. Periodic Review of Manual.

§ 15.8. The nursing care manual shall be reviewed periodically and revised as necessary in cooperation with representatives of the medical staff and other professional disciplines in the care of psychiatric patients.

Article 9. Continuing Program of Nursing Education.

§ 15.9. There shall be a written program for continuing staff education and training, including orientation and in-service education.

A. These programs should contribute toward staff development and the preparation of staff members for greater responsibility in psychiatric nursing.

B. Educational resources from both inside and outside the facility should be utilized.

Article 10. Orientation for Nursing Service Personnel.

§ 15.10. Orientation programs for new nursing personnel shall be planned in advance, including a written outline designed to ensure a thorough orientation for each new nursing service employee.

A. Orientation programs shall include an adequate training program for aides who have no previous training which provides classroom and clinical experience, including a method of evaluating the participants, the program, and the program's effect on patients.

Article 11. In-Service Education.

§ 15.11. In-service education programs should be provided for the improvement of nursing care and service through increased proficiency and to keep the nursing staff up-to-date on new and expanding psychiatric nursing care programs, and on new techniques, equipment, facilities, and concepts of treatment and care.

Article 12. Nursing Service Library.

§ 15.12. Professional books and current periodicals should be made available to nursing personnel, and appropriate reference material should be supplied for each nursing unit.

Article 13. Nursing Care Plan.

§ 15.13. There shall be a written nursing care plan as part

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of the medical record for each patient which is coordinated and integrated with the psychiatric plan of treatment and other multi-disciplines of therapy the patient is receiving.

A. The nursing care plan should include, but not be limited to:

1. Nursing care needed, how best accomplished, what methods and approaches believed to be most successful, and modifications necessary to ensure best results.
2. Medication, treatment.
3. Long term goals - including discharge plans.
4. Short term objectives.

§ 15.14. The nursing care plan should give evidence that planning has been done to make sure the patient receives appropriate nursing, and also serve as an effective method of communicating pertinent information to all nursing personnel concerned with the patient.

Article 14. Initiating Nursing Care Plan.

§ 15.15. The nursing care plan shall be initiated upon the admission of the patient to the facility and shall be a part of the psychiatric treatment program.

Article 15. Availability of Nursing Care Plan.

§ 15.16. The nursing care plan shall be available to all nursing personnel and should be reviewed and revised as necessary.

Article 16. Nursing Care Records.

§ 15.17. Nursing care records and reports shall be maintained which reflect the patient's progress, and show that the nursing care, as planned, is being carried out.

PART XVI. SOCIAL WORK SERVICE.

Article 1. Type and Scope of Social Work Service Defined.

§ 16.1. The type and scope of the psychiatric social work service provided shall be defined in writing, where indicated. The service shall be available to patients in order to fulfill all assigned responsibilities related to the specific needs of the patient and his family.

Article 2. Social Work Service Supervision.

§ 16.2. The social work service shall be supervised by an

individual who has been licensed by the Commonwealth of Virginia as a licensed social worker.

Article 3. Responsibilities of Psychiatric Social Work Service.

§ 16.3. In an organized psychiatric social work service within a psychiatric facility, the responsibilities of the service shall include:

1. The securing of information and gaining understanding of the psychodynamic implications of patient's development and current life situation.
2. Participation with other mental health professionals in assessing the factors that affect the social functioning of the patient and his family.
3. Helping plan appropriate action to assist the family and to help the patient make the best adjustment of which he is capable.
4. Adapting the methods of social case-work, group work, and community organization to the specific psychiatric setting to help implement treatment plans.
5. Working with other agencies to facilitate the movement of patients in and out of the psychiatric facility from pre-admission to after-care.
6. Work directly with the patient, his family, and the community in after-care rehabilitation programs and in planning interagency relationships.

Article 4. Psychiatric Social Work Service Records.

§ 16.4. Record entries of psychiatric social work service personnel shall include, when indicated:

1. Psycho-social and developmental study information for appropriate patients.
2. Social work therapy and rehabilitation of patients.
3. Home environmental investigations for attending physicians.
4. Cooperative activities with community agencies.
5. Social service summaries.
6. Follow-up reports of discharged patients confirming disposition, when obtained.

Article 5. Provision for Social Work Service.

§ 16.5. If the facility does not maintain a social work service, provision of the service shall be secured by:

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1. A social worker employed on a full-time or part-time basis.

2. Consultant services. However, arrangements for such services shall be defined in a written agreement that outlined the role and responsibility of both the psychiatric facility and the social work agency.

PART XVII. PSYCHOLOGICAL SERVICES.

Article 1.

Type and Scope of Psychological Service Defined.

§ 17.1. The type and scope of the psychological service shall be defined in writing. Services may include, but not be limited to:

1. Direct service to patients.
2. Assistance in diagnosis and personality assessment development as a result of psychological testing.
3. Teaching of clinical psychology research methods and the theory and data pertaining to learning and perception.
4. Research on personality and psychopathology.
5. Assessment of treatment results.

Article 2.

Psychological Service Supervision.

§ 17.2. The psychological service shall be supervised by an individual who is licensed by the Virginia State Board of Medicine as a clinical psychologist.

Article 3.

Psychological Service Staffing.

§ 17.3. The psychological service staff, including staff psychologists, consultants, technicians, and supporting personnel, shall be adequate in number and by qualification to plan and carry out assigned responsibilities needed by the type and scope of the facility program.

Article 4.

Provision for Psychological Service.

§ 17.4. If the facility does not maintain a psychological service, provision shall be made for the service, as needed.

PART XVIII. RELIGIOUS SERVICES.

Article 1.

Chaplain.

§ 18.1. Psychiatric facility chaplains, whether full-time or

part-time, should be fully ordained clergy with approved college and seminary training, and pastoral experience, as well as ecclesiastical endorsement of their denomination. The psychiatric facility chaplain should have specialized training and experience in psychiatric hospital ministry, preferably clinical experience under guidance.

Article 2.

Meeting Religious Needs of Patients.

§ 18.2. The religious needs of patients should be met through opportunities for attendance at services of worship, observance of sacramental occasions, observance of holy days and days of obligation, individual pastoral contacts between patients and the clergy, and whatever other means may be available to those patients who so desire to participate.

PART XIX. LABORATORY SERVICE.

Article 1.

Laboratory Service to be Provided.

§ 19.1. There shall be a clinical laboratory available to the psychiatric facility.

Article 2.

Provision for Laboratory Service.

§ 19.2. If the laboratory service is not available within the psychiatric facility there shall be a written plan for the provision of such services, as needed.

PART XX. RADIOLOGY SERVICES.

Article 1.

Provision for X-Ray Services.

§ 20.1. There shall be an X-ray department or a written plan reflecting a contractual agreement with a facility to provide radiological services, as needed.

Article 2.

Accredited X-Ray Service.

§ 20.2. The X-ray service, whether maintained within the psychiatric facility or obtained by outside arrangement shall be provided by a service that meets the requirements of the Virginia Department of Health for X-ray service.

PART XXI. PHARMACY SERVICE.

Article 1.

Scope of Pharmacy Service Defined.

§ 21.1. The scope of the pharmaceutical service shall be defined, in writing, consistent with the medication needs of

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the patients, and shall include a program for the control and accountability of drug products throughout the facility.

Article 2. Supervision of Pharmacy.

§ 21.2. The pharmaceutical service shall be directed by a professionally licensed pharmacist and shall be staffed by a sufficient number of competent personnel in keeping with the size and scope of services of the psychiatric facility.

Article 3. Policies and Procedures of Pharmacy Service.

§ 21.3. Written policies and procedures that govern the safe storage, control and administration of drugs shall be developed by the pharmacist in cooperation with the medical staff, and with representatives of other disciplines, as necessary.

Article 4. Medication Errors.

§ 21.4. Medication errors and drug reactions shall be reported immediately to the physician responsible for the patient. An entry of the medication given and the drug reaction shall be properly recorded in the patient's medical record.

Article 5. Drug Formulary Recommended.

§ 21.5. The facility staff, with the advice and counsel of the pharmacist, shall establish a formulary of drugs to be used in the facility. However, the existence of the formulary shall not preclude the use of drugs not included in the formulary.

Article 6. Compliance with State Laws and Regulations.

§ 21.6. Psychiatric facilities operating a pharmacy or maintaining a drug storage and administration service, shall meet all the requirements set forth in the Drug Control Act and applicable regulations of the Virginia State Board of Pharmacy.

Article 7. Adequate Facilities and Equipment.

§ 21.7. There shall be equipment and supplies provided for the professional and administrative functions of the pharmaceutical service as required to ensure patient safety through the proper storage and dispensing of drugs.

Article 8. Administrative Check.

§ 21.8. A periodic spot check shall be made by the executive officer, or his designee, of the accuracy of

established controls in the handling of narcotics and controlled substances.

Article 9. Control of Illegal Drugs.

§ 21.9. The facility shall provide for the control and appropriate disposal of controlled dangerous substances (CDS) in accordance with state and federal laws, and alcoholic beverages entering the facility through illicit means.

Article 10. Emergency Drugs and Supplies.

§ 21.10. Emergency drugs, crash carts, equipment and supplies shall be assembled and available for immediate use, reviewed periodically to ensure they are current and in keeping with general accepted standards of practice.

PART XXII. MEDICAL RECORDS.

Article 1. Written Policies and Procedures.

§ 22.1. There shall be written policies and procedures which provide that a medical record be maintained for every patient admitted to treatment or emergency service.

§ 22.2. Medical records shall contain sufficient information to identify clearly the patient, including the patient's legal status.

§ 22.3. The medical complaint of a patient shall be included in the medical record.

§ 22.4. The patient's medical record shall show a provisional, or admitting, diagnosis at the time of admission and include the diagnosis of intercurrent diseases as well as the psychiatric diagnosis.

§ 22.5. The history, physical examination, and psychiatric evaluation shall provide sufficient detail to enable another physician to assume the care of the patient, a consultant to give a satisfactory opinion after his examination, and for the physician who made the entries to determine, at any future date, what the condition of the patient was and what procedures were performed.

§ 22.6. The psychiatric evaluation, including medical history, shall contain a record of the mental status of the patient, time of onset of illness, the circumstances leading to admission, attitudes, behavior, estimate of intellectual functioning, memory functioning, orientation and an inventory of the patient's assets in descriptive, not interpretative fashion.

§ 22.7. The social service records, including reports of interviews with patients, family members and others providing assessment of home plans and family attitudes,

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and community resource contacts, as well as a social history, shall be included in the patient's medical record.

§ 22.8. Specific interagency mental health services available in patient's home community should be recorded in patient's medical record, as appropriate.

§ 22.9. The medical record shall include reports of consultation, psychological evaluations, neurological examination, reports of electro-encephalograms, clinical laboratory and X-ray test, dental records, and reports of special studies made.

§ 22.10. The psychiatric plan of treatment shall be recorded, based on an inventory of the patient's strengths as well as his disabilities, and should include a substantiated diagnosis in the terminology of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorder, III, short-term and long-range goals, and the specific treatment modalities utilized as well as the responsibilities of each member of the treatment team in such a manner that it provides adequate justification and documentation for the diagnosis and for the treatment and rehabilitation activities carried out.

§ 22.11. The treatment received by the patient shall be documented in such a manner and with such frequency as to assure that all active therapeutic efforts such as individual and group therapy, drug therapy, milieu therapy, occupational therapy, recreational therapy, industrial or work therapy, nursing care and other therapeutic interventions are included, as given.

§ 22.12. Progress notes shall be recorded by the physician, psychologist, nurse, social worker and, when appropriate, others significantly involved in active treatment. The frequency should be dependent upon the condition of the patient, but shall be recorded at least three times daily during the initial or acute treatment phase, and at least once daily thereafter, and should contain recommendations for revisions in the treatment plan as well as precise assessment of the patient's progress in accordance with the original, or revised, treatment plan.

§ 22.13. The discharge summary shall include a recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up, or aftercare, as well as a brief summary of the patient's condition on discharge.

§ 22.14. Certification that the physicians' orders have been carried out shall be shown by signature, or initials, of the registered nurse responsible.

§ 22.15. Final diagnosis shall be definitive and based upon the terms specified in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, III.

§ 22.16. Autopsy findings, if provided when an autopsy is performed, shall include a complete protocol of findings.

§ 22.17. All entries in the medical record shall be signed and dated. Physical examination, psychiatric evaluations, resumes, diagnostic formulations, or opinions requiring medical judgement shall be signed by the physician responsible.

§ 22.18. Telephone orders shall be countersigned within 24 hours by the responsible physician or a physician designated by him.

§ 22.19. Medical records of patients seen on an out-patient basis and in the emergency department shall be made.

§ 22.20. Medical record departments should maintain statistical data relating to patient's care to ensure a prompt interchange of such data as patients transfer from hospital to aftercare agencies, maintaining confidentiality as to patient information.

§ 22.21. Certain portions of the medical record of the psychiatric patient are so confidential that extraordinary means shall be taken to preserve privacy. In such cases, these portions may be stored separately. For review purposes by the medical record committee of the medical staff, the complete record shall be available.

Article 2. Retention of Records.

§ 22.22. All records of discharged patients shall be completed promptly and filed and retained for a minimum of three years from date of discharge or longer, as other statutes require. Such records may be micro-filmed.

A. Each facility shall have policies approved by the governing body, providing for the retention and safekeeping of patient's records for the required period of time and in the event that the facility discontinues operation.

B. If the patient is transferred to another facility a copy of the patient's record or an abstract thereof shall accompany the patient.

C. All information contained in the records shall be treated as confidential and shall be disclosed only to authorized persons and in accordance with § 37.1-84.1 of the Code of Virginia.

D. If the facility does not have a full or part-time medical records librarian, an employee of the facility shall be assigned the responsibility for assuring that records are maintained, completed and preserved.

Article 3. Access to Records.

§ 22.23. All facility personnel, patient and other records shall be made available to the commissioner or his representative when investigating complaints made against the facility, staff, other patients or treatment procedures.

Confidential information contained in such records shall be held confidential by the commissioner or his representative.

**PART XXIII.
DIETARY DEPARTMENT (FOOD SERVICE).**

**Article 1.
Compliance with Health Regulations.**

§ 23.1. The food service shall be in full compliance with the Virginia State Department of Health regulations for food service establishments.

§ 23.2. The dietary department shall be directed by a full-time person who is knowledgeable in administrative and organizational aspects of dietary management and food service administration.

§ 23.3. At least one therapeutic dietician who has met the qualifications of the American Dietetic Association shall serve the facility on a full-time or part-time basis. A part-time dietician shall maintain a written record of services rendered on each visit to the hospital.

§ 23.4. The director of the dietary department shall be currently informed as to the state and federal regulations pertinent to the operation and management of a dietary department of a hospital and current standards of the American Psychiatric Association and the Joint Commission on Accreditation of Hospitals.

§ 23.5. Long and short-term goals of the department shall be established, in writing, with measurements established for review of degree of accomplishment.

§ 23.6. There shall be a written plan or organization of the dietary department indicating routes of intra-departmental communication.

§ 23.7. The organizational plan and job descriptions shall be available to all personnel in the department.

§ 23.8. The organizational plan shall be reviewed periodically to reflect current needs.

A. Job description changes shall be developed to meet goals of the dietary department.

§ 23.9. There shall be written policies and procedures for the dietary department to guide all dietetic personnel in the performance of their duties.

A. The policies and procedures shall be developed with the cooperation of personnel from appropriate departments or services, including, when appropriate, representatives from the medical staff.

B. There shall be periodic review and revision of policies and procedures.

C. Written policies shall include provision for physicians' dietetic orders to be recorded in patients' charts by a physician before a diet is served to any patient, and the method for communication of orders from the physician to the dietary department, and from the dietary department to the physician when requested by the physician, or when significant to the patient's welfare, shall be clearly delineated.

§ 23.10. All dietary needs of patients shall be met by an acceptable method of preparation of tasty food, adequate in nutritious and caloric content and attractively served.

§ 23.11. Quality food supplies shall be maintained at all times.

§ 23.12. Menus shall be planned and written at least one week in advance. A copy of the current week's menu shall be maintained in the kitchen. If meals vary from the planned menu, the change shall be noted on the written menu. A copy of the menu, as served, shall be kept on file for a period of at least 30 days.

§ 23.13. Food shall be served in a relaxed atmosphere, at hours which are realistic to the welfare of patients.

§ 23.14. Food acceptance studies to determine the kinds and quantities of food eaten or not eaten shall be conducted regularly.

§ 23.15. Milk and cream shall be pasteurized, and shall be served from containers approved by the Department of Health.

A. All milk and cream products used for patients and employed personnel shall be made from pasteurized milk.

§ 23.16. Ice which comes in contact with food or drink shall be made delivered, stored, handled and dispensed in a sanitary manner and kept free from contamination.

§ 23.17. The dietary department shall be appropriately located and the floor plan of the department and type, size, and placement of equipment shall permit efficient food preparation and distribution, effective sanitation, and safety.

§ 23.18. Well maintained equipment shall be kept in sanitary condition at all times.

§ 23.19. Refrigerators shall be equipped with thermometers and high temperature alarms installed on walk in refrigerators.

§ 23.20. Working surfaces shall be cleaned and sanitized after each use.

§ 23.21. An educational program shall be provided for all dietician employees which should include at least the following:

Proposed Regulations

1. Orientation to the facility.
2. Kitchen sanitation.
3. Food inspection.
4. Food handling techniques.
5. Proper cleaning of foods.

§ 23.22. A dietary reference library including an up-to-date diet manual approved by the dietetic service shall be conveniently located and used.

§ 23.23. Disposable dinnerware or tableware shall be used on an emergency basis only, unless it is of a type approved for use by the State Department of Health. Picnic accessories may be used on outings, picnics and trips provided such accessories are not hazardous.

PART XXIV. VARIANCES.

Article 1. Allowable Variance.

§ 24.1. When, in the opinion of the commissioner, the enforcement of one of more of the foregoing regulations creates an undue hardship, the commissioner shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of the foregoing regulations, provided patient care is not adversely affected, and compliance shall be determined with a view towards reasonable conduct under the circumstances.

Article 2. Severability.

§ 24.2. If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment 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 judgement shall have been rendered.

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: VR 615-01-8. Real Property Disposition Period in the Aid to Dependent Children (ADC) Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A

Summary:

Pursuant to § 63.1-25 of the Code of Virginia, the State Board of Social Services has been delegated the authority to promulgate rules and regulations necessary for operation of public assistance programs in Virginia. As proposed herein, the board intends to extend the current six-month real property disposition period for three months, for a total of nine months.

The proposed regulation is an option provided states in § 2626 of the federal Deficit Reduction Act of 1984 (Public Law 98-369). The intent of the regulation is to allow applicants and recipients of assistance through Aid to Dependent Children (ADC) Program a more reasonable amount of time to market excess nonexempt real property. It is the position of the board that this extension is necessary as property owned by persons needing assistance, in many instances, is not "choice" property and, therefore, providing additional time to market the property is deemed fair and reasonable.

VR 615-01-8. Real Property Disposition Period in the Aid to Dependent Children (ADC) Program.

PART I.

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

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive an assistance payment.

"Exempt real property" means the home in which the assistance unit lives. The home includes the house and lot, including adjoining land used for a vegetable garden and/or other outbuildings essential to the dwelling.

"Good faith effort" means an attempt to sell the excess real property within a range of 10% of the fair market value of such property. Attempts may include, but are not limited to, listing the property with a real estate company or advertising the property in various ways.

"Recoupment" means withholding all or part of an assistance payment to a current assistance unit for the purpose of repaying a prior overpayment.

"Recovery" means a voluntary or court ordered arrangement with a current or former assistance unit for repayment of an overpayment.

PART II.

§ 2.1. When ownership of nonexempt real property alone, or in combination with other countable assets, causes an assistance units resources to exceed the \$600 maximum allowable limit, assistance shall be granted to the otherwise eligible assistance unit members for a period not to exceed ~~six~~ nine months, provided the assistance unit

signs an agreement to dispose of the property and repay assistance received during the period and continues to make a good faith effort to sell the property.

§ 2.2. If the excess nonexempt real property is sold during the ~~six~~ *nine* -month period, the entire amount of assistance received during the period, less support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment and repayment is to be made from the net proceeds from the sale of the property, except repayment cannot exceed the total amount of the net proceeds. If the net proceeds from the sale, plus all other resources available to the assistance unit at the beginning of the disposition period, do not exceed the \$600 allowable resource limit, no overpayment exists.

If the assistance unit refuses to repay assistance received with the proceeds from the sale of the property, the overpayment is subject to recoupment and/or recovery.

§ 2.3. If the excess nonexempt real property is not sold during the ~~six~~ *nine* -month period, the entire amount of assistance received during the period, less child support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment which is subject to recoupment and/or recovery.

§ 2.4. If the unit becomes ineligible for assistance during the ~~six~~ *nine* -month period because it no longer meets categorical or other financial eligibility requirements, the entire amount of assistance received during the period, less support collected by the Division of Child Support Enforcement (DCSE) Programs, is an overpayment which is subject to recoupment and/or recovery.

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.

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Regulations: VR 115-04-17. Rules and Regulations Pertaining to the Registration and Certification of Grape Nursery Stock.

Statutory Authority: §§ 3.1-28 and 3.1-188.32 through 3.1-188.49 of the Code of Virginia.

Effective Date: October 30, 1985

Summary:

The rules and regulations authorizes the establishment of a virus-free certification and registration program for grape nursery stock. It is a voluntary program which outlines the requirements for production by participants of Virginia certified grape nursery stock. Fees established for the administration of these regulations are for the sole purpose of defraying expenses incurred in the program.

VR 115-04-17. Rules and Regulations Pertaining to the Registration and Certification of Grape Nursery Stock.

§ 1. Definitions.

Terms used in the singular form in this regulation shall be deemed to import the plural, and vice versa, as the case may demand. The following terms, when used in this regulation, shall be construed, respectively to mean:

"Applicant" means any person who files an application for participation in this program.

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

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

"Foundation block" means a planting of grape vines established, operated and maintained by the Department in collaboration with Virginia Polytechnic Institute and State University, that are indexed to be free from [viruses virus diseases specified in Regulation 8(A),] and that are true-to-name. Propagating wood from the foundation block to establish mother blocks will be furnished to the applicants. Written requests for foundation stock must be received by the Department of Agriculture and Consumer Services before December 1 of each year.

"Foundation stock" means plants or propagating wood

which have been produced in a foundation block established, operated and maintained by the department in collaboration with Virginia Polytechnic Institute and State University or from any other foundation block in a state or country which has grapevine certification regulations and is approved by the department.

"Index or indexing" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant; or by any direct detection method approved by the department.

"Off-type" means different from the variety as stated on the application for registration or certification. A vine or a cane shall be considered off-type when affected by a disorder of genetic origin.

"Progeny vine" means a vine propagated from a parent rootstock and/or a parent [*tøpstøek* top-stock] source which has been indexed and is intended for planting in a foundation block.

"Propagating wood" means cuttings or buds taken from plants.

"Registered" means that a registration number has been assigned by the department to a grapevine in a foundation block, to an entire mother block, or to an entire increase block following the inspection and testing required in this [~~article~~ regulation] .

"Registered increase block" means a planting of grapevines from registered mother blocks or foundation stock and maintained by the applicant.

"Registered mother block" means a planting of grapevines maintained by the applicant to serve as a source for registered increase blocks and/or registered stock.

"Registered stock" means plants or propagating wood which have been produced in a foundation block, registered mother block or a registered increase block.

"Virginia Certified Grape Nursery Stock" to be known as certified stock means vines, rooted cuttings, cuttings, grafts, or buds taken from registered stock and certified in accordance with the provisions of this article. Certified stock also means vines, rooted cuttings, cuttings, grafts or buds taken from registered stock in another state or country which has grapevine certification regulations and is approved by the department with certification being approved for one growing season following introduction to a Virginia nursery.

"Virus-infected" means infected by a virus or manifesting symptoms or [behavior characteristic characteristics] of a virus disease as specified in § 8 [(a) A] .

§ 2. Voluntary program.

Participation in this program shall be voluntary and may be withdrawn at the option of the applicant.

§ 3. Warranty.

The Commonwealth of Virginia and the department warrants the certified stock produced under the provisions of these rules and regulations as being apparently virus free [, as specified in § 8(A)] . A certification tag, as detailed in subsection A of § 10 a, will be attached by the applicant. Certification is based on visual inspections of the vines and documentation of foundation stock source. Certification of this lot does not represent virus freedom of any other lot of noncertified grape nursery stock. Inspection reports of all grape nursery stock entered for certification can be inspected at the department's office in Richmond, Virginia.

§ 4. Applicant requirements.

A. The applicant shall be responsible, subject to the approval of the department, for the selection of the location and the proper maintenance for the following: registered mother blocks, registered increase blocks, and registered stock. The applicant shall be responsible for maintaining the identity of all registered mother blocks, registered increase blocks, and registered stock, and for keeping all plants in a thrifty growing condition and free of plant pests.

B. The applicant shall take suitable precautions in cultivation, irrigation, movement and use of equipment, and in other management practices to guard against the spread of soil-borne pests to plantings entered under this program. The applicant shall keep all areas clean cultivated except for cover crops.

C. Any registered vine or nursery plant found to be infected by a virus-like disease or is off-type shall be immediately reported to the department. Upon department inspection, the infected vine or nursery plant may be required to be removed and destroyed, if so ordered by the department.

§ 5. Planting location requirements.

Each planting shall be located in an area where contamination by soil-borne virus diseases of grapes from drainage, flooding, irrigation or other means is not likely to occur.

Each planting shall be located at least 25 feet from any land on which grapevines or other fruit known to be susceptible to viruses infecting grape have been grown

within the past 10 years, or shall be in a location approved by the department. This distance may be reduced if approved by the department provided the adjacent land is planted to a vineyard of certified stock. Preparation of the site shall be in a manner approved by the department.

§ 6. Planting and maintenance requirements.

A. Plants in registered mother blocks and registered increase blocks shall be spaced at a minimum of five feet in the row, and rows eight feet apart, with 20 feet between varieties in the row. These spacing requirements will not apply to registered mother blocks and registered increase blocks established in a greenhouse. Treatment to eliminate soil-borne pests in a manner approved by and under the supervision of the department may be required.

B. Propagating wood from each registered mother block variety and registered increase block variety must be identified by its progeny vine registration number and kept separate during the growing season.

C. Certified stock, including propagating wood, produced under the provisions of this [article regulation] shall be stored, heeled-in, or calloused in media, beds, or storage areas approved by the department. The department may require such treatment as may be necessary to protect against infection or infestation with pests.

D. The department shall be notified in advance of the planting, replanting, grafting, budding, rebudding, pruning, removal of certified stock, or removal of vines in any planting entered in this program in order that necessary inspections may be made or approval granted before the work is done.

E. Certified stock shall be sold within two years of certification. Certified stock introduced from another state or country shall be sold within one year following introduction into the Virginia nursery. Certified stock not sold within these periods shall have its certification revoked.

F. Any planting entered in this program shall be kept in a thrifty growing condition, and pests shall be kept under intensive control. Suitable precautions shall be taken in cultivation, irrigation, movement and use of equipment and in other approved cultural practices to guard against the spread of pests to plantings entered under this program.

§ 7. Eligibility for planting.

A. In a foundation block.

To be acceptable for planting in the foundation block, a plant shall be foundation stock, or its rootstock and top-stock sources and the plant itself shall have been inspected and tested and found not to be virus-infected or off-type, as provided in subsections A and E of § 8 of this regulation and the index readings shall have been

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completed within 24 months, or the plant shall have an equivalent known history approved by the department.

The plant shall have been protected from possible virus infection in an approved manner from the time it was originally propagated until it is planted in the foundation block.

B. In a registered mother block.

Foundation stock shall be acceptable for planting in a registered mother block. When approved by the department, propagating wood from a field [-] planted permanent registered mother block may be planted in the same registered mother block to increase its size or as [replacement replacements] .

Registered stock in movable containers is acceptable as long as the location is approved by the department and does not change.

C. In a registered increase block.

Foundation stock or registered stock from a registered mother block shall be acceptable for planting in a registered increase block. When approved by the department propagating wood from a field [-] planted permanent registered increase block may be planted in the same increase block to increase its size or as replacements.

Registered stock in movable containers is acceptable as long as the location is approved by the department and does not change.

§ 8. Inspection and testing procedures.

Inspection and testing procedures prescribed in this section may be made by the Virginia Polytechnic Institute and State University, the United States department of Agriculture, or the department, and shall be conducted in a manner and at times determined by the department as suitable. Index-testing may also be made by another state or country upon approval of the department. In the indexing procedures required in this section the substitution of other indicator plants or methods may be approved, if equally suitable. Indexing on a fewer number of indicator plants may be approved if the plant being tested is itself a good indicator for a particular disease. Indexing by a direct detection method may be approved if the method is comparable to indexing on indicator plants.

A. For progeny vines.

The parent rootstock and top-stock sources of a progeny vine for which registration is planned shall be index-tested on Mission, St. George, Baco 22 A, LN-33 varieties of grapevines, and Chenopodium spp., or by any other method approved by the department for the following virus diseases: tomato ring spot, [grape] leafroll, fanleaf degeneration and [grape] corky bark [

and any other diseases designated by the department] .

B. In a foundation block.

At least two visual inspections of each vine shall be made each growing season with annual indexing for tomato ring spot virus. Systematic indexing for other viruses shall be done as requested by the department based upon the biannual visual inspections or other indications which indicate reindexing is required.

C. In a registered mother block.

At least two inspections of each vine shall be made each growing season with systematic indexing as required by the department.

D. In a registered increase block.

At least one visual inspection shall be made each year prior to the removal of fruit, if any, from the vines, with systematic indexing as required by the department.

E. Additional inspections or tests may be required if seasonal conditions or other factors tend to obscure virus symptoms or make adequate inspection impossible, or when virus infection is suspected or virus symptoms may be masked in a particular variety.

§ 9. Cancellation of registration or certification.

Stock may be denied certification as "Virginia Certified Grape Nursery Stock" or as registered stock if:

1. The requirements of this [article regulation] have not been met;
2. Any vine in the planting is found virus-infected unless in the opinion of the department the remainder of the planting can be adequately protected, by treatment or by removal and destruction of all vines in the infected area, or by other means;
3. The plant is off-type;
4. It is determined that the registered stock used to produce certified or other registered stock is found to be virus infected;
5. The pest cleanliness requirements as required in [these regulations this regulation] and for nursery stock in the Virginia Plant and Plant Products Inspection Law have not been met.

§ 10. Tagging and identity.

A. Tagging.

The department will authorize the use of official certification tags for the identification of "Virginia Certified Grape Nursery Stock" that meets the

requirements of this program.

B. Identity.

Any person selling "Virginia Certified Grape Nursery Stock" is responsible for the identity of such nursery stock. Persons issued tags authorized by the program shall account by variety for stock produced and sold and keep such other records as may be required.

§ 11. Application and fees.

A. Application.

The applicant shall furnish information requested and shall give consent to the department to take plants or plant parts from any planting for inspection or testing purposes.

Application for participation in the Registration and Certification of Grape Nursery Stock Program must be filed with the department by January 1 of each year accompanied by an application fee.

B. Fees.

Fees established in this [article regulation] are for the sole purpose of defraying expenses incurred in the inspection, approval, registration, and certification procedures herein provided.

The commissioner shall establish a schedule of fees for services provided in [these regulations this regulation] .

§ 12. Viticultural Technical Advisory Committee.

A Viticultural Technical Advisory Committee shall be appointed by the commissioner and shall advise the Department on additions, deletions, and/or modifications of the Registration and Certification of Grape Nursery Stock Program. [It shall become effective when approved by the commissioner.]

COMMISSION OF GAME AND INLAND FISHERIES

NOTE: The Commission of Game and Inland Fisheries is exempted from the Administrative Process Act, (§ 9-6.14:4 of the Code of Virginia); however, it is required by § 9-6.14:22 to publish all proposed and final regulations. These regulations are numbered to conform to the new classification system by the Virginia Code Commission.

Title of Regulations: VR 325-04-2. Motorboat Numbering.

Statutory Authority: § 29-127 of the Code of Virginia.

Effective Date: October 1, 1985

Summary:

Summaries are not provided since, in most instances, the summary would be as long or longer than the full text.

The Commission of Game and Inland Fisheries has ordered to be published, pursuant to § 29-125, 29-126 and 29-127 of the Code of Virginia, the following proposed changes in Commission regulations applicable STATEWIDE.

VR 325-04.
WATERCRAFT.

VR 325-04-2.
Motorboat Numbering.

Amend § 1. to read as follows:

§ 1. Application for certificate of number.

An application or renewal application for a certificate of number for a motorboat, as required by the Virginia Motorboats and Watercraft Safety Law, shall contain the following information: The name and address of owner, county or city where boat is principally kept used, present number on boat (if any), hull material (wood, fiberglass, metal, inflatable, other), type of propulsion (outboard, inboard and inboard/outboard, auxiliary sail - outboard, inboard), type of fuel (gas, diesel, electric), make and year built (if known), length overall, statement as to use (pleasure, livery, dealer, manufacturer, commercial passenger, commercial fishing, commercial other), a statement of ownership by applicant and signature of owner.

VIRGINIA MARINES RESOURCES COMMISSION

Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. The regulation printed below is voluntarily published by the Marine Resources Commission for the public's benefit and for informational purposes only.

Title of Regulation: VR 450-01-8506. Patent Tong Restrictions.

Statutory Authority: §§ 28.1-82 and 28.1-85 of the Code of Virginia.

Effective Date: August 27, 1985

Preamble:

The following order of the Virginia Marine Resources Commission established November 1, 1985, as the opening date for the 1985-86 Patent Tong Season and a daily time

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limit of 2 p.m. for the taking of oysters by patent tong from the public oyster grounds where patent tonging is permitted.

VR 450-01-8506. Patent Tong Restrictions.

§ 1. Authority and effective date:

A. This order is promulgated pursuant to the authority contained in §§ 28.1-82 and 28.1-85 of the Code of Virginia.

B. The effective date of this order is August 27, 1985.

§ 2. Purpose.

The purpose of this order is to protect and conserve the oyster resource on public oyster grounds where the taking of oysters by patent tong is permitted.

§ 3. Season opening date.

The season for the taking of oysters from the public oyster grounds by patent tong shall begin on November 1, 1985. This opening date is applicable to all areas where patent tonging is permitted by law.

§ 4. Time of day restriction.

The harvesting of oysters from the public oyster grounds by patent tong shall be limited to the daily period of sunrise to 2 p.m. All patent tonging and culling of oysters shall be completed by 2 p.m. each day.

§ 5. Other applicable laws, regulations, etc.

All laws, regulations, and orders, otherwise in effect shall remain in full force and effect, except as may be specifically modified by this order or any subsequent regulation and/or order.

§ 6. Designated area.

This order applies to all public oyster ground where harvesting of oysters by patent tong is permitted.

§ 7. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provisions of this order shall be guilty of a Class I Misdemeanor.

/s/ William A. Pruitt
Commissioner

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-04-8.900. Public Participation Guidelines in the Formation and Development of Regulations.

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

Effective Date: November 1, 1985

Summary:

The purpose of these final guidelines is to increase the opportunity for interested individuals and agencies to have input into the drafting of department regulations. This input will be increased by the promulgation of guidelines which require the department to identify interested parties, to notify such parties of proposed rule-making, and to provide mechanisms for interested parties to comment on the rules. These guidelines will cover the period prior to the formation and drafting of regulations as well as during the promulgation and final adoption process.

VR 460-04-8.900. Public Participation in the Formation and Development of Regulations.

§ 1. Definitions.

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

"Board" means the Board of Medical Assistance Services.

"Director" means the Director of the Department of Medical Assistance Services.

"Department" means the Department of Medical Assistance Services.

"Formation and development process" means those activities with respect to a specific regulation which occur between the [Board's] publication of a notice of intent to develop or modify regulations, and the [Board's] release of the proposed regulation for public comment. [In no case will this period be less than ten days or more than sixty days.]

["Regulation" means any statement of law, policy, right, requirement, or prohibition formulated and promulgated by an agency as a rule, standard, or guide for public or private observance or for the decision of cases thereafter by the agency or by any other agency, authority, or court. "Regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on its by applicable basic law.]

§ 2. General information.

A. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia, deals with the promulgation of rules and regulations. Specifically, § 9.6.14:7.1 directs agencies of the

Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 32.1-325 of the Code of Virginia empowers the Board of Medical Assistance Services to make, adopt, and promulgate regulations.

B. Purpose.

These regulations are designed to provide consistent, written guidelines in order to ensure input from interested parties at all stages of the regulatory process.

C. Administration.

State Board of Medical Assistance Services – The Board of Medical Assistance Services has the responsibility for promulgating regulations pertaining to public input in the regulatory process.

D. Application of regulations.

These regulations have general application throughout the Commonwealth.

E. Effective date.

[August 22, 1985 November 1, 1985.]

F. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations. [All hearings on such regulations shall be conducted in accordance with § 9-6.14:7.1. All hearings deemed necessary by the director on such regulations, shall be conducted in accordance with § 9-6.14:7.1.]

G. Severability.

If any provision of these regulations or the application of them to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these regulations and the various applications of them are declared to be severable.

§ 3. Identification of interested parties.

A. Existing data.

[Programs within] The department [which are responsible for rule-making] will maintain a list of those persons and organizations who have demonstrated an interest in [specific certain] program regulations in the past through [written comments or attendance at public hearings participation in regulatory hearings

correspondence, or other activities with the department.]

B. Development of new lists.

Periodically, [but not less than every two years,] the department shall publish a notice in The Virginia Register of Regulations, in a newspaper published at Richmond, and in other newspapers in Virginia localities a request that any individual or organization interested in participating in the development of specific rules and regulations so notify the office of the director. Any persons or organizations identified in this process will be incorporated in the lists developed under § 3.A. The director may [at any time periodically] remove from the lists persons or organizations that request to be removed or who fail to respond to an inquiry regarding continued interest.

§ 4. Notification of interested parties.

A. Individual mailings.

When the Director of the Department of Medical Assistance Services determines that specific regulations need to be developed or modified, the program [will so may] notify by mail the individuals and organizations identified in § 3 of these regulations. The notice will include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address, and telephone number; and the date by which a notice of a desire to participate in the formation and development process must be received. This rule shall not be mandatory where the department is formulating and developing regulations pursuant to court order, but whenever time permits every effort will be made to provide such notice.

B. Notice of intent.

When [any program] the department determines that specific regulations need to be developed or modified, the [program department] will publish a Notice of Intent in The Virginia Register of Regulations. This notice will include the title of the regulation to be developed or modified; a summary of the subject matter; the program contact person, mailing address and telephone number; and the date by which a notice of a desire to participate must be received.

[C. An announcement shall be sent to members of the Governor's Advisory Committee on the Medicare and Medicaid and the board of the department.]

§ 5. Solicitation of input from interested parties.

A. Advisory panels.

[When the Director or the Board proposes to develop or modify a regulation, they will create an advisory panel to assist in this development or modification. Advisory panels will be established on an ad hoc basis except

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where the rule-making process is so frequent as to make a standing committee more efficient. The department's rule-making is so frequent that the Governor's Advisory Committee on Medicare and Medicaid will function as the department's on-going advisory panel. Based on the scope and nature of the regulatory issue, the director may, at his discretion, establish a sole function advisory panel to assist in this development or modification.]

B. Membership of panels.

[Members of advisory panels will consist of individuals and representatives of organizations identified under § 3 of these regulations and who have expressed a desire to comment on new or modified regulations in the developmental process. Each panel will consist of no less than three and no more than seven members. Members of these sole-function advisory panels will be individuals and organization representatives identified under § 3 of these regulations and who have expressed the desire to participate in the department's regulatory process. Panel membership will consist of individuals oriented to the department, program issues and constraints of the intended regulations and representatives of entities governed by the proposed regulations. Advisory panels will consist of no less than three nor more than seven members.]

C. Operation of panels.

Individual panels will establish their own operating procedure, but in every case a panel will meet once and then will decide on subsequent meetings. All panel and other comments on proposed regulations will be developed for each comment. [A written report on the public and panel comments will be prepared and the subsequent decision or action recommended shall be prepared by departmental staff and submitted to the Board of the Department of Medical Assistance Services for review and approval.]

D. Exceptions.

The use of an advisory panel [~~will~~ may] be waived [at the director's discretion] when (i) there is no response to the notice of intent, (ii) the office of the Attorney General determines that regulations are promulgated to state or federal law or federal regulation and that no agency discretion is involved, or (iii) when the program is formulating and developing regulations pursuant to a court order.

E. Other comments.

All persons and organizations who notify programs of the Department of Medical Assistance Services under § 4. of their desire to comment shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on these regulations to the [program department] . The [program department] will document the receipt of these comments and will respond to [each commentor all comments] .

This rule shall not be mandatory when the department is formulating and developing regulations pursuant to a court order [but every effort will be made to comply] .

§ 6. Administrative Process Act procedures.

After regulations have been developed according to these guidelines they will be submitted for public comment in accordance with the Administrative Process Act.

BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Public Participation Guidelines.

Statutory Authority: §§ 9-6.14:7.1 and 54-376 of the Code of Virginia.

Effective Date: October 30, 1985

Summary:

These Public Participation Guidelines were adopted by the Board of Optometry to assure public involvement in the regulatory review process. There were no changes in the proposed regulations.

VR 510-01-1. Public Participation Guidelines.

§ 1. Mailing list.

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

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

§ 2. Being placed on list; deletion.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, in its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Those on the list will be provided all information stated in § 1. Those on the list may be periodically requested to indicate their desires to continue to receive documents or to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

§ 3. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:7.1, the board will publish a "Notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

§ 4. Informational proceedings or public hearings for existing rules.

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

§ 5. Petition for rulemaking.

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

§ 6. Notice of formulation and adoption.

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

§ 7. Advisory committees.

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

EMERGENCY REGULATION

BOARD OF EDUCATION

Title of Regulation: Regulations Governing the Identification of Handicapped Children Residing in State Mental Health and Mental Retardation Facilities Who Are to be Appropriately Placed in Public Day School Programs.

Effective Date: September 1, 1985

PREAMBLE

A. During the 1985 session, the General Assembly passed Senate Bill 650 which amended and reenacted § 22.1-215 and § 37.1-42.1 of the Code of Virginia relating to special education programs for handicapped children. This legislation requires school divisions to provide special education for handicapped children residing within their jurisdiction. It further defines "handicapped children residing within their jurisdiction" to include school-age residents of state mental health and mental retardation facilities identified as appropriate to be placed in public day school programs. The Board of Education is required to promulgate regulations for the identification of such children.

B. The Superintendent of Public Instruction finds that an emergency situation exists necessitating the immediate promulgation of the following regulations. These regulations shall be an addendum to the Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia, September 1984. Such emergency precludes promulgation by the usual procedures under the Virginia Administrative Process Act (APA) (Virginia Code § 9-6.14:1 et seq.) and is permitted as an exclusion to the APA under § 9-6.14:6 of the Code of Virginia.

The rationale for this emergency is that the General Assembly mandated the Board of Education to promulgate regulations to implement legislation which becomes effective July 1, 1985, ensuring the identification of handicapped children residing in state mental health and mental retardation facilities who are eligible to be appropriately placed in public day school programs in the school division where they temporarily reside. The office of the Attorney General advised the department to consider adopting emergency regulations until final regulations can be promulgated pursuant to the APA.

These emergency regulations shall be in effect upon the signature of the Governor. They will expire on June 30, 1986, at which time, new regulations will have been developed in accordance with the Administrative Process Act. A review of these regulations will be conducted in the fall of 1985, and a public hearing held in the spring of 1986 to assist the Board of Education in their determination regarding the continuance of the approved emergency regulations, or the need to adopt new regulations.

Regulations Governing the Identification of Handicapped

Children Residing in State Mental Health and Mental Retardation Facilities Who Are to be Appropriately Placed in Public Day School Programs.

I. Procedures for Identification of School-Age Residents in Mental Health and Mental Retardation Facilities Determined Appropriate for Placement in Public School Programs.

A. The director of the facility shall appoint an Interdisciplinary Team who with the IEP Committee will be responsible for recommending to the facility director those school-age residents whose educational needs may be met in a day or part-day public school program. The Interdisciplinary Team shall consist of:

1. Education director (chairperson),
2. Treatment team manager,
3. Teacher,
4. Other resource persons as appropriate.

B. General criteria for making recommendations of school-age residents shall be as follows:

1. The resident is in the chronological age group of 5-21;
2. The resident's medical condition does not prohibit participation in an educational program in the public day school as determined by a qualified physician;
3. The resident exhibits no pattern of "assaultive or self-injurious" behavior. The determination of the seriousness of any past history of life threatening assaultive or self-injurious behavior shall be made only after the frequency, degree and recency of such behavior has been defined on a behavioral continuum and has been thoroughly documented;
4. The resident is reasonably independent in self-care; and
5. The resident is working on functional academics and/or prevocational skills.

C. Upon receiving a recommendation from the Interdisciplinary Team, the facility director shall refer the recommended resident and forward any supporting data (updated assessment components, etc.) pertinent to such recommendation to the superintendent of the local school division in which the facility is physically located. The facility director shall also forward a copy of the referral to the Commissioner, Department of Mental Health and Mental Retardation and the Superintendent of Public Instruction.

D. Within five days from receipt of the referral, the division superintendent shall review the recommendation

and supporting data, and shall make a determination regarding placement within the school division. The division superintendent shall inform in writing the facility director of this decision. If change of placement will have an adverse impact on the school division, the division superintendent shall notify the Commissioner, Department of Mental Health and Mental Retardation and furnish substantial reason why such change of placement would be inappropriate or show justification of undue hardship on the school division.

1. If placement within the school division is accepted, then the current IEP will be revised to reflect the change of placement. The facility director and the division superintendent shall develop an agreement regarding provision of services and payment. The development of this agreement shall not delay the placement of the resident.

2. If the division superintendent has raised substantial objection to the proposed placement, then the current educational placement will be maintained, and the Department of Mental Health and Mental Retardation shall immediately investigate the possibility of a transfer to another mental health or mental retardation facility or placement in another school division.

E. During implementation of the above procedures, the same procedural safeguards shall be afforded handicapped students and their parents as stipulated in Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia, September, 1984. In addition, the facility and the local school division shall have the right to initiate a due process hearing. Costs of the hearing will be the responsibility of the initiating party.

*ADDENDUM to the Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia, September, 1984.

Submitted by: /s/ S. John Davis
Superintendent of Public Instruction

Date: August 8, 1985

Approved by: /s/ Charles S. Robb
Governor of the Commonwealth

Date: September 1, 1985

Filed by: /s/ Joan W. Smith
Registrar of Regulations

Date: September 11, 1985 Time: 10:38 a.m.

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

General Notice

Interim Rules for Customer Owned Coin Operated Telephones (COCOTS)

1. COCOT service will be provided only through FCC registered telephone instruments.
2. COCTs must be equipped to receive incoming calls.
3. All providers of coin operated telephones must notify the local exchange carrier and provide the FCC registration number of each instrument to be connected.
4. Where message rate service is available, the LEC (local exchange carrier, i.e., the local telephone company) may furnish COCOT access lines on a message rate basis at the same monthly rate and per message rate offered to business customers in that location. Where message rate service is not offered, access lines for COCOT shall be furnished at a monthly rate not to exceed the rate for flat business trunk service furnished to business customers. Where timed/measured service is offered on an optional basis, the COCOT providers may elect to subscribe to the measured service rather than message rate service or flat rate service.
5. The COCOT provider is liable for the payment of all charges of the telephone company and interexchange carriers.
6. COCOT providers must furnish local directory number information; however, any charges for such service shall not exceed the provider's local coin rate.
7. COCOTs must be equipped for dial tone first and coinless calling to 911 and to the operator.
8. COCOTs must return deposited coins on incompletd calls.
9. The COCOT provider may apply a surcharge over the applicable tariffed rate for long distance calls provided the application of a surcharge is clearly posted (for example, AT&T +10% or MCI +5%).
10. COCOTs must be hearing aid compatible and installed in a manner to accommodate disabled persons.
11. The maximum rate for local calls may not exceed the rate approved for the local telephone company.
12. COCOT providers must post: clear operating instructions, specific address and phone number of the instrument, ownership of the instrument, and procedures for repair, refunds and billing disputes.
13. COCOTs must accept any combination of nickels, dimes and quarters for local and long distance calling charges.
14. COCOTs are not restricted as to location.
15. In those cases where COCOTs have been connected but not reported, the COCOT subscriber will reimburse the telephone company for all charges which would have applied had the correct procedures been followed, including in areas where message rate service is offered, 3 months of business message service at a presumed usage of 900 calls per month. If the improper connection discovery is within 3 months of the date of this order the billing shall only be for the amount of time between the date of this order and the date of discovery. Where message rate service is not offered, the COCOT shall be billed retroactively at the rate of 1.5 times the business flat rate.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

Title of Regulation: Rules Relating to Compulsory Minimum Training Standards for Courthouse and Courtroom Security Officers (VR 240-01-6).

Agency: Criminal Justice Services Board

Governor's Comment:

I have no objections to the proposed regulations as presented and encourage the board to carefully consider comments received from interested parties in adopting final regulations on this subject.

/s/ Charles S. Robb
Date: September 1, 1985

Title of Regulation: Rules Relating to Compulsory Minimum Training Standards for Deputy Sheriffs Designated to Serve Process (VR 240-01-7).

Agency: Criminal Justice Services Board

Governor's Comment:

I have no objections to the proposed regulations as presented and encourage the board to carefully consider comments received from interested parties in adopting final regulations on this subject.

/s/ Charles S. Robb
Date: September 1, 1985

Title of Regulation: Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel (VR 240-03-1).

Agency: Criminal Justice Services Board

Governor's Comment:

I have no objections to the proposed regulations as presented and encourage the board to carefully consider comments received from interested parties in adopting final regulations on this subject.

/s/ Charles S. Robb
Date: September 1, 1985

Title of Regulation: Protective Payments in the Aid to Dependent Children (ADC) and Refugee Other Assistance Programs (VR 615-01-6).

Agency: Department of Social Services

Governor's Comments:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: September 4, 1985

Title of Regulation: Standards of Need and Grouping of Localities in the ADC Program (VR 615-01-7).

Agency: Department of Social Services

Governor's Comments:

While the board is to be commended for its work in developing a revised Standard of Need, the proposed regulation will impact upon benefits paid to individual recipients as well as the number of people eligible for ADC and Medicaid benefits. As such, I recommend that the Board and the Department of Social Services withhold further action on this proposal pending my review of the addendum request to be submitted on this subject and final action of the 1986 General Assembly on the department's 1986-88 budget. Until that time, approval is withheld under § 4-5.05 (a), Chapter 610 Acts of Assembly.

/s/ Charles S. Robb
Date: September 3, 1985

Title of Regulation: Elimination of Financial Eligibility Criteria for Direct Social Services (VR 615-50-2).

Agency: Department of Social Services

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Charles S. Robb
Date: September 4, 1985

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

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 promulgating regulations entitled: **Rules and Regulations Governing Brucellosis Calfhood Vaccination**. The purpose of the proposed regulations is to require brucellosis calfhood vaccination of all female cattle four months of age or older which enter the Commonwealth of Virginia for feeding and breeding purposes, and to require the same vaccination for female cattle of similar age that are sold at Virginia livestock markets for placement on Virginia farms. Such vaccinations will enhance the prevention, control and eradication of brucellosis from the cattle population within Virginia.

Statutory Authority: § 3.1-726 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

CONTACT: Dr. A. J. Roth, Chief, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

† 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 promulgating regulations entitled: **Rules and Regulations Governing the Transportation of Companion Animals and Horses**. The purpose of the proposed regulations is to specify those requirements to be met when transporting live companion animals and horses that will preclude the inhumane treatment of these animals and foster handling and care practices that will enhance their well-being during periods of transit within the state.

Statutory Authority: § 29-213.37 of the Code of Virginia.

Written comments may be submitted until December 31, 1985.

CONTACT: Dr. Tonya Higgins, Animal Welfare Officer, Bureau of Veterinary Services, Washington Bldg., Suite 600, 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-2483.

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).

STATE BOARD OF CORRECTIONS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Corrections intends to consider amending regulations entitled: **Minimum Standards for Jails and Lockups**. The purpose of the proposed amendments is to propose changes consistent with greater uniformity and interpretation for application thereof.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until December 1, 1985.

CONTACT: Vivian T. Toler, Confidential Secretary, State Board of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 257-6274.

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.

BOARD OF EDUCATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia to include Regulations Governing the Identification of Handicapped Children Residing in State Mental Health and Mental Retardation Facilities Who Are to be Appropriately Placed in Day School Programs**. This regulation will provide for the identification of school-aged children residing in mental health and mental retardation facilities who can be appropriately placed in public day school programs.

Statutory Authority: § 22.1-215 of the Code of Virginia.

Written comments may be submitted until October 8, 1985.

CONTACT: James T. Micklem, Director, Division of Special Education Programs and Pupil Personnel Services, Department of Education, P. O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2861.

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, saunas and other similar facilities.

Statutory Authority: §§ 35.1-11 and 35.1-13 of the Code of Virginia.

Written comments may be submitted until October 16, 1985.

CONTACT: Joseph W. Moschler, Director, Bureau of TES, 500 Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-2087.

General Notices/Errata

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: **State Income Tax Intercept for Child Support**. VR 615-07-1 The purpose of this regulation is to ensure that the State Income Tax Refund Offset will pay back money spent for public assistance. Currently, there is no provision for who should be reimbursed first, the state, or the custodial parent who was previously on the welfare rolls and accrued a debt that was never satisfied.

Statutory Authority: § 58-19 of the Code of Virginia.

Written comments may be submitted until October 30, 1985, to Jean White, Director, Division of Child Support Enforcement, 8007 Discovery Drive, Richmond, Virginia 23288.

CONTACT: Jane Clements, Chief, Bureau of Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-9074.

† 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: **Separate Fee Charged for Child Support Services**. VR 615-70-3 The purpose of the proposed regulations is to limit the charge to one additional fee so as not to discourage those most in need from applying for services. In addition to the extent possible, the person named as the legal father of the child should not burden the taxpayers by having the state bear this expense when he is financially capable of paying.

Statutory Authority: § 63.1-250.2 of the Code of Virginia.

Written comments may be submitted until October 30, 1985, to Jean White, Director, Division of Child Support Enforcement, 8007 Discovery Drive, Richmond, Virginia 23288.

CONTACT: Jane Clements, Chief, Bureau of Program Operations, Division of Child Support Enforcement, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23288, telephone (804) 281-8074.

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 promulgating regulations entitled: **Virginia Individual Income Tax Regulations, Virginia Taxable Income (VR 630-2-322) and Virginia Corporation Income Tax Regulations, Virginia Taxable Income (VR 630-3-402)**. These regulations are to be amended to include a 1985 legislative change to permit the deduction of "Qualified Agricultural Contributions" from the Virginia taxable income of individuals and corporations.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until October 30, 1985.

CONTACT: Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010.

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

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

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 STATE BOARD OF ACCOUNTANCY

† **October 21-22, 1985 - 10 a.m.** – Open Meeting
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review of applications for certification; (ii) review of disciplinary cases; (iii) discussion of November, 1985 CPA examination; (iv) interviews; (v) correspondence items; and (vi) signing of certificates.

Contact: Jennifer S. Wester, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505 (toll-free number 1-800-552-3016)

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.

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,

Calendar of Events

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

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).

* * * * *

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

Calendar of Events

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.

* * * * *

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 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

Calendar of Events

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.

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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 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;

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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.

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.

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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.

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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 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.

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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.

Certified Landscape Architects

† **October 8, 1985 - 9 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to approve minutes from the March 20, 1985, meeting; and to review applications.

Meeting originally scheduled for September 11, 1985, cancelled, and rescheduled for October 8, 1985.

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: Johnsie 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

VIRGINIA AUCTIONEERS BOARD

† **October 8, 1985 - 9 a.m. - Open Meeting**
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) review the progress of Certification Program, (ii) receive report of NAOLLA meeting; and (iii) to discuss disciplinary cases.

Contact: Jennifer S. Wester, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8505 (toll-free number 1-800-552-3016)

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

BOARD OF CONSERVATION AND HISTORIC RESOURCES

† **October 10, 1985 - 9:30 a.m. - Open Meeting**
Chippokes State Park, Visitors Center, Surry, Virginia

A regular meeting of the Board of Conservation and

Calendar of Events

Historic Resources.

Contact: Bonnie S. Greenwood, Administrative Staff Specialist, 1100 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-2123

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Historic Landmarks Board

† October 15, 1985 - 2 p.m. - Open Meeting
221 Governor Street, Richmond, Virginia

A general business meeting.

Division of Historic Landmarks

† October 15, 1985 - 10 a.m. - Open Meeting
221 Governor Street, Richmond, Virginia

A meeting to consider the addition of the following properties to the Virginia Landmarks Register and their nomination to the National Register of Historic Places:

Brampton, Madison County;
Burkes Garden Historic District, Tazewell County;
Centre Hill Historic District, Petersburg;
Laurel Industrial School District, Henrico County;
Locust Hill, Rockbridge County;
Michie Tavern, Albemarle County;
Nathaniel Burwell Harvey House, Pulaski County;
Spring Hill, Greensville County.

Contact: Margaret T. Peters, Information Officer, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

Falls of the James Scenic River Advisory Committee

† October 11, 1985 - 12 noon - Open Meeting
Richmond City Hall, 3rd Floor Conference Room,
Richmond, Virginia. (Location accessible to handicapped.)

A quarterly business meeting to review matters pertaining to this portion of the James River.

Contact: Richard G. Gibbons, Virginia Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 225-3004

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.

† November 13, 1985 - 10 a.m. - Open Meeting
† December 11, 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

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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 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

CRIMINAL JUSTICE SERVICES BOARD

† **October 2, 1985 - 1:30 p.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. (Location accessible to handicapped.)

The board will conduct a public hearing in accordance with the Administrative Process Act and will consider other matters related to improving the criminal justice system.

Contact: Joseph R. Marshall, Executive Assistant, Department of Criminal Justice Services, 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 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 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

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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

Calendar of Events

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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)

Committee on Criminal Justice Information Systems

† **October 31, 1985 - 10 a.m. – Open Meeting**
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The committee will consider matters related to improving state and local criminal justice information systems.

Contact: Joseph R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

Committee on Training

† **October 2, 1985 - 9:30 a.m. – Public Hearing**
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

The committee will conduct, on behalf of the Criminal Justice Services Board, a public hearing in accordance with the Administrative Process Act. The committee also will consider other matters related to training for criminal justice personnel.

Contact: Joseph R. Marshall, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

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,

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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

Division of Consolidated Laboratory Services

† **December 5, 1985 - 2 p.m.** – Public Hearing
James Monroe Building, 101 North 14th Street, Conference 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 Department of General Services, Division of Consolidated Laboratory Services intends to amend regulations entitled: **Regulations for Breath Alcohol Testing.** The proposed amendments prescribe methods for determining the alcohol content in the blood by chemical analysis of the breath of a person arrested or detained for suspicion of driving a motor vehicle while under the influence of alcohol, establish procedures for licensing persons to perform such analyses, and establish criteria for approval of breath test instruments.

STATEMENT

Subject, Substance, Issues, Basis, and Purpose: In accordance with §§ 18.2-267 and 18.2-268 of the Code of Virginia, the Department of General Services, Division of Consolidated Laboratory Services (DCLS) will amend its existing regulations for Breath Alcohol Testing.

The proposed amendments will add a requirement that licensed breath test operators use only equipment, supplies and accessories for breath testing which are approved or issued by DCLS; provide criteria for approval of breath test devices; and provide for monitoring breath test equipment. The amendments provide for publication of lists of approved breath test devices in the Virginia Register of Regulations. Other amendments clarify the intent of the regulations and conform the format to the requirements for publication in the Virginia Register of Regulations.

Statutory Authority: §§ 18.2-267 and 18.2-268 of the Code of Virginia.

Written comments may be submitted until December 5, 1985, to Dr. Paul Ferrara, 1 North 14th Street, Richmond, Virginia 23219.

Contact: Peter Marone, Breath Alcohol Test Coordinator, Department of General Services, Division of Consolidated Laboratory Services, 1 N. 14th St., Richmond, Va. 23219, telephone (804) 225-3192

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

† **November 4, 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 that is open to the public.

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

October 1, 1985 - 7 p.m. – Public Hearing
Martha Washington Inn, 150 West Main Street, Grand 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

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certification.

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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 \$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

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 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

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 Development, James Madison Bldg., 109 Governor St., Room 1005, Richmond, Va. 23219, telephone (804) 786-7463

BOARD ON HEALTH REGULATORY BOARDS

† October 15, 1985 - 1 p.m. - Open Meeting
Brandermill Inn & Conference Center, 13550 Harbour Pointe Parkway, Board Room, Midlothian, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

This regular quarterly meeting of the Board (formerly commission of) on Health Regulatory Boards is also the annual meeting of the board. Reports of the Professional Review Committee, the Nominating Committee, the Executive Committee/Finance Committee, and the Advisory Committee will be presented, and the board will consider the recommendations of each committee.

Contact: Richard D. Morrison, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0822

Calendar of Events

VIRGINIA DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

† October 17, 1985 - 10 a.m. - Open Meeting
Virginia Department of Highways and Transportation, 1221 East Broad Street, Board Room, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Contact: Oscar K. Mabry, Deputy Commissioner, Virginia Department of Highways and Transportation, 1221 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2703

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† October 21, 1985 - 1 p.m. - Open Meeting
205 North 4th Street, 2nd Floor, 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) hear reports of the committees of the board; and (v) 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.

Building Codes and Standards Committee

† October 21, 1985 - 10 a.m. - Open Meeting
205 North 4th Street, 2nd Floor, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regular meeting of the committee to consider work items and issues in the area of building codes and standards and to develop recommendations as deemed appropriate for review of the board.

Community Development Committee

† October 21, 1985 - 10 a.m. - Open Meeting
205 North 4th Street, 7th Floor, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A regular meeting of the committee to consider work

items and issues in the area of community development and to develop recommendations as deemed appropriate for review by the board.

Contact: Neal J. Barber, 205 N. 4th St., 7th Floor, Richmond, Va. 23219-1747, telephone (804) 786-1575

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **Amendment to Procedures, Instruction and Guidelines For Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.** The amendment modifies the provisions in the procedures, instructions and guidelines relating to the maximum allowable sales prices and maximum allowable adjusted incomes under the authority's single family programs.

STATEMENT

Purpose: To make certain adjustments in the maximum allowable sales prices and maximum allowable adjusted incomes.

Basis: Rule 103 of the Rules and Regulations of the Authority adopted pursuant to § 36-55.30:3 of the Code of Virginia.

Subject, Substance and Issues: Under the current provisions of the authority's procedures, instructions and guidelines, maximum allowable sales prices and maximum allowable adjusted incomes are established for the Northern Virginia portion of the Washington, DC-MD-VA MSA, the Norfolk-Virginia Beach-Newport News MSA and the remainder of the state. In order to reflect the increased housing costs and incomes of low and moderate income persons and families, the proposed regulations will make certain increases in the maximum allowable sales prices and maximum allowable adjusted incomes for those areas.

The proposed regulations will also establish maximum allowable sales prices and maximum allowable adjusted incomes for additional areas of the state to be designated together as North Piedmont/Richmond-Petersburg MSA/Roanoke MSA. Under the current provisions of the authority's procedures, instruction and guidelines, these areas are within the area designated as the remainder of the state. This change is to be made in recognition of the higher costs of housing and the higher incomes in these areas as compared with the remainder of the state.

Impact: The authority expects that the proposed regulations will enable the authority to provide mortgage loan financing to an additional 1,000 persons and families of low and moderate income who would otherwise have not been able to qualify for such financing. The authority does not expect that any significant costs will be incurred

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for the implementation of and compliance with the proposed regulation.

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

Written comments may be submitted until October 14, 1985.

Contact: Judson McKellar, General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

Board of Commissioners

† October 15, 1985 - 10 a.m. - Open Meeting
13 South 13th Street, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month, (iv) consider and, if appropriate, approve the Amendment to Procedures, Instructions and Guidelines for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; and (v) 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

VIRGINIA STATE LIBRARY BOARD

† October 28, 1985 - 11 a.m. - Open Meeting
Virginia State Library, 11th Street at Capitol Square, State Librarian's Office, Richmond, Virginia. (Location accessible to handicapped.)

A regular quarterly meeting to discuss administrative matters.

Contact: Jean Reynolds, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

September 30, 1985 - 9 a.m. - Open Meeting
Central Virginia Community College, 3506 Wards Road, Administrative Conference Room, Lynchburg, Virginia

Oral presentations regarding the City of Lynchburg's and County of Campbell's voluntary settlement of annexation and growth sharing.

September 30, 1985 - 7 p.m. - Public Hearing
Central Virginia Community College, 3506 Wards Road, Room 2123, Lynchburg, Virginia

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.

† November 13, 1985 - 9 a.m. - Open Meeting
† November 14, 1985 - 9 a.m. - Open Meeting
† November 15, 1985 - 9 a.m. - Open Meeting
City of Hopewell - Prince George County area (site to be determined)

Oral presentations regarding the City of Hopewell's annexation action.

† November 14, 1985 - 7:30 p.m. - Public Hearing
City of Hopewell - Prince George County area (site to be determined)

A public hearing regarding the City of Hopewell's annexation action.

Contact: Barbara Bingham, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

Calendar of Events

LONGWOOD COLLEGE

Board of Visitors

† **November 14-15, 1985 - 9:30 a.m.** — Open Meeting
Longwood College, Virginia and Prince Edward Rooms,
Farmville, Virginia. (Location accessible to handicapped.)

A regular quarterly meeting to handle affairs of the college.

Contact: Dr. Janet D. Greenwood, President, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 (SCATS 265-4211)

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

VIRGINIA STATE BOARD OF MEDICINE

Executive Committee

† **October 3, 1985 - 10 a.m.** — Open Meeting
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia. (Location accessible to handicapped.)

The committee will review case decisions made by the secretary-treasurer of the board on disciplinary matters.

Legislative Committee

† **October 3, 1985 - 1:30 p.m.** — Open Meeting

Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia. (Location accessible to handicapped.)

The committee will meet to review proposed changes to the Code of Virginia and board regulations.

Contact: Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

STATE MENTAL HEALTH AND MENTAL RETARDATION BOARD

† **October 23, 1985 - 10 a.m.** — Open Meeting
University of Virginia Medical School, Charlottesville, Virginia. (Location accessible to handicapped.)

A monthly state board meeting. The agenda will be published October 16, and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Mental Health and Mental Retardation Secretary, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

† **December 2, 1985 - 10 a.m.** — Public Hearing
Virginia Treatment Center for Children, 515 North 10th Street, Auditorium, 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 Mental Health and Mental Retardation intends to adopt regulations entitled: **Rules and Regulations for the Licensure of Correctional Psychiatric Facilities**. The proposed regulations will establish minimum requirements for staffing, programs and services, health and safety, management and record-keeping in correctional psychiatric facilities.

STATEMENT

Subject, Substance, Issues, Basis and Purpose: The proposed Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are designed to establish minimum requirements for staffing client rights, organization and management, admissions, programs and services, health and safety procedures and recordkeeping in psychiatric facilities established in correctional facilities. Many prisoners are in need of mental health services while incarcerated. Federal court rulings have indicated that these prisoners are eligible for mental health treatment services. The Department of Corrections has received funding to expand the mental health treatment

services that it provides to prisoners. State law requires that the Department of Mental Health and Mental Retardation license psychiatric facilities in the Commonwealth. The proposed regulations are intended to comply with the federal court rulings and state law.

The proposed rules and regulations will affect seven correctional units in which psychiatric facilities are planned to be established. The total number of beds involved is approximately 414.

Statutory Authority: §§ 37.1-179.1 and 37.1-84.1 of the Code of Virginia.

Written comments may be submitted until December 2, 1985.

Contact: Joseph W. Avellar, Ph.D., Director, Office of Quality Assurance, Department of Mental Health and Mental Retardation, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-0070

Systemwide Training and Staff Development Workgroup

† **October 2, 1985 - 2 p.m.** – Open Meeting
Hilton Conference Center, Williamsburg, Virginia

A meeting to review progress on regional training grants.

Contact: Ken Howard, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-6133

DEPARTMENT OF MOTOR VEHICLES

† **October 16, 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 BOARD OF OPTOMETRY

† **October 16, 1985 - 8:30 a.m.** – Open Meeting
Brandermill Conference Center, 13550 Harbour Pointe Parkway, Midlothian, Virginia. (Location accessible to handicapped.)

A general business meeting of the board.

Contact: Lawrence H. Redford, Executive Director, Virginia Board of Optometry, P. O. Box 27708, Richmond, Va. 23261

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

VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

† **October 3, 1985 - 1 p.m.** – Open Meeting
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) conduct general board business; (ii) review applications for licensure; (iii) supervision and trainee status; (iv) make policies; and (v) respond to board correspondence.

Contact: Joyce D. Williams, 517 W. Grace St., Richmond, Va., telephone (804) 786-7702

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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 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:

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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:

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

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

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

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

DEPARTMENT OF SOCIAL SERVICES

† Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **Real Property Disposition Period in the Aid to Dependent Children (ADC) Program (VR 615-01-8)**. The intent of the proposed amendment is to extend the current six-month excess real property disposition period for an additional three months, for a total of nine months.

STATEMENT

Subject: Proposed amendment to the following regulation:

Real Property Period in the Aid to Dependent Children (ADC) Program

This amendment is being proposed for a 60-day public comment period.

Substance: It is the intent of the State Board of Social Services to extend the current six-month period for disposing of excess nonexempt real property for an additional three months. Under current regulations, when ownership of excess nonexempt real property exceeds the \$600 maximum resource limit, assistance is to be granted to the otherwise eligible assistance unit members for a period of six months, provided the unit agrees to dispose of the excess property and repay any assistance received during that period. The proposed regulation will extend for three months the period during which the assistance unit allowed to receive assistance, for a total of nine months, while making efforts to dispose of the excess property.

Issues: Prior to continuing assistance during the disposition period, the assistance unit must sign an agreement to repay the total amount of assistance received during the period, except that the amount to be repaid cannot exceed the net proceeds from the sale of the excess property.

If the property is not sold during the disposition period or assistance is terminated during the period because the assistance unit no longer meets other financial or categorical requirements, the entire amount of assistance paid during the period is an overpayment which is subject to recoupment and/or recovery.

Federal regulations specify that states must define what constitutes a good faith effort to dispose of the excess nonexempt real property. For the purpose of this requirement a "good faith effort" is defined as: an attempt to sell the excess nonexempt real property within a range of 10% of the fair market value. Attempts may include, but are not limited to, listing the property with a real estate company or advertising the property in various ways.

Basis: The proposed regulation is an option made available to states in § 2626 of the federal Deficit Reduction Act of 1984 (P.L. 98-369). Section 63.1-25 of the Code of Virginia delegates authority to the State Board of Social Services to promulgate rules and regulations necessary for operation of public assistance programs in Virginia.

Purpose: The purpose of the proposed regulation is to establish a more reasonable period for disposing of excess real property. The regulation would allow continuation of assistance for a period of nine months to otherwise eligible assistance units when an agreement to dispose of such excess nonexempt real property and repay any assistance received during the disposition period has been executed.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until November 29, 1985, to I. Guy Lusk, Director, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Ellis, Supervisor, Economic Assistance Unit, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

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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

Calendar of Events

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 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. (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 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 SUBSTANCE ABUSE CERTIFICATION BOARD

† October 25, 1985 - 9 a.m. - Open Meeting Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) conduct general board business; (ii) review applications for licensure; (iii) supervision and trainee status; (iv) make policies; and (v) respond to board correspondence.

Contact: Joyce D. Williams, 517 W. Grace St., Richmond, Va., telephone (804) 786-7702

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

Calendar of Events

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 12, 1985 - 10 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 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 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

VIRGINIA COUNCIL ON THE STATUS OF WOMEN

† **October 8, 1985 - 9:30 a.m. – Open Meeting**
Koger Executive Center, Koger Building, Conference Room, Franklin Farms Drive, Richmond, Virginia

A regular meeting of the council to conduct general business and receive reports from the council committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone

(804) 281-9200

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

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

† **October 21, 1985 - 9:30 a.m.** - Open Meeting
General Assembly Building, Capitol Square, 9th Floor Committee Room, Richmond, Virginia. (Location accessible to handicapped.)

A regular monthly meeting.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Building, 9th Floor, Capitol Square, Richmond, Va. 23219, telephone (804) 786-1837

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.)

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

Conference on Legislative Oversight

† **October 13, 1985 - 4 p.m.** - Open Meeting
† **October 14, 1985 - 9 a.m.** - Open Meeting
† **October 15, 1985 - 8 a.m.** - Open Meeting
Hotel John Marshall, 5th and Franklin Streets, Richmond, Virginia

Conference on Legislative Oversight.

Contact: Philip A. Leone, General Assembly Building, Suite 1100, Richmond, Va. 23219, telephone (804) 786-1258

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

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

Calendar of Events

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

STATE WATER COMMISSION

† October 3, 1985 - 7:30 p.m. - Public Hearing
City Council Chambers, 345 South Main Street,
Harrisonburg, Virginia

† October 10, 1985 - 7:30 p.m. - Public Hearing
City Council Chambers, Municipal Building, 215 Church
Avenue, S.W., Roanoke, 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 30, 1985
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
Mental Health and Mental Retardation, Department of
Systemwide Training & Staff Development
Workgroup

October 3
Medicine, Virginia State Board of
Executive Committee
Legislative Committee
Professional Counselors, 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
Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, Department of
Certified Landscape Architects
Auctioneers Board, Virginia
Women, Virginia Council on the Status of

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
Conservation and Historic Resources, Board of

October 11
General Services, Department of
State Insurance Advisory Board
Conservation and Historic Resources, Department of
Falls of the James Scenic River Advisory Council

October 13
Joint Legislative Audit and Review Commission
Conference on Legislative Oversight

October 14
Joint Legislative Audit and Review Commission
Conference on Legislative Oversight
Local Government, Commission on

October 15
Conservation and Historic Resources, Department of
Historic Landmarks Board
Division of Historic Landmarks
Health Regulatory Boards, Board on
Housing Development Authority
Board of Commissioners
Joint Legislative Audit and Review Commission
Local Government, Commission on

October 16
Corrections, Board of
Motor Vehicles, Department of
Optometry, Virginia Board of

October 17
Highways and Transportation, Virginia Department of
Unemployment Trust Fund
Joint Subcommittee

October 21
Accountancy, State Board of
Appropriations Committee, House
Housing and Community Development, Board of
Building Codes and Standards Committee

Community Development Committee

- October 22**
Accountancy, State Board of
Machine Dependent Individuals
Joint Subcommittee
Marine Resources Commission
- October 23**
Mental Health and Mental Retardation Board, State
- October 25**
Substance Abuse Certification Board
- October 28**
Library Board, Virginia State
Local Government, Commission on
- October 29**
Local Government, Commission on
- October 30**
Local Government, Commission on
- October 31**
Criminal Justice Services Board
Committee on Criminal Justice Information Systems
Local Government, Commission on
Perinatal Services Advisory Board
- November 1**
General Services, Department of
Art and Architectural Review Board
- November 4**
Governor's Job Training Coordinating Council
- November 5**
Taxation, Department of
- November 13**
Corrections, State Board of
Geology, Virginia State Board of
Health, State Board of
Local Government, Commission on
- November 14**
Health, State Board of
Local Government, Commission on
Longwood College
Board of Visitors
- November 15**
Longwood College
Board of Visitors
Architects, Professional Engineers, Land Surveyors
and Certified Landscape Architects, State Board of
Local Government, Commission of
- December 11**
Corrections, State Board of

PUBLIC HEARINGS

- September 30, 1985**
Local Government, Commission on
- October 1**
Hazardous Waste Facility Siting Council
- October 2**
Criminal Justice Services Board
Criminal Justice Services Board
Committee on Training
Hazardous Waste Facility Siting Council
- October 3**
Water Commission, State
- October 9**
Amusement Ride Safety
Joint Subcommittee
Hazardous Waste Facility Siting Council
- October 10**
Hazardous Waste Facility Siting Council
Water Commission, State
- October 15**
Local Government, Commission on
- October 18**
Small Business Financing Authority, Virginia
- 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 14**
Local Government, Commission on
- November 15**
Health, Board of

Calendar of Events

November 19

Small Business Financing Authority, Virginia

December 2

Mental Health and Mental Retardation, Department of

December 5

General Services, Department
Division of Consolidated Laboratory Services

December 10

Social Services, Virginia Department of
Division of Licensing Programs

December 11

Agriculture and Consumer Services, Virginia
Department of