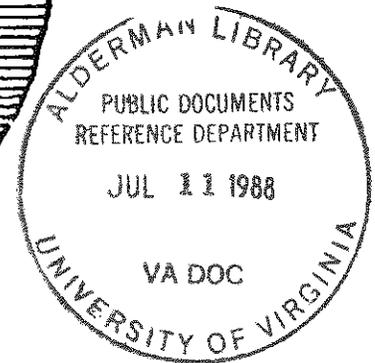
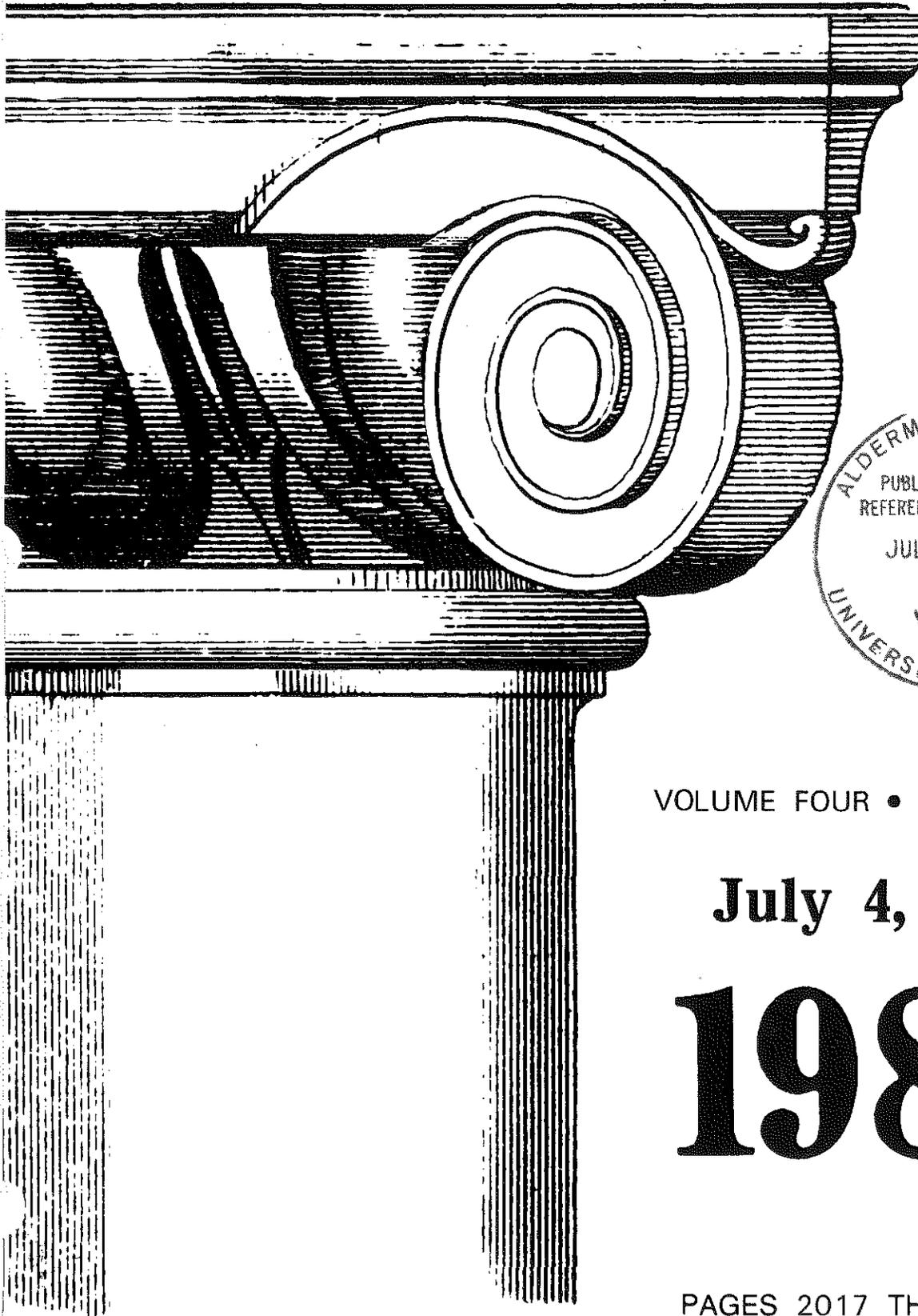


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THE VIRGINIA REGISTER

OF REGULATIONS

VA
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VOLUME FOUR • ISSUE TWENTY

July 4, 1988

1988

PAGES 2017 THROUGH 2166

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.

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$85 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to the *Virginia Register of Regulations*, P.O. Box 3-AG, Richmond, Virginia 23208-1108.

The *Virginia Register of Regulations* is published pursuant to Article 7 of Chapter 1.1:1 (§ 9-6.14:2 et seq.) of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the Virginia Code Commission: Dudley J. Emick, Jr., *Chairman*, J. Samuel Glasscock, *Vice Chairman*; John A. Banks, Jr.; Russell M. Carneal; Joseph V. Gartlan, Jr.; H. Land Kneedler; John Wingo Knowles; Theodore V. Morrison; William F. Parkerson, Jr.; A. L. Philpott.

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

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

July 1988 through September 1989

MATERIAL SUBMITTED BY
Noon Wednesday

PUBLICATION DATE

Volume 4 - 1987-88

June 15	July 4
June 29	July 18
July 13	Aug. 1
July 27	Aug. 15
Aug. 10	Aug. 29
Aug. 24	Sept. 12
Sept. 7	Sept. 26
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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 AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulation: VR 115-05-09. Rules and Regulations - Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law.

Statutory Authority: § 3.1-615 of the Code of Virginia.

Public Hearing Date: October 4, 1988 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The proposed amendments improve clarity, eliminate eight outdated Virginia Grade standards for apples, update the remaining Virginia standards, and adopt the U.S. Standards for determination of grades of apple quality in Virginia.

VR 115-05-09. Rules and Regulations - Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law.

Regulation 153

July 31, 1984

Virginia Standards for Apples

Under the authority of Section 3.1-615, and for the enforcement of Article I, Chapter 23, Title 3.1 of the Code of Virginia (1950), as amended, (Sections 3.1-611 through 3.1-617), the Board of Agriculture and Commerce on the 23rd day of January, 1976, adopted these amended rules and regulations establishing grades for apples.

The rules and regulations entitled "Virginia Standards for Apples for the Enforcement of the Virginia Apple Standardization Law," were originally adopted by the Board of Agriculture and Immigration on December 18, 1963.

Definition of Terms:

As used under grades in Part II for Red, Partial Red or Blushed Varieties:

(1) "*Mature*" means that the apples have reached the stage of growth which will insure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees

of firmness, depending upon the stage of the ripening process. The following terms are used for describing these different stages of firmness of apples:

(a) "*Hard*" means apples with a tenacious flesh and starchy flavor. Apples at this stage are suitable for storage and long-distance shipment.

(b) "*Firm*" means apples with a tenacious flesh but which are becoming crisp with a slight starchy flavor, except the Delicious variety. Apples at this stage are also suitable for storage and long-distance shipment.

(c) "*Firm Ripe*" means apples with crisp flesh except that the flesh of the apples of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy. Apples at this stage may be shipped long distances but should be moved into consumption within a short period of time.

(d) "*Ripe*" means apples with mealy flesh and soon to become soft for the variety. Apples at this stage should be moved immediately into consumption.

(2) "*Overripe*" means apples which are dead ripe, with flesh very mealy or soft, and past commercial utility.

(3) "*Carefully hand-picked*" means that the apples do not show evidence of rough handling or of having been on the ground.

(4) "*Clean*" means that the apples are free from excessive dirt, dust, spray residue and other foreign material.

(5) "*Sound*" means apples that at time of packing are free from visible defects; such as decay, breakdown, scald, bitter pit, or physical injury affecting quality.

(6) "*Not Badly Misshapen*" means that an apple may be more irregularly shaped than "Fairly well formed," but shall not be deformed to the extent of materially affecting its culinary value or its general appearance.

(7) "*Fairly well formed*" means that the apple may be slightly abnormal in shape but not to an extent which detracts materially from its appearance.

(8) "*Damage*" means any defect which materially affects the appearance, or the edible or shipping quality of the apples.

Proposed Regulations

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether or not an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside the stem cavity or calyx basin shall be considered as damage:

(i) Russeting which is excessively rough on Roxbury Russet and other similar varieties.

(ii) Smooth net-like russeting, when an aggregate area of the surface is covered of more than 15% for the Virginia Extra Fancy and 25% for the Virginia Fancy, and the color of russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

(iii) Smooth solid russeting, when an aggregate area of the surface is covered of more than 5% for the Virginia Extra Fancy and 10% for the Virginia Fancy, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

(iv) Slightly rough russeting which covers an aggregate area of more than one-half inch in diameter.¹

(v) Rough russeting which exceeds one-fourth inch in diameter, unless it is well within the stem cavity or calyx basin and is not readily apparent.¹

NOTE: Any one of the following defects (b through g) or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

(c) Limb rubs which affect a total area of more than one-half inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting (8a).¹

(d) Hail marks, drought spots, or other similar depressions or sears when the skin has not been

broken and the injury is more than slightly depressed or affects a total area of more than one-half inch in diameter; or hail marks or similar sears when the skin has been broken and the injury is not well healed, or is more than slightly depressed or affects an aggregate area of more than one-fourth inch in diameter.

(e) Stem or Calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-fourth inch.

(f) Diseases:

(i) Scab spots which affect a total area of more than one-fourth inch in diameter.¹

(ii) Cedar rust infection which affects total area of more than one-fourth inch in diameter.¹

(iv) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.¹

(g) Insects:

(i) Any healed sting or healed stings which affect a total area of more than three-sixteenths inch in diameter including any encircling discolored rings.¹

(ii) Worm holes.

(9) "Seriously deformed" means that the apple is so badly misshapen that its appearance is seriously affected.

(10) "Serious damage" means any defect which seriously affects the appearance, or the edible or shipping quality of the apples.

(a) Hail marks, drought spots, or sears, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth of the surface in the aggregate. Provided, That, no hail marks which are unhealed shall be permitted and not more than an aggregate area of one-half inch shall be allowed for well-healed hail marks where the skin has been broken.¹

(11) "Serious Damage" in Red or Partial Red Varieties, C Grade or Hail Grade: The following shall not be considered as serious damage: Apples which meet the requirements for Fancy Grade (in the Red or Partial Red Varieties) but have punctures not exceeding 1/4 inch in diameter or healed hail marks.

¹ The area refers to that of a circle of the specified diameter.

NOTE: Expert standards limit defects (g), (h), and (i) to

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10% of the surface.

As used under grades in Part II for Green or Yellow Varieties:

1. "Mature" means having reached the stage of maturity which will insure the proper completion of the ripening process. Firmness of the flesh shall be considered only in connection with other factors to determine the degree of maturity.
2. "Hand picked" means that the apples do not show evidence of rough handling or of having been on the ground.
3. "Clean" means free from excessive dirt, or other foreign material.
4. "Well formed" means having the normal shape characteristic of the variety, except that the shape may be slightly irregular provided it does not detract from the general appearance of the apple.
5. "Fairly well formed" means the apple shall have the normal shape characteristic of the variety except that one-half of the apple may deviate slightly or the apple may be slightly flattened as by frost injury.
6. "Not badly misshapen" means that an apple may be more irregularly shaped than "Fairly well formed" as defined above, but shall not be deformed to the extent of materially affecting its culinary value or its general appearance.
7. "Sound" means apples that at time of packing are free from visible defects, such as decay, breakdown, seal, bitter pit, or physical injury affecting quality.
8. "Slight Blemishes" means defects in excess of the following:
 - (a) Slight handling bruises and box bruises such as are incident to good commercial handling in the preparation of tight pack.
 - (b) Smooth russeting shall be permitted at the stem end provided such a russeting is not visible for more than 1/2 inch when the apple is placed stem end down on a flat surface, except in the Newtown variety characteristic russet commencing at the stem end shall be permitted as long as it is continuous from the stem bowl and not extending beyond the center of the apple.
 - (c) Smooth net like russeting which does not extend over an aggregate area of more than 5% of the surface of the apple.
 - (d) Sunburn or sprayburn when slight and when the normal color of the apple is but slightly changed and the affected area does not exceed 5% of the

surface of the apple.

- (e) Smooth solid russeting, light limb rubs, hail marks or sprayburn of a russet character shall be permitted when the aggregate area affected does not exceed 1/4 inch.
 - (f) Slight hail marks or other depressions when there is no discoloration, when the indentations are very shallow, and no individual indentation exceeds 1/8 inch in diameter and the aggregate area affected does not exceed 1/4 inch.
 - (g) Thrip marks not to exceed three in number shall be permitted.
 - (h) Any healed sting or healed stings which affect a total area of more than 1/8 inch in diameter, including any encircling discolored rings.
9. "Damaged." The following shall not be considered as damage:
- (a) Slight handling bruises and box bruises, such as are incident to good commercial handling in the preparation of a tight pack.
 - (b) Limb rubs not to exceed 1/2 inch in aggregate area.
 - (c) Sprayburn, which has altered or discolored natural pigment when the normal color of the apples is not seriously affected, when there is no blistering or cracking of the skin, except that red spot such as caused by Bordeaux, shall not extend over more than 20% of the apple. Sprayburn of a russet natural shall be governed by the definition covering solid russeting.
 - (d) Sunburn, when the normal color of the apple is not seriously affected, there is no blistering or cracking of the skin, and the discolored area blends into the normal color of the fruit.
 - (e) Slight rough russeting which does not cover an area of more than 1/2 inch in diameter if it is not continuous with the russeting in the stem basin or calyx cavity. See Exception (f)(1).
 - (f) Smooth russeting shall be permitted at the stem or calyx end provided such russeting is not visible for more than 1/2 inch when the apple is placed with russet end down on a flat surface, except in the Newtown variety characteristic russet commencing at the stem or calyx end and not extending beyond the center of the apple shall be permitted as long as it is continuous from the stem or calyx bowl. See Exception (f)(1).
- (1) The following shall be applicable to apples of the Golden Delicious variety only:

Proposed Regulations

Smooth solid russeting, when more than one-half of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark like russeting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted.

(g) Smooth net like russeting which does not extend over an aggregate area of more than 20% of the surface. See Exception (f)(1).

(h) Solid russeting, such as is characteristic of frost, sprayburn, hail, and certain insect and disease injury affecting a total aggregate area not to exceed 1/2 inch. See Exception (f)(1).

(i) Hail marks, drought spots, or other depressions when the injury is slight, the skin is not broken and the depressions do not exceed an aggregate area of 1/2 inch in diameter or detract seriously from the appearance of the fruit. Hail injury of a russet character shall be governed by the definition covering russet injury.

(j) Apple scab spots affecting a total area of not more than 1/4 inch in diameter.

(k) Four stings, each having an encircling hard ring, usually green, or a slight depression, provided stings do not exceed 1/8 inch in diameter, exclusive of any encircling ring.

(m)(1) Slight aphid signs or thrip marks which do not roughen or pock the surface of the apple.

10. "Serious Damage" means any injury or defect or any combination of injuries and/or defects which seriously detract from the appearance or keeping quality of the apple. The following defects shall not be considered as serious damage:

(a) Sunburn or sprayburn which does not seriously detract from the appearance of the fruit.

(b) Limb rubs which affect not more than 1/10 of the surface in the aggregate.

(c) Smooth solid russeting which affects not more than 1/2 of the surface in the aggregate, including any russeting in the stem basin or rough or bark like russeting which does not detract from the appearance of the fruit to a greater extent than the smooth solid russeting permitted.

(d) Growth cracks, such as occur in Staymans, shall be permitted when no cracks exceed 1/2 inch in length.

(e) Visible watercore which does not affect an area of more than 1/2 inch in diameter.

(f) Hail marks, drought spots, or other depressions, when the injury is slight, the skin is not broken and the depressions do not exceed an aggregate area of 10% of the surface in red or partial red varieties or more than 20% of the surface in green or yellow varieties.

(g) Scab spots affecting an aggregate area of not to exceed 1/2 inch in diameter.

(h) Five stings, each having an encircling hard ring, usually green, or a slight depression, provided stings do not exceed 1/8 inch in diameter exclusive of any encircling ring.

(i) Aphid pebbling or thrip marks not seriously detracting from the appearance of the apple.

NOTE: "Aggregate area" means that all the areas of the blemish under consideration may be assembled into one circular area of the maximum diameter specified.

NOTE: An apple may show any one or a combination of the following defects if the aggregate area does not exceed the specified tolerance for the defects and the aggregate of the combination does not exceed 1/2 inch; the defects are: Apple scab, hail marks, drought spots, solid russeting, and limb rubs.

NOTE: Export standards limit defects (g), (h), and (i) to 10% of the surface.

§ 1. Definitions.

The following words and terms, when used in § 3 of these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Carefully hand-picked" means that the apples do not show evidence of rough handling or of having been on the ground.

"Clean" means that the apples are free from excessive dirt, dust, spray residue and other foreign material.

"Damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as damage:

1. Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether or not an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or

calyx basin shall be considered as damage:

a. Russeting which is excessively rough on Roxbury Russet and other similar varieties.

b. Smooth net-like russeting, when an aggregate area of more than 25% of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

c. Smooth solid russeting, when an aggregate area of more than 10% of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

d. Slightly rough russeting which covers an aggregate area of more than 1/2 inch in diameter.

e. Rough russeting which covers an aggregate area of more than 1/4 inch in diameter.

2. Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

3. Limb rubs which affect a total area of more than 1/2 inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting.

4. Hail marks, drought spots, other similar depressions or scars:

a. When any unhealed mark is present;

b. When any surface indentation exceeds 1/8 inch in depth;

c. When the skin has not been broken and the aggregate affected area exceeds 1/2 inch in diameter; or

d. When the skin has been broken and well healed, and the aggregate affected area exceeds 1/4 inch in diameter.

5. Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of 1/4 inch.

6. Disease:

a. Scab spots which affect a total area of more than 1/4 inch in diameter.

b. Cedar rust infection which affects a total area of more than 1/4 inch in diameter.

c. Sooty blotch or fly speck which is thinly scattered over more than 1/10 of the surface, or dark, heavily concentrated spots which affect an area of more than 1/2 inch in diameter.

d. Red skin spots which are thinly scattered over more than 1/10 of the surface, or dark, heavily concentrated spots which affect an area of more than 1/2 inch in diameter.

7. Insects:

a. Any healed sting or healed stings which affect a total area of more than 3/16 inch in diameter including any encircling discolored rings.

b. Worm holes.

"Diameter" means:

1. When measuring for minimum size, diameter means the greatest dimension of the apple measured at right angles to a line from stem to blossom end.

2. When measuring for maximum size, diameter means the smallest dimension of the apple determined by passing the apple through a round opening in any position. (See § 2.H - Marking Requirements)

"Fairly well formed" means that the apple may be slightly abnormal in shape but not to an extent which detracts materially from its appearance.

"Injury" means any specific defect, defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which more than slightly detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as injury:

1. Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether or not an apple is injured by russeting.

a. Smooth net-like russeting outside of the stem cavity or calyx basin shall be considered as injury when an aggregate area of more than 10% of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the above amount permitted.

b. Smooth solid russeting, when an aggregate area of

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more than 5.0% of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

2. Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit.

3. Dark brown or black limb rubs which affect a total area of more than 1/4 inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of injury by russeting.

4. Hail marks, drought spots, other similar depressions or scars:

a. When the skin is broken, whether healed or unhealed;

b. When there is appreciable discoloration of the surface;

c. When any surface indentation exceeds 1/16 inch in depth;

d. When any surface indentation exceeds 1/8 inch in diameter; or

e. When the aggregate affected area of such spots exceeds 1/2 inch in diameter.

5. Disease:

a. Cedar rust infection which affects a total area of more than 3/16 inch in diameter.

b. Sooty blotch or fly speck which is thinly scattered over more than 5.0% of the surface, or dark, heavily concentrated spots which affect an area of more than 1/4 inch in diameter.

c. Red skin spots which are thinly scattered over more than 1/10 of the surface, or dark, heavily concentrated spots which affect an area of more than 1/4 inch in diameter.

6. Insects:

a. Any healed sting or healed stings which affect a total area of more than 1/8 inch in diameter including any encircling discolored rings.

b. Worm holes.

7. Invisible water core existing around the core and extending to water core in the vascular bundles; or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce; or existing in more than slight

degree outside the circular area formed by the vascular bundles.

"Mature" means that the apples have reached the stage of development which will insure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees of firmness, depending upon the stage of the ripening process.

1. "Hard" means apples with a tenacious flesh and starchy flavor.

2. "Firm" means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.

3. "Firm ripe" means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.

4. "Ripe" means apples with mealy flesh and soon to become soft for the variety.

"Overripe" means apples which are dead ripe, with flesh very mealy or soft, and past commercial utility.

"Serious damage" means any specific defect defined in this section; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance, or the edible or shipping quality of the apple. The following specific defects shall be considered as serious damage:

1. Smooth solid russeting, when more than 1/2 of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russeting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted: Provided, that any amount of russeting shall be permitted on Roxbury Russet and other similar varieties.

2. Sunburn or sprayburn which seriously detracts from the appearance of the fruit.

3. Limb rubs which affect more than 1/10 of the surface in the aggregate.

4. Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit or if such defects affect more than 1/10 of the surface in the aggregate: Provided, that no hail marks which are unhealed shall be permitted and not more than an aggregate area of 1/2 inch shall be allowed for well healed hail marks where the skin has been broken.

5. Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of 1/2 inch.

6. Visible water core which affects an area of more than 1/2 inch in diameter.

7. Disease:

a. Scab spots which affect a total area of more than 3/4 inch in diameter.

b. Cedar rust infection which affects a total area of more than 3/4 inch in diameter.

c. Sooty blotch or fly speck which affects more than 1/3 of the surface.

d. Red skin spots which affect more than 1/3 of the surface.

e. Bitter pit or Jonathan spot which is thinly scattered over more than 1/10 of the surface and does not materially deform or disfigure the fruit.

8. Insects:

a. Healed stings which affect a total area of more than 1/4 inch in diameter including any encircling discolored rings.

b. Worm holes.

"Seriously deformed" means that the apple is so badly misshapen that its appearance is seriously affected.

PART I.

§ 2. U.S. standards for grades of apples.

The United States Standards for grades of apples effective September 1, 1964, and all of its amendments thereto to date promulgated by the U.S. Department of Agriculture, are hereby adopted as standards for this state and . All apples packed under these standards shall be so labeled and shall meet the their requirements of these standards and shall be so labeled. (Code of Federal Regulations §§ 51-300 through 51-323 - Apple Section VDAC which are incorporated by reference and made a part of these regulations). (See § 3.H - Marking Requirements)

PART II.

§ 3. Standards in addition to the U.S. Standards.

The following standards are established in addition to the United States Standards adopted in Part I § 2. These standards are to apply only in those instances where size count packs are to be used.

A. Red, Partial Red, or Blushed Varieties:

1. Virginia Extra Fancy or First Grade:

Virginia Extra Fancy or First Grade shall consist of

apples of one variety which are mature (1), but not overripe (2); carefully handpicked (3); clean (4); fairly well formed (7); free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, broken skins, and bruises (except those incident to proper handling and packing), and visible watercore. The apples shall also be free from damage (8), caused by russetting (8a), sunburn or sprayburn (8b), limb rubs (8c), hail (8d), stem or calyx cracks (8e), other diseases (8f), insects (8g), or mechanical or other means (8). Each apple of this grade shall have the amount of color specified hereinafter for the variety. (See Color Requirements, Tolerances and Condition after Storage or Transit.)

A. Grades.

1. Virginia Extra Fancy.

Virginia Extra Fancy consists of apples of one variety which are mature but not further advanced in maturity than firm ripe, carefully handpicked, clean, fairly well formed; free from decay, internal browning, internal breakdown, scald, scab, bitter pit, Jonathan spot, freezing injury, visible watercore and broken skins, and bruises except those which are slight and incident to proper handling and packing. The apples are also free from injury caused by smooth net-like russetting, smooth solid russetting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means; and free from damage by slightly rough or rough russetting, or stem or calyx cracks, and free from injury by invisible water core after January 31 of the year following the year of production. Each apple of this grade has the amount of color specified for the variety. (See color requirements)

2. Virginia Fancy or Second Grade:

Virginia Fancy or Second Grade shall consist of apples of one variety which are mature (1), but not overripe (2); carefully handpicked (3); clean (4); fairly well formed (7); free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, broken skins and bruises (except those incident to proper handling and packing), and visible watercore. The apples shall also be free from damage (8) caused by russetting (8a), sunburn or sprayburn (8b), limb rubs (8c), hail (8d), drought spots (8d), or scars (8d), stem or calyx cracks (8e), other diseases (8f), insects (8g), or mechanical or other means (8). Each apple of this grade shall have the amount of color specified hereinafter for the variety. (See Color Requirements, Tolerances, and Condition after Storage or Transit.)

Apples of this grade shall be free from excessive damage caused by russetting and shall meet the requirements of Virginia Extra Fancy as defined under the definitions of "damage by russetting" and

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"damage caused by hail" except as follows:

a. The aggregate area of an apple which may be covered by smooth net-like russeting shall not exceed 25 percent.

b. The aggregate area of an apple which may be covered by smooth solid russeting shall not exceed 10 percent.

c. Hail marks, drought spots, or other similar depressions or scars when the skin has not been broken and the injury is more than slightly depressed or affects a total area of more than one-half inch in diameter; or hail marks or similar scars when the skin has been broken and the injury is not well healed, or is more than slightly depressed; or affects an aggregate area of more than one-fourth inch in diameter.

2. Virginia Fancy.

Virginia Fancy consists of apples of one variety which are mature but not overripe, carefully hand-picked, clean, fairly well formed; free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald, freezing injury, visible water core, and broken skins and bruises except those which are incident to proper handling and packing. The apples are also free from damage caused by russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, or damage by other means. Each apple of this grade has the amount of color specified for the variety. (See color requirements)

3. Virginia C Grade or Hail Grade:

Virginia C Grade or Hail Grade shall consist of apples of one variety which are mature (1), handpicked (3), clean (4), sound (5), not badly misshapen (6), and free from serious damage caused by hail or punctures (11). Each apple shall have the amount of color hereinafter specified for apples in this grade.

NOTE: Punctured apples under this grade do not meet the requirements of the Export Apple and Pear Act and cannot be certified on an export form certificate.

3. Virginia No. 1 Hail grade.

Virginia No. 1 Hail consists of apples which meet the requirements of Virginia Fancy grade except that hail marks where the skin has not been broken, and well healed hail marks where the skin has been broken, are permitted, provided the apples are fairly well formed.

D. Green or Yellow Varieties:

1. Virginia Extra Fancy or First Grade:

Virginia Extra Fancy or First Grade shall consist of apples of one variety which are mature (1), hand picked (2), clean (3), well formed (4), sound (7), free from bruises (8), russeting (8b), (8c), (8e), sprayburn (8d), (8e), sunburn (8d), (8e), limb rubs (8e), drought spot (8f), hail marks (8f), visible watercore, broken skin, apple scab, and from diseases and insect injury (8g), stings (8h); except that slight blemishes (8) shall be permitted in this grade. Each apple shall have the amount of color hereinafter specified for apples in this grade.

2. Virginia Fancy or Second Grade:

Virginia Fancy or Second Grade shall consist of apples of one variety which are mature (1), hand picked (2), clean (3), fairly well formed (5), sound (7), free from visible watercore, broken skin, and from damage (9), caused by bruises (9a), limb rubs (9b), sprayburn (9c), sunburn (9d), russeting (9e), (9g), (9h), drought spot (9i), hail marks (9i), apple scab (9j), diseases and insect injury (9k), (9m). See exception (9f-1) for Golden Delicious. Each apple shall have the amount of color hereinafter specified for apples in this grade.

3. Virginia C Grade or Third Grade:

Virginia C Grade or Third Grade shall consist of apples of one variety which are mature (1), hand picked (2), clean (3), not badly misshapen (6), sound (7), and free from serious damage (10) caused by sunburn (10a), sprayburn (10a), limb rubs (10b), russeting (10e), growth cracks (10d), visible watercore (10e), hail marks (10f), drought spots (10f), disease (10g), and insect injury (10h), (10i), and free from soft bruises and broken skin except that apples having Fancy or better color for the variety may contain punctures not exceeding 1/4 inch in diameter.

NOTE: Punctured apples do not meet the requirements of the Export Apple and Pear Act and cannot be certified on an export form certificate.

4. Hail Grade shall consist of apples which meet the requirements of Combination Extra Fancy and Fancy, except that hail marks where the skin has not been broken and well healed hail marks where the skin has been broken shall be permitted provided the apples are fairly well formed. The marks or labels "Extra Fancy" or "Fancy" shall not appear on the containers.

E. Color Requirements:

Golden Delicious...Extra Fancy...75% Characteristic

Color²

...Fancy...75% Characteristic

Color²

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---C: Grade.....23 1/3% Characteristic

Colors¹

¹ In the Golden Delicious variety when the white or light green color predominates over the green color, it shall be considered as the minimum characteristic color.

In the following, no color is required in Extra Fancy, Fancy, or C Grade; natural blush not objectionable:

Duchess.....King.....Ortly.....White Winter Pearmain

Greenstein.....Wolf River.....Newtown.....Yellow Transparent

Twenty Ounce.....Grimes (Golden)

A. Domestic Grade:

Domestic Grade shall consist of apples of one variety which are not seriously damaged by being dirty; not overripe; free from decay; internal breakdown; freezing injury; worm holes; and from any injury or defect which cannot be removed without the loss of more than 5 percent of the total weight or volume of the apple in the more than 5 percent of the surface of the apple in the aggregate shall be affected with Scab, (See Requirement for Size) Decay; Internal Breakdown; Freezing Injury; None; Dirt; Spray Residue; Not noticeable on casual examination; Visible Watercore; Bruises; Stem and Calyx Cracks; Sprayburn; Sunburn; Bitter Pit; Jonathan Spot; Fruit; York; King David; Drought Spot; Hard; dry Bruises; Half Marks; Apple Blotch; Cedar Rust and Healed Stings; Not more than 5 percent waste; Not badly misshapen; broken skin - dry and not serious - any amount; Red Skin Spot - any amount; Limb Rubs and Scars - any amount not deforming fruit; Apple Scab 5 percent of surface aggregate; Sooty Blotch; Fly Speck - any amount; San Jose Scale - any amount.

B. Virginia Extra Fancy Mixed Grade:

This grade shall consist of only one of the following varieties: Golden Delicious; Grimes Golden or Albemarle Pippin; mixed in the same package with only one of these varieties: Red Delicious; Delicious; Red Stayman; Stayman; or Winesap.

All apples packed as this grade shall meet the requirements hereafter set out; provided, however, that mixed apples of any varieties are exempt from the requirements of this grade when sold in special packages of any size containers as gift packages and do not go through the wholesale or retail channels.

This grade shall further consist of apples of the two varieties which are mature (1), but not overripe (2); carefully hand-picked (3); clean (4); fairly well formed (7); free from decay; internal browning; internal breakdown; bitter pit; Jonathan Spot; Scald; freezing injury; broken skins and bruises (except those incident to proper

handling and packing), and visible watercore. The apples shall also be free from damage (5), caused by russetting (6a); sunburn or sprayburn (6b); limb rubs (6c); hail (6d); drought spots (6e); or scars (6f); stem or calyx cracks (6g); other diseases (6h); insects (6i); or mechanical or other means (6j). Each apple of this grade shall have the amount of color specified hereinafter for the variety. (See Color Requirements, Tolerances, Applications for Tolerances and Size).

C. Color Requirements:

Red Varieties: For the red varieties, the percentage stated below refers to the area of the surface with a good shade of red characteristic of the variety; provided, that an apple having a higher shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to the grade; provided, it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety.

Partial Red Varieties: The percentage stated refers to the area of the surface in which the stripes of a good shade or red characteristic of the variety shall predominate over stripes of lighter red. However, an apple having color of a higher shade than that considered as a good shade of red characteristic of the variety may be admitted to the grade; provided, that, it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety for the grade. Faded brown stripes shall not be considered as color.

Red Delicious.....65% Stayman.....40%

Delicious.....50% Golden Delicious¹.....75%

..... Characteristic

..... color

Red Stayman.....50% Grimes.....Characteristic

..... ground color

Winesap.....50% Albemarle Pippin.....Characteristic

..... ground color

¹ "Characteristic Color" - When the white around the lenticles predominates over the green color, creating a mottling effect on the surface of the apple, it shall be considered as the minimum characteristic color.

II. Size Requirements

¹ The numerical count of the minimum diameter of the apples packed in a closed container shall be indicated on the container or a sticker within.

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2. When the numerical count is marked on the container, or a stuffer within, the minimum size of the largest apple shall be not more than one-fourth inch larger than the minimum size of the smallest apple.

3. When the numerical count is not shown, the minimum (size) diameter shall be plainly stamped, stenciled, or otherwise marked on the container, or a stuffer within in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, (as 2 1/2 inches minimum, or 2 5/8 inches minimum), in accordance with the facts. It is suggested that both minimum and maximum diameters be shown, as 2 1/4 to 2 1/2 inches, or 2 1/2 to 2 3/4 inches. The minimum size of the largest apple shall be not more than one-fourth inch larger than the minimum size of the smallest apple.

4. The measurement for minimum size shall be the largest diameter of the apple taken at right angles to a line from the stem end to the blossom end. The measurement for maximum size shall be the smallest dimension of the apple determined by passing the apple through a round opening.

5. In order to allow for variations incident to proper sizing, not more than 5 percent of the apples in any lot may not meet the size requirements; provided, that, when the maximum and minimum sizes are both stated, an additional 10 percent tolerance shall be allowed for apples which are larger than the maximum size stated.

4. Domestic grade.

Domestic consists of apples of one variety which are mature but not overripe, carefully hand-picked, not seriously deformed; free from decay, internal browning, internal breakdown, scald, and freezing injury. The apples are also free from serious damage caused by dirt or other foreign matter, broken skins, bruises, russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, visible water core, disease, insects, or other means.

C. Combination Grades.

1. Combination Extra Fancy and Fancy.

When Extra Fancy and Fancy apples are packed together, the boxes may be marked "Combination Extra Fancy and Fancy" and shall contain at least 80% Extra Fancy apples; except Newtowns, which shall contain at least 25% Extra Fancy apples.

2. Combination Extra Fancy, Fancy, and C Grade.

When Extra Fancy, Fancy, and C Grade apples are packed together, the boxes may be marked "Combination Extra Fancy, Fancy, and C Grade" and shall contain at least 80% Extra Fancy apples, except

Newtowns, which shall contain at least 25% Extra Fancy apples.

3. Combination Extra Fancy and C Grade.

When Extra Fancy and C Grade apples are packed together, the boxes may be marked "Combination Extra Fancy and C Grade" and shall contain at least 80% Extra Fancy apples; except Newtowns, which shall contain at least 25% Extra Fancy apples.

4. Combination Fancy and C Grade.

When Fancy and C Grade apples are packed together, the boxes may be marked "Combination Fancy and C Grade," but shall contain at least 80% Fancy apples; except Newtowns, which shall contain at least 25% Fancy apples.

B. Color Requirements.

Apples shall be admitted to the grade subject to the following color specifications:

1. Red Varieties.

For the red varieties the percentage stated below refers to the area of the surface with a good shade of red characteristic of the variety; provided, that, an apple having a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to the grade, provided that it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade.

	Extra Fancy	Fancy	C Grade
Red Delicious	65%	25%	15%
Arkansa Black	50%	25%	15%
Spitzenburg (Esopus)	50%	25%	15%
Winesap	50%	25%	15%
King David	50%	25%	15%
Red Sport Varieties ¹	50%	25%	15%

¹ When sport varieties are marked as such they shall meet the color requirements of red sport varieties, and the boxes must also bear the name of the parent variety.

2. Partial Red Varieties

For the striped red varieties the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over the stripes of lighter red, green or yellow. However, an apple having color of a lighter shade of red than that considered as a good

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shade of red characteristic of the variety may be admitted to the grade; provided, that, it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade.

	Extra Fancy	Fancy	Grade
Delicious	50%	25%	15%
Stayman	40%	25%	10%
York	40%	25%	10%
Black Twig	40%	25%	10%
Jonathan	40%	25%	10%
McIntosh	40%	25%	10%
Rome	40%	25%	0
Other Similar Varieties	40%	25%	10%

3. Red Checked or Blushed Varieties.

	Extra Fancy	Fancy	Grade
Winter Banana	Some Color		0

H. Standard Box Packs.

A standard box in this state shall be eighteen inches long, eleven and one-half inches wide, and ten and one-half inches deep, inside measure. When boxes are marked with a size count, all apples shall be arranged according to the approved method and shall be fairly tightly packed at the time of packing, but shall not show excessive or unnecessary bruising caused by poor sizing, poor packing or an overfilled package. Each apple wrapped shall be well wrapped.

NOTE: Standard box packs of Golden Delicious shall be well filled or fairly well filled at the time of packing.

I. Tray Packs.

A standard tray pack container carries four, five, or six molded pulp trays and is packed to and marked with one of the same size counts of the same size apples as are packed in the standard box. All apples packed in tray pack containers shall be uniformly sized as those packed in the standard box and shall be arranged according to the approved method for the tray type of pack. Each container shall be well filled or fairly well filled. To be fairly well filled a container must have not less than forty (40) pounds net of apples.

5. Gift grade.

Gift grade may consist of mixed varieties and shall

meet Virginia Extra Fancy grade as defined in Virginia Standards for Apples. When gift containers meet the requirements of Gift Grade, such containers need be marked only "Gift Grade" and a statement of net contents and name and address of packer or distributor.

6. Color requirements.

In addition to the requirement specified for the grades set forth, apples of these grades shall have the percentage of color specified for the variety in Table I appearing in this section. For the solid red varieties the percentage stated refers to the area of the surface which must be covered with a good shade of solid red characteristic of the variety. Provided, that an apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade. For the striped red varieties the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade.

TABLE I

Color Requirements for Specified Virginia Grades of Apples by Variety

Variety	Va. Extra Fancy	Va. Fancy
Solid Red:		
Winesap		25%
Other similar varieties		25%
Red Sport varieties (1)	90%(2)	25%
Striped or Partially red:		
Jonathan		25%
Other similar varieties		25%
Rome Beauty		15%
Stayman		15%

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York Imperial	15%
Delicious	15%
Other similar varieties	15%
Rambo	10%
Other similar varieties	(3)
Red cheeked or blushed varieties:	
Summer Rambo (4)	
Other similar varieties (4)	
Green varieties (5)	
Yellow varieties (5)	
Golden Delicious (6) (5)	

(1) When Red Sport varieties are specified as such, they shall meet the color requirements specified for Red Sport varieties.

(2) Must have at least 90% good shade of red color: characteristic of the variety.

(3) Tinge of Color.

(4) None.

(5) Characteristic Ground Color.

(6) 75% or more of the surface of the apple shall show white or light green predominating over the green color.

K. Tolerances Which Apply At Time of Packing.

In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent of the apples in any container may be below the requirements of the grade, provided that not more than 5 percent shall be seriously damaged by insects and not more than 1/10 of this amount, or 1 percent shall be allowed for decay and/or internal breakdown. Slight imperfections which are not discernible in good commercial sorting practice shall not be considered defects of grades.

In addition to the above, for standard box packs in boxes or cartons marked with a size count, a tolerance of 10 percent for each of the defects of pack, such as wrapping and tightness, shall be permitted in any lot and shall be computed by counting, weighing, or measuring the samples.

When applying the foregoing tolerances to the combination grades, no part of any tolerance shall be used to reduce the percentage of apples of the higher grade required in the combination.

The tolerances specified for the various grades are placed on a container basis. However, any lot of apples

shall be considered as meeting the requirements of a specified grade if the entire lot averages within the tolerances specified, provided that no sample from the containers in any lot is found to exceed the following amounts:

For a specified tolerance of 10 percent, not more than one and one half times the tolerance shall be allowed in any one package.

For specified tolerances of 5 percent, or less, not more than double the tolerance shall be allowed in any one package.

L. Tolerances Which Apply After Apples Have Been In Storage Or in Transit.

After fruit has been placed in storage or in transit, scald, breakdown, decay, bitter pit, or physical injury affecting keeping quality which may have developed or may only have become evident after apples are packed are defined as applying to condition rather than to grade.

M. Virginia State Condition Standards (Not Mandatory).

As applied to condition factors:

(1) Not more than an average of 5% of the apples in any lot, with not more than 10% in any one sample, shall be further advanced in maturity (firmness) than firm ripe.

(2) Not more than a total of 5% of the apples in any lot, with not more than 10% in any one sample, shall be damaged by bitter pit, Jonathan spot, common scald, visible watereore, freezing, or other such condition factors, excluding delayed sunburn.

(3) Not more than an average of 2% each in any lot, with not to exceed 8% in any sample, shall be allowed for apples affected by decay, visible breakdown, or by soft scald; except that after March 1 not more than an average of 3% each in any lot with not to exceed 10% in any sample shall be allowed for apples affected by decay, visible breakdown, or by soft scald.

Remarks: On request, official certificates will bear the statement "Lot Meets Virginia State Condition Standards," provided the apples meet the standard requirements at the time of inspection.

C. Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

I. Defects:

a. Va. Extra Fancy, Va. Fancy: 10% of the apples

in any lot may fail to meet the requirements of the grade, but not more than 1/2 of this amount, or 5.0%, shall be allowed for apples which are seriously damaged, including therein not more than 1.0% for apples affected by decay or internal breakdown.

b. Domestic grade: 10% of the apples in any lot may fail to meet the requirements of the grade, but not more than 1/2 of this amount, or 5.0%, shall be allowed for apples which are seriously damaged by insects, and including in the total tolerance not more than 1.0% for apples affected by decay or internal breakdown.

2. Size: When size is designated by the numerical count for a container, not more than 5.0% of the apples may vary more than 1/4 inch in diameter. When size is designated by minimum or maximum diameter, not more than 5.0% of the apples in any lot may be smaller than the designated minimum and not more than 10% may be larger than the designated maximum.

D. Tolerances Which Apply At Time Of Packing

In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent of the apples in any lot may fail to meet the requirements of the grade, provided, that, not more than one half of this amount, or 5 percent shall be allowed for apples which are seriously damaged by insects, and including not more than 1 percent for apples affected by decay or internal breakdown or both.

E. Applications Of Tolerances To Individual Packages

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified for the grade:

1. For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided (as in the case of size, where a tolerance of 15 percent is provided) individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

2. For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects; provided, that not more than one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

F. Tolerances Which Apply After Apples Have Been In Storage Or Transit:

Decay, scald, or any other deterioration which may develop on apples after they were last packed and been in storage or transit shall be considered as affecting condition and not the grade.

As Applied to Condition Factors:

1. Not more than 5 percent of the apples in any lot shall be further advanced in maturity than firm ripe.

2. Not more than a total of 5 percent of the apples in any lot shall be damaged by bitter pit, Jonathan Spot, Storage Scab, Internal breakdown, watercore, freezing, decay, or other such condition factors; provided, that not more than 2 percent shall be allowed for apples damaged by decay, internal breakdown, or soft scald, or all three.

3. Not more than a total of 10 percent shall be allowed for apples showing scald; provided, that not more than 5 percent shall be allowed for apples showing heavy scald.

D. Application of tolerances.

The contents of individual packages in the lot, are subject to the following limitations: Provided, that the averages for the entire lot are within the tolerances specified for the grade:

1. Packages which contain more than 10 pounds:

Shall have not more than 1-1/2 times a specified tolerance of 10% or more and not more than double a tolerance of less than 10%, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

2. Packages which contain 10 pounds or less:

Not over 10% of the packages may have more than three times the tolerance specified, except that at least one defective apple may be permitted in any package. Provided, that not more than one apple or more than 6.0% (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

C. Basis of Calculating Percentages

1. When the numerical count is marked on the container, percentages shall be calculated on the basis of count.

2. When the minimum diameter or minimum and maximum diameters are marked on the container, percentages shall be calculated on the basis of weight.

Proposed Regulations

E. Calculation of percentages.

1. When the numerical count is marked on the container, percentages shall be calculated on the basis of count.
2. When the minimum diameter or minimum and maximum diameters are marked on a container or when the apples are jumbled in a container or in bulk, percentages shall be calculated on the basis of count or an equivalent basis.

F. Condition after storage or transit.

Decay, scald or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade.

G. Packing requirements.

1. Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods. Packs shall be at least fairly tight or fairly well filled.

a. "Fairly tight" means that apples are of the proper size for molds or cell compartments in which they are packed, and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The top layer of apples, or any pad or space filler over the top layer of apples shall be not more than 3/4 inch below the top edge of the carton.

b. "Fairly well filled" means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh, and Golden Delicious varieties and not less than 40 pounds for all other varieties.

2. Closed cartons containing apples not tray or cell packed shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of apples.

3. Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.

4. Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents.

5. Tolerances: In order to allow for variations incident

to proper packing, not more than 10% of the containers in any lot may fail to meet these requirements.

I. Marking.

Each closed package shall be marked in a conspicuous manner on the outside thereof or upon a durable stuffer placed within, but readily readable from the outside, with the information hereafter listed. This information shall be in letters and figures and shall be as follows:

- (1) The correct size or minimum quantity of apples.
- (2) The minimum size of the closed package.
- (3) The correct variety or varieties of apples.
- (4) The official grade of the apples, and
- (5) The name and address of the grower or packer.

The minimum sizes of letters and figures for the closed packages shall be as follows:

Barrels, one-half inch in height;

Packages weighing ten pounds or less, one-eighth inch in height.

The letters and figures shall be placed upon the end of the boxes and upon the cover of baskets, except the words, "U.S. One Bushel" or "U.S. One-half Bushel" and all labels containing the required markings may be placed on the side of baskets.

Where apples are graded in conformity with the grades set forth in these regulations and such grade is used on the container, no other name, word, or description implying a different grade or quality shall appear on the container.

When the numerical count is shown, the number of apples of each variety shall be shown and the total net weight. The maximum net weight shall not be more than twenty-five pounds.

When jumble packed and the minimum (size) diameter or minimum and maximum (size) diameters are marked on the container, the maximum net weight shall not be more than ten pounds.

H. Marking requirements.

The numerical count or the minimum diameter of the apples packed in a closed container shall be indicated on the container.

1. When the numerical count is not shown, the

minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, or whole inches and not less than eighth inch fractions thereof.

2. The word "minimum," or its abbreviation, when following a diameter size marking, means that the apples are of the size marked or larger.

I. Inspection and certification requirements.

The grade Virginia Extra Fancy shall not be placed on any container or subcontainer of apples, unless an authorized representative of the Virginia Department of Agriculture and Consumer Services has inspected such apples and issued a state lot number in conjunction with a certificate stating that such apples have met the requirements of this grade.

INSPECTOR'S GUIDE FOR APPLE BRUISES
AT SHIPPING POINT AND MARKET

(Areas based on apples 3 inches in diameter, 88-125 size)

When exceeding the following allowances, report as injury, damage or serious damage, respectively.

	Allow in VA. Extra Fancy		Allow in Va. Fancy		Allow in Domestic	
	Tray or Cell	Other Packs ^{1/}	Tray or Cell	Other Packs ^{1/}	Tray or Cell	Other Packs ^{1/}
DEPTH	1/8"	Same	3/16"	Same	3/8"	Same
AREA ONE BRUISE	5/8"	Same	7/8"	1"	1-1/8"	1-1/4"
AGGREGATE AREA	Any combination of lesser bruises which do not detract from the appearance or edible quality to an extent greater than above allowances; Provided, that superficial bruises that are not noticeable without holding the apple at an angle to the light shall be ignored.					
	As a guide, depending on their location on the apple and the intensity of the discoloration of the bruises, the following aggregate areas are allowed for noticeable bruising:					
	1/2"	Same	3/4"	7/8"	1-1/8"	1-1/4"

NOTE: Bruised areas may be cut to check depth, but in no case shall apples be peeled to search for bruised or discolored areas.

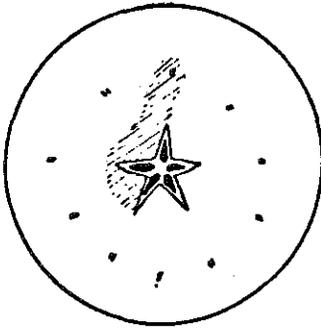
^{1/} Includes apples in bulk, loose in cartons and in consumer size packages such as film bags and trays overwrapped in film.

INJURY BY INVISIBLE WATERCORE affects:

Va. Extra Fancy Grade after January 31, of year following production and affecting U.S. Condition Standards for export anytime.

THIS

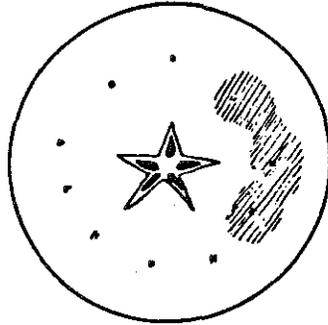
1. Existing around core and extending to watercore in vascular bundles



or

THIS

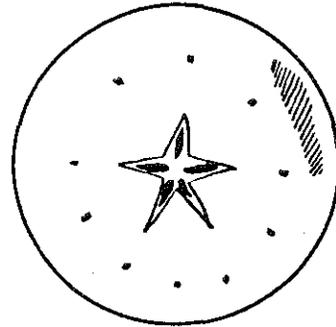
2. Surrounding vascular bundles when affected areas around three or more bundles meet or coalesce



or

THIS

3. More than slight degree outside circular area formed by vascular bundles.



Proposed Regulations

DEPARTMENT OF AIR POLLUTION CONTROL

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

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

Public Hearing Date: September 7, 1988 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

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

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

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

§ 120-05-0501. General.

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

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

Subpart A - General Provisions.

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

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

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

40 CFR 60.40 through 40 CFR 60.46

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

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

40 CFR 60.40a through 40 CFR 60.49a

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

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

40 CFR 60.40b through 40 CFR 60.49b

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

Subpart E - Incinerators.

40 CFR 60.50 through 40 CFR 60.54

(units of more than 50 tons per day charging rate)

Subpart F - Portland Cement Plants.

40 CFR 60.60 through 40 CFR 60.64

(kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems)

Subpart G - Nitric Acid Plants.

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40 CFR 60.70 through 40 CFR 60.74 (nitric acid production units)

Subpart H - Sulfuric Acid Plants.

40 CFR 60.80 through 40 CFR 60.85

(sulfuric acid production units)

Subpart I - Hot Mix Asphalt Facilities.

40 CFR 60.90 through 40 CFR 60.93

(dryers; systems for screening, handling, storing and weighing hot aggregate; systems for loading, transferring and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer and storage systems associated with emission control systems)

Subpart J - Petroleum Refineries.

40 CFR 60.100 through 40 CFR 60.106

(fluid catalytic cracking unit catalyst regenerators, fluid catalytic cracking unit incinerator-waste heat boilers and fuel gas combustion devices)

Subpart K - Storage Vessels for Petroleum Liquids Constructed after June 11, 1973 and Prior to May 19, 1978.

40 CFR 60.110 through 40 CFR 60.113

(storage vessels with a capacity greater than 40,000 gallons)

Subpart Ka - Storage Vessels for Petroleum Liquids Constructed after May 18, 1978.

(storage vessels with a capacity greater than 40,000 gallons)

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

40 CFR 60.110b through 40 CFR 60.117b

(storage vessels with capacity greater than or equal to 8,790 gallons)

Subpart L - Secondary Lead Smelters.

40 CFR 60.120 through 40 CFR 60.123

(pot furnances of more than 550 lb charging capacity, blast (cupola) furnaces and reverberatory furnaces)

Subpart M - Secondary Brass and Bronze Production Plants.

40 CFR 60.130 through 40 CFR 60.133

(reverberatory and electric furnaces of 2,205 lb or greater production capacity and blast (cupola) furnaces of 550 lb per hr or greater production capacity)

Subpart N - Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973: Primary Emissions.

40 CFR 60.140 through 40 CFR 60.144

(basic oxygen process furnace)

Subpart Na - Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983: Secondary Emissions.

40 CFR 60.140a through 40 CFR 60.145a

(facilities in an iron and steel plant: top-blown BOPFs and hot metal transfer stations and skimming stations used with bottom-blown or top-blown BOPFs.)

Subpart O - Sewage Treatment Plants.

40 CFR 60.150 through 40 CFR 60.154

(incinerators that combust wastes containing more than 10 percent sewage sludge (dry basis) produced by municipal sewage treatment plants or incinerators that charge more than 2,205 lb per day municipal sewage sludge (dry basis))

Subpart P - Primary Copper Smelters.

40 CFR 60.160 through 40 CFR 60.166

(dryer, roaster, smelting furnace and copper converter)

Subpart Q - Primary Zinc Smelters.

40 CFR 60.170 through 40 CFR 60.176

(roaster and sintering machine)

Subpart R - Primary Lead Smelters.

40 CFR 60.180 through 40 CFR 60.186

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

Subpart S - Primary Aluminum Reduction Plants.

Proposed Regulations

40 CFR 60.190 through 40 CFR 60.195

(potroom groups and anode bake plants)

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

40 CFR 60.200 through 40 CFR 60.204

(reactors, filters, evaporators and hotwells)

Subpart U - Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

40 CFR 60.210 through 40 CFR 60.214

(evaporators, hotwells, acid sumps and cooling tanks)

Subpart V - Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

40 CFR 60.220 through 40 CFR 60.224

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

Subpart W - Phosphate Fertilizer Industry: Triple Superphosphate Plants.

40 CFR 60.230 through 40 CFR 60.234

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

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

40 CFR 60.240 through 40 CFR 60.244

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

Subpart Y - Coal Preparation Plants.

40 CFR 60.250 through 40 CFR 60.254

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

Subpart Z - Ferroalloy Production Facilities.

40 CFR 60.260 through 40 CFR 60.266

(electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon,

silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon or calcium carbide; and dust-handling equipment)

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

40 CFR 60.270 through 40 CFR 60.276

(electric arc furnaces and dust-handling equipment)

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

40 CFR 60.270a through 40 CFR 60.276a

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

Subpart BB - Kraft Pulp Mills.

40 CFR 60.280 through 40 CFR 60.285

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

Subpart CC - Glass Manufacturing Plants.

40 CFR 60.290 through 40 CFR 60.296

(glass melting furnace)

Subpart DD - Grain Elevators.

40 CFR 60.300 through 40 CFR 60.304

(grain terminal elevators/grain storage elevators: truck unloading stations, truck loading stations, barge and ship unloading stations, barge and ship loading stations, railcar unloading stations, railcar loading stations, grain dryers and all grain handling operations)

Subpart EE - Metal Furniture Surface Coating Operations.

40 CFR 60.310 through 40 CFR 60.316

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

Subpart FF - (Reserved)

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Subpart GG - Stationary Gas Turbines.

40 CFR 60.330 through 40 CFR 60.335

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

Subpart HH - Lime Manufacturing Plants.

40 CFR 60.340 through 40 CFR 60.344

(each rotary lime kiln)

Subparts II through JJ - (Reserved)

Subpart KK - Lead-Acid Battery Manufacturing Plants.

40 CFR 60.370 through 40 CFR 60.374

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

Subpart LL - Metallic Mineral Processing Plants.

40 CFR 60.380 through 40 CFR 60.386

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

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

40 CFR 60.390 through 40 CFR 60.397

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

Subpart NN - Phosphate Rock Plants.

40 CFR 60.400 through 40 CFR 60.404

(phosphate rock plants which have a maximum

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

Subpart OO - (Reserved)

Subpart PP - Ammonium Sulfate Manufacture.

40 CFR 60.420 through 40 CFR 60.424

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

Subpart QQ - Graphic Arts Industry: Publication Rotogravure Printing.

40 CFR 60.430 through 40 CFR 60.435

(publication rotogravure printing presses, except proof presses)

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

40 CFR 60.440 through 40 CFR 60.447

(pressure sensitive tape and label material coating lines)

Subpart SS - Industrial Surface Coating: Large Appliances.

40 CFR 60.450 through 40 CFR 60.456

(surface coating operations in large appliance coating lines)

Subpart TT - Metal Coil Surface Coating Operations.

40 CFR 60.460 through 40 CFR 60.466

(metal coil surface coating operations: each prime coat operation, each finish coat operation, and each prime and finish coat operation combined when the finish coat is applied wet on wet over the prime coat and both coatings are cured simultaneously)

Subpart UU - Asphalt Processing and Asphalt Roofing Manufacturing.

40 CFR 60.470 through 40 CFR 60.474

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

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

40 CFR 60.480 through 40 CFR 60.489

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

Subpart WW - Beverage Can Surface Coating Industry.

40 CFR 60.490 through 40 CFR 60.496

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

Subpart XX - Bulk Gasoline Terminals.

40 CFR 60.500 through 40 CFR 60.506

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

Subparts YY through EEE - (Reserved)

Subpart FFF - Flexible Vinyl and Urethane Coating and Printing.

40 CFR 60.580 through 40 CFR 60.585

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

Subpart GGG - Equipment Leaks of VOC in Petroleum Refineries.

40 CFR 60.590 through 40 CFR 60.593

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

Subpart HHH - Synthetic Fiber Production Facilities

40 CFR 60.600 through 40 CFR 60.604

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

Subpart III - (Reserved)

Subpart JJJ - Petroleum Dry Cleaners.

40 CFR 60.620 through 40 CFR 60.625

(facilities located at a petroleum dry cleaning plant with a total manufacturers' rated dryer capacity

equal to or greater than 84 pounds: petroleum solvent dry cleaning, dryers, washers, filters, stills, and settling tanks)

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

40 CFR 60.630 through 40 CFR 60.636

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

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

40 CFR 60.640 through 40 CFR 60.648

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

Subpart MMM through NNN - (Reserved)

Subpart OOO - Nonmetallic Mineral Processing Plants.

40 CFR 60.670 through 40 CFR 60.676

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

Subpart PPP - Wool Fiberglass Insulation Manufacturing Plants.

40 CFR 60.680 through 40 CFR 60.685

(each rotary spin wool fiberglass insulation manufacturing line)

Appendix A - Reference Methods.

Method 1 - Sample and velocity traverses for stationary sources.

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

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

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

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

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

Method 4 - Determination of moisture content in stack gases.

Method 5 - Determination of particulate emissions from stationary sources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 21 - Determination of volatile organic compounds leaks.

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

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

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

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

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

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

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

Appendix B - Performance specification.

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

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

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

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

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

Appendix C - Determination of Emission Rate Change.

Appendix F - Quality Assurance Procedures.

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

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

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

- A. Owner or other person for owner or operator.
- B. Board for Administrator.

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

D. § 120-05-03 for § 60.8.

E. § 120-05-05 C of § 60.7(c).

PART VI.

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

§ 120-06-0101. General.

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

§ 120-06-0102. Designated emission standards.

Subpart A - General Provisions.

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

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

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

40 CFR 61.20 through 40 CFR 61.28

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

Subpart C - Beryllium.

40 CFR 61.30 through 40 CFR 61.34

Subpart D - Beryllium Rocket Motor Firing.

40 CFR 61.40 through 40 CFR 61.44

Subpart E - Mercury.

40 CFR 61.50 through 40 CFR 61.55

Subpart F - Vinyl Chloride.

40 CFR 61.60 through 40 CFR 61.71

Subpart G - (Reserved)

40 CFR 61.240 through 40 CFR 61.247

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

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

40 CFR 61.90 through 40 CFR 61.98

40 CFR 61.250 through 40 CFR 61.252

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

Appendix B - Test Methods.

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

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

40 CFR 61.100 through 40 CFR 61.108

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

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

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

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

40 CFR 61.110 through 40 CFR 61.112

Method 103 - Beryllium screening method.

Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.

Method 104 - Determination of beryllium emissions from stationary sources.

40 CFR 61.120 through 40 CFR 61.126

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

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

Subpart L - (Reserved)

Method 106 - Determination of vinyl chloride from stationary sources.

Subpart M - Asbestos.

40 CFR 61.140 through 40 CFR 61.156

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

Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.

40 CFR 61.160 through 40 CFR 61.165

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

Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.

40 CFR 61.170 through 40 CFR 61.177

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

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

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

40 CFR 61.180 through 40 CFR 61.186

Appendix C - Quality assurance procedures.

Procedure 1 - Determination of adequate chromatographic peak resolution.

Procedure 2 - Procedure for field auditing gas cylinder analysis.

Subparts ~~N~~ through ~~U~~ Q through U - (Reserved)

§ 120-06-0103 Word or phrase substitutions.

Subpart V - Equipment Leaks (Fugitive Emission Sources).

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

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- A. Owner or other person for owner or operator.
- B. Board for Administrator.
- C. Board for U.S. Environmental Protection Agency (except in references).
- D. Part VIII and § 120-06-05 A for §§ 61.05(a), 61.07 and 61.09.
- E. § 120-06-03 for § 61.14.

APPENDIX M.

DOCUMENTS INCORPORATED BY REFERENCE.

I. General.

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

- 1. United States Code.
- 2. Code of Virginia.
- 3. Code of Federal Regulations.
- 4. Federal Register.
- 5. Technical and scientific reference documents.

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

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR ~~(1986)~~ (1987) in effect July 1, 1986 1987. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR Part 35.20 means Section 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

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

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

II. Specific documents.

A. Code of Federal Regulations.

1. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, 1986 1987 are incorporated herein by reference.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Subpart A - General Provisions.

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- (a) § 60.1 - Applicability.
- (b) § 60.2 - Definitions.
- (c) § 60.7 - Notification and record keeping.
- (d) § 60.8 - Performance tests.
- (e) § 60.11 - Compliance with standards and maintenance requirements.
- (f) § 60.13 - Monitoring requirements.
- (g) § 60.14 - Modification.
- (h) § 60.15 - Reconstruction.
- (i) § 60.18 - General control device requirements.
- (2) Subpart D - Standards of Performance for Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
- (3) Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
- (4) *Subpart Dd - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.*
- (4) (5) Subpart E - Standards of Performance for Incinerators.
- (5) (6) Subpart F - Standards of Performance for Portland Cement Plants.
- (6) (7) Subpart G - Standards of Performance for Nitric Acid Plants.
- (7) (8) Subpart H - Standards of Performance for Sulfuric Acid Plants.
- (8) (9) Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
- (9) (10) Subpart J - Standards of Performance for Petroleum Refineries.
- (10) (11) Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After June 11, 1973 and Prior to May 19, 1978.
- (11) (12) Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids Constructed After May 18, 1978.
- (13) *Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which*

Construction, Reconstruction, or Modification Commenced after July 23, 1984.

~~(12)~~ (14) Subpart L - Standards of Performance for Secondary Lead Smelters.

~~(13)~~ (15) Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.

~~(14)~~ (16) Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for which Construction is Commenced after June 11, 1973.

~~(15)~~ (17) Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for which Construction is Commenced after January 20, 1983.

~~(16)~~ (18) Subpart O - Standards of Performance for Sewage Treatment Plants.

~~(17)~~ (19) Subpart P - Standards of Performance for Primary Copper Smelters.

~~(18)~~ (20) Subpart Q - Standards of Performance for Primary Zinc Smelters.

~~(19)~~ (21) Subpart R - Standards of Performance for Primary Lead Smelters.

~~(20)~~ (22) Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.

~~(21)~~ (23) Subpart T - Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.

~~(22)~~ (24) Subpart U - Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.

~~(23)~~ (25) Subpart V - Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.

~~(24)~~ (26) Subpart W - Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.

~~(25)~~ (27) Subpart X - Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.

~~(26)~~ (28) Subpart Y - Standards of Performance for Coal Preparation Plants.

~~(27)~~ (29) Subpart Z - Standards of Performance for Ferroalloy Production Facilities.

~~(28)~~ (30) Subpart AA - Standards of Performance for

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Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and On or Before August 17, 1983.

~~(20)~~ (31) Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

~~(30)~~ (32) Subpart BB - Standards of Performance for Kraft Pulp Mills.

~~(31)~~ (33) Subpart CC - Standards of Performance for Glass Manufacturing Plants.

~~(32)~~ (34) Subpart DD - Standards of Performance for Grain Elevators.

~~(33)~~ (35) Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.

~~(34)~~ (36) Subpart GG - Standards of Performance for Stationary Gas Turbines.

~~(35)~~ (37) Subpart HH - Standards of Performance for Lime Manufacturing Plants.

~~(36)~~ (38) Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.

~~(37)~~ (39) Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.

~~(38)~~ (40) Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.

~~(39)~~ (41) Subpart NN - Standards of Performance for Phosphate Rock Plants.

~~(40)~~ (42) Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.

~~(41)~~ (43) Subpart QQ - Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.

~~(42)~~ (44) Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.

~~(43)~~ (45) Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.

~~(44)~~ (46) Subpart TT - Standards of Performance for Metal Coil Surface Coating.

~~(45)~~ (47) Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.

~~(46)~~ (48) Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.

~~(47)~~ (49) Subpart WW - Standards of Performance for the Beverage Can Surface Coating Industry.

~~(48)~~ (50) Subpart XX - Standards of Performance for Bulk Gasoline Terminals.

~~(49)~~ (51) Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.

~~(50)~~ (52) Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.

~~(51)~~ (53) Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.

~~(52)~~ (54) Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.

~~(53)~~ (55) Subpart KKK - Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.

~~(54)~~ (56) Subpart LLL - Standards of Performance for Onshore Natural Gas Processing: Sulfur Dioxide Emissions.

~~(55)~~ (57) Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.

~~(56)~~ (58) Subpart PPP - Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.

~~(57)~~ (59) Appendix A - Reference Methods.

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

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

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

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

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

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

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

- (h) Method 5 - Determination of particulate emissions from stationary sources.
- (i) Method 5A - Determination of particulate emissions from the asphalt processing and asphalt roofing industry.
- (j) Method 5D - Determination of particulate matter emissions from positive pressure fabric filters.
- (k) Method 5E - Determination of particulate emissions from the wool fiberglass insulation manufacturing industry.
- (l) Method 6 - Determination of sulfur dioxide emissions from stationary sources.
- (m) Method 6A - Determination of sulfur dioxide, moisture, and carbon dioxide emissions from fossil fuel combustion sources.
- (n) Method 6B - Determination of sulfur dioxide and carbon dioxide daily average emissions from fossil fuel combustion sources.
- (o) Method 6C - Determination of sulfur dioxide emissions from stationary sources (instrumental analyzer procedure).
- (p) Method 7 - Determination of nitrogen oxide emissions from stationary sources.
- (q) Method 7A - Determination of nitrogen oxide emissions from stationary sources - ion chromatographic method.
- (r) Method 7B - Determination of nitrogen oxide emissions from stationary sources (ultraviolet spectrophotometry).
- (s) Method 7C - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/colorimetric method.
- (t) Method 7D - Determination of nitrogen oxide emissions from stationary sources - alkaline-permanganate/ion chromatographic method.
- (u) Method 7E - Determination of nitrogen oxides emissions from stationary sources (instrumental analyzer procedure).
- (v) Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.
- (w) Method 9 - Visual determination of the opacity of emissions from stationary sources.
- (x) Alternative Method 1 - Determination of the opacity of emissions from stationary sources remotely by lidar.
- (y) Method 10 - Determination of carbon monoxide emissions from stationary sources.
- (z) Method 11 - Determination of hydrogen sulfide content of fuel gas streams in petroleum refineries.
- (aa) Method 12 - Determination of inorganic lead emissions from stationary sources.
- (bb) Method 13A - Determination of total fluoride emissions from stationary sources - SPADNS zirconium lake method.
- (cc) Method 13B - Determination of total fluoride emissions from stationary sources - specific ion electrode method.
- (dd) Method 14 - Determination of fluoride emissions from potroom roof monitors of primary aluminum plants.
- (ee) Method 15 - Determination of hydrogen sulfide, carbonyl sulfide, and carbon disulfide emissions from stationary sources.
- (ff) Method 16 - Semicontinuous determination of sulfur emissions from stationary sources.
- (gg) Method 16A - Determination of total reduced sulfur emissions from stationary sources (impinger technique).
- (hh) Method 17 - Determination of particulate emissions from stationary sources (in-stack filtration method).
- (ii) Method 18 - Measurement of gaseous organic compound emissions by gas chromatography.
- (jj) Method 19 - Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates from electric utility steam generators.
- (kk) Method 20 - Determination of nitrogen oxides, sulfur dioxide, and oxygen emissions from stationary gas turbines.
- (ll) Method 21 - Determination of volatile organic compounds leaks.
- (mm) Method 22 - Visual determination of fugitive emissions from material sources and smoke emissions from flares.
- (nn) Method 24 - Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings.
- (oo) Method 24A - Determination of volatile matter content and density of printing inks and related

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coatings.

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

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

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

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

~~(55)~~ (60) Appendix B - Performance Specifications.

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

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

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

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

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

~~(56)~~ (61) Appendix C - Determination of Emission.

(62) Appendix F - Quality Assurance Procedures.

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

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

(1) Subpart A - General Provisions.

(a) § 61.01 - Applicability.

(b) § 61.02 - Definitions.

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

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

tests.

(e) § 61.14 - Monitoring requirements.

(f) § 61.15 - Modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Method 103 - Beryllium screening method.

(e) Method 104 - Determination of beryllium

emissions from stationary sources.

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

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

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

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

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

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

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

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

B. U.S. Environmental Protection Agency.

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

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

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

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

C. U.S. government.

1. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-006 and 003-005-00176-0, respectively).

2. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office,

Washington, D.C. 20402; phone (202) 783-3238.

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

1. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

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

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

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

E. American Petroleum Institute (API).

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

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

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

1. The following document from the ACGIH is incorporated herein by reference: ACGIH Handbook - Threshold Limit Values[®] for Chemical Substances in the Work Environment Adopted by ACGIH with Intended Changes for 1986-1987 1987-1988.

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

G. National Fire Prevention Association (NFPA).

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

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

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

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

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

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

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

Title of Regulation: VR 400-01-0001. Rules and Regulations.

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

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

Summary:

The proposed amendments to the authority's rules and regulations establish a program for the extension of home equity loan accounts to elderly persons and families of low and moderate income and the making of loans by the authority pursuant to such program.

VR 400-01-0001. Rules and Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

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

"Adjusted family income" means the total annual income of a person or all members of a family residing or intending to reside in a dwelling unit, from whatever source derived and before taxes or withholdings, less the total of the credits applicable to such person or family, computed in accordance with the following: (i) a credit in an amount equal to \$1,000 for each dependent family member other than such a family member qualifying under (vi) below; (ii) a credit in an amount equal to the lesser of \$1,000 or 10% of such total annual income; (iii) a credit in an amount equal to all income of such person or any such family member of an unusual or temporary nature and not related to such person's or family member's regular employment, to the extent approved by the executive director; (iv) a credit in an amount equal to all earnings of any family member who is a minor under

18 years of age or who is physically or mentally handicapped, as determined on the basis of medical evidence satisfactory to the executive director; (v) a credit in an amount equal to such person or family's medical expenses, not compensated for or covered by insurance, in excess of 3.0% of such total annual income; and (vi) a credit in an amount equal to 1/2 of the total annual income of all family members over 18 years of age who are secondary wage earners in the family, provided, however, that such credit shall not exceed the amount of \$2,500. If federal law or rules and regulations impose limitations on the incomes of the persons or families who may own or occupy a single family dwelling unit or multi-family residential housing development, the authority may provide in its procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations that the adjusted family income shall be computed, for the purpose of determining eligibility under § 1.2 of these rules and regulations for ownership or occupancy of such single family dwelling unit or the dwelling units in such multi-family residential housing development (or, if so provided in the procedures, instructions and guidelines, only those dwelling units in such development which are subject to such federal income limitations), in the manner specified by such federal law or rules and regulations (subject to such modifications as may be provided in or authorized by the procedures, instructions and guidelines) rather than in the manner provided in the preceding sentence.

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

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

"Authority" means the Virginia Housing Development Authority.

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

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

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

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

"Family" means, in the context of the financing of a

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

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

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

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

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

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

"Person" means:

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

within a multi-family residential housing development that may be made available for occupancy by such individuals or otherwise impose restrictions and limitations with respect to multi-family dwelling units intended for occupancy by such individuals.

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

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

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

Terms defined in the Act and used and not otherwise defined herein shall have the same meaning ascribed to them in the Act.

§ 1.2. Eligibility for occupancy.

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

B. To be considered eligible for occupancy of a multi-family dwelling unit financed by an authority mortgage loan, a person or family shall not have an adjusted family income greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit; provided, however, that the board may from time to time establish, by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations, lower income limits for

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occupancy of such dwelling unit ; and provided further that in the case of any dwelling unit for which no amounts are payable by or on behalf of such person or family or the amounts payable by or on behalf of such person or family are deemed by the board not to be rent, the income limits shall be established by the board by resolution or by procedures, instructions and guidelines pursuant to § 1.3 of these rules and regulations.

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

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

or debentures as a condition of occupancy in such cooperative and any additional sums payable to such person or family in accordance with a schedule prescribed or approved by the authority, subject however to the terms of any instrument or agreement relating to such cooperative or the occupancy thereof.

§ 1.3. Procedures, instructions and guidelines.

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

§ 1.4. Forms.

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

§ 1.5. Interest rates.

The executive director shall establish the interest rate or rates to be charged to the housing sponsor or person or family in connection with any loan made or financed under these rules and regulations. To the extent permitted by the documents relating to the loan, the executive director may adjust at any time and from time to time the interest rate or rates charged on such loan. Without limiting the foregoing, the interest rate or rates may be adjusted if such adjustment is determined to be necessary or appropriate by the executive director as a result of any allocation or reallocation of such loan to or among the authority's note or bond funds or any other funds of the authority. Any interest rate or rates established pursuant to this § 1.5 shall reflect the intent expressed in subdivision 3 of subsection A of § 36-55.33:1 of the Code of Virginia.

§ 1.6. Federally assisted loans.

When a housing development or dwelling unit financed by a loan under these rules and regulations or otherwise assisted by the authority is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government or where the

authority assists in the administration of any federal program, the applicable federal law and rules and regulations shall be controlling over any inconsistent provision hereof.

§ 1.7. Administration of state and federal programs; acceptance of aid and guarantees.

A. The board by resolution may authorize the authority to operate and administer any program to provide loans or other housing assistance for persons and families of low and moderate income and, in furtherance thereof, to enter into agreements or other transactions with the federal government, the Commonwealth of Virginia or any governmental agency thereof, any municipality or any other persons or entities and to take such other action as shall be necessary or appropriate for the purpose of operating and administering, on behalf of or in cooperation with any of the foregoing, any such program.

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

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

§ 1.8. Assistance of mortgage lenders.

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

§ 1.9. Waiver.

The board by resolution may for good cause in any particular case waive or vary any of the provisions of these rules and regulations.

§ 1.10. Amendment.

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

§ 1.11. Separability.

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

PART II. MULTI-FAMILY RENTAL HOUSING PROGRAM.

§ 2.1. Mortgage loans.

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

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

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

§ 2.2. Applications and processing.

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

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

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

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

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

distributions may be made by such for-profit housing sponsor with respect to such housing development pursuant to the provisions of subsection B of § 2.4 of these rules and regulations.

E. An authority mortgage loan shall not be authorized by the board in advance of commitment therefor in accordance with subsection B hereof or ratified thereafter in accordance with subsection C hereof unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority mortgage loan in advance of the issuance of the commitment therefor or ratify the commitment therefor all in accordance herewith without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the authority mortgage loan.

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

§ 2.3. Regulation of housing sponsors.

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

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

A. The categories of cost which shall be allowable by the authority in development, construction or rehabilitation of a housing development financed under this Part II shall include the following: (i) development and construction or rehabilitation costs, including equipment, labor and materials furnished by the owner, contractor or

subcontractors, general requirements for job supervision, an allowance for office overhead of the contractor, building permit, bonds and letters of credit to assure completion, water, sewer and other utility fees, and a contractor's profit or a profit and risk allowance in lieu thereof; (ii) architectural and engineering fees; (iii) interest on the mortgage loan; (iv) real estate taxes, hazard insurance premiums and mortgage insurance premiums; (v) title and recording expenses; (vi) surveys; (vii) test borings; (viii) the authority's financing fees; (ix) legal and accounting expenses; (x) in the case of a nonprofit housing sponsor, organization and sponsor expenses, consultant fees, and a reserve to make the project operational; (xi) off-site costs; (xii) the cost or fair market value of the land and any improvements thereon to be used in the housing development; (xiii) tenant relocation costs; (xiv) operating reserves to be funded from proceeds of the mortgage loan; (xv) and such other categories of costs which the authority shall determine to be reasonable and necessary for the development and construction or rehabilitation of the housing development. The extent to which costs in any of such categories shall be recognized or allowed in respect of a specific housing development shall be established by the terms of a cost certification guide which shall be prepared and, from time to time, revised by the executive director and which shall be incorporated by reference into the documents executed with respect to each such mortgage loan. Upon completion of the development and construction or rehabilitation of the housing development, the housing sponsor shall certify to the authority the total of the housing development costs in accordance with these rules and regulations and the cost certification guide, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require the housing sponsor to provide such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

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

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

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

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

§ 2.5. Tenant selection plan.

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

1. The proposed rent structure of the proposed housing development;
2. The utilization of any subsidy or other assistance from the federal government or any other source;
3. Income limitations of the authority for initial occupancy of the dwelling units in the proposed housing development as determined in accordance with these rules and regulations;
4. The proposed income levels of occupants;
5. Any arrangements contemplated by the housing sponsor for occupant referrals or relocations from federal, state or local government agencies or community organizations;

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6. The marketing activities to be performed with respect to the leasing of the proposed housing development (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing and management agents of the housing sponsor; and

7. Any criteria to be used for disapproving applicants and for establishing priorities among eligible applicants for occupancy of the proposed housing development.

PART III. SINGLE FAMILY DEVELOPMENT AND CONSTRUCTION LOANS.

§ 3.1. Development and construction loans.

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

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

§ 3.2. Applications and processing.

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

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

shall be presented to the board.

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

An authority mortgage loan shall not be authorized unless the board by resolution shall make the findings required by subsection A § 36-55.39 of the Code of Virginia.

Such resolution, or the authority mortgage loan commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed housing development, the marketing and sale of the single family dwelling units in such housing development, the disbursement and repayment of the authority mortgage loan, assurances of successful completion of the proposed housing development, and all other matters related to the development, construction or rehabilitation and sale of the proposed housing development. Such resolution or authority mortgage loan commitment may include a financial analysis of the proposed housing development setting forth the sales price limits for the single family dwelling units within the proposed housing development and a schedule of the estimated housing development costs.

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

§ 3.3. Regulation of housing sponsors.

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

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

§ 3.4. Sale of single family housing units.

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

1. The proposed sales prices of the single family dwelling units;
2. The utilization of any mortgage insurance, subsidy or other assistance from the federal government or any other source;
3. The proposed income levels of purchasers therefor, which income levels shall not exceed the income limitations of the authority applicable to the single family dwelling units; and
4. The marketing activities to be performed with respect to the sale of the single family dwelling units (including any affirmative marketing efforts and media advertising plans) and the identity and qualifications of the proposed marketing agent of the housing sponsor.

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

PART IV. SINGLE FAMILY LOANS TO INDIVIDUAL PURCHASERS.

§ 4.1. Mortgage loans.

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

B. Authority mortgage loans pursuant to subsection A of this section may be made only to persons or families of low or moderate income qualified pursuant to subsection A

of § 1.2 of these rules and regulations.

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

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

E. The original principal amount of authority mortgage loans made pursuant to this Part IV shall not exceed 98% of the first \$25,000 of the sales price of the single family dwelling unit and 95% of the amount of the sales price of the single family dwelling unit in excess of \$25,000 or, in the case of authority mortgage loans guaranteed or insured by the Veterans' Administration, 100% of the sales price of the single family dwelling unit, to the extent such sales price is approved by the executive director and subject to such further limitations as may be provided in the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. The term "sales price," with respect to authority mortgage loans for the combined acquisition and rehabilitation of a single family dwelling unit, shall include the cost of acquisition, plus the cost of rehabilitation and debt service for such period of rehabilitation, not to exceed three months, as the executive director shall determine that such dwelling unit will not be available for occupancy.

§ 4.2. Applications and processing.

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

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

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lenders upon reasonably equivalent terms and conditions, and such determination shall be set forth in the authority mortgage loan commitment.

PART V. HOME REHABILITATION LOANS.

§ 5.1. General purpose.

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

§ 5.2. Terms of home rehabilitation loans.

A. A home rehabilitation loan may be made pursuant to this Part V only to a borrower who is a person or family of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The types of improvements which may be financed by a home rehabilitation loan shall be established from time to time by the board and shall be set forth in the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

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

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

§ 5.3. Application and processing.

A. The processing of application for home rehabilitation loans under this Part V will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations.

B. If the executive director determines that the applicant and the application for a home rehabilitation loan meet the requirements of the Act, the rules and regulations set forth in this Part V, and the applicable procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a commitment to the applicant with respect to such home rehabilitation loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on the home rehabilitation loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the commitment.

PART VI.

ENERGY LOANS.

§ 6.1. General purpose; applicability.

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

B. Any energy loans made with respect to dwellings shall be limited to dwellings occupied by persons and families of low and moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations or pursuant to standards under applicable federal rules and regulations as approved by the board with any modifications thereto. Energy loans shall be made only for the purposes set forth in subsection A of this section.

§ 6.2. Terms of energy loans.

A. Energy loans to be financed under this Part VI may be made for a term not to exceed 30 years. The original principal amount of any such energy loans shall not exceed 100% of the total cost of the energy saving measures and alternative energy sources as described in § 6.1 of these rules and regulations.

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

§ 6.3. Processing of loan application and issuance of loan commitments.

The processing of applications for energy loans pursuant to this Part VI will be governed by the procedures, instructions and guidelines promulgated by the authority pursuant to § 1.3 of these rules and regulations. If the executive director determines that the applicant and the application for an energy loan meet the requirements of (i) the Act; (ii) the rules and regulations set forth in this Part VI; and (iii) the applicable procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations, he may issue on behalf of the authority a loan commitment to the applicant with respect to such energy loan, subject to the approval or ratification thereof by the authority board. The original principal amount, term and interest rate or rates on any energy loan and such other terms, conditions and requirements as the executive director deems necessary or appropriate shall be set forth in the loan commitment issued by the authority with respect to such energy loan.

PART VII. PURCHASE OF MORTGAGE LOANS.

§ 7.1. Applicability.

This Part VII shall govern the purchase of mortgage loans from a mortgage lender to finance residential housing for persons and families of low and moderate income qualified pursuant to § 1.2 of these rules and regulations.

§ 7.2. Purchase of mortgage loans to finance single family dwelling units.

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing single family dwelling units. Any mortgage loan to be so purchased shall have been made to a mortgagor who as of the date of the mortgage loan was a person or family of low or moderate income qualified pursuant to subsection A of § 1.2 of these rules and regulations. The sales price for the single family dwelling unit to be financed by any such mortgage loan shall comply with any applicable limits established pursuant to subsection C of § 4.1 of these rules and regulations or otherwise established by resolution of the board. The term of the mortgage loan to be so purchased shall not exceed 50 years, and the date on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such numbers of years as the executive director may from time to time prescribe. The original principal amount of the mortgage loan shall not exceed the limits set forth in subsection E of § 4.1 of the rules and regulations.

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

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

A. The authority may from time to time purchase from mortgage lenders mortgage loans which at the time of such purchase are financing multi-family dwelling units. The term of the mortgage loan to be so purchased shall not exceed 50 years, including the period (if any) of development and construction or rehabilitation. The date

on which the mortgage loan was made shall not precede the date of the issuance of the authority's commitment to purchase such mortgage loan by such number of years as the executive director may from time to time prescribe. Any mortgage loan to be so purchased shall comply with, and shall be subject to, the provisions of §§ 2.3 and 2.5 of these rules and regulations and such other provisions of Part II of these rules and regulations as the resolution authorizing the purchase of such mortgage loan, or the commitment issued pursuant thereto, shall require.

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

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

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

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

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

A. The executive director may from time to time request mortgage lenders to submit offers to sell mortgage loans to the authority in such manner, within such time period and subject to such terms and conditions as he shall specify in such request. The executive director may

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

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

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

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

PART VIII.

MULTI-FAMILY HOUSING ACQUISITION PROGRAM.

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

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

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

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

§ 8.2. Applications and processing.

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

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

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

C. Any such resolution made pursuant to subsection B hereof, or the authority commitment issued by the executive director pursuant to such resolution, shall include such terms and conditions as the authority considers appropriate with respect to the development and construction, if applicable, and the acquisition of the proposed housing development, the disbursement and

repayment of the authority construction loan, if applicable, and other matters related to the development and construction, if applicable, and, prior to the acquisition thereof by the authority, the ownership, operation, marketing and occupancy of the proposed housing development. Such resolution or authority commitment may include a financial analysis of the proposed housing development, setting forth the initial schedule of rents, the approved initial budget for operation of the housing development and a schedule of the estimated housing development costs.

D. Neither an acquisition by the authority of a development nor an authority mortgage loan for such development pursuant to this Part VIII shall be authorized unless the board by resolution shall make the applicable findings required by § 36-55.33:2 and § 36-55.39, as applicable, of the Code of Virginia; provided, however, that the board may in its discretion authorize the authority acquisition or mortgage loan in advance of the issuance of the commitment therefor in accordance herewith without making the finding, if applicable, required by subsection A of § 36-55.33:2 and subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the authority's acquisition of the development and, if applicable, the financing of the authority mortgage loan for such development. As used in this section, mortgage loan shall include a construction loan as described in § 8.1 hereof or a mortgage loan as described in § 8.4 hereof.

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

§ 8.3. Tenant selection plan.

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

mentioned entity shall be deemed to be the housing sponsor with regard to the development). In addition, in the case of a tenant selection plan prepared by an entity described in § 8.4 of these rules and regulations, such plan shall be submitted to the authority for its review and approval.

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

With respect to any development which the authority contracts to acquire, the authority may assign all of its right, title and interest under such contract to acquire such development to an entity formed by the authority, on its own behalf or in conjunction with other parties, to serve as the housing sponsor for such development pursuant to § 36-55.33:2 of the Act. The resolution authorizing the acquisition of the development may authorize an authority mortgage loan to such entity to finance the acquisition and ownership of the development. Such mortgage loan shall be made in such principal amount and on such terms and conditions as shall be set forth in the resolution or in the commitment, if any, issued on behalf of the authority pursuant thereto or as shall be determined by the executive director in accordance with the resolution authorizing such mortgage loan, the Act, these rules and regulations, and the procedures, instructions and guidelines promulgated pursuant to § 1.3 of these rules and regulations. Such entity shall be subject to regulation as provided in § 2.3 of these rules and regulations and, if such entity is a for-profit housing sponsor, the board may in its resolution prescribe in accordance with subsection B of § 2.4 of these rules and regulations, the maximum annual rate at which distributions may be made by such entity. For the purpose of determining any maximum annual dividend distributions and the maximum principal amount of the mortgage loan, the total development cost shall be the cost of acquisition as determined by the authority and such other costs relating to such acquisition, the financing of the mortgage loan and the ownership and operation of the development as the authority shall determine to be reasonable and necessary. Except as otherwise expressly provided herein, the provisions of this Part VIII shall, with respect to any mortgage loan to such an entity and the ownership, operation and occupancy of the development financed thereby, supersede Part I and any provisions of these rules and regulations contrary hereto or inconsistent herewith.

§ 8.5. Operation and income limits.

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

B. To be considered eligible for occupancy of a multi-family dwelling unit in a development acquired by an authority (or an entity as described in § 8.4 of these rules and regulations), a person or family shall not have

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

C. The authority (or an entity as described in § 8.4 of these rules and regulations) shall examine and determine the income and eligibility of applicants for occupancy of multi-family dwelling units in a development acquired pursuant to this Part VIII and shall reexamine and redetermine the income and eligibility of all occupants of such dwelling units every two years or at more frequent intervals if required by the executive director. In the case of determinations and redeterminations made by an entity described in § 8.4 of these rules and regulations, such entity shall report such determinations and redeterminations to the authority in such form as the executive director may require. It shall be the responsibility of each applicant for occupancy of such a dwelling unit, and of each occupant thereof, to report accurately and completely his adjusted family's income, family composition and such other information relating to eligibility for occupancy as the executive director may require and to provide the authority (or an entity as described in § 8.4 of these rules and regulations) with verification thereof at the times of examination and reexamination of income and eligibility as aforesaid.

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

find suitable alternative housing) within which to vacate such dwelling unit.

PART IX. HOME EQUITY ACCOUNTS.

§ 9.1. General purpose.

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

§ 9.2. Eligibility and terms.

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

B. A home equity account loan shall not be made for a fixed term but shall be due and payable only upon the death of the borrower, sale or transfer of the dwelling unit or any interest therein, failure to continue to occupy the dwelling unit as the principal residence of the borrower, or default under the loan documents, all as more particularly set forth in the procedures, instructions and guidelines. All principal and interest payments shall be deferred until the home equity account loan becomes due and payable. The total amount which may be disbursed pursuant to any home equity account shall be based upon the interest rate or rates charged thereon, the age of the applicant and the value of the dwelling unit in accordance with a schedule established pursuant to the procedures, instructions and guidelines but in no event shall such total amount exceed the lesser of \$100,000 or 100% of the market value of the dwelling unit as determined from time to time by the authority.

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

§ 9.3. Application and processing.

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

B. If the executive director determines that the application for a home equity account meet the

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

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

* * * * *

Title of Regulation: VR 400-02-0012. Virginia Housing Fund Procedures, Instructions and Guidelines.

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

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

Summary:

The proposed amendment to the procedures, instructions and guidelines for Virginia housing fund authorizes the determination of interest rates on loans from the fund based upon a schedule and criteria established from time to time by the authority's board of commissioners and deletes the provision that such rates generally not be lower than rates on U.S. government or agency securities of equivalent terms.

VR 400-02-0012. Virginia Housing Fund Procedures, Instructions and Guidelines.

PART I. PURPOSE AND APPLICABILITY.

§ 1.1. Definitions.

"Act" means the Virginia Housing Development Authority Act as set forth in Chapter 1.2 (§ 36-55.24 et seq.) of the Code of Virginia.

"Applicant" means an individual, corporation, partnership, limited partnership, joint venture, trust, firm, association, public body or other legal entity or any combination thereof, making an application or proposal under these procedures, instructions and guidelines.

"Application" or "proposal" means a written request to the authority by a prospective borrower for a loan or a written request to the authority by an applicant requesting the establishment of a loan program or other assistance under the procedures, instructions and guidelines.

"Authority" means the Virginia Housing Development Authority.

"Board of commissioners" means the board of commissioners of the authority.

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

"Fund" means the housing fund created by the authority from moneys in its general fund for the purposes set forth herein.

"Loan" means any extension of credit which is made or financed or is to be made or financed pursuant to these procedures, instructions and guidelines.

"Loan program" means any program requested to be developed or implemented by the authority for the purpose of providing loans pursuant to these procedures, instructions and guidelines.

"U.S. government or agency security" means direct general obligations of the United States of America; obligations the payments of the principal of and interest on which, in the opinion of the Attorney General of the United States in office at the time such obligations were issued, are unconditionally guaranteed by the United States of America; or bonds, debentures, participation certificates or notes issued by any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America.

§ 1.2. Applicability and purpose.

The procedures, instructions and guidelines that follow will be applicable to loans or programs for loans which are made or financed or are proposed to be made or

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financed by the authority to borrowers who have presented proposals or applications for loans or loan programs from the fund.

The purpose of the fund is to create new housing opportunities for lower income Virginians through its operation as a special purpose revolving loan fund. The highest priority is placed upon serving the elderly, disabled, and homeless as well as families in need of affordable housing not otherwise being serviced by other housing programs. The fund will also seek to provide support for comprehensive programs of neighborhood revitalization.

There will be special emphasis placed upon using the fund to attract and leverage other housing aid of all kinds including, but not limited to, financial, in kind, tax incentives and subsidies. The fund shall be used to encourage partnerships with both public and private interests including state agencies, localities and nonprofit organizations. The goal is to maximize the participation in, and resources devoted to, solving housing problems of lower income Virginians.

There will be an emphasis on creative uses of the fund which will result in the most effective use of its resources and advancement of the state of the art in providing decent housing at an affordable cost to lower income Virginians.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein, where deemed appropriate by him, for good cause, to the extent not inconsistent with the Act and the authority's rules and regulations.

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, the borrower, any contractors or any other parties under any agreements or documents relating to the loan.

These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements for loans or loan programs under the fund and are not intended to include all actions involved or required in the processing and administration of such loans or loan programs. Because the fund is an experimental venture, in order to refine and improve its implementation, it is the intention of the authority to be flexible in its interpretation of the principles set forth herein for loans or loan programs of special merit. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by additional policies, procedures, instructions and guidelines adopted by the authority from time to time. The authority reserves the right to change

the size of the fund or its uses as circumstances may reasonably dictate.

PART II. PRINCIPLES GOVERNING THE FUND.

§ 2.1. General principles.

A. The fund is a revolving loan fund. It is the authority's intent that repaid principal plus interest, less any loss of interest or principal in the event of default sustained by the fund, will be recycled and loaned to additional projects up to the full amount of the fund as approved by the board of commissioners.

B. Project and program proposals will be given preference in the selection process to the extent they address the following:

1. Needs of the user group, which shall be primary;
2. Partnerships which maximize leveraging of fund loans;
3. Extent to which the project is either innovative or demonstrates a possible "breakthrough" idea for serving lower income households or both;
4. Potential for the project to be replicable (i.e., demonstration);
5. Financial soundness and experience of the sponsor.

C. Proposals should seek to maximize the number of persons or projects which are served. Projects which highly leverage fund moneys by attracting external subsidies and capital are encouraged.

D. The authority will seek an equitable geographic distribution of loans made from the fund.

E. All loans to be made from the fund shall comply with all applicable laws and regulations to which the authority is subject and with any procedures, instructions and guidelines applicable or to be applicable thereto and such other underwriting criteria as the executive director deems necessary to protect the interests of the authority as lender.

PART III. TERMS OF LOANS AND INTEREST RATES.

§ 3.1. Terms of loans.

Ten years shall be the maximum loan term, although longer amortization schedules may be utilized.

§ 3.2. Interest rates.

The interest rate on loans shall generally not be lower than the rate on a U.S. government or agency security for

an equivalent term. Such policy should provide interest rates be determined pursuant to a schedule and criteria established from time to time by a resolution of the board of commissioners. Such interest rates are expected to be significantly lower to borrowers from the fund than those which would be available from other sources and, at the same time, will provide continuing support for the authority's currently outstanding and future bond issues. The authority realizes that loans will have significantly higher risks than alternative investments and will have little or no liquidity. If deemed necessary, all or a portion of the interest payments on loans may be deferred by the authority.

PART IV.
PROPOSALS AND LOAN APPLICATIONS.

§ 4.1. Solicitation of applications and proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals or applications for the fund. 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 and selection of applications and proposals as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available moneys in the fund are to be allocated and such other matters as he shall deem appropriate relating to the selection of applications and proposals or the establishment of programs. The authority may also consider and approve applications and proposals submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 4.2. Authority programs under the fund.

Programs may be designed and operated by the authority if they are innovative, cannot currently be conventionally funded, or may serve as models for future state or bond funding.

§ 4.3. Application and selection for processing.

Application for a loan or loan program shall be commenced by filing with the authority an application or proposal on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority.

Based on the applications, proposals, documents and any additional information submitted by applicants or obtained from other sources by the authority, a subcommittee of the board of commissioners shall select for processing

those applications and proposals which it determines may best satisfy the purposes and principles of the fund set forth in §§ 1.2 and 2.1 hereof.

Nothing contained herein shall require the authority to select any application or proposal which, in the judgment of the subcommittee of the board of commissioners, does not adequately satisfy the purposes and principles of the fund set forth in §§ 1.2 and 2.1 hereof.

The selection by the subcommittee of the board of commissioners shall be based only on the documents and information received or obtained by it at that time and shall be subject to modification or reversal upon receipt and further analysis of additional documents or information at a later time.

After selection of an application or proposal for a loan has been made by the subcommittee of the board of commissioners, such application will then be processed by the authority in accordance with the authority's applicable procedures, instructions and guidelines or, if no such procedures, instructions and guidelines are applicable, in accordance with such written agreement or agreements with the applicant as the executive director may require to effect the purposes and principles hereof and to protect the authority's interest as lender.

After selection of an application or proposal for a loan program has been made by the subcommittee of the board of commissioners, the authority may implement such program by (i) applying any then existing procedures, instructions and guidelines of the authority, (ii) promulgating new procedures, instructions and guidelines therefor, or (iii) entering into such written agreement or agreements with the applicant or proposed borrowers or both as the executive director may require consistent with the purposes and principles hereof and the authority's interest as lender.

These procedures, instructions and guidelines shall be effective as of July 19, 1988.

* * * * *

Title of Regulation: VR 400-02-0015. Procedures, Instructions and Guidelines for the Virginia Senior Home Equity Account.

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

Public Hearing Date: N/A

(See Calendar of Events section for additional information)

Summary:

Proposed Regulations

The proposed procedures, instructions and guidelines implement a program for the extension of home equity loan accounts to elderly persons and families of low and moderate income and the making of loans by the authority pursuant to such program. They include provisions relative to the application and review process, eligibility criteria, the terms and conditions applicable to such accounts and loans thereunder, and the general administration of the program.

VR 400-02-0015. Procedures, Instructions and Guidelines for the Virginia Senior Home Equity Account.

PART I. PURPOSE AND APPLICABILITY.

§ 1.1. Definitions.

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

“Applicant” means a person or family, as defined in the authority’s rules and regulations, who submits an application for a home equity account. An applicant may be an individual applicant or a joint applicant, as defined herein.

“Application” means a request to the authority by an applicant for a home equity account.

“Application date” means the date on which a completed application is received by the authority.

“Appraised value” means the value of a home as determined by an independent fee appraiser retained by the authority.

“Area agency on aging” or “AAA” means one of the local area agencies on aging which have been established on a local and regional basis throughout the Commonwealth pursuant to § 2.1-373 of the Code of Virginia.

“Area median income” means the area median income, adjusted for family size, for areas within the Commonwealth as established and published from time to time by the United States Department of Housing and Urban Development.

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

“Authority” means the Virginia Housing Development Authority, a political subdivision of the Commonwealth of Virginia, constituting a public instrumentality.

“Board of Commissioners” means the board of commissioners of the authority.

“Borrower” means a person or family, as defined in the authority’s rules and regulations, to whom a home equity account loan is made by the authority. If a home equity account loan is made to more than one individual, such individuals are sometimes referred to herein as joint borrowers.

“Eligible applicant” means an applicant who satisfies the criteria set forth in Part II of these procedures, instructions and guidelines.

“Equity payment” means a loan disbursement made by the authority to a borrower pursuant to an equity payment request.

“Equity payment request” means a request completed and signed by a borrower for the purpose of requesting an equity payment by the authority pursuant to the borrower’s home equity account. Such payment request shall be on such form as prescribed by the authority and shall be mailed or delivered to the authority.

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

“Home” means single family residential housing, as defined in the Act, which meets the requirements set forth in Part III of these procedures, instructions and guidelines.

“Home equity account” means a line of credit made available by the authority to an eligible applicant which is secured by a first mortgage lien upon the applicant’s home and, pursuant to which the authority agrees to make equity payments to the applicant in accordance with the applicant’s equity payment requests, in amounts not to exceed the maximum established therefor and in accordance with the terms and conditions set forth in Part IV of these procedures, instructions and guidelines.

“Home equity account loan” means the disbursements of equity payments to be repaid, together with interest thereon, as provided in these procedures, instructions and guidelines.

“Income” means gross family income as defined in the authority’s rules and regulations, including all salary, wages, bonuses, commissions, income from self employment, interest, dividends, alimony, rental income, pensions, business income, annuities, social security payments, cash public assistance, support payments, retirement income and any other sources of cash income which are being received by the applicant as of the application date. All such earnings, provided they are not temporary, shall be computed on an annual basis to

determine income for the purpose of program eligibility.

"Individual applicant" means a single person who submits an application pursuant to these procedures, instructions and guidelines.

"Joint applicant" means any two or more persons who submit an application pursuant to these procedures, instructions and guidelines.

"Program" means the Virginia senior home equity account program as described in these procedures, instructions and guidelines.

"Value of home" or "home value" means the fair market value of the home as determined by the authority in accordance with these procedures, instructions and guidelines.

§ 1.2. Purpose and applicability.

This program is being implemented pursuant to Part IX of the authority's rules and regulations. The purpose of the program is to permit elderly homeowners who satisfy certain age, residency and income criteria to borrow against the equity in their homes to assist in meeting housing, medical and other living expenses as specified in § 5.3 herein. Eligible applicants shall receive a commitment from the authority for a home equity account in a maximum amount based upon the interest rate or rates to be charged thereon, the applicant's age and the value of the home. Upon satisfaction of the terms and conditions of such commitment, the authority shall make equity payments to the borrowers upon their request up to the maximum amount. All such equity payments will be made in accordance with the terms and conditions set forth in these procedures, instructions and guidelines. The maximum amount of such home equity account shall be subject to change in the manner set forth in § 4.2. The term during which the borrower may request and receive equity payments shall be established and may be extended as provided in § 4.8 hereof. Repayment of the home equity account loan is deferred as described herein, and, as a result, the borrowers may utilize the equity in their homes without being required to sell their homes at the end of a fixed term in order to repay the home equity account loans.

The program will be administered by the authority with the participation of the Virginia Department for the Aging and local area agencies on aging. Home equity accounts will be financed entirely with authority funds.

Notwithstanding anything to the contrary herein, the executive director of the authority is authorized with respect to any home equity account to waive or modify any provision herein where deemed appropriate by him for good cause to the extent not inconsistent with the Virginia Housing Development Authority Act (the "Act"), the authority's rules and regulations and federal statutes and regulations.

The procedures, instructions and guidelines set forth herein are intended to provide a general description of the authority's requirements and procedures and are not intended to include all of the actions involved or required in the processing and administration of the program. These procedures, instructions and guidelines are subject to amendment at any time by the authority and may be supplemented by additional policies, procedures, instructions and guidelines adopted by the authority from time to time with respect to the program. Notwithstanding anything to the contrary herein, all home equity accounts must comply with any applicable state and federal laws, rules and regulations.

PART II. ELIGIBILITY OF APPLICANTS.

§ 2.1. Eligible applicants.

An applicant that, as of the application date, satisfies all of the following criteria shall be eligible for a home equity account under the program:

1. Age. An individual applicant or each joint applicant shall be 62 years of age or older.
2. Residency. An individual applicant or each joint applicant shall be a resident of the Commonwealth.
3. Income. The income of an individual applicant or the aggregate of the incomes of all joint applicants shall not, as of the application date, exceed 80% of the area median income.
4. Ownership. An individual applicant or the joint applicants shall be the sole owner or owners of the home, and no person who is not an owner may be an applicant.
5. Principal residence. An individual applicant or each joint applicant must occupy the home as his principal residence during the term of the home equity account.
6. Relationship of joint applicants. Joint applicants must be related by blood, marriage or adoption.

PART III. ELIGIBILITY OF THE HOME.

§ 3.1. Title.

At the time of recordation of the deed of trust securing the home equity account, fee simple title to the home shall be vested in the applicant free and clear of all liens, encumbrances, assessments or other defects which might affect the priority of the authority's lien or are otherwise unacceptable to the authority. Notwithstanding the foregoing, the home may be subject to liens securing outstanding balances in an aggregate amount not greater than one third of the maximum amount available under the account; provided, however, that the initial equity

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payment from the home equity account shall be used at the closing thereof to pay off such outstanding balances in full. If the spouse of an individual applicant has an inchoate dower or curtesy interest in the home, such spouse shall execute the deed of trust securing the home equity account for the purpose of conveying such dower or curtesy interest as security for the home equity account loan.

§ 3.2. Condition of home.

The home and all fixtures attached thereto shall be in a state of repair and condition satisfactory to the authority; provided, however, that the authority may require the applicant to use at settlement all or a portion of the initial equity payment on the home equity account to make necessary repairs and improvements to the home in a manner acceptable to the authority.

§ 3.3. Taxes.

All real estate taxes and assessments due and payable against the home as of the the date of recordation of the deed of trust securing the home equity account shall have been paid by the applicant; provided, however, that the authority may require the applicant to use their initial equity payment to pay such taxes and assessments.

§ 3.4. Insurance.

At the time of recordation of the deed of trust securing the home equity account, the home shall be insured against such loss and by such insurers as the authority shall approve or require and in an amount at least equal to the value of the home or such other amount as the authority may approve.

PART IV. TERMS AND CONDITIONS.

§ 4.1. Maximum amount.

The authority shall provide to an eligible applicant a maximum amount available under the home equity account based upon the interest rate or rates to be charged thereon, the age of an individual applicant or of the youngest joint applicant as of the application date, and the value of the home.

The value of the home shall be determined by the authority based on the home's assessed value, unless the authority, at its option and at its cost, elects to have the home appraised and to use the appraised value rather than the assessed value in so determining the value of the home. Also, if requested by the applicant, the authority may, at its option and at the cost of such applicant, obtain an appraisal of the home for use by the authority, in lieu of the assessed value, in determining the value of the home.

Prior to September 1, 1988, and on or about January 1

of each subsequent year, the executive director shall establish a schedule which sets the maximum percentages of the home value by age group based upon the interest rate to be in effect for such year. The maximum amount of the home equity account during such year shall be equal to such maximum percentage applicable to the age group of the applicant (or, in the case of joint applicants, the youngest applicant) as of the application date times the value of the home.

The maximum amount available under any home equity account shall in no event exceed \$100,000.

The applicant may, at its option, request a lower maximum amount than may be approved by the authority, in which case the maximum amount shall be the amount so requested.

§ 4.2. Adjustments in the maximum amount.

The maximum amount available under a home equity account shall be adjusted annually in accordance with the schedule then established pursuant to § 4.1 hereof. For the purpose of determining such adjusted maximum amount, the age of the borrower shall be his age (or, in the case of joint borrowers, the youngest borrower's age) as of January 1 of such year. Notwithstanding the foregoing, such maximum amount shall not be increased if (i) the authority has determined not to make funds available for such increase, or (ii) the applicant requests that the maximum amount not be increased.

If on or after five years from the date of extension of the home equity account the borrower has utilized the maximum amount available thereunder, he may request the authority to approve an increase in the value of the home. Such increase may be granted only if such increase is due to appreciation or improvements. Any such increase shall be determined by the authority based upon the then current assessed value, except that the authority may, at its option and at the request and cost of the borrower, obtain an appraisal for use by the authority, in lieu of the assessed value, in so determining the value of the home. The maximum amount available under the home equity account, as so increased, shall be calculated in accordance with the schedule established pursuant to § 4.1 hereof using the age of the borrower (or, in the case of joint borrowers, the age of the youngest borrower) as of January 1 of the year in which the request was made. Increases in such maximum amount are subject to the determination by the authority to make funds available therefor and shall be at the sole discretion of the authority.

In the event that the borrower had originally requested and received a home equity account in a maximum amount less than the maximum amount for which he was eligible under the schedule established pursuant to § 4.1 hereof, the authority may, at its option and upon the written request of the borrower, increase the maximum amount available under the home equity account up to

the maximum amount for which the borrower would then be eligible. Such an increase may be granted at any time upon the request of the borrower and without a determination of a new assessed or appraised value, subject to the authority's determination to make funds available therefor and shall be at the sole discretion of the authority.

§ 4.3. Loan term.

The term of a home equity account loan shall not be a fixed period of time. Such loan shall be due and payable upon the occurrence of any of the following events:

1. A sale or transfer (whether voluntary or involuntary) of the home or any interest therein (other than a transfer to a joint borrower) without the authority's prior written consent.
2. Failure by the borrower and, in the case of joint borrowers, all borrowers to occupy the home as his or their principal residence. Absence from the home for a period of more than 180 consecutive days, without the prior written consent of the authority, shall be deemed to be such a failure.
3. The use of the home, in whole or in part, for purposes other than as a principal residence without the prior written consent of the authority.
4. Failure to pay the home equity balance in full within nine months after the death of the borrower or, in the case of joint borrowers, within nine months after the death of the last surviving borrower.

The home equity account loan may also be declared immediately due and payable in full, at the option of the authority, upon the occurrence of any of the acts of default set forth in § 4.7 of these procedures, instructions and guidelines.

§ 4.4. Interest rate and compounding.

The interest rate to be charged on equity payments disbursed under the program during any calendar year shall be established by the authority prior to January 1 of such year. Any such interest rate shall not apply to equity payments disbursed during prior calendar years. Interest shall be compounded on the first day of each month at the applicable interest rate.

§ 4.5. Equity payments.

A borrower may from time to time request and receive equity payments under a home equity account, subject to the requirements and limitations set forth in these procedures, instructions and guidelines.

No scheduled equity payments shall be made to a borrower. The borrower is required to request and receive an initial equity payment at the time of closing of the

home equity account in an amount of not less than \$1,000 for any of the purposes set forth in § 5.3 hereof. Subsequent to the initial equity payment, the borrower may request and receive no more than one equity payment during a single calendar month, and each such equity payment must be in an amount of not less than \$250.

All equity payments, other than the initial equity payment, shall be made to the borrower by the authority in the form of a check which will be mailed to the borrower's home.

The authority shall bill the borrower for payment of real property taxes and hazard insurance premiums as they become due. The borrower shall be obligated to submit payment to the authority within 30 days after the date of mailing. If payment is not so made, the authority, at its option, may pay property taxes and insurance premiums from the home equity account, to the extent not fully utilized, or may deem such nonpayment by the borrower to be an act of default under § 4.7 hereof.

§ 4.6. Repayments.

The borrower is not required to make any repayments of principal or interest on the home equity account loan until such time as the loan is due and payable as described in §§ 4.3 and 4.7 hereof. The borrower may, at his option, elect to prepay at any time the home equity account loan, in whole or in part, and any such prepayments shall be applied first to accrued interest and then to the outstanding principal amount of the home equity account loan.

§ 4.7. Acts of default.

The occurrence of any of the following events will constitute an act of default for which the home equity account loan shall, at the option of the authority, become immediately due and payable:

1. The imposition on the home or any part thereof of any lien or encumbrance (including mechanics' or tax liens) without the authority's prior written consent, if such lien or encumbrance may have priority over the lien of the home equity account loan or any prior or future equity payments thereunder and is not removed within 90 days.
2. Physical deterioration of the home beyond normal wear and tear and failure to repair, replace and maintain the various components of the home when required or necessary, including the failure to repair damage caused by fire or other casualty within a reasonable time after the occurrence as determined by the authority in its sole discretion.
3. Failure to make payment to the authority for taxes and insurance premiums as described in § 4.5 hereof.

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4. A borrower's admission of his inability to pay his debts, making any assignment for the benefit of creditors or filing for relief under federal bankruptcy statutes. The filing of a petition in bankruptcy against the borrower without the borrower's consent will not be an act of default if the petition is dismissed within 60 days of filing.

5. Any omission or misrepresentation by the applicant in the application or in any equity payment request.

6. Any other occurrence which constitutes a default under the terms of the deed of trust securing the home equity account loan.

Upon default, the authority shall be entitled to exercise any one or more of the remedies set forth in the home equity account loan documents or available at law or in equity; provided, however, that, except in the case of a default as described in subdivisions 2 and 5 of this section, the authority shall not seek any personal judgment against the borrower but shall look solely to the home for payment of the home equity account loan.

§ 4.8. Term and extensions of home equity account.

The term during which the borrower shall have the right to request and receive equity payments under a home equity account shall be (i) five years, if the application shall be received prior to September 1, 1989; or (ii) such period of time as the executive director may establish prior to the closing thereof, if the application shall be received on or after September 1, 1989. The executive director may extend such term and any extensions thereof for such period of time and upon such terms and conditions as he may deem appropriate to accomplish the purposes of the program and to best utilize the resources of the authority. The expiration of such term or any extensions thereof shall not in any way affect the then existing principal balance of the home equity account loan or any accrued interest thereon.

PART V. REQUEST FOR AND USE OF HOME EQUITY ACCOUNT LOAN PAYMENTS.

§ 5.1. Requests for equity payments.

In order to receive an equity payment from the authority under a home equity account, the borrower must submit a request to the authority on a form prescribed by the authority. Such form must be completed and signed by the borrower and delivered to the authority by hand delivery or through the U.S. mail.

§ 5.2. Optional notification of third parties.

At closing, the applicant may, at his option, choose to participate in a voluntary third party notification system. Under this system, the applicant requests that the authority send notification by mail to a third party of his

or her choice at least three days prior to the authority's making any equity payment to the applicant of \$2,500 or greater. The notification letter shall state that the authority intends to make the equity payment and that such notification is being given to the third party at the request of the applicant. The authority shall make such payment to the applicant if the request is otherwise in compliance with these procedures, instructions and guidelines. Third party notification shall not apply to the applicant's initial equity payment at closing, but only to subsequent equity payments. It is the applicant's responsibility to give the authority an accurate address for the third party; to notify the authority in writing in order to terminate his participation in this notification program; to change his designated third party; or to notify the authority of a change in address for the third party. Nothing contained in this section shall be deemed (i) to impose any liability on the authority for failure to send any notification or (ii) to affect the validity of the equity payment, the obligation of the borrower to repay such equity payment, together with interest thereon, or the rights and remedies of the authority upon any act of default as set forth in § 4.7 hereof.

§ 5.3. Allowable use of funds.

All equity payments requested by borrowers shall be for purposes which are expressly permitted under these procedures, instructions and guidelines or which directly benefit the applicant and demonstrably contribute to enhancing their quality of life, especially their ability to continue to live independently. Such uses shall include, but shall not be limited to, home repairs and maintenance, real estate taxes and insurance, medical expenses (including in-home health care and medical insurance premiums), travel and normal living expenses which the applicant is unable to meet from other sources. Equity payments may not be used for any type of investment or commercial purposes, for the acquisition or construction of another residence, or for any purpose which primarily benefits someone other than the borrower. The authority shall have the right to deny any equity payment request which does not, in its sole discretion, comply with the provisions of this section.

PART VI. APPLICATION AND PROCESSING.

§ 6.1. Application.

An interested applicant may obtain information about the program through any participating AAA. Informational material about the program may also be made available through senior centers and other agencies and organizations which provide services to the elderly.

If a prospective applicant wishes to submit an application, he shall do so through the local AAA or other organizations designated by the authority. The staff from the AAA will provide the applicant with an application form and will assist him or her in completing the

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application form. This form will contain any information which the authority deems necessary in order to determine the eligibility of the applicant and the home. This application must be signed and dated by the applicant.

The staff of the AAA will also provide program information to applicants as part of their normal agency responsibilities. Such information will include a description and explanation of the program. Applicants will be encouraged by the AAA to seek advice from others as well, including family members, attorneys and financial advisors. The authority assumes no responsibility for the performance of such services by the AAA.

§ 6.2. AAA review.

Following completion of the application, the AAA staff shall undertake a preliminary review. The purpose of this review shall be to determine if the applicant and the home are eligible under these procedures, instructions and guidelines, subject to final review and approval by the authority. If on the basis of such review the AAA determines that the applicant or the home is not eligible, the applicant shall be so informed and his application shall be terminated. A copy of this application shall be retained by the AAA and provided to the authority upon its request.

Applications which meet all of the eligibility criteria in these procedures, instructions and guidelines shall be forwarded to the authority for review and final approval.

§ 6.3. Authority review and commitment.

Upon receipt of the application, the authority shall review it to determine the eligibility of the applicant and the home. If the applicant and the home are eligible, then the authority shall prepare a commitment to the applicant specifying the terms and requirements for closing the home equity account. This commitment shall be mailed to the applicant with instructions that it must be executed and returned to the authority within such period of time as shall be specified therein. Failure to return the executed commitment agreement within such period of time shall result in the expiration of the commitment, unless the applicant has received a written extension from the authority.

The authority may, at its option, not approve an otherwise eligible application for any of the following reasons:

1. The application contains any untrue statement of a material fact or omits any material fact necessary to make the statement therein not misleading; or
2. The authority has determined that sufficient funds are not available for the program.

§ 6.4. Closing and fees.

If the commitment is signed by the applicant and returned to the authority within the requisite time period, the applicant and the authority shall establish a mutually acceptable place and date for the purpose of executing and delivering all necessary home equity account documents and such other documents as may be required under federal and state law.

At the time of closing, the authority shall collect from the applicant an application and commitment fee in the amount of \$100. All other fees and charges associated with the closing, including title search, title insurance, legal fees, and recording costs, must be paid by the applicant. Such fees may, at the option of the applicant, be funded from the initial equity payment from the home equity account.

Subsequent to the closing, the home equity account and equity payments pursuant thereto shall be governed by the terms and conditions set forth herein and in the home equity account loan documents.

§ 6.5. Right to terminate program.

Notwithstanding anything to the contrary herein, the authority shall have the right, at any time, to discontinue accepting new applications for home equity accounts. Such discontinuance shall not, however, affect the terms and conditions of any then existing home equity account.

The foregoing procedures, instructions and guidelines shall take effect July 19, 1988.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-01-10. Job Training Partnership Act (JTPA), Title II, Part A, Income Disregards in the Aid to Dependent Children (ADC) Program.

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

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

Summary:

As set forth in § 63.1-25 of the Code of Virginia, the State Board of Social Services has been deligated the authority to promulgate rules and regulations necessary for operation of public assistance programs in Virginia. The regulation proposed as set forth herein will disregard the earned income of an eligible child derived through participation in the Job

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Training Partnership Act (JTPA), Title IV, Part A, programs for six months per calendar year and the unearned income of an eligible child derived through participation in the Job Training Partnership Act (JTPA), Title IV, Part A, program indefinitely.

The proposed regulation is consistent with the employment services goals of the Department of Social Services. Also, it will serve as an incentive for children to participate in the Job Training Partnership Act (JTPA), Title IV, Part A programs in that it will have the least effect on the amount of the family's monthly assistance payments allowable under federal regulations.

VR 615-01-10. Job Training Partnership Act (JTPA), Title II, Part A, Income Disregards in the Aid to Dependent Children (ADC) Program.

PART I. DEFINITIONS.

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

"Aid to Dependent Children (ADC) Program" means the program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his dependent such person's eligible children.

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

"Board" means the State Board of Social Services.

"Determination of eligibility" means the screening procedure to determine the need for assistance and the amount of the monthly assistance payment. This includes the 185% screen, determination of need, and grant computation.

"Disregard" means that income which is not considered when determining eligibility for the Aid to Dependent Children (ADC) Program.

"Dependent Eligible child" means a child who has not attained the age of 18 years, or if 18 and in school, is expected to graduate by his 19th birthday. The child must be living with a relative, and deprived of support, care, and guidance of at least one parent by reason of death, disability, or continued absence.

PART II. DISREGARDED INCOME OF DEPENDENT ELIGIBLE CHILDREN.

§ 2.1. As specified below, certain earned income of members of the assistance unit shall be disregarded in the

determination of eligibility. This income shall also be disregarded in determining the need for assistance of any other individual in another assistance unit. In addition, income disregarded under the provisions of other federal assistance programs shall not be counted as income to the assistance unit. With the exception of items numbered 1 and 2, the items listed below are not disregarded during the 185% screen. Income disregards are to be applied to gross earned income in the following order:

1. Earned income of any eligible child derived from employment under Title II, Parts A (*Adult and Youth Programs*) and B (*Summer Youth Employment Programs*) and Title IV, Parts A (*Indian and Native American Employment and Training Programs, and Migrant and Seasonal Farmworker Programs*) and B (*Job Corps Program*) of the Job Training Partnership Act (JTPA) and Job Corps shall be disregarded for a total of six months per calendar year in the 185% screen, determination of need (for applicants) and grant computation. Title II, Part B, programs include all projects known as Summer Youth Employment programs:

a. Full-Time Students - Subsequent to these six months, Title II, Parts A and B and Title IV, Parts A and B, JTPA Job Corps earnings are to be counted in the 185% screen and determination of need but shall continue to be disregarded in the grant computation.

b. All Other Eligible Children - Subsequent to these six months, Title II, Parts A and B, and Title IV, Parts A and B, JTPA Job Corps earnings are to be counted in the 185% screen, determination of need and grant computation.

2. Other earned income of any eligible child who is a full-time student shall be disregarded for a total of six months per calendar year in the 185% screen, determination of need (for applicants) and grant computation. Subsequent to these six months, such earnings will only be disregarded in the grant computation.

3. Earned income of any eligible child who is a part-time student, not employed full-time, shall be disregarded.

Certain unearned income of a member of the assistance unit, a parent not included in the assistance unit, or anyone whose income is used in determining eligibility or the amount of assistance shall be disregarded. Any unearned income received by an eligible child under Title II, Parts A and B, and Title IV, Parts A and B, of the Job Training Partnership Act (JTPA) is to be disregarded.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-16-16. Richmond-Crater Interim Water Quality Management Plan.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Public Hearing Date: August 24, 1988 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The purpose of the Richmond-Crater Interim Water Quality Management Plan is to provide a management tool to assist the state and localities in achieving and maintaining applicable water quality goals in designated segments of the James and Apomattox Rivers. The Plan establishes allowable effluent limits for the NPDES permits for 12 existing and one proposed major discharges in the area. The Plan identifies water quality problems in the Richmond-Crater area and outlines remedial action to alleviate these problems so that desired water quality objectives can be met. The Plan includes sections entitled: Water Quality Evaluation, Waste Load Allocation, Implementation Schedule, Loan Eligibility for Facilities, Additional Pollution Controls, and Drinking Water Supply. A discussion of each section is followed by a presentation of specific actions to be taken by the State Water Control Board in implementing the Plan.

This Plan is intended to replace all previously approved water quality plans for major municipal and industrial discharges to the Upper James and Appomattox Estuaries, in Planning Districts 15 (Richmond Regional) and 19 (Crater).

VR 680-16-16. Richmond-Crater Interim Water Quality Management Plan.

§ 1. Preface.

A. Plan purpose.

The Richmond-Crater Interim Water Quality Management Plan has been developed in order to fulfill, as far as practicable, the requirements established in § 208 of the Clean Water Act (§ 33 U.S.C. 1251 et seq.) and the State Water Control Law. The purpose of this Plan is to provide a management tool to assist the state and localities in achieving and maintaining applicable water quality goals in designated segments of the James and Apomattox Rivers.

The board's intent, as required by federal regulation (40 CFR 130.6), is to use the data and information contained in this Plan:

1. As input to the § 305(b) Water Quality Inventory

Report, submitted every two years to the U.S. Congress and Environmental Protection Agency (EPA);

2. As input to the issuance of National Pollutant Discharge Elimination System (NPDES) permits;

3. For the assessment of municipal sewage treatment needs for the purpose of disbursing revolving loan funds.

The board's further intent is to update and amend the Plan periodically to reflect current scientific data-gathering and studies; new or revised legislation, procedures, policy and regulations; changes in area growth and development; and the results of facilities planning. Federal regulation 40 CFR 130.10 requires such action and the submission of the updated Plan for EPA review and approval.

This Plan is intended to replace all previously approved water quality plans for major municipal and industrial discharges to the Upper James and Appomattox Estuaries, in Planning Districts 15 (Richmond Regional) and 19 (Crater).

B. Development and adoption of the Plan.

This Richmond-Crater Interim Water Quality Management Plan was prepared by the Piedmont Regional Office of the State Water Control Board (SWCB). This document reflects planning as of March 3, 1988, and information received as a result of the public hearing process, with the official comment period ending September 6, 1988.

Appropriations by the Virginia General Assembly, and §§ 106 and 205(j) Grants from the EPA jointly funded this Plan. Public participation is ensured through the provisions of Virginia's Administrative Process Act. Adoption of the Plan by the Commonwealth consists of the following steps:

1. A meeting with a scientific advisory committee, and three meetings with the Technical Advisory Committee which consists of representatives of affected dischargers, public interest groups and governmental agencies;

2. Publication of Notice of Intended Regulatory Action;

3. Completion of the public hearing process with opportunity for public review and comments;

4. Submission to the State Water Control Board for adoption after comments from the public have been addressed;

5. Filing with the State Registrar of Regulations; and

6. Submission of the State-certified Plan to the EPA.

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A similar procedure would be required for any future Plan amendments.

§ 2. Water quality evaluation.

A. General goals.

The Clean Water Act established a national goal of water quality suitable for fishing and swimming by 1983, where attainable. Present general state water quality standards specify water quality adequate for use as public water supply, water-based recreation, and the propagation of fish, shellfish and other aquatic life.

B. Analysis of stream segments.

For the purpose of analyzing water quality and developing treatment strategies to achieve water quality goals, the area's estuaries were divided into two stream segments: one on the James River and one on the Appomattox River. These segments are shown in Figures 1 and 2 and are listed in Table 1. Both segments are designated as "water quality limited." This means that they are not expected to meet applicable water quality standards after the application of secondary treatment (Best Practical Technology) by the dischargers.

The James River Water Quality model (JMSRV) was used to evaluate water quality in the designated stream segments. The JMSRV is a computerized, static, one-dimensional, mathematical model developed under contract with HydroQual, Inc. The model was calibrated and verified using data collected by the State Water Control Board, and the Richmond Regional and Crater Planning District Commissions.

Table 1. Stream Segment Classifications - James River Basin.

<u>Segment</u>	<u>Segment*</u> <u>Number</u>	<u>Mile to</u> <u>Mile</u>	<u>Classifi-</u> <u>cation</u>
<u>USGS HUC02080206</u> James River	2-19	115.0 - 60.5	W.Q.
<u>USGS HUC02080207</u> Appomattox River	2-23	30.1 - 0.0	W.Q.

* Note: A new stream segment classification for the Upper James Basin was adopted in 1981. The SWCB will renumber or realign these segments in the future to reflect these changes. This Plan covers only a portion of these segments.

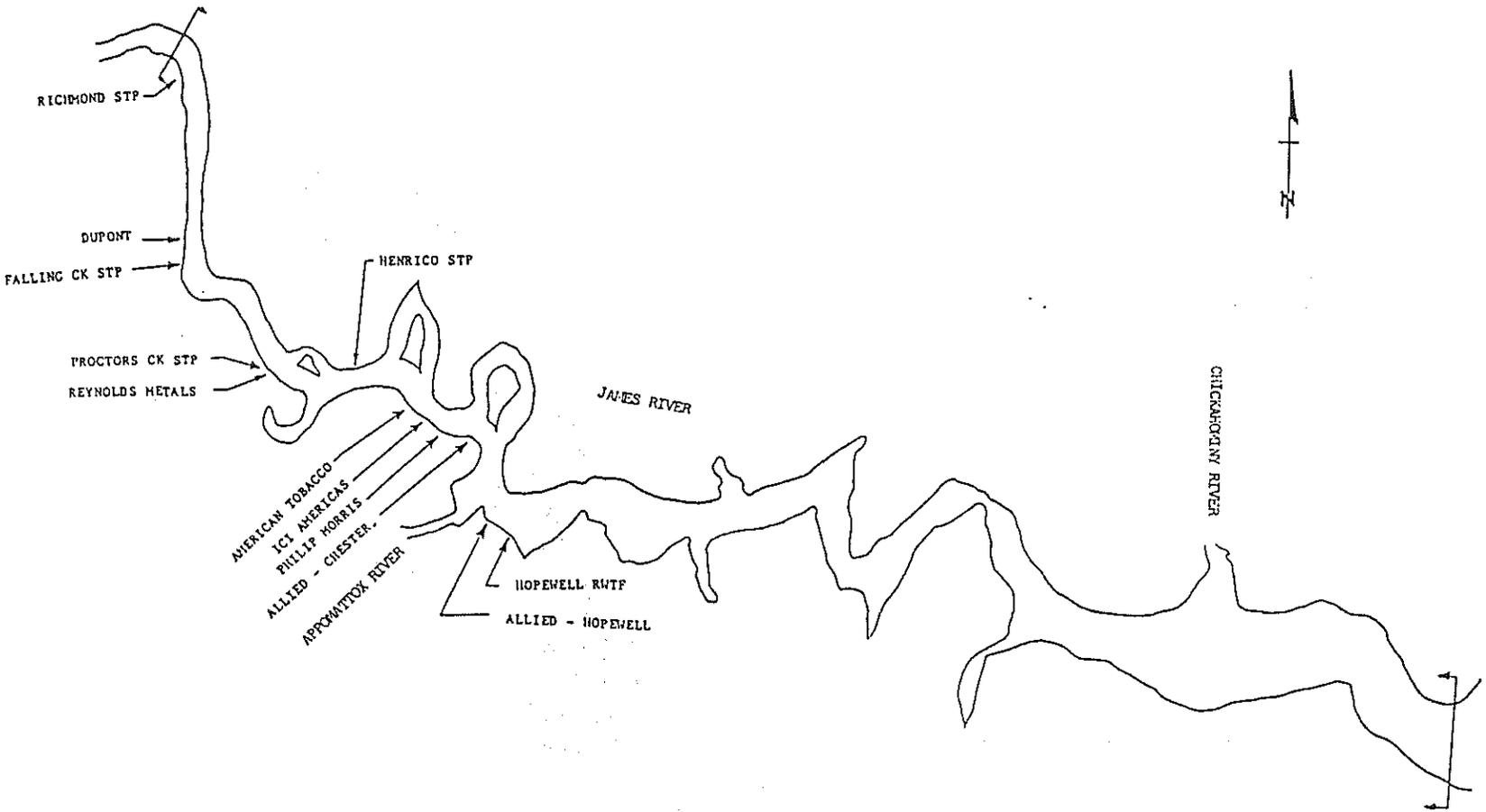


Figure 1. Upper James River Estuary and Dischargers.

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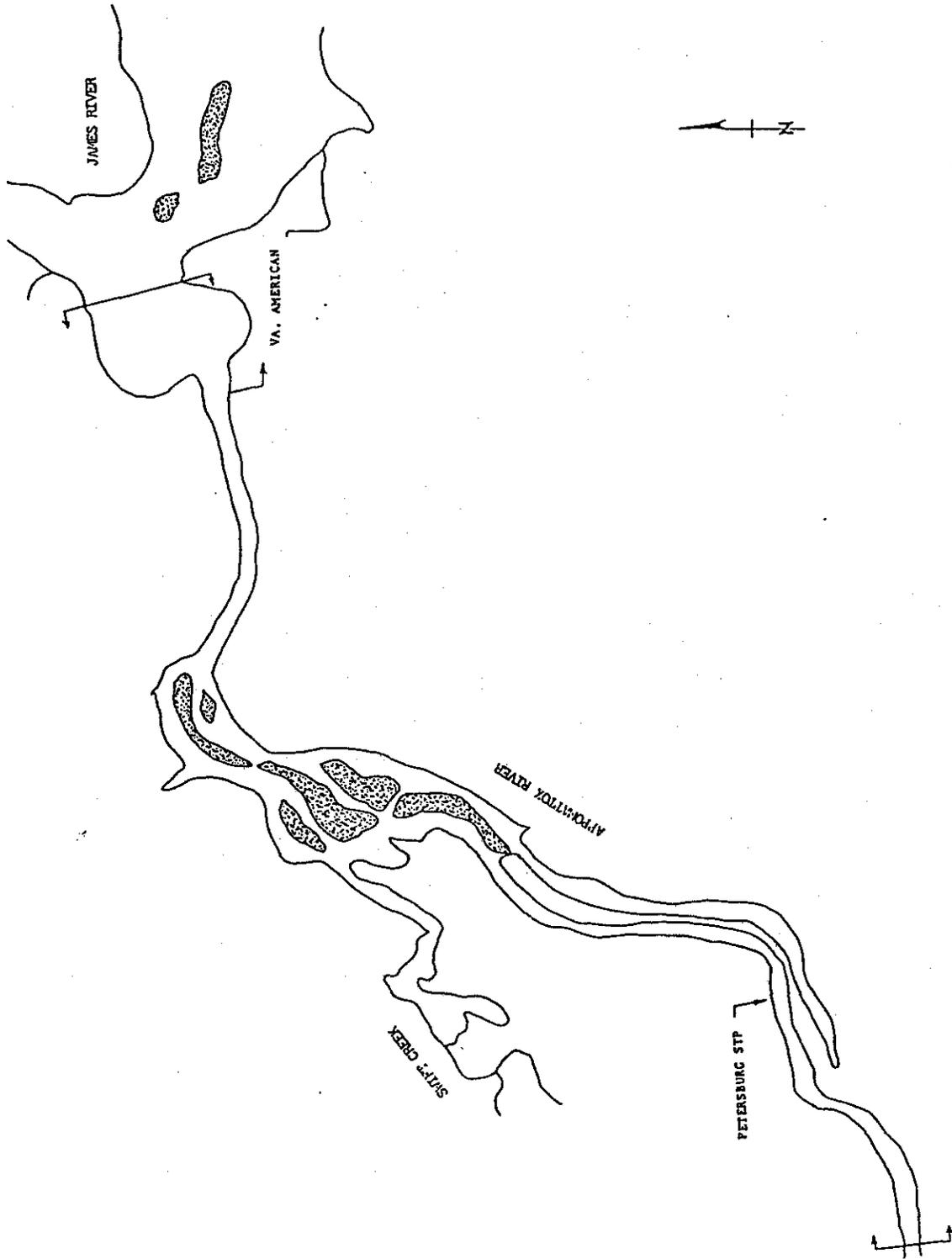


Figure 2. Appomattox River Estuary and Discharger.

§ 3. Waste load allocation.

A. General.

There are 13 major discharges to the stream segments evaluated in this Plan. All are regulated under NPDES permits issued by the Virginia Water Control Board. Current and projected future water quality impacts of these discharges were evaluated at low flow conditions (summer and winter) using the JMSRV model. Waste load allocations were determined for each discharger based upon water quality impacts predicted by the model. Tables 2, 3, 4 and 5, show the waste load allocations under current permits, and for the years 1990, 2000 and 2010 respectively.

All waste load allocations are considered to be the total maximum daily loads (TMDLs), since additional "load allocations" (e.g., upstream and sediment flux loads) were included in the modeling process. Nonpoint source loads were considered to be negligible under low flow conditions.

B. Dissolved oxygen.

The JMSRV model predicted that the state standard for instream average dissolved oxygen (5.0 mg/l) would not be violated under current permit limits. Projected discharge increases by the year 1990, however, required a reduction in allowable winter five-day carbonaceous biochemical oxygen demand (CBOD5) effluent concentrations at the Henrico, Falling Creek and Proctors Creek sewage treatment plants (STPs). Predicted instream dissolved oxygen levels at projected 1990 discharge levels indicated that the assimilative capacity of the river would be nearly fully utilized. Therefore, it was decided that CBOD5 poundage allocated to each discharge would be held constant at 1990 levels. Discharges with projected flow increases would, therefore, receive reductions in allowable CBOD5 effluent concentrations in the future (see Tables 3 through 5). Each discharge was also assigned a minimum effluent dissolved oxygen concentration.

C. Ammonia.

The JMSRV model predicted possible exceedances of instream ammonia toxicity criteria at low flow conditions with current ammonia levels. Therefore, it was necessary to allocate ammonia among the dischargers. Ammonia poundage was allocated based upon 1990 projected flows for each discharge. This poundage was held constant at the level resulting in future reductions in allowable effluent concentrations at discharges with increasing flows (see Tables 3 through 5). Those discharges that did not have an impact upon ammonia toxicity were given ammonia allocations to limit nitrogenous oxygen demand in the rivers. Ammonia allocations contained in this Plan may be preempted by more stringent state or federal standards or regulations adopted in the future.

D. Phosphorus.

A total phosphorus limit of 2 mg/l was assigned to all discharges of 1.0 million gallons per day (MGD) or greater, in accordance with Virginia's Nutrient Standard. This effluent limitation may be preempted by more stringent state or federal standards or regulations adopted in the future. The following is a list of all discharges to be permitted at 2 mg/l total phosphorus:

City of Richmond STP

E.I. DuPont - Spruance

Falling Creek STP

Proctors Creek STP

Henrico STP

American Tobacco Company

Philip Morris - Park 500

Allied - Signal, Inc. (Chesterfield Plant)

Allied - Signal, Inc. (Hopewell Plant)

Hopewell Regional WTF

Petersburg STP

Table 2. Current Permitted Waste Loads (March, 1988).

	SUMMER (June - October)					WINTER (November - May)						
	FLOW (mgd)	BOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	FLOW (mgd)	BOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)
City of Richmond STP ³	45.00	3002	8.0	.	.	.	45.00	5367	14.3	.	.	.
E.I. DuPont-Spruance	8.68	936	.	.	.	.	8.68	936	.	.	.	.
Falling Creek STP	9.00	1202	16.0	.	.	5.9	9.00	2253	30.0	.	.	5.9
Proctor's Creek STP	6.40	1601	30.0	.	.	5.9	11.80	2952	30.0	.	.	5.9
Reynolds Metals Company	0.39	138	.	7	.	.	0.39	138	.	7	.	.
Henrico STP	30.00	3005	12.0	.	.	5.9	30.00	7260	29.0	.	.	5.9
American Tobacco Company	1.94	715	.	.	.	.	1.94	716	.	.	.	.
ICI Americas, Inc.	0.20	152	.	.	.	.	0.20	152	.	.	.	.
Philip Morris - Park 500	1.50	559	.	.	.	.	1.50	557	.	.	.	.
Allied (Chesterfield)	51.00	1207	.	.	.	.	51.00	1207	.	.	.	.
Allied (Hopewell)	150.00	2500	.	.	.	.	150.00	2500	.	.	.	.
Hopewell Regional WTF	34.08	12507	44.0	.	.	4.8	34.08	12507	44.0	.	.	4.8
Petersburg STP	15.00	2804	22.4	.	.	5.0	15.00	2804	22.4	.	.	5.0
TOTAL	353.19	30328					358.59	39349				

- ¹ NH3-N values represent ammonia as nitrogen.
² Dissolved oxygen limits represent average minimum allowable levels.
³ Richmond STP's BOD5 is permitted as CBOD5.

Table 3. Waste Load Allocations for the Year 1990.

	SUMMER (June - October)					WINTER (November - May)					
	FLOW (mgd)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	FLOW (mgd)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO^{2} (mg/L)
City of Richmond STP	45.00	3002	8.0	2403	6.4	5.6	5367	14.3	5707	15.2	5.6
E.I. DuPont-Spruance	11.05	948	.	590	.	4.4	948	.	756	.	2.9
Falling Creek STP	10.10	1348	16.0	539	6.4	5.9	2023	24.0	1281	15.2	5.9
Proctor's Creek STP	12.00	1602	16.0	961	9.6	5.9	2403	24.0	1402	14.0	5.9
Reynolds Metals Company	0.49	172	.	8	.	6.5	172	.	8	.	6.5
Henrico STP	30.00	3002	12.0	2403	9.6	5.6	4756	19.0	3504	14.0	5.6
American Tobacco Company	2.70	715	.	113	.	6.8	715	.	113	.	6.8
ICI Americas, Inc.	0.20	167	.	8	.	5.8	167	.	8	.	3.1
Philip Morris - Park 500	2.20	819	.	92	.	4.6	819	.	92	.	4.6
Allied (Chesterfield)	53.00	1255	.	442	.	5.7	1255	.	442	.	5.7
Allied (Hopewell)	165.00	2750	.	10326	.	6.1	2750	.	10326	.	6.1
Hopewell Regional WTF	34.07	12502	44.0	10291	36.2	4.8	12502	44.0	10291	36.2	4.8
Petersburg STP	15.00	2802	22.4	801	6.4	5.0	2802	22.4	2028	16.2	5.0
TOTAL	380.81	31084		28978			36679		35958		

- ¹ NH3-N values represent ammonia as nitrogen.
² Dissolved oxygen limits represent average minimum allowable levels.

Table 4. Waste Load Allocations for the Year 2000.

	SUMMER (June - October)						WINTER (November - May)					
	FLOW (mgd)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	
City of Richmond STP	45.08	3002	8.0	2403	6.4	5.6	5367	14.3	5707	15.2	5.6	
E.I. DuPont-Spruance	16.99	948		590		4.4	948		756		2.9	
Falling Creek STP	10.10	1348	16.0	539	6.4	5.9	2023	24.0	1281	15.2	5.9	
Proctor's Creek STP	16.80	1602	11.4	961	6.9	5.9	2403	17.1	1402	10.0	5.9	
Reynolds Metals Company	0.78	172		13		6.5	172		13		6.5	
Henrico STP	32.80	3002	11.0	2403	8.8	5.6	4756	17.4	3504	12.8	5.6	
American Tobacco Company	3.00	715		113		6.8	715		113		6.8	
ICI Americas, Inc.	0.20	167		8		5.8	167		8		3.1	
Philip Morris - Park 500	2.90	819		92		4.6	819		92		4.6	
Allied (Chesterfield)	56.00	1255		442		5.7	1255		442		5.7	
Allied (Hopewell)	170.00	2750		10326		6.1	2750		10326		6.1	
Hopewell Regional WTF	36.78	12502	40.7	10291	33.5	4.8	12502	40.7	10291	33.5	4.8	
Petersburg STP	15.00	2802	22.4	801	6.4	5.0	2802	22.4	2028	16.2	5.0	
TOTAL	406.43	31084		28982			36679		35963			

¹ NH3-N values represent ammonia as nitrogen.

² Dissolved oxygen limits represent average minimum allowable levels.

Table 5. Waste Load Allocations for the Year 2010.

	SUMMER (June - October)						WINTER (November - May)					
	FLOW (mgd)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	CBOD5 (lbs/d) (mg/L)		NH3-N ¹ (lbs/d) (mg/L)		DO ² (mg/L)	
City of Richmond STP	45.86	3002	7.8	2403	6.3	5.6	5367	14.0	5707	14.9	5.6	
E.I. DuPont-Spruance	16.99	948		590		4.4	948		756		2.9	
Falling Creek STP	10.10	1348	16.0	539	6.4	5.9	2023	24.0	1281	15.2	5.9	
Proctor's Creek STP	24.00	1602	8.0	961	4.8	5.9	2403	12.0	1402	7.0	5.9	
Reynolds Metals Company	0.78	172		13		6.5	172		13		6.5	
Henrico STP	38.07	3002	9.5	2403	7.6	5.6	4756	15.0	3504	11.0	5.6	
American Tobacco Company	3.00	715		113		6.8	715		113		6.8	
ICI Americas, Inc.	0.20	167		8		5.8	167		8		3.1	
Philip Morris - Park 500	2.90	819		92		4.6	819		92		4.6	
Allied (Chesterfield)	56.00	1255		442		5.7	1255		442		5.7	
Allied (Hopewell)	180.00	2750		10326		6.1	2750		10326		6.1	
Hopewell Regional WTF	39.61	12502	37.8	10291	31.1	4.8	12502	37.8	10291	31.1	4.8	
Petersburg STP	15.00	2802	22.4	801	6.4	5.0	2802	22.4	2028	16.2	5.0	
TOTAL	432.51	31084		28982			36679		35963			

¹ NH3-N values represent ammonia as nitrogen.

² Dissolved oxygen limits represent average minimum allowable levels.

Proposed Regulations

§ 4. Implementation schedule.

Compliance schedules for the new allocations will be established when permits are reopened. This will occur as soon as practicable after adoption of this Plan. Any schedules imposed by toxicity regulations, nutrient standards or other regulations will be taken into consideration in developing compliance schedules for individual permits.

§ 5. Loan eligibility for facilities.

Localities requiring improvements to their collection and treatment systems may submit applications for state loan funds for planning, design or construction costs. All loan applicants shall be identified and placed on Virginia's Potential Loan Eligibility List. Table 6 identifies the eligible publicly owned treatment works (POTWs) in this Plan that can be considered for a loan in the 1987-88 fiscal year.

Once determined eligible for loan assistance, loan applications are solicited from all POTWs on the list. The applications received are ranked and rated in accordance with the board's "Yearly Loan Distribution Criteria." For details regarding Virginia's Revolving Loan Fund, consult the Revolving Loan Fund Program Design Manual dated December 1, 1987, Virginia's Intended Use Plan for its available 87/88 funds, and Procedural Guidelines for Virginia Revolving Loan Fund Recipients, also dated December 1, 1987.

New loan requests generated by requirements of this Plan will be reflected in future loan eligibility lists.

Table 6. Potential Loan Eligibility List (December, 1987).

POINTS	APPLICANT	PROJECT	NPDES #	NMP	DESCRIPTION	REFI- NANCING	LOAN NEEDS
377.4	City of Hopewell	STP Upgrade	VA0066630	No	II		12,000,000
346.2	City of Richmond	STP Upgrade	VA0063177	Yes	II	Yes	50,000,000
346.2	City of Richmond	CSO Correction	VA0063177	No	V		50,000,000
276.0	City of Petersburg	STP Expansion, I/I Abatement	VA0025437	Yes	I,IIIA/B	Yes	2,000,000
253.5	County of Goochland	Sewer Extension		No	IVA/B		900,000
208.4	County of Chesterfield	I/I Abatement		No	IIIB,IVB		31,750,000
208.4	County of Chesterfield	Proctors Creek Expansion	VA0060194	No	I		24,000,000
178.4	County of Chesterfield	Sewer Extension		No	IVA	Yes	1,600,000
177.4	City of Hopewell	I/I Abatement		No	IIIA/B,IVA/B		2,800,000
145.9	County of Prince George	Sewer Extension		No	IVA		1,100,000

Legend for Need Category
 I - Secondary Treatment
 II - Advanced Treatment
 IIIA - I/I Abatement
 IIIB - Sewer Rehabilitation
 IVA - Collector Sewers
 IVB - Interceptor Sewers
 V - CSO Correction

Proposed Regulations

§ 6. Additional pollution controls.

A. Board actions for controlling point source discharges.

The planning, design, and operation of future facilities shall assure that applicable water quality goals and standards are not violated. The following board actions are designed to achieve this goal:

1. Utilization of this Plan as a policy guide in making decisions regarding wastewater discharges in the area;
2. Continued issuance of NPDES discharge permits which contain effluent limitations and issuance of compliance schedules compatible with area Water Quality Management Plan recommendations;
3. Solicitation of loan applications for the Revolving Loan Program for wastewater treatment projects;
4. Issuance of No-Discharge Certificates for proposed no-discharge systems;
5. Encouragement of projects which employ innovative or alternative wastewater treatment techniques such as holding ponds and evapotranspiration beds, where costs and site conditions render such systems suitable;
6. Incorporation of water conservation assumptions in wastewater treatment planning;
7. Continued issuance of Certificates to Operate (CTOs), which require the preparation of operation and maintenance manuals and sludge management plans;
8. Continuance of waste treatment plant operator training through the Operator and Management Assistance Section activities;
9. Continuance of recently developed compliance monitoring, inspection and enforcement programs;
10. Continuance of a toxic management program which assures that toxic constituents of wastewater discharge will be monitored and controlled in accordance with state and federal regulations; and
11. Continuance of agency water quality monitoring programs.

B. Board actions for Controlling Nonpoint Source Discharges.

The Clean Water Act of 1977 (P.L. 92-500), § 208, requires the development of a statewide process to identify and control, to the extent feasible, nonpoint sources of pollution. A most significant element of Virginia's statewide nonpoint source management is the development of "Best Management Practices (BMP)

Handbooks" for the various categories of nonpoint source pollution. Each handbook describes those practices which are determined to be the most effective, practicable means of preventing or reducing the amount of nonpoint source pollutants entering a watercourse. BMP handbooks have been written and adopted by the SWCB for agriculture, forestry urban areas, hydrologic modifications and sources affecting ground water. A Management Handbook has also been adopted by the board which describes procedures and delineates responsibilities for the voluntary implementation of nonpoint source controls, and for reporting to EPA the progress being made in BMP implementation. This handbook was unconditionally approved by EPA in August 1981 as the outline of the nonregulatory nonpoint source pollution abatement program for the Commonwealth of Virginia. A regulatory program may be required of the state by EPA.

Primary responsibility for nonpoint source pollution control now rests with the Department of Conservation and Historic Resources, Division of Soil and Water Conservation. The Water Control Board remains responsible for discharges from urban storm sewer systems and will respond as appropriate to federal regulations regarding such systems. The primary storm sewer system affecting the James River Estuary is the Richmond combined sewer system which frequently overflows during wet weather conditions. The Water Control Board is addressing this problem in the Richmond STP's NPDES permit.

The NPDES permit issued to the City of Richmond requires that combined sewer overflow (CSO) loadings be addressed. This study is scheduled to be concluded by October 1, 1988; it will address fecal coliforms as well as minimum dissolved oxygen levels. If the study does not adequately address reasonable solutions to CSO inputs, the plan will be amended to implement appropriate controls.

Nonpoint source studies conducted earlier for the board are listed in the reference section.

§ 7. Drinking water supply.

The Appomattox River Estuary serves as a public water supply source, since the Virginia American Water Company withdraws water to supply the Hopewell area. Since the withdrawal point is near the confluence with the James River Estuary, some of its water is included in the water withdrawal.

In 1986 (October 10, 1986 letter to Richard N. Burton, Executive Director, SWCB), the Virginia Department of Health, which has jurisdiction over the treatment of drinking water, assessed the potential impacts on this withdrawal from municipal dischargers. Their position at that time was that the raw water was treatable and should continue to be treatable in the future.

No other public water supply sources are in the study area.

§ 8. References.

Technical work and public participation information for this Plan are documented in two support documents:

- 1. Richmond-Crater Interim Water Quality Management Plan Technical Support Information. March 1988, Virginia State Water Control Board.*
- 2. Richmond-Crater Interim Water Quality Management Plan Public Participation Information. March 1988, Virginia State Water Control Board.*

Other relevant information is addressed in the following documents:

- 1. Richmond-Crater 208 IWQMP Residual Waste Management Plan: Final Report. December 1982, Richmond Regional and Crater Planning District Commissions, Prepared for the Virginia State Water Control Board.*
- 2. Non-Point Source Assessment and Control Needs: Final Report. No. UVA/530213/CE82/102, December 1982, Shaw L. Yu, Ph.D., Submitted to Virginia State Water Control Board.*
- 3. Upper James River Estuary Non-point Source Pollution Assessment Study. May 1987, Richmond Regional Planning District Commission, Prepared for the Virginia Water Control Board.*

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF HEALTH (STATE BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14.4.1 C 4(c) of the Code of Virginia, which excludes from Article 2 regulations which are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services.

Statutory Authority: § 32.1-12 of the Code of Virginia

Effective Date: August 4, 1988

Summary:

The purpose of revision No. 12 to the regulations is to allow the Board of Health to adopt the same language as written in the Federal Register regarding poverty income guidelines, definitions of eligible recipients, and income criteria.

The Regulations Governing Eligibility Standards and Charges for Medical Care Services are based on criteria set by the Department of Health and Human Services as required by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). The changes in federal law must be included in these regulations in order for the Board of Health to administer these regulations. These same guidelines are those used by other state agencies such as the Department of Social Services and the teaching hospitals (UVA and MCV) for determining medically indigent clients. Definitions of family units and income criteria are a major component to these regulations and must be consistent with other agencies which provide medical services and determine eligibility.

VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The words and terms used in these regulations have the

following meanings unless the context indicates otherwise:

"Applicant" means the person requesting medical care services for themselves or on behalf of a dependent family member or foster child.

"Automatic eligibility" means applicants who are recipients of public assistance programs:

Aid to Dependent Children (ADC)

General Relief

Title XIX - MEDICAID

Food Stamp Benefits

Dental services for children who qualify for the national school lunch program or its equivalent.

Identifying information shall be collected on these persons in order to make the above determinations.

"Board" means the State Board of Health.

"Charges for services" means the reasonable charges established by the board for medical care services. In calculating service charges consideration will be given to (i) patient caseloads, (ii) manpower requirements, and (iii) the cost of support services, supplies and equipment. These charges shall be based on the state average cost for providing the services. The charges may be further adjusted when cost changes occur.

"Child" means a biological or adopted child, and any child placed for adoption or foster care unless otherwise treated as a separate unit by these regulations.

"Commissioner" means the Commissioner of Health.

"Department" means the State Department of Health and includes central office, regional offices and health districts, and local health departments.

"Disabled" means any person crippled or otherwise incapacitated from earning a living. Incapacity must be supported by a physician's determination.

Adult disabled children (persons) may or may not be included in the family unit depending on the support received from the parents. If the adult disabled child operates as a separate economic unit, he will be excluded even though he shares the parent's residence.

"Family - family unit" means the economic unit which may include the patient, the spouse of the patient, the parent or parents of a patient who is an unemancipated minor, the parents of a patient who has been declared by a physician to be disabled, and any other person actually and properly dependent upon or contributing to the family's income for subsistence.

Parent includes a biological, adoptive, or step parent, or a cohabiting partner included in the family unit.

A husband and wife who have been separated and are not living together, and who are not dependent on each other for support shall be considered separate family units.

The family unit which is based on cohabitation is considered to be a separate family unit for determining eligibility for services. The cohabitating partners and any children shall be considered a family unit. (§ 63.1-90.1 of the Code of Virginia.)

Eligible Medicaid children shall be considered a separate family unit.

"Free services" means services which the Health Department provides to all persons without charge as mandated by the Code of Virginia (see Part IV).

The department may also provide certain free services to all citizens, i.e., hypertension check-ups, pregnancy testing, etc., which are not necessarily required by the Code of Virginia.

"Gross income" means total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g., receipts from own business or farm after deductions for business or farm expenses.) They include regular payments from public assistance (including *Aid to Families with Dependent Children*, Supplemental Security Income, and *federally-funded General Assistance or General Relief money payments*), social security or railroad retirement, unemployment and worker's compensation, strike benefits from union funds, veterans' benefits, training stipends, alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (*including military retirement pay*), and regular insurance or annuity payment; and income from dividends, interest, ~~rents~~, *net rental income*, *net royalties*, or periodic receipts from estates or trusts. ~~These receipts further include funds obtained through college work study programs, scholarships, and grants to the extent said funds are used for current living costs, college or university scholarships, grants, fellowships, assistantships, and net gambling or lottery winnings.~~

"Gross income" does not include the value of food stamps, WIC checks, fuel assistance, *housing assistance* money borrowed, tax refunds, gifts, lump sum settlements, inheritances or *one-time* insurance payments or *compensation for injury*, withdrawal of bank deposits, earnings of minor children, money received from the sale of property. ~~Gross income also does not include funds derived from college work study programs, scholarships, loans, or grants to the extent such funds are not used for current living costs.~~

"Income scales" mean scales based on individual or family gross income which will be established: one for Northern Virginia and one for the remainder of the Commonwealth as follows:

Income Level A - will be set at 100% of the poverty income guidelines, except for Northern Virginia where the Income Level A will be set at 110% of the poverty income guidelines.

Income Level B - will be set at 110% of the poverty income guidelines, except for Northern Virginia where the Income Level B will be set at 133.3% of the poverty income guidelines.

Income Level C - will be set at 133.3% of the poverty income guidelines, except Northern Virginia where the Income Level C will be set at 166.6% of the poverty income guidelines.

Income Level D - will be set at 166.6% of the poverty income guidelines, except Northern Virginia where the Income Level D will be set at 200% of the poverty income guidelines.

Income Level E - will be set at 200% of the poverty income guidelines, except Northern Virginia where the Income Level E will be set at 233.3% of poverty income guidelines.

Income Level F - will be set at 233.3% of the poverty income guidelines, except Northern Virginia where the Income Level F will be set at 266.6% of poverty income guidelines.

"Medically indigent" means applicants whose family gross income is defined at income level A and below.

"Minor" means a person less than 18 years of age whose parents are responsible for his care. A minor will be considered a separate family unit when married, or when 15 years of age and over and not living with any relatives or deemed an adult.

A minor shall be deemed an adult for the purposes of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious and contagious disease which the State

Final Regulations

Board of Health requires to be reported.

2. Medical and health services required in case of birth control, pregnancy, or family planning except for the purposes of sexual sterilization. (§ 54-325 of the Code of Virginia.)

"Northern Virginia" means the area which includes the cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and the counties of Arlington, Fairfax, Loudoun, and Prince William.

"Students" means individuals, regardless of their residence, who are supported by their parents or others related by birth, marriage, or adoption are considered to be residing with those who support them.

PART II. GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 32.1-12 of the Code of Virginia establishes the responsibility of the board as follows: "The board may formulate a program of environmental health services, laboratory services and preventive, curative and restorative medical care services, including home and clinic health services described in Titles V, XIII and XIX of the United States Social Security Act and amendments thereto, to be provided by the department on a regional, district or local basis. The board shall define the income limitations within which a person shall be deemed to be medically indigent. Persons so deemed to be medically indigent shall receive the medical care services of the department without charge. The board may also prescribe the charges to be paid for the medical care services of the department by persons who are not deemed to be medically indigent and may, in its discretion and within the limitations of available funds, prescribe and scale of such charges based upon ability to pay. Funds received in payment of such charges are hereby appropriated to the board for the purpose of carrying out the provisions of this title. The board shall review periodically the program and charges adopted pursuant to this section.

§ 2.2. Purpose of regulations.

The board has promulgated these regulations to: (i) establish financial eligibility criteria to determine if a person is medically indigent and therefore qualified to receive medical care services of the department without charge; and (ii) to establish income scales and charges for services for medical care provided by the department to individuals who are not medically indigent, based upon their ability to pay. The regulations are constructed to assure that eligibility criteria remain appropriate for changing economic conditions.

§ 2.3. Administration of regulations.

These regulations are administered by the following:

A. State Board of Health. The Board of Health is the governing body of the State Department of Health.

B. State Health Commissioner. The State Health Commissioner is the chief executive officer of the State Department of Health. The commissioner has the authority to act for the board when it is not in session. The commissioner shall publish specific income levels expressed in dollar amounts for determining eligibility for medical care services of the department. The income levels shall be based on the official poverty guidelines defined by the federal Office of Management and Budget and revised updated annually by the Department of Health and Human Services in accordance with § 624 of the Economic Opportunity Act of 1964 §§ 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35) .

§ 2.4. Recipients of services.

These regulations shall apply to all persons seeking laboratory and preventive, curative and restorative services including medical and dental clinic services provided by the department, except where other eligibility criteria are required for programs administered under federal statute.

§ 2.5. Effective date of regulations.

These regulations will be effective July 1, 1987 August 4, 1988 .

§ 2.6. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act govern the adoption of these regulations and any subsequent amendments.

§ 2.7. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 32.1-12 of the Code of Virginia.

PART III. CHARGES FOR SERVICES.

§ 3.1. Income levels.

A. Applicants for medical care services, who are found to be medically indigent as defined by Part I of these regulations shall be provided care at no charge to the applicant.

B. Applicants for medical care services, including those in Northern Virginia as defined in Part I, whose family income exceeds Income Level A shall be assessed a fee as follows:

1. Income Level A - No charge for service.

2. Income Level B - 10% of the established charge for the service.
3. Income Level C - 25% of the established charge for the service.
4. Income Level D - 50% of the established charge for the service.
5. Income Level E - 75% of the established charge for the service.
6. Income Level F - 100% of the established charge for the service.

For the income levels other than Income Level A, calculations of charges will be made so that amounts will be rounded off to the highest \$.25 and the minimum fee to be collected for any chargeable service shall be at least \$.50.

PART IV. FREE SERVICES.

§ 4.1. The following services are provided without charge and without an eligibility determination to all citizens regardless of income as required by the Code of Virginia.

1. Immunization of children against diphtheria, tetanus, whooping cough, poliomyelitis, measles (rubeola), german measles (rubella) and mumps as required by § 32.1-46 of the Code of Virginia, and of persons up to the age of 21 when the person lacks evidence of complete and appropriate immunizations for these diseases.
2. Examination of persons suspected of having or known to have tuberculosis as required by § 32.1-50 of the Code of Virginia.
3. Examination, testing and treatment of persons for venereal disease as required by § 32.1-57 of the Code of Virginia.
4. Screening of persons for the disease of sickle cell anemia or the sickle cell trait as required by § 32.1-68 of the Code of Virginia.
5. Screening for phenylketonuria, hypothyroidism homocystinuria, galactosemia and Maple Syrup Urine Disease as required by §§ 32.1-65 and 32.1-67 of the Code of Virginia.

§ 4.2. The department may provide immunization services free of charge to all individuals in the event of an epidemic or when declared necessary by the commissioner to protect the public health of all citizens of the Commonwealth.

§ 4.3. The department may elect to provide other medical

services at no charge to all citizens of the Commonwealth when directed by the commissioner.

PART V. CHARGEABLE SERVICES.

§ 5.1. Chargeable services.

The department may prescribe charges for certain medical services to be paid by persons who are not deemed to be medically indigent and may within the limitations of available funds prescribe a scale of such charges based upon ability to pay.

PART VI. EXCEPTIONS.

§ 6.1. Exceptions.

A. A continuing exception to the above standard principles for assessing charges/fees for clinic services will exist for patients determined to be eligible for services under the Handicapped Children's Services Program, the Special Supplemental Food Program for Women, Infants and Children (WIC), the Child Development Clinic Network, and to recipients of treatment and medical food products under the Phenylketonuria (PKU) Program. The conditions under which each of these programs is operated constitute unusual circumstances which dictate the following special principles for determining the charges to be made as reimbursement for those program's services.

B. The Handicapped Children's Services Program shall charge the annual patient fee for those persons determined to be above Income Level A. Charges shall be imposed in accordance with regulations as stated in the latest State Plan for Provision of Crippled Children's Services approved by the Board of Health.

C. The Phenylketonuria (PKU) Program shall impose no charges for screening, clinic, or laboratory services which are necessary to establish a diagnosis or to recommend treatment of PKU. Charges for specific medical food products will not be made to families in Income Level A nor will charges for these products be made to persons financially eligible for the services authorized under the Women, Infants and Children (WIC) Program.

D. Specific medical food products which from time to time may be required by recipients of other programs offered by the department, and which may be provided by the department will be supplied in the same manner as provided in subsection C of § 6.1 of these regulations.

E. The Child Development Clinic Network shall impose no charges for services provided children from families in Income Level A.

§ 6.2. When necessary, the health or medical program director can deny certain medical services to full-paying patients (Income Levels F and above). Such denial is

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appropriate when the following situations exist:

1. The demand is great for providing services to lower income patients or when local restrictions apply to giving certain services; and
2. The same services are available in the community by the private sector.

PART VII. ELIGIBILITY DETERMINATION.

§ 7.1. Upon request for medical services by an individual, the department will require information as to the family size, financial status and other related data as described on the application for health care (CHS-1). The applicant shall be informed during the interviewing process of the provisions as described in this section of the regulations. This process does not apply to services described in § 4.1 of these regulations.

A. An application date is established when the applicant, his authorized representative, or other persons acting in his behalf, completes and signs the application for medical care services.

1. For the Special Supplemental Food Program for Women, Infants and Children (WIC), the application date is established when an individual visits the health department during office hours to make an oral or written request for WIC Program benefits.

B. When an applicant is in need of emergency medical care services, the district director, or his designee shall waive this application process for that individual until such time as the individual is able to respond normally to the interviewing process.

C. It is the applicant's responsibility to furnish the department with the correct financial data in order to be appropriately classified according to income level and to determine applicable charges for medical care services. The applicant shall be required to provide written verification of financial income such as check stubs, written letter from an employer, W-2 or W-4 forms, etc., in order to provide documentation for the application.

D. Any individual who is acting on behalf of a minor will be held responsible for the accuracy of all financial data provided the department.

§ 7.2. If the patient's family gross income is such that a partial or full charge for service is determined to be required, an explanation of the charges shall be provided to the patient prior to services being rendered.

§ 7.3 A person's financial eligibility to receive chargeable medical care services shall be redetermined every 12 months, except when the department has reason to believe an applicant's financial or family status has changed sooner or when laws or regulations dictate otherwise.

§ 7.4 The department's policy is to require that a reasonable effort shall be made to collect any fees due for chargeable services.

The department should request payment for a chargeable service at the time the service is given.

When payments are not made at the time of service, the department will present to the patient, guardian or other authorized person, a bill each 30, 60, 90 and 120 calendar days.

If the payment is not made within 120 calendar days of the date of service, additional chargeable services will be discontinued to individuals whose income levels have been determined Income Levels B through F, until arrangements for payment have been made.

A written notice, including the development of a payment plan, on overdue payments, shall be presented to the patient at least 30 days prior to the effective date on which additional chargeable services will be refused because of payment delinquency.

The notice shall describe how a temporary waiver can be obtained in order for the individual to have a fair opportunity to settle on an overdue account.

If a waiver is denied, the department will continue to bill the patient, guardian, or the authorized person according to the above criteria.

§ 7.5. The individual, family unit, or other authorized person, may seek relief from the application of the above provisions by using Parts VIII and IX of these regulations.

PART VIII. WAIVER OF PAYMENTS.

§ 8.1. When an unusual family or individual health problem or financial hardships are demonstrated to exist, and there are no other avenues of care, the patient, guardian or other authorized person may request a waiver of payment for chargeable services for up to 90 calendar days. A waiver may be requested orally or in writing to the Health Department. A new eligibility determination will be completed on the patient at this time. If the new eligibility determination places the patient in a lower payment plan, the amount of service payments incurred before the new eligibility determination and subsequent to the bona fide change in circumstances will be considered for possible discharge by the department or for payment at a level consistent with the newly determined income level. If complete waiver is allowed, during the waiver period the patient will not be charged for continued medical care. If partial waiver is allowed in the form of reduced payments, during the waiver period the patient will be charged at the reduced rate. Once the waiver period has elapsed, or earlier if the reason for the waiver no longer exists, if the patient's eligibility determination status has returned to its previous status or has improved

to a higher payment level, the patient will be required to make payments on future medical care at the original or other appropriate level.

If the new eligibility determination made in response to the waiver request reveals no change in income level status, extraordinary circumstances may be taken into account to allow complete or partial waiver for up to 60 days, at which time the continuation of the extraordinary circumstances will be reassessed and the waiver terminated or extended for an additional period up to 30 days, with a repeat reassessment at the end of that time. Extraordinary circumstances will include but not necessarily be limited to natural disasters, uninsured real or personal property damage or legal liability to another for the same, obligatory and unavoidable expenditures for close relatives outside the family unit. Waivers shall not be accorded in the absence of a finding of hardship.

If the new eligibility determination proves that the patient's income level status has not changed, the department will continue to charge the patient at the appropriate level for medical care. At this time, the department will work with the patient, guardian, or other authorized person to assure that a reasonable payment plan for services received is established as described in subsection D of § 7.1. Documentation shall be made in the patient's medical file that proper procedures have been taken to assist the patient.

§ 8.2. The Commissioner of Health is designated to act for the Board of Health to grant or deny requested waivers.

§ 8.3. At his discretion, the commissioner may delegate the authority to grant or deny waivers to medical directors in the central, regional and district offices.

§ 8.4. Medical directors may designate other individuals within their supervision to grant or deny waivers of patient payments in accordance with § 8.1.

§ 8.5. In the event of an adverse decision, the patient, guardian or other authorized person will be advised of their rights to appeal under Part IX.

§ 8.6. At the time of request in a waiver, the applicant should provide information regarding the length of time he anticipates the waiver may be in force, with a justification for that estimate. The medical director or his designee will then determine and specify a reasonable time period based on the facts and circumstances of the particular case. The time specified should serve only as a guide; in operation the waiver should apply only for the duration of the change in the applicant's circumstances. Prior to the expiration date of the waivers, each case will be reviewed by the medical director or his designee for further determination. A waiver may be requested orally or in writing to the Health Department. No waiver can be extended beyond a six-month period without review.

After the waiver period has elapsed, a new eligibility

determination will be performed to determine the patient's new income level status, or whether another waiver needs to be extended for continued care.

Services to patients shall continue pending a final decision on a request for a waiver.

PART IX. APPEAL PROCESS.

§ 9.1. If applicant for or recipient of medical care services as defined in these regulations is denied such services, has services terminated, or is denied a waiver as defined in Part VIII of these regulations, the applicant/recipient is entitled to appeal that action as set forth under this part. There are no further rights of appeal except as set forth in this part.

A. The applicant/recipient has the right to be informed in writing of the appeal process, including time limits; and the right to receive a written statement of the reasons for denial. If a person already receiving services is denied those services, a written notice of termination shall be given 30 days in advance of discontinuing services. The person has the right to confront any witnesses who may have testified against him.

B. An individual or his representative may make a written or oral appeal to the district health director or program medical director within 30 days of the denial of service.

C. Upon receipt of the appeal, the district health director shall review and make written recommendations to the regional medical director and commissioner within 15 days. The regional medical director shall submit his recommendations to the commissioner within 15 days of the receipt of the local health director's recommendations. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

D. Upon receipt of the appeal, the program medical director shall review and make written recommendations to the division director and the commissioner within 15 days. The division director shall submit his recommendations to the commissioner within 15 days of the receipt of the division director's recommendation. Within 45 days following the date on which an appeal is filed, the commissioner shall make a final decision.

E. Services to applicants/recipients shall continue during an appeal process.

PART X. FRAUD.

§ 10.1. If the district health director finds a pattern of abuse of services such as willful misrepresentation, withholding or falsification of information in an attempt to obtain medical services free or at a reduced rate, he may discontinue services to the affected person 30 days after

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notification to the person of the intended discontinuation. Such recipient is entitled to the appeal process set forth in Part IX of these regulations.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

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June 24, 1988

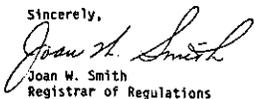
C. M. G. Buttery, M.D., M. P.H.
State Health Commissioner
Department of Health
James Madison Building
Richmond, Virginia 23219

Re: VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services

Dear Dr. Buttery:

This will acknowledge receipt of the above-referenced regulations from the Board of Health.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these Regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan W. Smith
Registrar of Regulations

JWS:s11

three time restrictions on commercial crabbing in Virginia. The purpose of this regulation is to distribute total harvest more evenly throughout the season these restrictions is to allow for conservation of crabs and to improve the enforceability of other laws pertaining to crabbing.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to authority contained in § 28.1-23 of the Code of Virginia.

B. Virginia Marine Resources Commission regulations VR 450-01-0007 and VR 450-01-0012 also pertain to crab dredging. These regulations establish crab catch limits and specify areas where crab dredging is prohibited. Related restrictions on commercial crabbing are found in Title 28.1, Chapter 6 of the Code of Virginia and in VR 450-01-0007, VR 450-01-0012, VR 450-01-0041, and VR 450-01-0049.

C. The effective date of this regulation is December 1, 1985. Sections 3 and 4 of this regulation were added and made effective by Commission action on May 23, 1988; the original regulation was promulgated on November 26, 1985.

§ 2. Saturday prohibition for crab dredging .

It shall be unlawful to take or catch crabs by dredge on Saturdays during the period December 1 through December 31, inclusive, of each year.

§ 3. Sunday prohibition.

It shall be unlawful to take or catch crabs for commercial purposes on Sunday. This section shall not apply to the fishing of peeler crab traps or the working of floats, pens, or onshore facilities for soft crab shedding operations.

§ 4. Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise.

§ 5. Penalty.

As set forth in § 28.1-23 of the Code of Virginia, any person, firm, or corporation violating any provision of this regulation shall be guilty of a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)**

Title of Regulations: State Plan for Medical Assistance Relating to Extended Repayment Schedule.

MARINE RESOURCES COMMISSION

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing. (Formerly entitled: "Pertaining to Crab Dredging on Saturdays.")

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: May 23, 1988

Preamble:

This regulation, requested by industry representatives, prohibits the taking of crabs by dredging on Saturdays during the month of December each year. describes

VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital.

VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care.

VR 460-03-4.194. Nursing Home Payment System.

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

Effective Date: August 5, 1988

Summary:

These regulations modify the State Plan for Medical Assistance and authorize the Director of the Department of Medical Assistance Services to approve an extended repayment schedule of up to 36 months. Presently, the maximum approvable time is 12 months. Whenever a provider overpayment is identified and repayment required and the provider can demonstrate severe financial hardship from immediate repayment, the director may authorize an extended repayment schedule upon the provider's request. The overpayment is subject to all applicable interest charges provided for in the Code of Virginia. Upon completion of the administrative appeal process, if the overpayment determination is reversed, all moneys and applicable interest paid by the provider are returned by the department.

VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital.

VIII. Refund of overpayments- Effective July 1, 1986.

A. Lump sum payment. When the provider files a cost report indicating that an overpayment has occurred, full refund is to ~~shall~~ be remitted with the cost report; ~~or,~~ . In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS will ~~immediately shall promptly~~ send the first demand letter requesting a lump sum refund. Recovery will ~~shall~~ be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

B. Offset. *If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.*

B. C. Payment schedule. If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within ~~thirty~~ 30 days after receiving the DMAS demand letter, the provider ~~should immediately shall promptly~~ request an extended repayment schedule.

DMAS may establish a repayment schedule of up to twelve 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services [("the director")] may approve a repayment schedule of up to 36 months .

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

It must offset any money owned to the provider prior to establishing a repayment plan. When a repayment schedule is used to recover only part of an overpayment, the remaining amount ~~should~~ shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

C. D. Extension request documentation. *In the request for an extended repayment schedule, the provider must shall document its the need for an extended (beyond thirty 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. The Program will If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which will shall be in effect from effective retroactive to the date the provider submits submitted the proposal. If an audit later uncovers an additional overpayment, the provider must submit further documentation if it wishes to request an extended repayment schedule for the additional amount.*

D. E. Interest charge on extended repayment. *Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia (1950) as amended, on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. Once an initial determination of overpayment has been made, [the department DMAS] shall undertake full recovery of such overpayment whether [or not] the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.*

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

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The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by [the department DMAS], if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by [the department DMAS] after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. Interest will not be charged or accrued during the period of the Program's administrative review. Interest will be charged on any unpaid balance from the date of the director's final administrative determination. In any case cases in which any initial a determination of overpayment has been judicially reversed in a subsequent judicial proceeding , the provider shall be reimbursed that portion of the payment to which he it is entitled, plus any applicable interest which the provider paid to [the department DMAS].

VR 460-02-4.192. Methods and Standards for Establishing Payment Rates - Other Types of Care.

L. Refund of overpayments.

(1) Providers reimbursed on the basis of a fee plus cost of materials.

(a) When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services [(the "director")] may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(c) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(d) Once an initial determination of overpayment has been made, [the department DMAS] shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by [the department DMAS], if the provider does not file an appeal, or (ii) the issue date of any administrative decision issued by [the department DMAS] after an informal factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to [the department DMAS].

(2) Providers reimbursed on the basis of reasonable costs.

(a) When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall

promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

(b) If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

(c) If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services [(the "director")] may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

(d) In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

(e) Once an initial determination of overpayment has been made, [the department DMAS] shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by [the department DMAS], if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by [the department DMAS] after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to [the department DMAS].

VR 460-03-4.193. Nursing Home Payment System.

PART XV. REFUND OF OVERPAYMENTS.

§ 15.1. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund ~~is to~~ shall be remitted with the cost report ~~or~~. In cases where DMAS discovers an overpayment during desk review, filed audit, or final settlement, DMAS ~~will immediately~~ shall promptly send the first demand letter requesting a lump sum refund. Recovery ~~will~~ shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

§ 15.2. Offset.

If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

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§ 15.2: § 15.3. Payment schedule.

If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within ~~thirty (30)~~ 30 days after receiving the DMAS demand letter, the provider ~~should immediately~~ shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to ~~twelve (12)~~ 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of DMAS may approve a repayment schedule of up to 36 months .

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

It must offset any money owed to the provider prior to establishing a repayment plan. When a repayment schedule is used to recover only part of an overpayment, the remaining amount ~~should~~ shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

§ 15.3: § 15.4. Extension request documentation.

In the request for an extended repayment schedule, the provider ~~must~~ shall document ~~its~~ the need for an extended (beyond ~~thirty~~ 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS ~~will~~ shall send the provider written notification of the approved repayment schedule, which ~~will~~ shall be in effect from effective retroactive to the date the provider ~~submits~~ submitted the proposal. If an audit later ~~uncovers~~ uncovers an additional overpayment, the provider ~~must~~ submit further documentation if it wishes to request an extended repayment schedule for the additional amount.

§ 15.4: § 15.5. Interest charge on extended repayment.

Once an initial determination of overpayment has been made, [~~the department~~ DMAS] shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial

determination of overpayment.

Interest will be charged to the provider at the rate specified in § 32.1-313 of the Code of Virginia on the unpaid balance of the approved repayment schedule. Interest will accrue from the date the overpayment is determined. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by [~~the department~~ DMAS], if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by [~~the department~~ DMAS] after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. Interest will not be charged or accrued on any overpayment being appealed by the provider during the period of DMAS' administrative review. Interest will be charged on any unpaid balance from the date of the Director's final administrative determination. In any case cases in which an initial a determination of overpayment has been judicially reversed in a subsequent agency or judicial proceeding , the provider shall be reimbursed that portion of the payment to which he it is entitled, plus any applicable interest which the provider paid to [~~the department~~ DMAS].

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: State Plan for Medical Assistance.
VR 460-03-2.6109. Expansion of Transfer of Assets Rules.

Withdrawal Filed: June 17, 1988

The Department of Medical Assistance Services is withdrawing the regulations entitled (VR 460-03-2.6109) Expansion of Transfer of Assets Rule. These regulations were published in 4:18 VA.R. 1905 June 6, 1988, to become effective July 6, 1988. Provisions in the Congressional Catastrophic Health Care Bill have superseded the action taken by the 1988 General Assembly.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Title of Regulation: VR 670-03-1. Regulation Governing Provisions of Services in Vocational Rehabilitation.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

These regulations are intended to state the department's policies under which vocational rehabilitation services are provided. The regulations set forth criteria for eligibility for services, order of selection for services, the type and duration of services, the conditions under which persons may receive services, and their rights and responsibilities including their right to appeal department decisions affecting them.

The Virginia Department for the Visually Handicapped (DVH) is empowered by the Code of Virginia (§§ 63.1-74, 63.1-77, 63.1-81 and 63.1-83) to administer the state's Vocational Rehabilitation Program for the blind and visually impaired. The Federal Program Regulations (Federal Register, Vol. 46, No. 12, January 19, 1981) for Title I of the Rehabilitation Act of 1973, as amended, forms the basis for the department's vocational rehabilitation client service policies to the applicable federal regulations—the proposed rules are presented in §§ 2 through 14.

The only substantive change in the Vocational Rehabilitation regulations is the inclusion of a requirement that all applicants for Vocational Rehabilitation services be provided with information about the Client Assistance Program. All other changes and revisions in these regulations are for the purposes of consistency in definitions, clarity in writing, and grammatical correctness.

VR 670-03-1. Regulation Governing Provisions of Services in Vocational Rehabilitation.

§ 1. Definitions.

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

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of the Department for the Visually Handicapped.

"Client" means any person receiving a service provided by the Department for the Visually Handicapped, whether referred to as a client, participant, patient, resident, or other term.

["Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs, projects, and facilities providing rehabilitation services.]

"Commissioner" means the Commissioner of the

Department for the Visually Handicapped.

"Department" means [Virginia] Department for the Visually Handicapped.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the [costs cost] of [vocational rehabilitation] services [provided by this program].

"Eligibility" means, when used in relation to an individual's qualification for vocational rehabilitation services, a certification that an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment [;] and [that] vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"Employability" means a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets [; ,] the practice of a profession [; ,] self-employment [; ,] homemaking [; ,] farm or family work (including work for which payment is in kind rather than in cash) [; ,] sheltered employment [; ,] homebound employment [; ,] or other gainful work.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Family member or member of the family" means any relative by blood, marriage, or adoption of a handicapped individual living in the same household. If the family member lives outside the household and is not emancipated, he is a member of the family unit.

"Higher education/Institutions of higher education"

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means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

[~~"IWRP"~~"Individual Written Rehabilitation Program (IWRP)"] means an individualized written rehabilitation program for each individual being provided services [~~under an extended evaluation to determine rehabilitation potential or for a vocational rehabilitation program that describes all services to be provided and places primary emphasis on the determination and achievement of a vocational goal by this program~~].

[~~"Legal blindness"~~"Blindness, legal blindness"] means [~~vision no better than 20/200 in the better eye with correction or a field vision restricted to 20 degrees or less in the better eye the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia~~].

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long range goals and intermediate objectives" means the establishment of a vocational goal with job placement, physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Ophthalmologist" means a medical doctor skilled in eye disease and eye treatment.

"Optometrist" means a [~~licensed~~] person [licensed] to practice optometry by the Virginia Board of Optometry.

"Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual in employment after closure.

"Prevocational training" means individual and group instruction, counseling, or both [; ;] the controlled use of varied activities [; ;] and the application of special behavior modification techniques [; ~~clients/patients~~ . Clients/patients] are helped to: (i) develop physical and emotional tolerance for work demands and pressures [; ;] (ii) acquire personal-social behaviors which would make them acceptable employees and [~~coworkers~~ co-workers] on the job [; ;] and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

[~~"Prosthetic and orthotic appliances"~~] means any mechanical equipment that improves or substitutes for one

or more of an individual's senses or for impaired mobility or motor coordination.]

"Public safety [~~officers~~ officer] "means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, fire fighting, or related public safety activities [;] and whose handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management [;] medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical [~~or~~ and] occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation [; ;] public domain Indian allotment [; ;] former Indian reservation in Oklahoma [; ;] and land held by incorporated native groups, regional corporations [,] and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals [;] but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal, and [~~work~~ related work-related] skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance [;] by preventing his obtaining, retaining, or preparing for employment consistent with his [capabilities capacities] and abilities.

"Third party funding" means the use of money from a public or private source to match available allocations to the Department for the Visually Handicapped from the General Assembly.

["VDVH" means the Virginia Department for the Visually Handicapped.]

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used in the development of the individual rehabilitation/habilitation plan.

"Vocational rehabilitation services" when provided to an individual means evaluation of vocational potential, counseling and guidance, physical and mental restoration, vocational and other training, maintenance, transportation, services to family members, interpreter and note-taking services, reader services, telecommunications services, placement, post-employment services, other goods and services which can reasonably be expected to benefit the individual in terms of employability; when provided for the benefit of groups of individuals, also means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities [; which that] promise to contribute substantially to [the] rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf persons.

"Vocational skill training" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"Work activity" means therapeutic work activities and educational, social, personal, and vocational adjustment

training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"Work adjustment training" means a treatment/training process utilizing individual and group work [;] or [work related work-related] activities [;] to assist individuals in understanding the meaning, value, and demands of work; to modify or develop attitudes, personal characteristics, [and] work behavior [; ;] and to develop functional capacities, as required [,] in order to assist individuals toward their optimum level of vocational development.

"Workshop" means a rehabilitation facility [;] or that part of a rehabilitation facility that provides work opportunity at a less-than-competitive level.

[The Virginia Department of Visually Handicapped is empowered by the Code of Virginia (§§ 63.1-74, 63.1-77, 63.1-81, and 63.1-83) to administer the Commonwealth's vocational rehabilitation program for the blind and visually impaired. The Federal Program Regulations (Federal Register, Vol. 46, No. 12, January 19, 1981) for Title I of the Rehabilitation Act of 1973, as amended, forms the basis for the department's vocational rehabilitation client service policies to the applicable federal regulations; the proposed rules are presented in §§ 2 through 14.]

§ 2. Processing referrals and applications.

A. Certain items of information are required in order to open a case record on individuals who are referred for rehabilitation services. The Vocational Rehabilitation Program shall open a case record on every individual who is referred and regarding whom the required items of information are known.

B. A referred individual regarding whom the Vocational Rehabilitation Program has the required items of information and who requests in writing consideration for eligibility for the Vocational Rehabilitation Program shall be considered an applicant. [All applicants are informed regarding the availability of the Client Assistance Program.]

§ 3. Eligibility for vocational rehabilitation services.

A. The [VDVH DVH] Vocational Rehabilitation Program shall serve only individuals with visual impairments. The Virginia Department of Rehabilitative Services (VDRS) is empowered in the Code of Virginia to provide vocational rehabilitation services to individuals with disabilities not involving visual impairment. A cooperative agreement exists between the [VDVH DVH] and VDRS which delineates the client [population populations] to be served by [VDVH DVH] and by VDRS. A multihandicapped individual, one of whose [impairment impairments] is legal blindness, is to be served by the [VDVH DVH].

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B. No vocational handicap exists on a usual basis if the disabled individual is not of working age. Therefore, the [~~V~~DVH DVH] program does not provide vocational rehabilitation services to individuals who have not attained the age of 14. One exception exists to the age of 14 lower limit – an individual may be served at age 13 if he clearly meets all other requirements, is in immediate need of vocational rehabilitation services, and no community resources or similar benefits are available to defray the cost of vocational rehabilitation services.

C. Any qualified applicant residing in Virginia will be served by the [~~V~~DVH DVH] Vocational Rehabilitation Program. Services may be provided to aliens who have a permanent or working visa. To provide services to an alien, there [~~shall~~ must] be documentation in the case records that the individual has either a permanent or work visa, or the green card registration number.

D. The presence of a physical disability for purposes of eligibility for the [~~V~~DVH DVH] Vocational Rehabilitation Program shall constitute one or more of the following:

1. [~~20/200 or less distance vision in the better eye with correcting glasses, or a field restriction to 20 degrees or less in the better eye; Legal blindness—having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or having visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle of no greater than 20 degrees measured (at a distance of 33 centimeters using a three-millimeter white test object, a Goldman III-4e target, or other equivalent equipment);]~~

2. ~~20/100 to 20/200 distance vision in the better eye with correcting glasses [;] or a field limitation to 30 degrees or less in the better eye, if the person has been unable to adjust satisfactorily to the loss of vision and if it is determined by the [~~V~~DVH DVH] rehabilitation counselor [;] that the person is in need of the specialized services available through [~~V~~DVH DVH] Vocational Rehabilitation Program;~~

3. ~~Night blindness [;] or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less; [and]~~

4. ~~Recommendation by an eye doctor for eye surgery or special treatments, regardless of visual acuity, as long as the eye surgery or special treatment is not merely to improve cosmetic effect.~~

E. The federal requirement for the presence of a substantial handicap to employment is met if the visually impaired individual is unemployed or is employed but at employment which is determined by the [~~V~~DVH DVH] rehabilitation counselor to be marginal or unstable. The [~~V~~DVH DVH] does not provide vocational rehabilitation services to successfully employed visually impaired

individuals seeking job promotions or a career change.

F. The federal vocational rehabilitation eligibility requirement that there be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability is carried out by the [~~V~~DVH DVH] rehabilitation counselor as described in § 4.A below. In order for a visually impaired individual to be eligible for vocational rehabilitation services under this criteria, the [~~V~~DVH DVH] rehabilitation counselor [~~shall~~ must] determine that the visually impaired individual is likely to enter remunerative employment, or function as a homemaker, as a result of the delivery of vocational rehabilitation services.

G. The [~~V~~DVH DVH] elects not to provide vocational rehabilitation services on the basis of an interim determination of eligibility.

§ 4. Evaluation of vocational rehabilitation potential; preliminary diagnostic study.

A. In order to determine if an applicant is eligible for vocational rehabilitation services, the [~~V~~DVH DVH] requires the following items:

1. An eye report from an ophthalmologist or optometrist.

2. An appraisal of the current general health status of the individual. This appraisal is to be procured from a qualified physician, except in instances where the individual is referred solely for sponsorship for eye surgery or special treatments. In such instances [,] the [~~V~~DVH DVH] rehabilitation counselor may review health information supplied by the applicant in lieu of a general preoperative medical exam by a physician [~~(there will be a preoperative medical exam by a physician anyway.)~~].

3. A determination by the [~~V~~DVH DVH] rehabilitation counselor that the applicant will likely be able, as a result of vocational rehabilitation services, to enter or reenter remunerative employment or to function as a homemaker. This determination shall be based on the applicant's general health status, his general level of functioning apart from the visual limitation, and his family status.

4. The [~~V~~DVH DVH] rehabilitation counselor will secure such additional examinations or testing as may be indicated by the findings from §§ 4.A.1, 4.A.2, and 4.A.3 above in order to assist in determining eligibility for vocational rehabilitation services. Such additional examinations and tests may include but are not necessarily limited to [:] specialty medical exams, psychological or psychiatric exams, and vocational evaluations.

B. The applicant for vocational rehabilitation services from the [~~V~~DVH DVH] may use a qualified physician(s)

of his choice in obtaining the necessary eye and general health appraisals.

§ 5. Evaluation of vocational rehabilitation potential; thorough diagnostic study.

A. The [~~V~~DVH DVH] rehabilitation counselor shall assess the medical, psychological, vocational, education, and other factors relating to employment and rehabilitation needs.

B. An assessment to the extent appropriate will consist of the following tests and evaluation data.

1. Specialty medical reports;
2. Psychological or psychiatric reports;
3. Vocational evaluations [~~report~~ reports] ;
4. Activities of daily living (ADL) skills evaluation; [and]
5. Low vision evaluation.

§ 6. Order of selection for services.

A. The following order of selection will prevail in the Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped. The order of selection will be implemented if the Virginia Department for the Visually Handicapped [~~(VDVH)~~] cannot serve, due to limited financial resources, all individuals who apply and are potentially eligible for services.

1. [~~Legally~~ A legally] blind [individuals with individual means having a] visual acuity of no better than 20/200 in the better eye with correction, or who have a field loss of 20 degrees or less in the better eye.
2. Those who are severely disabled, based on visual acuity which means their vision cannot be better than 20/70 in the better eye with correction, or if there is a field of less than 70 degrees in the better eye.
3. The nonseverely disabled.

B. When cumulative average monthly expenditures exceed 5.0% of the total funds available for two consecutive months, the order of selection will be immediately implemented. The order of selection can be lifted when the level of expenditures return to the total level of available funding for two consecutive months.

C. The Vocational Rehabilitation Program of the [~~VDVH~~ DVH] shall give top priority to serving public safety officers disabled in the line of duty.

§ 7. Services to handicapped American Indians.

Eligible American Indians, whether or not residing on the Indian reservation in Virginia, will be provided vocational rehabilitation services to the same extent and in the same fashion as other eligible individuals.

§ 8. The [~~individual~~ individualized] written rehabilitation program: procedures.

A. It is Vocational Rehabilitation Program policy that the individual's views be taken into account and that the individualized written rehabilitation plan be jointly developed. As evidence that the individualized written rehabilitation program was jointly developed by the [~~VDVH~~ DVH] rehabilitation counselor and the disabled individual, the rehabilitation counselor will do the following:

1. Forward a copy of the plan to the individual [;] along with a stamped, self-addressed postcard for the individual to sign and return. The postcard states that the individual has received the copy and is aware of the provisions of his plan.
2. Enter the individual's views, either in paraphrase or verbatim, regarding his rehabilitation program on the "plan of services" page of the individualized written rehabilitation program.

B. It is Vocational Rehabilitation Program policy that the [~~VDVH~~ DVH] rehabilitation counselor inform the individual or his representative of all agency procedures and requirements affecting the development and review of the individualized written rehabilitation program.

C. The periodic review of the [individual's] individualized written rehabilitation program (IWRP) will be conducted by the rehabilitation counselor in a face-to-face interview with the individual whenever possible. The review will be conducted via telephone if a face-to-face interview is not feasible. The individual's views will always be taken into account in redeveloping the IWRP. In all cases, a written copy of the periodic review and redeveloped IWRP will be forwarded to the individual [;] along with a stamped, self-addressed postcard for the individual to sign to indicate that he has received a copy of his updated, redeveloped IWRP and is aware of its content.

D. The Vocational Rehabilitation Program fully complies with the federal regulations relating to the termination of services if an individual is determined to be no longer eligible for services. When a case is closed by the Vocational Rehabilitation Program from active status because it has been determined that the individual no longer has rehabilitation potential, the required annual review at that time is done by a representative of the agency's Program Evaluation and Support team (PEST) rather than the rehabilitation counselor who made the ineligibility decision.

§ 9. Scope of state unit program: vocational rehabilitation

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services for individuals.

A. Evaluation of vocational rehabilitation potential. (See §§ 5.A and 5.B of these regulations or applicable requirements.)

The Department for the Visually Handicapped reserves the right to require, prior to commitment of case services funds, to conduct or procure evaluative studies and reports which in the department's opinion are necessary to determine the individual's eligibility for vocational rehabilitation, and to determine the nature and scope of services needed by the individual.

B. Counseling, guidance, and referral.

It is the policy of the Virginia Department for the Visually Handicapped to provide counseling, including vocational counseling and adjustment counseling, as appropriate to all vocational rehabilitation clients. It is also policy of the Virginia Department for the Visually Handicapped that its clients will be referred as appropriate to other agencies for needed services.

C. Physical and mental restoration and training [: :]

1. Physical and mental restoration services can be provided only to correct or substantially modify a physical or mental condition which is stable or slowly progressive.

2. The Vocational Rehabilitation Program does not sponsor visually handicapped individuals for physical restoration when the sole objective is improvement of cosmetic effect [; ,] except when the individual's vocational goal requires extensive, interpersonal, or public contact.

3. The Vocational Rehabilitation Program, in determining rates of payment for various medical services for its clients, abides by the medical fee schedule developed and maintained by the Virginia Department of Rehabilitative Services [in . In] instances where [in] the Virginia Department of Rehabilitative Services has [not] established [such rates. In instances where the Virginia Department of Rehabilitative Services has not established] rates of payments, the Vocational Rehabilitation Program will set rates of payment [; -] seeking and considering the views of medical practitioners, medical insurance carriers, and the Medical Advisory Committee of the Virginia Department of Rehabilitative Services.

4. In determining the amount to be paid for any physical or mental restoration service for a handicapped individual covered by medical insurance, the Vocational Rehabilitation Program will pay only after the similar benefit or insurance has paid. The Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped deems the amount established in the medical fee schedule of the

Virginia Department of Rehabilitative Services [(VDRS)] for any given medical procedure or services to be the full reasonable charge for such medical procedure or service.

5. Individuals eligible for physical restoration services from the Vocational Rehabilitation Program and who are also eligible for Medicare parts A and B are entitled to having the Vocational Rehabilitation Program pay only the Medicare deductible amounts for parts A and B.

6. The Vocational Rehabilitation Program does not sponsor individuals for experimental surgery or special treatments. A decision as to whether any given surgery or special treatment is experimental versus having demonstrated benefit will be made by the Vocational Rehabilitation Program after consultation with appropriate physicians.

7. The following rules govern the purchase of hearing aids for clients:

a. Hearing aids will be provided only on the recommendation of an otologist or audiologist [(never on the sole recommendation of a hearing aid representative)].

b. Binaural hearing aids will be purchased only after the client has successfully adjusted to the use of a monaural aid.

8. The Vocational Rehabilitation Program will not provide routine dental care and prophylaxis (such as [,] routine cleaning, filling cavities, etc.). Oral surgery, orthodontic services, and dental prosthesis may be provided when necessary in order to assist vocational rehabilitation clients obtain employment.

9. Eye surgery or treatment will be provided by a physician skilled in diseases of the eye.

10. The client will exercise free choice in the selection, if necessary, of a physician skilled in the diseases of the eye or an optometrist from those who are duly qualified. If the client desires the Vocational Rehabilitation Program staff to select an ophthalmologist or optometrist, the client will be referred to the optometrist or ophthalmologist most convenient to the client's home.

11. The Vocational Rehabilitation Program will not provide routine "maintenance" drugs (such as [,] high blood pressure medication, eye drops for the control of glaucoma, insulin for diabetics, etc.) for clients. Prescription drugs may be provided incidental to eye surgery or other special treatments or to stabilize a client's medical or eye condition. The Vocational Rehabilitation Program will not pay amounts in excess of the maximum allowable charge (MAC) as described in 45 CFR Part 19 [-]

Limitations on Payment or Reimbursement for Drugs.

12. On-the-job training is used by the Vocational Rehabilitation Program as a means of giving a client practical experience on a job without putting an extra expense on an employer because of a longer learning period on the part of the blind worker. On-the-job training is also a means of persuading reluctant employers to give vocational rehabilitation clients a job trial without cost to the employer. Clients placed in on-the-job training [shall must] be paid at least the federal minimum wage plus the employer's part of the FICA. One exception to the minimum wage rule is in sheltered workshops that have been approved by the U.S. Department of Labor for payment of less than minimum wage to these workers. A maximum time limit of three months is placed on Vocational Rehabilitation Program sponsorship for on-the-job training. A monthly training progress report from the employer is required in order for the Vocational Rehabilitation Program to process the bill.

13. The following policies shall apply to the Vocational Rehabilitation Program sponsorship for college training:

a. It is the policy of the Virginia Department for the Visually Handicapped to sponsor college student-clients in Virginia state-supported colleges and universities. If the necessary curriculum is not available to the student-client in a Virginia state-supported college or university, or if there exists other adequate justification for sponsoring a student-client at an out-of-state college or university, the Vocational Rehabilitation Program may sponsor the student-client in an out-of-state college or university.

b. The Vocational Rehabilitation Program is permitted to sponsor students at public and private colleges and universities in the Commonwealth whose primary purpose is to provide a collegiate education. Students may be sponsored at nonsectarian and public colleges and universities out of state. Any college or university to be used by the Vocational Rehabilitation Program [shall must] be on the list of approved colleges and universities maintained by the Virginia Department of Rehabilitative Services.

c. In determining whether to sponsor a client for college, the Vocational Rehabilitation Program staff will consider high school grade transcripts, aptitude test scores, and psychological test results. The Vocational Rehabilitation Program is not obligated to sponsorship for college unless a determination can be made that the student-client has a reasonable chance of successfully completing his chosen curriculum.

d. In sponsoring a student-client, the Vocational

Rehabilitation Program will pay the actual cost of the education or an amount that does not exceed the amount charged by the most expensive state-supported college or university, whichever is lower. Student-clients not categorically ineligible for Pell Grant assistance [shall must] apply annually for such assistance before the Vocational Rehabilitation Program will obligate itself to pay toward the cost of college training. The Vocational Rehabilitation Program requires maximum utilization of Pell Grant or other available educational grants. Student-clients who are categorically ineligible for Pell Grant assistance (example: graduate students) are required to apply for other available scholarships, fellowships, etc., and to make maximum utilization of same. The client shall send to the [DVH DVH] rehabilitation counselor a copy of the Student Eligibility Report (SER) when he receives it from the college scholarship service. Those who are ineligible to apply for a Pell Grant are required to have a letter by the college sent to the rehabilitation counselor verifying that he has applied for all available scholarship aid and the amounts of assistance, if any. The student-client [shall must] apply for Pell Grant or other financial aid within the college's deadline for accepting such applications. Failure to provide SER or other written verification will result in the Vocational Rehabilitation Program not providing sponsorship for the year. The student-client [shall must] provide the [DVH DVH] rehabilitation counselor with the required SER or other written verification at least 60 days prior to the beginning of the college quarter or semester in order to receive sponsorship from the [DVH DVH].

e. The student-client [shall must] complete required course work within the "normal" period of time. Ordinarily for a bachelor's degree [,] this will be four academic years. Student-clients receiving maintenance, transportation, or personal incidentals [shall must] complete a minimum academic load of 12 hours per regular term and nine during summer term. No student will be sponsored for more than two summer terms, unless he plans to finish college in three academic years and three summer terms [;] and this [shall must] be documented on his IWRP when the service is authorized. Graduate students are required to carry an equivalent load. If at any time the number of hours completed by a student-client receiving maintenance, transportation, or personal incidentals from Vocational Rehabilitation [Program] falls under 12 hours per term, sponsorship by [DVH DVH] will be withdrawn except in exceptional circumstances, such as illness. The requirements for minimum credit hours as described immediately above do not apply to student-clients receiving tuition only.

f. All college students, who have been declared

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emancipated, are required to apply for SSI/SSDI benefits before receiving financial assistance from [~~VDVH~~ DVH].

g. At the end of the first term of the freshman year, the student-client is expected to have attained a grade point average of at least 1.8 on a 4.0 scale. Following the first term of the freshman year, the student-client is expected to maintain a 2.0 average. Failure to do so will result in suspension of sponsorship by the [~~VDVH~~ DVH]. The [~~VDVH~~ DVH] will also withdraw sponsorship if the student-client fails to achieve a 2.0 for any two consecutive terms. (Examples: (i) If a student-client achieves a 1.8 grade point average for the first term of the freshman year, he must achieve a 2.2 the second term in order for the [~~VDVH~~ DVH] to continue sponsorship; (ii) a student-client cannot achieve a 1.7 or lower quality point average for the first semester of the freshman year and continue to receive [~~VDVH~~ DVH] sponsorship.) [~~VDVH~~ DVH] sponsorship for college can resume at such time that the student-client brings his cumulative grade point average to a 2.0 or above. However, in no case will the total [~~VDVH~~ DVH] college sponsorship exceed four academic years and two summer terms or three academic years and three summer terms.

h. The [~~VDVH~~ DVH] will pay maximum of \$300 per academic year for books and supplies and \$100 for summer sessions.

i. Each vocational rehabilitation client being sponsored for college training is required to review and sign a document called the VR-27C (Terms and Conditions of [~~VDVH~~ DVH] Sponsorship of College Students). Failure to sign and return the "Terms and Conditions" document constitutes grounds for termination of [~~VDVH~~ DVH] college sponsorship. Failure to comply with the terms and conditions as set forth in "Terms and Conditions" document will also result in termination of [~~VDVH~~ DVH] college sponsorship. The VR-27C [~~shall~~ must] be reviewed and signed annually by the client. This [~~shall~~ must] be done prior to the development of the IWRP and authorization for the academic year involved.

j. [~~VDVH~~ DVH] clients attending college will be served by the [~~VDVH~~ DVH] rehabilitation counselor who serves the territory in which the college is located. Student-clients attending college out-of-state but within 25 miles of Virginia will be served by the [~~VDVH~~ DVH] rehabilitation counselor whose territory is in closest proximity to the college. Where more than one [~~VDVH~~ DVH] rehabilitation counselor's territory is in equal proximity to an out-of-state college (such as in Washington, D.C.), the [~~VDVH~~ DVH] rehabilitation counselors involved will divide as equally as possible the number of such college student-clients to be

served. Student-clients attending colleges more than 25 miles from the Virginia state line will be served by the [~~VDVH~~ DVH] rehabilitation counselor in whose territory the student-client resides when not at college.

14. It is the policy of the Vocational Rehabilitation Program to provide personal and vocational adjustment training services in the least expensive manner compatible with adequate quality and comprehensiveness of service. Sponsorship decisions involving selection of training vendors/providers will be so governed.

15. Vocational training sponsorship for any vocational rehabilitation client will be limited to that which prepares the client to meet the minimum entry job qualifications for the job he plans to obtain. If, due to the presence of high numbers of qualified job seekers, it is determined that the vocational rehabilitation client will need more than minimum qualifications to reasonably expect to gain employment in the chosen job field, the Vocational Rehabilitation Program may provide training which prepares the vocational rehabilitation client at more than minimum qualification level. In such situations, the sponsorship decision will be made by the Vocational Rehabilitation Program on an individual basis [; -] taking into account available information regarding qualification profiles of entry-level personnel in the client's chosen career field. In instances where an individual's employment is interrupted by sudden blindness, the Vocational Rehabilitation Program will make every effort to assist the individual to return to his previous employment or to an equivalent position.

16. Vocational training will not be provided by the Vocational Rehabilitation Program for clients whose vision is restored by physical restoration to normal or near normal status. That is, clients who after the provision of physical restoration services have vision better than [~~20/200~~ 20/100] distance acuity in the better eye with glasses [;] or who is left with a visual field of more than 30 degrees in the better eye [;] are not eligible for vocational rehabilitation sponsorship for vocational training.

17. In order for the Vocational Rehabilitation Program to continue vocational training sponsorship, the vendor/provider of such training [~~shall~~ must] provide the Vocational Rehabilitation Program with periodic training reports dealing with the client's performance and progress. "Periodic" here is defined as the time period stipulated in writing by the Vocational Rehabilitation Program at the time of authorizing the service.

18. In sponsoring its clients for vocational evaluation or adjustment [; and] vocational adjustment training at a sheltered workshop or other rehabilitation facility, the Vocational Rehabilitation Program will abide by

the fee schedule developed and maintained by the Virginia Department of Rehabilitative Services (VDRS). In instances where out-of-state rehabilitation facilities are not listed in the VDRS fee schedule, the Vocational Rehabilitation Program will pay the same amount as the state vocational rehabilitation agency (agencies) pay for services.

19. Vocational Rehabilitation Program clients will be sponsored, as needed, for prevocational training services in a variety of settings. Such prevocational training consists of, but is not necessarily limited to, work adjustment training and behavior modification training.

20. The following rules apply to provision of maintenance services:

a. Hospitalization incidental to treatment of intercurrent illness is deemed by the (federal) Rehabilitation Services Administration to be maintenance [; ;] and [;] therefore, any vocational rehabilitation client to be sponsored for hospitalization for intercurrent illness [~~shall~~ must] be eligible for maintenance services as described in this section of these regulations.

b. It is the policy of the Vocational Rehabilitation Program to pay maintenance, as far as possible, at the prevailing rate in the community. Payment rates and schedules are revised as needed to keep them current.

c. Maintenance payments are provided only to enable individuals to participate in other vocational rehabilitation services. Maintenance may only be provided when supportive of other vocational rehabilitation services. Maintenance payments may be made to cover food, shelter, clothing, personal incidentals, intercurrent illness, and other subsistence expenses.

d. Maintenance payments may be provided during diagnosis and evaluation, active case services, and post-employment.

e. Payments for maintenance shall not exceed the amount of increased expenses that the rehabilitation program causes to the individual or his family.

f. Maintenance can be paid by the Vocational Rehabilitation Program for clients who reside at home during their rehabilitation programs, but only to the extent of increased costs to the client as a result of participating in the rehabilitation program. When training is outside of their home area, maintenance may be paid only to the extent of increased cost to the client after all available similar benefits have been used.

g. Vocational Rehabilitation Program clients who are

SSDI or SSI recipients are not eligible for maintenance payments from the Vocational Rehabilitation Program, except when there is an increased maintenance cost due to participating in a rehabilitation program. In such instances, the Vocational Rehabilitation Program may pay the difference between actual maintenance costs and the amount of the client's monthly SSDI or SSI benefits.

21. The Vocational Rehabilitation Program makes payments when necessary for transportation for vocational rehabilitation clients incidental to participating in their rehabilitation programs. The amount of payment is limited to that of the least expensive available common carrier. If common carrier service is not available in the client's locality, the Vocational Rehabilitation Program may pay up to the current amount per mile for travel by automobile which is authorized for employees of the Commonwealth of Virginia. It is the policy of the Vocational Rehabilitation Program to provide necessary transportation for eligible clients in the least expensive manner. Transportation, in the sense of relocation and moving expenses necessary for clients to enter employment, is also available to eligible individuals.

22. The Vocational Rehabilitation Program provides services to the vocational rehabilitation client's family members when necessary to the vocational rehabilitation of the client. Due to the highly individualized nature of client situations, the provision of services to family members [~~shall~~ must] be considered on an individualized basis to determine the "necessity." Examples of services to client's family members include: (i) providing bookkeeping training to the client's spouse if the Vocational Rehabilitation Program intends to assist the client start a small family business [; and] (ii) providing child care service if the client is a single parent with small children and the client's vocational rehabilitation involves vocational training [;] or other activities requiring the client's being out of the home.

23. The Vocational Rehabilitation Program provides tactile interpreting for deaf-blind [~~vocation~~ vocational] rehabilitation clients when necessary for them to achieve their vocational objectives. The rate of payment, when it is necessary to purchase such tactile interpreter service, is determined in consultation with the Virginia Department for the Deaf and Hard of Hearing.

24. The Vocational Rehabilitation Program provides reader services for its clients when necessary to assist them in vocational training. The Vocational Rehabilitation Program requires that other available resources for this service be utilized before or in place of the Vocational Rehabilitation Program. The maximum number of hours per academic year for which the Vocational Rehabilitation Program will

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purchase this service per client is 400 hours. Rates of payment for reader service for vocational rehabilitation clients will be set by the Virginia Department for the Visually Handicapped at as nearly as possible to the federal minimum wage amount [; -] taking into account available fiscal resources of the Vocational Rehabilitation Program.

25. The Vocational Rehabilitation Program provides rehabilitation teaching services to its clients through an arrangement with the Rehabilitation Teaching Program of the Virginia Department [of for] the Visually Handicapped and through the Virginia Rehabilitation Center for the Blind.

26. The Vocational Rehabilitation Program discharges its responsibility of payment for note taking in academic and vocational training by providing adaptive equipment which may be used by the blind and severely visually handicapped to take notes. The equipment consists of slate and stylus [or ,] tape recorder [,] or braillewriter.

27. The Vocational Rehabilitation Program discharges its responsibility for provision of orientation and mobility instruction for its clients through [~~V~~DVH DVH] staff. The following client group priorities exist for providing orientation and mobility instruction services:

- a. Clients employed or entering employment;
- b. Clients in or entering vocational evaluation or vocational training;
- c. Clients enrolled in personal adjustment training only; [and]
- d. Clients having limited (restricted to home and yard) mobility needs and objectives.

At such times that [~~V~~DVH DVH] orientation and mobility [~~instructors~~ instructors'] workloads require prioritization of clients in terms of waiting periods for services, the above-listed priority sequence will be followed.

28. The Vocational Rehabilitation Program provides, as necessary and as its operating budget allows, telecommunications, sensory, and other technological aids and devices for its clients to assist them to achieve their rehabilitation objectives. Due to the high cost of many such telecommunications and other sensory aids and devices, the Vocational Rehabilitation Program commits itself only to providing them when they are essential to the client's successful achievement of his rehabilitation objectives. Clients in or entering employment or vocational training are accorded first priority in the provision of such aids and devices. Any purchase of an aid or device with costs exceeding \$2,000 must receive the prior approval

of the Vocational Rehabilitation Program Director.

29. In determining the most appropriate sensory aid to provide, the Vocational Rehabilitation Program will provide the least expensive aid or device which is determined to adequately meet the client's needs in relation to achieving his vocational goal. In instances involving the proposed provision of a closed circuit television, optical to tactile conversion system (Optacon), or other device designated by the Vocational Rehabilitation Program, a [~~V~~DVH DVH] low vision examination report [~~shall~~ must] certify that the client does not have sufficient vision to use less expensive optical aids.

30. Clients of the Vocational Rehabilitation Program will receive necessary vocational rehabilitation services incidental to opening new employment opportunities in the fields of rehabilitation, medicine, health, welfare, public safety, law enforcement, and other appropriate public service employment.

31. Placement in suitable employment is provided by the Vocational Rehabilitation Program through designated staff members of the [~~V~~DVH DVH].

32. Vocational Rehabilitation Program staff, in providing the job placement service, may assign certain tasks to the client (such as [,] reviewing newspaper personnel recruitment ads, contacting prospective employers to arrange for employment interviews, completing sample employment applications, etc.). Failure by the client to discharge reasonable task assignments may constitute grounds for discontinuing job placement assistance from the Vocational Rehabilitation Program.

33. Clients requesting sponsorship from the Vocational Rehabilitation Program in establishing self-employment enterprises are required to cooperate in any feasibility studies which are deemed necessary by the Vocational Rehabilitation Program. Failure to cooperate in such feasibility studies will result in termination of consideration for sponsorship.

34. Post-employment services necessary to maintain suitable employment are provided, as necessary, by the Vocational Rehabilitation Program. Any vocational rehabilitation services may be provided in post-employment status but cannot involve a complex or comprehensive rehabilitation effort unrelated to the original IWRP. Only individuals who have been served by the Vocational Rehabilitation Program in the past and have been determined to be rehabilitated can be eligible for post-employment services from the Vocational Rehabilitation Program. If the Vocational Rehabilitation Program determines that complex or comprehensive vocational rehabilitation services are necessary, the individual cannot be served in post-employment status but shall undergo determination of eligibility for vocational rehabilitation

services as described in § 3.A above.

35. Although federal law and regulations (the Rehabilitation Act of 1973, as amended, and its implementing regulations) do not prescribe a specific time limit for the duration of post-employment services, it is clear from federal (Rehabilitation Services Administration) guidance that post-employment services are not to be "complex" or "comprehensive" and [shall must] be related to the original handicapping condition and IWRP. Therefore, the following rules apply for provision of post-employment services by the Vocational Rehabilitation Program:

a. To be eligible for consideration for post-employment services, the individual must have been determined within the previous 12-month period to have been rehabilitated.

b. The provision of post-employment services by the Vocational Rehabilitation Program shall not exceed 12 months in duration.

c. Individuals being assisted by the Vocational Rehabilitation Program in post-employment status shall have their post-employment services and arrangements documented via amendments to their IWRP.

36. The Vocational Rehabilitation Program will assist clients as necessary to procure occupational licenses [()] including any license, permit, or other written authority required by a state, city, or other governmental unit to be obtained in order to enter an occupation or enter a small business [)] , tools, equipment, initial stocks, and supplies. Such assistance will include the payment of examinations or issuance fees.

37. The Vocational Rehabilitation Program may provide other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability.

§ 10. Rates of payment.

A. Reference to policies governing rates of payment may be found in the following sections of this document:

1. Medical Fees § 9.C.4.

2. College Fees § 9.C.13.

3. Obligation of Sheltered Workshops or Other Rehabilitation Facilities for Vocational Evaluation and Adjustment § 9.C.18.

4. Maintenance § 9.C.20.

5. Transportation § 9.C.21.

6. Interpreter Service for Deaf-Blind § 9.C.23.

7. Reader Service § 9.C.24.

B. The vendor's acceptance of an authorized fee from the medical fee schedule shall be considered [as a] payment in full for medical services.

C. The vendor's acceptance of an authorized fee for a nonmedical service is considered payment in full for that service unless mutually agreed otherwise by the vendor, the client, and the Vocational Rehabilitation Program of [VDVAH the Department for Visually Handicapped].

§ 11. Participation by handicapped individuals in the cost of vocational rehabilitation services.

A. The Virginia Department for the Visually Handicapped has elected to [apply] uniformly [apply] a financial needs assessment for vocational rehabilitation clients in the Commonwealth. Financial need, however, is not applied in order that clients receive the following services:

1. Reader service for clients enrolled in college or in a vocational training program.

2. Adjustment training provided at the Virginia Rehabilitation Center for the Blind in Richmond.

3. Prevocational adjustment training, such as [,] rehabilitation teaching, provided to vocational rehabilitation clients by the Department for the Visually Handicapped field staff.

4. Interpreter services for the [deaf/blind deaf-blind].

5. Diagnosis and evaluation.

6. Counseling, guidance, and referral.

7. Job placement and follow-up.

8. Orientation and mobility training.

9. Summer work experience for high school and college students.

B. Those services where financial need will be assessed include:

1. Tuition for college or other training.

2. Medical treatment and physical restoration services.

3. Books and supplies.

4. Equipment.

5. Services to members of a handicapped individual's family when necessary to the vocational rehabilitation

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of the handicapped individual.

6. Occupational licenses, tools, equipment, and initial stock and supplies.
7. Maintenance during training.
8. Personal incidentals during training.
9. Post-employment services.
10. Telecommunications, sensory, and other technological aids and devices.
11. Transportation.

C. Vocational rehabilitation clients will be required to utilize all available similar benefits for maintenance [,] training, transportation, medical treatment, and physical restoration [;] when it is appropriate to utilize such benefits.

[D. Financial eligibility will be based on gross income, and the income level will be adjusted periodically and will be done uniformly for all vocational rehabilitation clients. While real property will not be considered for financial eligibility, income from such property is to be considered as part of the client's gross income. Liquid assets will be considered for financial eligibility, and will have to be applied toward the cost of those services for which financial need is considered when the liquid assets exceed the amount established for financial eligibility. The only deductions that will be considered will be unusual medical expenses which will mean those expenses not of a routine nature and for which the costs will not be covered by similar benefits. The medical conditions that are not considered routine are those which are acute or have arisen from trauma, and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental expense such as oral surgery or the fitting and maintenance of dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctor's visits and hospital insurance premiums. The second allowable deduction is for tuition costs for the client or family member to attend a private or public educational facility. When the client's gross income, liquid assets, or both, exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by vocational rehabilitation for which there is financial need considered.]

[D. Financial eligibility will be based on the following:

1. Gross income. Income level will be adjusted periodically and will be done uniformly for all independent living clients.
2. Income from real property. Real property will not

be considered for financial eligibility, but income from such property is to be considered as part of the client's gross income.

3. Liquid assets. Will be applied toward the cost of those services for which financial need is considered when the liquid assets exceed the amount established for financial eligibility.
4. Allowable deduction.

a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which will mean those expenses not of a routine nature and for which the costs will not be covered routine are those which are acute or have arisen from trauma and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living for which there is financial need considered.]

§ 12. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. [The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.]

C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually Handicapped, who can either accept or overturn the decision of the impartial hearing officer. The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint

within the judicial system.

F. [~~VDVH~~ DVH] vocational rehabilitation staff will inform each applicant or individual being provided vocational rehabilitation services of the procedure to file a complaint, including the names and addresses of those persons with whom to file a complaint.

§ 13. Protection, use, and release of personal information.

A. The Virginia Department for the Visually Handicapped's Vocational Rehabilitation Program considers the names of prospective clients, current clients, and past clients as confidential information.

B. Any information or documents [() such as [,] eye and medical reports, financial reports, narrative reports, and general data sheet [)] are considered to be confidential.

C. Individuals referred for vocational rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:

1. The need for confidential information.
2. Conditions for accessing and releasing this information.
3. The authority under which confidential information is collected.
4. The principle purpose for which [~~VDVH~~ DVH] will use or release the information.
5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information.
6. Identification of those situations where the agency does or does not require the client's written permission to release the information.
7. Identification of agencies to which information is routinely released.

D. Explanation of policies and procedures affecting personal information will be made by appropriate media by [~~VDVH's~~ DVH's] Vocational Rehabilitation Program to individuals who do not communicate in English or who rely on special modes of communication.

E. Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal or state law.

F. [~~VDVH's~~ DVH's] Vocational Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Vocational Rehabilitation Program. Information containing identifiable

personal information will not be shared by [~~VDVH's~~ DVH's] Vocational Rehabilitation Program with advisory or other bodies which do not have official responsibility for the administration of the program.

G. When requested in writing, [~~VDVH's~~ DVH/] Vocational Rehabilitation Program will make all case information promptly available to the individual or his representative.

H. Personal information obtained by [~~VDVH's~~ DVH's] Vocational Rehabilitation Program from other [agencies' agencies or] organizations will be released only by, or under conditions established by, the other agency or organization.

I. [~~VDVH's~~ DVH's] Vocational Rehabilitation [~~Program~~] will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Vocational Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and if assurances are given that:

1. The information will be used only for the purposes for which it is being provided.
2. The information will be released only to persons officially connected with the audit, evaluation, or research.
3. The information will not be released to the individual involved.
4. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual or his representative.

J. [~~VDVH's~~ DVH's] Vocational Rehabilitation Program releases personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual.

K. Medical or psychological information which is determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures [~~VDVH~~ DVH] that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. [~~VDVH's~~ DVH's] Vocational Rehabilitation Program will release any personal information required:

1. To fulfill federal law;
2. To fulfill judicial order or in response to a law-enforcement investigation, fraud, or abuse (except

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where expressly prohibited by federal law); and

3. To protect the individual or others when the individual poses a threat to the safety of himself or others.

M. Upon the request of the U. S. Secretary of Education or his designee, the [~~VDVH's~~ DVH's] Vocational Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

§ 14. Periodic review of extended employment in rehabilitation facilities.

The Virginia Department for the Visually Handicapped annually reviews and reevaluates the status of handicapped clients it has placed in employment in rehabilitation facilities to determine their potential for placement or training for future placement in the competitive labor market. These reviews and reevaluations are conducted by administrative staff. Where potential for competitive labor market placement or training is found, a referral is made to the appropriate rehabilitation counselor.

* * * * *

Title of Regulation: VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

These regulations are summarized as follows:

Part I provides an introduction to the regulations. It includes definitions used in the regulations and the legal basis.

Part II defines the population served.

Part III describes the policies governing discretionary services to which certain visually impaired infants, children, and youth are entitled and the priority in which visually impaired children will receive services.

Part IV contains information about the department's "Service Complaint or Grievance" policy and procedure.

VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

PART I. INTRODUCTION.

Article 1. Definitions.

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

"Client" means [a child who is served by any person receiving a service provided by the Program for Infants, Children, and Youth of] the Department for the Visually Handicapped.

"Department" means the Virginia Department for the Visually Handicapped.

"Infant" means a child age birth through two years inclusive.

"PICY" means Program for Infants, Children, and Youth.

["Visually handicapped" refers to expected performance. A disability interfering with a task the individual is expected to perform causes a handicap. A handicap may be reduced by modification of the expected task.]

"Visual impairment" [refers to the organs of vision. A disease, injury, or congenital disorder interfering with the organ's function causes a visual impairment. The Department of Education defines "visual impairment" to be means] a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially sighted and blind children.

Article 2. Legal Basis.

§ 1.2. Section 22.1-217 [, Article 2, Chapter 13, Title 22.1,] of the Code of Virginia sets forth the responsibility of the Department for the Visually Handicapped in cooperation with the Virginia Board of Education to provide services to visually impaired children.

PART II. POPULATION SERVED.

§ 2.1. The department serves children who meet the following requirements:

1. Ages birth through 21 inclusive.
2. Have a visual impairment.

PART III. SERVICES.

§ 3.1. Except where stipulated, all services which are available through the Program for Infants, Children, and Youth are provided free of charge from public funds and in a fashion that is appropriate to the individual members

of the population.

§ 3.2. The following services are provided free of charge for students who meet the Title XX financial eligibility requirement [~~(Note: This includes those individuals who are at or below the poverty level.)~~ :]

1. An eye examination is available once per year.
2. One pair of glasses is available once per year.

§ 3.3. [~~To the extent not inconsistent with federal and state laws and regulations, the~~ The] department will be responsible for, but not limited to, providing the following [discretionary] services as appropriate for each individual client:

1. Orientation and mobility services [; .]

[Orientation and mobility services include teaching body image; spatial concepts; compass directions; protective travel techniques for the visually impaired; the proper use of a "long cane" if appropriate; and independent travel skills for residential, city, and rural settings as appropriate for the client's needs.]

2. Low vision services [; .]

[a. Low vision services include a functional vision evaluation, a low vision examination if indicated, training in the use of prescribed low vision aids, and teaching vision utilization skills.

b. These services are available to partially sighted clients.]

3. Infant development services [; and .]

[a. Infant development services are provided using the diagnostic-prescriptive model in which the department's specialists work with the parent and infant program teachers to help them understand the nature of the client's visual disability and the needs associated with that disability. Technical assistance is provided so that developmental techniques can be adapted to meet the client's needs.

b. These services are available to clients age birth to two years of age.

c. If the client is enrolled in an infant program, then the department's services will supplement those of the infant program.]

4. Transition services.

[Transition services include technical assistance to schools who have clients enrolled in vocational education programs. This technical assistance will

include suggestions for both curriculum modification and special or modified equipment.]

§ 3.4. [~~To the extent not inconsistent with state and federal laws and regulations, Discretionary~~] services will be provided in accordance with the department's service plan and the client's individual education plan (IEP) from [~~their~~ his] school division or, lacking an IEP, the [department department's] education plan.

§ 3.5. The department will lend braille or large-print textbooks and specific equipment to the school divisions for use with visually impaired children. The children for which the items are loaned must be on the active service rolls of the department. The list of equipment which is available is updated annually and kept on file at the department's Instructional Materials and Resource Center. The equipment and textbooks can only be ordered by the department's staff and the [public school division's] Itinerant Vision Program teachers. [~~(Vision program teachers are employees of local school divisions.)~~]

Article 2.

[() Client Priority Determination. ()]

§ 3.6. The following is a list of priorities to be used in determining the level and extent of services to be provided to visually impaired children.

1. Age. The younger the child the higher the priority to provide services.
2. Visual acuity. The more severe the child's visual loss the higher the priority to provide services.
3. When the visual impairment occurred. The more recently a child developed a visual impairment the higher the priority to provide services.

§ 3.7. The level and extent of services, equipment, and materials which is available to visually impaired [~~is~~ are] subject to the personnel and fiscal constraints on the department.

PART IV.

[() CLIENT APPEALS PROCESS. ()]

[§ 4.1. The client appeals process is provided under the department's "Service Complaint or Grievance" policy and procedure.]

[§ 4.1. Appeal procedures.

1. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

2. Before requesting a fair hearing, clients of the Virginia Department for the Visually Handicapped should make every effort to resolve the dispute

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through frank discussions with the employee whose decisions are in dispute. It is normally expected that virtually all grievances can be handled in this manner. If, however, the grievance is not resolved, the complainant should proceed.

3. First step. If the grievance is not resolved within 10 full working days after discussions between the client and the employee, the grievant must reduce his grievance to writing on a form obtainable from regional managers, facility administrators, or supervisors. The fully completed grievance form shall be delivered by the grievant to the employee of the Virginia Department for the Visually Handicapped with whom discussions were held. A copy shall also be delivered to that employee's immediate supervisor. The immediate supervisor of this employee shall meet with the grievant and the affected employee within a reasonable time not to exceed two weeks of receipt of the grievance form. The grievant may have a representative or legal counsel, or both, of his choice present at this meeting. Every effort will be made to reach a mutually satisfactory solution during the first step fair hearing.

4. Second step. If the supervisor's reply from the first step meeting is not acceptable to the grievant, he may request, in writing, a meeting with the Assistant Deputy Commissioner for Services. Such request must be submitted within a reasonable time not to exceed two weeks after the first step decision is made. The Assistant Deputy Commissioner for Services shall meet with the grievant or his representative, or both, or legal counsel and the employee within five full working days of the grievant's request and reply in writing to the grievant within three full working days following the second step meeting. The agency may, however, at its own option omit the second step and choose a panel to hear the grievance in accord with the provisions of the third step of this procedure.

5. Third step. If the Assistant Deputy Commissioner's reply from the second step meeting is not acceptable to the grievant, he may submit the grievance to a third step panel hearing. The request for panel hearing must be received within seven full working days after the conclusion of the second step. The panel shall be selected by the Commissioner of the Virginia Department for the Visually Handicapped and will consist of three persons, including the Assistant Deputy Commissioner who served in the second step and the Commissioner who shall be chairman. The panel has the responsibility to interpret the application of appropriate agency policies and procedures in the case. It does not have the prerogative to formulate or change policies or procedures.

The panel shall set the time and place for the hearing, which shall be held as soon as practicable but no more than 10 full working days after the panel has been selected. The grievant may have present at

this meeting a representative or legal counsel at his own expense. Copies of the grievance form shall be sent to the panel members.

The conduct of the hearing shall be as follows:

a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing.

b. The panel may at the beginning of the hearing ask for statements clarifying the issues involved.

c. Exhibits, when offered by the grievant, may be received in evidence by the panel; and when so received, shall be marked and made part of the record.

d. The grievant or his representative and the agency employee shall then present claims and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.

e. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and the parties.

f. The majority decision of the panel shall be final, except that vocational rehabilitation clients have the right to appeal to the Secretary of Education.

The panel chairman shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.

The hearing may be reopened by the panel on its own motion or under application of a party for good cause shown at any time before the decision is made.

Copies of the decision shall be transmitted in writing to the grievant no later than 15 full working days after the completion of the hearing. The grievant shall be informed that this final decision completes all administrative action but does not preclude further pursuit of his grievance through the judicial or other process if he so desires. (See step f.)

Nothing in this procedure is intended to circumvent or modify the existing right of the Virginia Department for the Visually Handicapped to do the following, provided, however, that none of these may be exercised in an arbitrary or capricious manner:

- a. Establish and maintain service standards.
- b. Determine the methods and means by which services are to be carried on.
- c. Direct the work of its employees.
- d. Maintain the efficiency of governmental operations and services to clients.

6. If the department is unable to resolve a complaint in 30 full working days, it shall notify the Virginia Department of Education of the substance of the complaint and the reason for the delay.]

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Title of Regulation: VR 670-03-3. Provision of Services in Rehabilitation Teaching.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

These regulations state the basis for the provision of rehabilitation teaching services. They define the criteria for eligibility, the scope and duration of services, referral of applicants, and the financial participation of clients.

VR 670-03-3. Provision of Services in Rehabilitation Teaching.

§ 1. Definitions.

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

"Assessment" means the systematic evaluation/identification of the clients' need for services.

"Client" means [an individual any person] receiving a service provided by the [Rehabilitation Teaching Program of the] Department for the Visually Handicapped [; whether referred to as a client, participant, patient, consumer, resident, or other term].

["Individualized written rehabilitation plan (IWRP)" means a written individualized rehabilitation plan developed jointly by the disabled individual and the rehabilitation teacher. The IWRP contains the goals established, the services to be provided, the frequency of services, the service provided, and the anticipated duration of the service. "Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.]

["Legal blindness" "Blind person" means a person having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle no greater than 20 degrees measured with a 3mm white test object at 33cm; a Goldman H11-4e target or equivalent. Such blindness shall be certified by a duly licensed physician or optometrist. "Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.]

["Reasonable expectation" means an expected outcome of services provision based on a judgment/decision made jointly by a client (parent or guardian) and a rehabilitation teacher that the services requested and provided would enable the client to benefit from the service. "Reasonable expectation" means that rehabilitation teaching services will significantly assist an individual to improve his ability to function independently.]

"Rehabilitation teaching" means the process of guiding and instructing a visually impaired person through an individualized plan of instruction designed to develop and raise the level of adaptive coping skills, and functional independence.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field restricted to 70 degrees or less in the better eye.

["VDVH" means the Virginia Department for the Visually Handicapped.]

§ 2. Referral.

The department shall expeditiously and equitably process referrals for rehabilitation teaching services.

A. Referral.

A referral is any person for whom rehabilitation teaching services have been requested and for whom the worker has obtained the following information:

1. Name and address;
2. Date of birth and sex;
3. Disability; [and]
4. Referral source and date of referral.

B. Processing referrals.

An assessment by [VDVH the Department for the Visually Handicapped] is required of each severely disabled person who applies for rehabilitation teaching services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided rehabilitation teaching services [;] and to

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determine which rehabilitation teaching services are needed.

§ 3. Eligibility for rehabilitation teaching services.

To be eligible for rehabilitation teaching services, a client must have a visual disability which [,] for the individual [,] constitutes or results in a substantial handicap to personal independent functioning.

A. The presence of a visual disability for purposes of eligibility for [~~VDVH~~ the Department for the Visually Handicapped's] rehabilitation teaching services shall constitute one or more of the following:

1. [Legal blindness: "Blind person" means a person having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle no greater than 20 degrees measured with a 3mm white test object at 33cm; a Goldman III-4e target or equivalent. Such blindness shall be certified by a duly licensed physician or optometrist. Be legally blind.]

2. 20/100 to 20/200 distance vision in the better eye with correcting glasses or a field limitation [of to] 30 degrees or less in the better eye, and if the person has been unable to adjust to the loss of vision [;] and if it is determined by the rehabilitation teacher [;] that the person is in need of the specialized services available through [~~VDVH~~ the Department for the Visually Handicapped's] rehabilitation teaching.

3. Night blindness [;] or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less.

B. A reasonable expectation that rehabilitation teaching services will [benefit the individual in terms of improving ability to cope with blindness and to function more independently significantly assist the individual to improve his ability to cope with blindness and to function more independently].

§ 4. Certification of eligibility.

Prior to or simultaneously with acceptance of a visually handicapped individual for rehabilitation teaching services [,] there [shall must] be documentation in the case narrative; the documentation shall state the basis for the eligibility.

§ 5. Certification of ineligibility.

When an individual is determined ineligible for rehabilitation teaching services [,] the rehabilitation teacher [shall must] inform the client of the ineligibility determination, stating the reasons(s); this may be done

during a personal contact or by a letter. A case narrative shall be placed in the case folder explaining the reasons the client is ineligible.

§ 6. The Individualized Written Rehabilitation Teaching [~~plan~~ Program] (IWRP).

A. Initial plan development.

1. [The IWRP shall be developed jointly by the rehabilitation teacher and the visually handicapped person. The plan will be developed on the basis of the needs as indicated in the assessment completed by the visually handicapped person and the rehabilitation teacher. The IWRP shall contain the established goals, services to be provided, and the anticipated duration of services. The IWRP shall be initiated and periodically updated for individually provided rehabilitation teaching services.]

2. Rehabilitation teaching services shall be provided in accordance with IWRP.

[3. The IWRP shall be initiated after certification of eligibility for rehabilitation teaching services.]

[B. The IWRP shall be reviewed as often as necessary, but at least on an annual basis.]

§ 7. Scope of rehabilitation teaching services.

Services provided through the rehabilitation teaching services program may include:

1. Intake counseling to determine the handicapped individual's need for specific rehabilitation teaching services.

2. Referral to and information regarding available community resources that might benefit the individual.

3. Counseling to assist the visually handicapped individual cope with visual loss.

4. Provision of low vision services [. This] includes [:] assessment of need, arrangement for examination, arrangement for/coordination of purchase of low vision aids, and the provision of instruction and follow-up services.

5. Instruction in the following areas:

a. Personal management skills/activities of daily living;

b. Home management skills;

c. Communication skills: reading, writing braille, typing, script, [and] use of electronic equipment;

d. Other appropriate adaptive coping skills [; ,] i.e.,

leisure and recreational activities; and

e. Information and instruction in the acquisition of and use of adaptive equipment.

§ 8. Financial participation.

There is no financial participation required for the counseling, referral, and instructional services provided through rehabilitation teaching.

* * * * *

Title of Regulation: VR 670-03-4. Provision of Independent Living Rehabilitation Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

These regulations state the basis for the provision of independent living rehabilitation services to those eligible to receive them. They define the criteria for eligibility, the scope and duration of services, referral of applicants, financial participation of clients, confidentiality of personal information, and the appeals procedures for clients of independent living rehabilitation services.

The only substantive change to the proposed independent living regulations is the inclusion of a requirement that all applicants for independent living services be provided with information about the Client Assistance Program. All other changes and revisions in these regulations are for the purposes of consistency in definitions, clarity in writing, and grammatical correctness.

VR 670-03-4. Provision of Independent Living Rehabilitation Services.

§ 1. Definitions.

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

["Center for independent living" means a program of services which offers a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals.]

["Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising independent living rehabilitation applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs, projects, and facilities providing independent living rehabilitation services.]

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of [independent living services services provided by this program].

"Independent living" means control over one's life based on the choice of acceptable options that minimize reliance on others in making decisions and performing everyday activities. This includes managing one's affairs, participating in day-to-day life in the community, fulfilling a range of social roles, making decisions that lead to self-determination, and the minimization of physical and psychological dependency on others.

["Independent living centers (ILC)," a community-based "center without walls," means a community-based nonprofit program which makes services available to individuals in their own community, and enables them to have access to local community services and at the same time provides a central point of contact and support. The point of contact is the regional office, and the Independent Living Coordinator is available to go to the home of the blind multihandicapped individual and through an assessment process with that disabled individual jointly develop an individualized plan of services to provide a measure of functional independence in the home and community.]

["Individual with a severe disability" means an individual whose ability to function independently in a family or a community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in a family or a community or engaging or continuing in employment. Independent living rehabilitation services needed by an individual with a severe disability generally are appreciably more costly and of appreciably greater duration than vocational rehabilitation services that might be provided under 34 CFR, Part 361.]

["Individualized written rehabilitation plan (IWRP)" means a written individualized rehabilitation plan developed jointly by the disabled individual and the Independent Living Coordinator and signed by both parties. The IWRP contains the goals established, the services to be provided, the expected duration of the service program, each component service, and the service provider. The IWRP is revised as often as necessary, but at least on an annual basis to make needed additions, revisions, or modifications. "Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.]

["Legal blindness" "Blind person" means a person having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending

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an angle no greater than 20 degrees measured with a 3mm white test object at 33cm, a Goldman III-4e target or equivalent. Such blindness shall be certified by a duly licensed physician or optometrist. "Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.]

"Reasonable expectation" means an expected outcome of services provision based on a judgment/decision made jointly by an applicant ([or] parent or guardian) and a case manager that the services requested and provided will enable the applicant to improve independent functioning.

["Severely disabled individual" means an individual whose ability to function independently in family or community, or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.]

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

["VDVH" means the Virginia Department for the Visually Handicapped.]

§ 2. Referrals.

The department shall expeditiously and equitably process referrals for independent living services.

A. Referral.

A referral is any person for whom independent living rehabilitation services have been requested and for whom the worker has obtained the following information:

1. Name and address;
2. Date of birth and sex;
3. Disability(ies); [and]
4. Referral source and date of referral.

§ 3. Eligibility for independent living services.

A. Eligibility requirements shall be applied without regard to sex, race, creed, color, or national origin. No group or individual shall be excluded or found ineligible solely on the basis of the type of disability or on the basis of age. No residence requirement shall be imposed which excludes from services any individual who is presently in the Commonwealth.

B. An assessment/evaluation by the [Virginia] Department for the Visually Handicapped [(~~VDVH~~) (DVH)

] is required of each severely disabled person who applies for independent living services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided independent living services, and to determine which independent living services are needed.

C. All applicants for independent living services [shall must] be apprised of the services of the Client Assistance Program within the Department for Rights of the Disabled.

§ 4. Basic conditions for eligibility.

[The following set forth criteria for basic eligibility:]

[A. 1.] The presence of [a visual disability,] legal blindness, which constitutes or results in a substantial impediment to the individual's ability to function independently in the family or community.

[B. 2.] A reasonable expectation that independent living services will benefit the individual in terms of improving his ability to function independently in his family or community. A reasonable expectation that independent living services will significantly assist the individual to improve his ability to function independently in his family or community or to engage in or continue employment.]

[3. Center for independent living. In addition to the basic conditions for eligibility contained in items 1 and 2 of § 4, an individual must possess a second severe physical, mental, or emotional disability which constitutes or results in a substantial impediment to the individual's ability to function independently in a family or community.]

§ 5. Certification of eligibility.

A. Prior to or simultaneously with acceptance of [a severely handicapped individual an individual with a severe disability] for independent living rehabilitation services, there [shall must] be a certification that the individual has met the basic requirements specified in § 4 [of these regulations].

B. The certification is approved, dated, and signed by a [VDVH DVH] staff member.

§ 6. Certification of ineligibility.

A. When it is determined that independent living rehabilitation services cannot be expected to assist an individual to engage or continue in employment [;] or to function more independently in family or community, a certification of ineligibility shall be signed and dated by a [VDVH DVH] staff member. A copy shall be provided to the individual simultaneously.

Such determination shall be made only after full consultation with the individual or, as appropriate, his

guardian, or other representative [; or after . After] affording a clear opportunity for this consultation [: The ~~VDVH~~ , the DVH] shall ensure notification in writing of the action taken and shall inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including procedures for administrative review and fair hearings. The individual shall be provided a detailed explanation of the availability of the resources within the Client Assistance Program, Department for Rights of the Disabled [; ;] and as appropriate [,] referral shall be made to other agencies and facilities, including [,] when appropriate, the vocational rehabilitation program.

B. Review of ineligibility determination.

When [~~VDVH~~ DVH] has certified the ineligibility of an applicant for independent living rehabilitation services because of a determination that these services cannot be expected to assist the individual to engage or continue employment or to continue to function more independently in family or community, the individual's ineligibility status will be reviewed annually. The review will not be conducted in situations where the individual has refused the review, [or] is no longer present in Virginia, or the individual's whereabouts are unknown.

§ 7. The individualized written independent living rehabilitation program (IWRP).

A. Initial plan development.

1. [The IWRP shall be developed jointly by the ~~VDVH~~ staff member and the blind individual (or as appropriate, his parent, guardian, or other representative). The plan will be developed on the basis of the needs as indicated in the assessment completed by the blind individual and the ~~VDVH~~ staff member. The IWRP shall contain the established goals, services to be provided, and the anticipated duration of services. The IWRP shall be initiated and periodically updated for individually provided independent living services.]

2. Independent living services shall be provided in accordance with the IWRP [;] and approved by [~~VDVH~~ DVH] staff member. A copy of the IWRP and any amendments shall be provided to the blind individual [;] or his parents, guardian, or other representative.

3. The IWRP [shall must] be initiated after certification of eligibility for independent living services.

B. IWRP review.

The IWRP shall be reviewed as often as necessary [;] but at least on an annual basis. Each blind individual [;] or his parents, guardian, or other representative shall be given an opportunity to review the IWRP and, if

necessary, jointly modify the IWRP.

C. Determination of ineligibility under IWRP.

If it becomes necessary to terminate services for any reason under an IWRP, the following conditions and procedures shall be met and carried out:

1. The decision [to terminate] shall be made only with the full participation of the blind individual, or his parents, guardian, or other representative [; if , unless] the individual has refused to participate [; if ,] the individual is no longer residing in Virginia [,] or his whereabouts are unknown. When the full participation of the individual or a representative of the individual has been secured in making the decision, the reviews of the individual shall be recorded in the IWRP.

2. The basis for the ineligibility decision shall be recorded as an amendment to the IWRP, certifying that the provision of independent living services has not enabled the individual to function more independently in family or community [;] or engaging or continuing employment. A certification of ineligibility is then completed.

3. There shall be at least an annual review of the ineligibility decision in which the individual is given an opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual [has refused services, has refused a periodic review, the individual] is no longer living in Virginia, or his whereabouts are unknown. The first periodic review of the ineligibility decision shall be initiated by [~~VDVH~~ DVH] staff. Any additional reviews shall be provided at the request of the individual.

D. Coordination with vocational rehabilitation, developmental disabilities and education program.

The development of the IWRP for independent living services will be coordinated with the IWRP for vocational rehabilitation services [;] if there is such a program, as well as with any individualized written rehabilitation program for the individual prepared under Developmental Disabilities Assistance and Bill of Rights Act [;] or with any individualized education program for the individual.

§ 8. Scope of independent living rehabilitation services for individuals.

The following independent living rehabilitation services may be provided if deemed necessary to the independence of the individual:

[1. Counseling services, including psychological, psychotherapeutic counseling, peer counseling, and related services;

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2. *Housing incidental to the provision of independent living rehabilitation service—this includes assistance in finding adequate housing and minor modifications to make housing accessible;*

3. *Transportation;*

4. *Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;*

5. *Recreation activities;*

6. *Attendant care;*

7. *Interpreter services for deaf-blind;*

8. *Services to members of a blind individual's family when needed for improving the individual's ability to live and function more independently;*

9. *Vocational and other training services;*

10. *Referral services;*

11. *Telecommunications, sensory, and other technological aids and devices;*

12. *Any appropriate preventive services necessary to decrease the future needs of a blind individual assisted under the program for similar services.*

1. *Intake counseling to determine the severely handicapped individual's need for specific independent living services;*

2. *Counseling services, including psychological counseling, psychotherapeutic counseling, peer counseling, and related services;*

3. *Advocacy for disabled individuals with respect to legal and economic rights and benefits;*

4. *Housing incidental to the provision of independent living rehabilitation service—this includes assistance in finding adequate housing and minor modifications to make housing accessible;*

5. *Independent living skills, counseling, and training:*

a. *Special tutorial and training services;*

b. *Orientation and mobility;*

c. *Special communication skills for deaf-blind;*

d. *Interpreter services for deaf-blind;*

e. *Rehabilitation teaching; and*

f. *Education and training necessary for living in the community and consumer education.*

6. *Transportation associated with the provision of essential independent living services;*

7. *Reader services;*

8. *Recreation activities—group and individual;*

9. *Attendant care—attendant for short-term care—to enable a multihandicapped blind person who has potential for acquiring skills to expand his independent living skills;*

10. *Interpreter services for deaf-blind;*

11. *Services to members of a blind individual's family when needed for improving the individual's ability to live and function more independently;*

12. *Provision of physical, occupational, and speech therapy;*

13. *Purchase of special adaptive aids and appliances;*

14. *Vocational and other training services;*

15. *Information, referral, and outreach;*

16. *Other programs and services necessary to provide resources, training, counseling, services, or other assistance of substantial benefit on promoting the independence, productivity, and quality of life for the severely handicapped individual; and*

17. *Any appropriate preventive services necessary to decrease the future needs of a blind individual assisted under the program for similar services.]*

§ 9. *Participation by [the] blind individuals [and blind multihandicapped] in the cost of independent living services.*

[A. *An economic needs test is established because of the limited resources of the department.*

B. *An economic needs test is applied uniformly and equitably to recipients of independent living services to determine their participation in the cost of those services. The following services are available for all independent living clients; they are not subject to a Financial Needs Test: Diagnostic and evaluation, counseling, guidance and referral, and interpreter services for the deaf.*

C. *Groups which are exempt include recipients of general relief, recipients of aid to families with dependent children by the client or family in which the client is dependent, Supplemental Security Income (SSI), and Social Security Disability Income (SSDI).*

D. *Those services affected by the client's financial status include tuition or training fees (outside VDVH), adaptive equipment, physical aids and appliances, personal care*

attendants; transportation (except incidental to diagnosis); maintenance during training; personal incidental; services to members of a handicapped individual's family when necessary to the independent living of the handicapped individual.

E. The department will make an assessment of similar benefits available to pay for independent living rehabilitation services. The department will not pay program costs which could otherwise be provided by similar benefits unless it is documented that the delay in securing such benefits would be detrimental to the independent living rehabilitation program.

F. Financial eligibility will be based on gross income, and the income level will be adjusted periodically and will be done so uniformly for all independent living rehabilitation clients. While real property will not be considered for financial eligibility, income from such property is to be considered as part of the client's gross income. Liquid assets will be considered for financial eligibility, and will have to be applied toward the cost of those services for which financial need is considered when the liquid assets exceed the amount established for financial eligibility. The only deductions that will be considered will be unusual medical expenses which will mean those expenses not of a routine nature and for which the costs will not be covered by similar benefits. The second allowable deduction is for tuition costs for the client or family member to attend a private or public educational facility. When the client's gross income, liquid assets, or both, exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living rehabilitation for which there is financial need considered.

A. An economic needs test will be utilized to determine the extent of client participation in the cost of independent living services. Services exempt from consideration for financial participation will be diagnostic and evaluation, counseling, guidance and referral, and interpreter services for the deaf.

B. Groups exempt are:

1. Recipients of General Relief;
2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent;
3. Recipients of Supplemental Security Income (SSI); and
4. Recipients of Social Security Disability Income (SSDI).

C. The department will make an assessment of similar benefits available to pay for independent living

rehabilitation services. The department will not pay program costs which could otherwise be provided by similar benefits unless it is documented that the delay in securing such benefits would be detrimental to the Independent Living Rehabilitation Program.

D. Financial eligibility will be based on the following:

1. Gross income. Income level will be adjusted periodically and will be done uniformly for all independent living clients.
2. Income from real property. Real property will not be considered for financial eligibility, but income from such property is to be considered as part of the client's gross income.
3. Liquid assets. Will be applied toward the cost of those services for which financial need is considered when the liquid assets exceed the amount established for financial eligibility.
4. Allowable deduction.
 - a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which will mean those expenses not of a routine nature and for which the costs will not be covered by similar benefits. The medical conditions that are not considered routine are those which are acute or have arisen from trauma and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.
 - b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living for which there is financial need considered.]

§ 10. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. [The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.]

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C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually Handicapped, who can either accept or overturn the decision of the impartial hearing officer. The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint within the judicial system.

[F. DVH independent living staff will inform each applicant or individual being provided independent living rehabilitation services of the procedure to file a complaint, including the name and addresses of those persons with whom to file a complaint.]

§ 11. Protection, use, and release of personal information.

A. The [~~VDVH~~ DVH] Independent Living Rehabilitation Services Program considers the names of prospective clients, current clients, and past clients as confidential information.

B. Any information or documentation [,] such as [,] an eye and medical report, financial reports, psychological reports, progress reports, and General Data Sheet are considered to be confidential.

C. Individuals referred for independent living rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:

1. The need for confidential information;
2. Conditions for accessing and releasing this information;
3. The authority under which confidential information is collected;
4. The principle purpose for which [~~VDVH~~ DVH] will use or release the information;
5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information;
6. Identification of those situations where the agency does or does not require the client's written permission to release the information; [and]
7. Identification of agencies to which information is routinely released.

D. Explanation of policies and procedures affecting personal information will be made by appropriate media

by [~~VDVH's~~ DVH's] independent living rehabilitation services to individuals who do not communicate in English or who rely on special modes of communication.

E. Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal and state law.

F. [~~VDVH's~~ DVH's] Independent Living Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Independent Living Rehabilitation Services Program. Identifiable personal information will not be shared by [~~VDVH's~~ DVH's] independent living rehabilitation services with advisory or other bodies which do not have official responsibility for the administration of the program.

G. When requested in writing, [~~VDVH's~~ DVH/] Independent Living Rehabilitation [~~Program~~ Services] will make all case information promptly available to the individual or his representative.

H. Personal information obtained by [~~VDVH's~~ DVH's] Independent Living Rehabilitation [~~Program~~ Services] from other [~~agencies'~~ agencies or] organizations will be released only by, or under conditions established by the other agency or organization.

I. [~~VDVH's~~ DVH's] Independent Living Rehabilitation [~~Program~~ Services] will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Independent Living Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

1. The information will be used only for the purpose for which it is being provided;
2. The information will be released only to persons officially connected with the audit, evaluation, or research;
3. The information will not be released to the individual involved;
4. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual [;] or his [~~representatives~~ representative].

J. [~~VDVH's~~ DVH's] Independent Living Rehabilitation [~~Program~~ Services] will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed [,] written consent of the individual.

K. Medical or psychological information which is

determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures [VDVH DVH] that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. [VDVH's DVH's] Independent Living Rehabilitation [Program Services] will release any personal information required:

1. To fulfill federal law;
2. To fulfill judicial order or in response to a law-enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law); [and]
3. To protect the individual or others when the individual poses a threat to the safety of himself or others.

M. Upon the request of the Secretary of Education or his designee, the [VDVH's DVH's] Independent Living Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

§ 12. [Independent living centers Centers for independent living].

["Center for Independent Living" means a program of services or a facility which offers a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals.]

The department operates independent living centers for blind multihandicapped Virginians in its regional offices. [The centers shall adhere to the regulations in the previous sections of these regulations.]

§ 13. [Independent living advisory committees Governing board of centers for independent living].

[A. There shall be a governing board consisting of a majority number of persons with disabilities.

B. Independent living advisory committees.]

[A. 1.] Each independent living center shall have an advisory committee [;] consisting of no less than seven persons, established for the purpose of assistance in planning, developing, and implementing a comprehensive system of delivering independent living services to blind and blind multihandicapped individuals.

[B. 2.] The advisory committee shall contain a majority number of persons with disabilities.

§ 14. Staff.

Independent living center staff shall include as large a proportion of persons with disabilities as is practicable.

[§ 15. Referrals.

Independent living centers will adhere to the Independent Living Rehabilitation Services Regulations contained in § 6 of this document.

§ 16. Eligibility for those persons served by independent living centers.

A. Eligibility requirements shall be applied without regard to gender, race, age, creed, type of disability, color, or national origin. No residence requirement shall be imposed which excludes from services any individual who resides in the Commonwealth.

B. Basic eligibility criteria:

A person may be eligible to participate in an independent living center program when the following conditions exist:

1. Legal blindness. "Blind person" means a person having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle no greater than 20 degrees measured with a 3mm white test object at 33cm, a Goldman III-4e target or equivalent. Such blindness shall be certified by a duly licensed physician or optometrist.

2. Possesses a second severe physical, mental, or emotional disability.

3. These disabilities constitute or result in a substantial impediment to the individual's ability to function independently in the family or community.

4. There is a reasonable expectation that independent living center services will benefit the individual in terms of improving his ability to function independently in the family, community, or work.

C. Certification of eligibility.

1. Prior to or simultaneously with acceptance with a severely handicapped individual for independent living center services, there shall be a certification that the individual has met the basic requirements specified in § 16 of these regulations.

2. The certification is approved, dated, and signed by a VDVH staff member.

§ 17. Certification of ineligibility.

Independent living center services will adhere to the

Final Regulations

Independent Living Rehabilitation Services Regulations contained in § 6 of this document.

§ 18. Scope of independent living center services.

Services provided through the independent living centers may include:

- 1. Intake counseling to determine the severely handicapped individual's need for specific independent living services;*
- 2. Information referral and outreach;*
- 3. Adjustment and peer counseling;*
- 4. Advocacy for disabled individuals;*
- 5. Assistance with housing relocation and minor modifications;*
- 6. Counseling and advocacy services with respect to legal and economic rights and benefits;*
- 7. Independent living skills, counseling, and training:*
 - a. Special tutorial and training services;*
 - b. Orientation and mobility;*
 - c. Special communication skills for deaf-blind;*
 - d. Interpreter services for deaf-blind;*
 - e. Rehabilitation teaching;*
 - f. Education and training necessary for living in the community and consumer education;*
- 8. Provision of physical, occupational, and speech therapy;*
- 9. Purchase of special adaptive aids and appliances;*
- 10. Transportation associated with the provision of essential independent living services;*
- 11. Individual and group social and recreational activities;*
- 12. Personal care attendant for short-term care, to enable a multihandicapped blind individual who has potential for acquiring skills to expend his independent living skills;*
- 13. Reader services associated with the provision of independent living rehabilitation services;*
- 14. Other programs and services necessary to provide resources, training, counseling, services, or other assistance of substantial benefit on promoting the*

independence, productivity, and quality of life for the severely handicapped individual.

§ 19. Participation by individuals in cost of services.

Independent living centers will adhere to the Independent Living Rehabilitation Services Regulations contained in § 9 of this document.

§ 20. Appeals procedure.

Independent living centers will adhere to the Independent Living Rehabilitation Services Regulations contained in § 10 of this document.

§ 21. Protection, use, and release of personal information.

Independent living centers will adhere to the Independent Living Rehabilitation Services Regulations contained in § 11 of this document.]

* * * * *

Title of Regulation: VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

Statutory Authority: § 63.1-78 of the Code of Virginia

Effective Date: August 3, 1988

Summary:

The Virginia Department for the Visually Handicapped (DVH) shall, through powers conferred and imposed upon the department as to matters relating to social services to the blind and visually handicapped, provide supervision and administration of its provisions. The department shall make rules and regulations; establish minimum standards of service and personnel based upon training, experience, and general ability for the personnel employed by the department; and maintain those standards. The department shall cooperate with the local boards and local departments of social services.

The revisions from proposed to final regulations for Intake and Social Services include clarity, conformity of definitions, and grammatical correctness. There were no substantive changes to these regulations.

VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

§ 1. Intake process.

The welfare services specialists [shall] handle all referrals processed through the applicable Virginia Department for the Visually Handicapped [(DVH)] regional office with the following exceptions: individuals in primary, secondary school [,] or under the age of 14 [;]

and individuals in need of physical restoration. These individuals [are shall be] referred to [education services Program for Infants, Children, and Youth Services] and Vocational Rehabilitation Services, respectively. This procedure expedites the referral process by matching need with service in the most effective way. If other services are indicated, the appropriate service provider [will shall] make the subsequent referral [as follows: .]

[1. A.] Welfare services specialist [contacts shall contact the] referred individual to arrange an interview within 10 workdays.

[2. B.] If unable to contact individual within 10 workdays, a contact letter [is shall be] mailed to [the] individual with a brochure describing services through [the] Department for the Visually Handicapped.

[3. C.] If [the] individual desires [to receive] services [from the department] , he [signs shall sign] the application for services and release of information form.

[4. D.] Among the elements of information gathered is data on the income of the individual. This enables the service providers to determine financial eligibility for specific programs [or services;] such as [,] Vocational Rehabilitation, Independent Living, and Rehabilitation [Training Teaching] Services, and Title XX [to aid local departments of social services:]

[5. E.] Arrangements [are shall be] made for an eye examination or the acquisition of an eye examination if recently completed.

§ 2. Services [of the Department for the Visually Handicapped] not indicated.

During the intake process, it may be determined that services other than intake [will shall] not be delivered to an individual. This referral is deemed services not indicated [in two categories: . A services not indicated referral shall be referred to other community services outside the department with the permission of the referred individual. There are two categories:]

A. Inappropriate referral.

1. [The] individual is not visually impaired or does not possess a deteriorating eye condition.
2. [The] individual may have physical or mental handicaps so severe to prevent him from benefiting from services.
3. [An otherwise visually handicapped individual who is not presently The individual is visually impaired but is not] prepared to accept services.

B. Refused services referral.

A person has the legal right to refuse all services regardless of how severe the visual impairment.

[A services not indicated referral may still be referred to other community services outside the department.]

* * * * *

Title of Regulation: VR 670-03-6. Regulations Governing Deaf-Blind Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

The procedures, instructions, and guidelines set forth the requirements and procedures relating to needs of deaf-blind persons. The agency recognizes that deaf-blind persons have unique needs that can best be met by highly specialized programs of service that provide the deaf-blind individual with training in skills he must master in order to attain the highest degree of physical, emotional, and economic functioning possible.

VR 670-03-6. Regulations Governing Deaf-Blind Services.

§ 1. Definitions.

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

"Client" means [an individual who has been referred for any person receiving a service provided by] Deaf-Blind Services [of the Department for the Visually Handicapped].

"Deaf" means those individuals who cannot hear and understand speech through the ear alone under normal conditions, with or without amplification; a hearing loss greater than 70 decibels in the better ear without amplification; a speech discrimination score below 40%; or both.

"Deaf-Blind Services" means special services a client would need due to a combined loss of vision and hearing [; ;] i.e., interpreter for the deaf-blind; communication skills assessment and training; assessment of special aids and devices such as tactile or visual signaling systems, telecommunication devices, and assistive listening devices.

"Hearing impaired" means those individuals whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without amplification. Hearing loss is in the range of 30 decibels to 70 decibels, a speech discrimination score below 75%, or both.

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["Legal blindness" "Blindness, legal blindness"] means [those individuals having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or visual acuity greater than 20/20 but with the widest diameter of the visual field in the better eye subtending an angle no greater than 20 degrees measured with a 3mm white test object at 33cm, a Goldman III-4e target or equivalent; the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.]

["Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.]

"Speech discrimination" means the ability to hear and understand spoken communication.

["Visually impaired" means those persons with a visual acuity between 20/70 and 20/200 in the better eye with best correction using conventional lenses; or a field of vision between 20 degrees and 70 degrees in the better eye.]

§ 2. Eligibility.

An individual with a combined loss of vision and hearing is eligible for deaf-blind services.

The agency practices nondiscrimination in serving multiply handicapped visually impaired individuals.

§ 3. Delivery of services.

[It is the intent of these regulations that deaf-blind clients be fully integrated into the service programs provided by the department to the extent practical.]

Procedures for the delivery of deaf-blind services will be developed in the manuals of the following agency programs: Intake and Social Services; Independent Living Rehabilitation Services; [Rehabilitation Teaching Services; Vocational Rehabilitation Services;] Program for Infants, Children, and Youth; and Volunteer Services.

* * * * *

Title of Regulation: VR 670-03-7. Regulations Governing Low Vision.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: August 3, 1988

Summary:

The procedures, instructions, and guidelines set forth the requirements and procedures relating to the provision of low vision services. The Virginia Department for the Visually Handicapped operates a low vision services program that is comprehensive and

community based. It is designed to meet the needs of all citizens of the Commonwealth who could benefit from these services.

The revisions from proposed to final regulations for governing low vision services include revisions for clarity, conformity of definitions, and grammatical correctness. In addition, there is one major change which was recommended by the legislative and gubernatorial reviews. This change was in § 6, driving with bioptics.

VR 670-03-7. Regulations Governing Low Vision.

§ 1. Definitions.

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

"Bioptics" means telescopes mounted in a superior position in carrier lenses.

["Client" means an individual who has been referred for low vision services and satisfies the eligibility requirement for receipt of services. "Client" means any person receiving a service provided by the Low Vision Program of the Department for the Visually Handicapped.]

"Low vision" means reduced visual functioning. It is the condition which exists when no further medical or surgical procedures or regular prescription lenses are beneficial but residual vision exists.

"Low vision aids" means optical and nonoptical devices which are prescribed for the purpose of enhancing subnormal or low vision.

"Low vision services" means all aspects which are necessary to the comprehensive provision of services, i.e., preexamination evaluations, low vision examination, provision of prescribed low vision aids, and follow-up training and counseling in the use of low vision aids.

"SSI" means Supplemental Security Income [which is supplemental income for individuals in economic need. It is administered and regulated by the Social Security Administration].

§ 2. Low vision services referral.

An individual who has low vision and needs and desires low vision services may be referred for services. A case record shall be opened for every individual who is referred for low vision services. Each case record shall include a referral form and a narrative report. The narrative report shall state the desired outcome of the provision of services and the means by which the decision to receive services was made.

§ 3. Eligibility.

An individual shall be eligible for low vision services if the individual's corrected visual acuity is 20/70 or worse in the better eye [~~when funding resources allow.~~ ~~Otherwise, eligibility for low vision services shall be limited to individuals who are legally blind.~~]

§ 4. Preexamination.

Prior to the scheduling of a low vision examination [by an agency case manager], the receipt of an [ophthalmological or optometrical] eye report shall be required, except where an [eye ophthalmologist or optometrist] examiner has stated the necessity for an examination prior to the sending of the report. The eye report shall have been made within one year [from the date of the scheduled low vision examination]; except where the eye condition is stable, the eye report may have been made within two years [from the date of the scheduled low vision examination].

An authorization form issued by the agency case manager shall be prepared for all clients in order to pay for the examination [through an appropriate payment source in the agency as long as that source has determined that funds are available].

§ 5. Financial participation.

A. General provision.

Endowment fund sponsorship shall be limited solely by the availability of funds. [Endowment fund sponsorship is available for an individual whose income is at or below the level established for Medicaid.]

B. Low vision examination.

There is no charge to the individual for a low vision examination [as long as funds are available for this activity as determined by the agency].

C. Low vision aids.

An individual shall be eligible for endowment fund sponsorship for the provision of low [~~visions vision~~] aids if the individual's family income falls at or beneath the established levels for Medicaid eligibility or SSI eligibility as established by the federal government, whichever is higher. An individual who is eligible for endowment fund sponsorship shall receive the prescribed low vision aids at no charge. This provision of aids through endowment fund sponsorship shall be limited to a maximum of:

1. One near aid;
2. One distance aid;
3. A pocket magnifier; and

4. Sun wear.

All of these shall be stock items.

An individual who is not eligible for endowment fund sponsorship or other funding source sponsorship shall be required to purchase the aids. The aids shall be dispensed at cost.

§ 6. Driving with bioptics.

Low [~~visions vision~~] services will provide evaluation for bioptic systems, where appropriate, and will prescribe them as indicated in order to enhance residual vision. [~~When a low vision examiner under contract to this agency prescribes a bioptic system as a function of an agency-paid low vision exam, he cannot certify the client for driving with this prescribed bioptic system as required by the Department of Motor Vehicles.~~]

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

Bureau of Insurance

April 5, 1988

Administrative Letter 1988-5

TO: All Companies Licensed to Write Title Insurance in Virginia and All Licensed Title Insurance Agents in Virginia.

RE: Title Insurance Agent Examination.

In December, 1986, the State Corporation Commission Bureau of Insurance issued Administrative Letter 1986-23 relating to the title insurance agent examination. The letter stated, among other things, that due to changes in Section 38.2-1814.1 effective January 1, 1987, every individual agent would have to pass an examination in order to hold a title license. Also, agents who were authorized agents of title insurance companies as of January 1, 1987, would have until July 1, 1988, to comply with the exam requirement.

The 1988 General Assembly has again amended Section 38.2-1814.1 and "grandfathered" any title agent who was licensed as of January 1, 1987. In other words, any agent who was an authorized agent on January 1, 1987, of a title insurance company licensed to transact title insurance in the Commonwealth, shall be exempt from the examination requirement.

Any applications received from individuals who qualify for this exemption will be returned with an explanatory letter. Any agent who was licensed on January 1, 1987, but who has allowed the title license to lapse, must take the current examination in order to regain his license status.

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

Bureau of Insurance

May 25, 1988

Administrative Letter 1988-6

TO: All Insurance Companies, Health Services Plans, Health Maintenance Organizations, and Other Interested Parties.

RE: Legislation Enacted by the 1988 Session of the General Assembly of Virginia

Attached are summaries of certain statutes enacted or amended and re-enacted by the General Assembly of Virginia during the 1988 Session.

The effective date of these statutes is July 1, 1988 EXCEPT as otherwise indicated in the attachment.

Each organization to which this letter is being sent should review the attachment carefully and see that notice of these laws is directed to the proper persons (including its appointed representatives) to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a summary of legislation and is neither a legal review and interpretation nor a full description of legislative amendments made to insurance-related laws during the 1988 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

Summary of 1988 Insurance Legislation Commonwealth of Virginia

(All Bills Effective July 1, 1988 Unless Otherwise Noted)

PROPERTY AND CASUALTY INSURANCE

Senate Bill 27 and House Bill 182

Uninsured motorist insurance/underinsured coverage

These are identical bills.

These bills amend § 38.2-2206 (Uninsured motorists coverage) by changing the definition of "underinsured motor vehicle" to allow an injured person to receive compensation from his own uninsured/underinsured motorist coverage in the event that the negligent party's liability coverage is reduced or unavailable due to payment of other claims arising out of the same occurrence.

The bills also set forth an order of priority for payment in the event an injured person is entitled to underinsured motorist coverage under more than one policy.

Senate Bill 165

Insurance policies and contracts

This bill amends Chapter 3 of the Insurance Code (Provisions relating to insurance policies and contracts) by including within the scope of the Chapter policies written to insure private pleasure vessels. The bill requires such policies to be filed for prior approval of the Commission and to comply with other provisions of the Chapter. This change will not affect ocean marine insurance policies written to insure vessels or craft used primarily in a trade or business.

This bill also amends § 38.2-317 (Delivery and use of certain policies and endorsements) by requiring an insurer to notify the Commission, prior to the effective date of any filing, if it does not plan to use a filing made on its behalf by a rate service organization. Such notification

must be given to the Commission before the effective date of the filing.

Senate Bill 332 and House Bill 736

Commercial Joint Underwriting Association

These are identical bills.

These bills add a new chapter to the Insurance Code (Chapter 29 - Commercial Liability Insurance Joint Underwriting Association) giving the Commission statutory authority to activate a commercial liability insurance joint underwriting association if, after investigation, notice, and hearing, it determines that any line, subclassification or type of commercial liability insurance coverage can no longer be made reasonably available for a significant number of any class, type or group of such risks in the voluntary market or through a market assistance plan. The purpose of the association is to provide markets for commercial liability insurance for persons with eligible risks who are unable to obtain commercial liability insurance coverage, including incidental coverage, through the voluntary market. Commercial liability insurance means those classes defined in §§ 38.2-117 and 38.2-118 but does not include medical malpractice insurance, nuclear liability, or any risks, lines, or subclassifications that are determined by the Commission to be uninsurable.

Senate Bill 444 and House Bill 561

Limitation of risks/Small Business Administration

These are identical bills.

These bills amend § 38.2-2403 (Limitation of liability on risks) pertaining to the limitation of liability exposure for fidelity and surety insurers. The provisions of the bill allow the fidelity and surety insurer to exceed the limit specified in § 38.2-208 (Limitation of risks generally) if the risk is guaranteed by the Small Business Administration (SBA) pursuant to the Small Business Investment Act of 1958. The SBA has a bond guarantee program that reduces the risk of bonding companies by guaranteeing the performance of the bond (up to 90% of the loss incurred). The guarantee program encourages bonding companies to issue surety bonds to marginal firms that may not qualify for a surety bond without the backing of the Small Business Administration. This bill allows the bonding company to exceed the single risk limit prescribed by § 38.2-208 as long as the risk has the backing of the SBA.

House Bill 95

Aftermarket parts

This bill amends § 38.2-510 (Unfair claims settlement practices) with regard to the use of aftermarket parts in auto repairs. The insurer is now required to disclose to the claimant in writing when an estimate for repairs is based on the use of parts not made by the original

manufacturer (aftermarket parts). The disclosure must also specify that such parts are required to be at least equal, in terms of fit, quality and performance, to the original manufacturer parts being replaced.

House Bill 297

Cancellation and non-renewal of automobile insurance

This bill is the result of recommendations made in a report prepared by the Bureau of Insurance of the State Corporation Commission pursuant to 1987 Senate Joint Resolution No. 142 and reported in 1988 Senate Document No. 14.

Changes were made in § 38.2-2210 (Warning concerning cancellation to appear on application for motor vehicle liability insurance) requiring that the statutory warning concerning cancellation that appears on any application for the original issuance of any motor vehicle liability insurance policy be in boldface type. The requirement that red type be used has been repealed. Subsection B has been added to require that the insured be permitted to provide an explanation for a previous termination if the insurer asks for information regarding any previous termination.

The bill also amends subsection C of § 38.2-2212 (Grounds and procedure for cancellation of or refusal to renew motor vehicle insurance policies) by including the language "solely because of any one or more of the following factors" to be consistent with the language found in § 38.2-2213 pertaining to unfair discrimination. Subsection C of § 38.2-2212 is also amended to prohibit an insurance company from refusing to renew a private passenger motor vehicle insurance policy solely on the basis of one or more of the following factors:

1. Lack of driving experience or number of years driving experience;
2. Lack of supporting business or lack of the potential for acquiring such business;
3. One or more accidents or violations that occurred more than forty-eight months immediately preceding the upcoming anniversary date;
4. One or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;
5. A single claim by a single insured submitted under the medical payments or medical expense coverage of the policy due to an accident for which the insured was neither wholly nor partially at fault; or
6. One or more claims submitted under the comprehensive or towing coverages of the policy.

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Subdivision 2 of subsection C of § 38.2-2212 is amended to add a sentence to allow an insurer to non-renew a policy if a claim submitted is false or fraudulent. Subsection E of § 38.2-2212 is amended to specify in the notice of cancellation or non-renewal that the insured's right to a review by the Commissioner entitles the insured to a review of the technical and legal accuracy of the cancellation or non-renewal, but does not give the Commissioner the authority to make underwriting judgments.

House Bill 326

Fire Programs Fund

This bill amends subsection B of § 38.2-401 (Fire Programs Fund) which relates to the Fire Programs Fund that is funded by assessments on fire policies and combination policies that contain fire, miscellaneous property, and marine coverages. The amendments add the constructing, improving and expanding of local fire training facilities to the projects that may be paid for by the Fund. The bill also requires that all training at local fire service facilities be conducted by instructors certified and approved according to Department of Fire Programs Regulations and approved by the Virginia Fire Services Board.

House Bill 444

Uninsured motorist coverage/service of process

This bill amends subsection E of § 38.2-2206 (Uninsured motorists coverage) by adding a sentence stating that the provisions of § 8.01-288 (Process received in time good though neither served nor accepted) are not applicable to this subsection.

Section 8.01-288 of the Civil Remedies and Procedure Code states that, except for certain actions (divorce and annulment), process which has reached the person to whom it is directed within the time prescribed by law is sufficient even though it has not been served or accepted as provided in Chapter 8 of Title 8.01.

House Bill 467

Uninsured motorist coverage/tortfeasor

This bill amends § 38.2-2206 (Uninsured motorists coverage) by stating that a liability insurance carrier providing coverage under a policy issued or renewed on or after July 1, 1988, may pay the entire amount of its available coverage without obtaining a release of a claim if the claimant has underinsured insurance coverage in excess of the amount so paid. The bill also requires the insurer of the alleged tortfeasor to notify its insured as well as the claimant's insurer that it has paid the full amount of its available coverage.

House Bill 471

Notice of cancellation on application

This bill amends § 38.2-2210 (Warning concerning cancellation to appear on application for motor vehicle liability insurance) by requiring an insurer to give the warning concerning cancellations to an applicant within 10 days of the application if the applicant is not given a written copy of the application. This provision will apply only if coverage has been bound by the insurer.

House Bill 560

Medical malpractice JUA

This bill amends Chapter 28 of the Insurance Code (Medical Malpractice Joint Underwriting Association) by deleting reference to the group retrospective rating plan, providing instead for a group retrospective premium adjustment. The phrase "temporary contributions" has also been deleted and replaced with the phrase "other assessments... as authorized by this chapter." The bill also eliminates the requirement that retrospective premium refunds to the association go into the stabilization reserve fund.

House Bill 690

Uninsured motorist coverage/self-insured employer

This bill amends § 38.2-2206 (Uninsured motorist coverage) to provide that if an employee of a self-insured employer receives a workers' compensation award for injuries resulting from an accident with an uninsured auto, the award shall be offset against any judgement for damages awarded under uninsured motorist coverage for that accident.

House Bill 734 (effective March 20, 1988)

Reporting liability claims

This bill amends § 38.2-2228.1 (Certain liability claims to be reported to Commission) by exempting mutual assessment insurers and by allowing the Commission to exempt certain other insurers from the annual reporting requirement pertaining to all personal injury and property damage liability claims made against policies insuring commercial entities. Insurers may be exempt if the Commission determines that the application of the provisions of this section are unnecessary to achieve the purposes of the section. This bill allows the Commission, for example, to exempt insurers writing only a small amount of liability insurance.

House Bill 735 (effective March 20, 1988)

Reporting commercial liability insurance data

This bill makes technical amendments to H.B. 1235 which was passed last year. This bill amends § 38.2-231 (Notice of cancellation, refusal to renew, reduction in coverage or

increase in rate of certain liability insurance policies) pertaining to notices of cancellation, non-renewal, reduction in coverage or increase in rates for certain liability policies. It clarifies, in subsection B.2, that the insurer must retain a duplicate copy of a notice of reduction in coverage as well as notice of a rate increase as required by subsection A1 of this section.

This bill also amends § 38.2-2003 (Rate filings by insurer) by clarifying that insurers must submit with their rate filings the number of claims unpaid as well as the number of claims paid. This language, when it was originally drafted, inadvertently listed the same requirement twice in paragraphs 5 and 8. This language should be consistent with § 38.2-1905.2 (Supplemental report required for certain lines or subclassifications of liability insurance) and should show the number of claims paid as well as the number of claims unpaid.

House Bill 774

Financial Guaranty Insurance

This bill amends § 38.2-208 (Limitation of risk). Before being amended, this section provided for specific single risk limits for municipal bond insurance. This bill now provides a specific single risk limit for all other kinds of financial guaranty insurance. The single risk limit is that the insured unpaid principal with respect to obligations for any one entity will not exceed 10% of the insurer's surplus to policyholders. A definition of "financial guaranty insurance" is also included and is based in part on the NAIC Model Act.

The definition of "municipal bond" has been expanded to include issues by non-governmental entities that would be eligible for issuance by governmental entities. This definition has also been revised to include obligations of the governments of the United States and Canada in addition to state or local obligations or Canadian provincial obligations.

The bill also added to the list of what may reduce the amount of insured unpaid principal for the purpose of subsection C, the amount of deposit of (i) a conveyance or mortgage of real property and (ii) the scheduled cash flow from obligations rated in the four highest major rating categories recognized by the Commission if scheduled to be received on or prior to the date of scheduled debt services on the insured obligations.

A provision is also added to allow contingency reserves to be included in the insurer's surplus to policyholders.

House Bill 879

Collision damage waivers

This bill created a new chapter in Title 59.1 (Trade and Commerce) for the regulation of the collision damage waiver portion of the rental agreement between an auto

rental agency and the person or organization obtaining the use of a rental motor vehicle.

The bill provides for a written notice indicating that purchase of the collision damage waiver is not mandatory and may be waived. The bill also prohibits any collision damage waiver from containing an exclusion for damages caused by ordinary negligence of the lease.

LIFE AND HEALTH INSURANCE

Senate Bill 149

Mandated provider list to include chiropractors

This bill amends § 38.2-4221 (Services of certain practitioners other than physicians to be covered) of the health services plans chapter which applies to the Blue Cross/Blue Shield Plans. The bill adds "chiropractor" to the list of providers that must be reimbursed for performing services for which they are licensed, if the services are provided for by the subscription contract.

House Bill 304

Life, Accident and Sickness Insurance Guaranty Association

This bill amends § 38.2-1700 (Applicability of chapter) relating to the Life, Accident and Sickness Insurance Guaranty Association. This bill clarifies that any contract or group certificate which is not issued to and owned by an individual will not be protected by the Virginia Life, Accident and Sickness Insurance Guaranty Association except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate. The result of this bill is that the Guaranty Association will not cover Guaranteed Investment Contracts (GICS) nor Deposit Administration Contracts (DACs).

House Bill 533

Insurable Interest

This bill amends §§ 38.2-301 (Insurable interest required) and 38.2-302 (Life, accident and sickness insurance application required) to provide that corporate employers have an insurable interest in the life of key employees or other employees who have worked at least 12 consecutive months if the amount of life insurance taken out on the employee is commensurate with the amount of insurance the employer provides to the employee as a benefit. An employer who purchases insurance on the lives of such employees is required to provide each such employee with written notice that the insurance has been purchased.

House Bill 686

Blue Cross/Blue Shield Plans

This bill amends several sections in Chapter 42 of Title

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38.2 (Health Services Plans). Section 38.2-4216.1 (Open enrollment) now requires all Blue Cross/Blue Shield open enrollment contracts to be available on a year-round basis. Further, this section has been revised to clearly prohibit any person from indicating that open enrollment contracts are available to individuals who are employees of employers who provide hospitalization or other health coverage to their employees.

Section 38.2-4208 (Nonstock corporation not required to act as agent) was amended to state that the minimum level of contingency reserves shall not exceed 45 days of the anticipated operating expenses and insured claims expense generated from subscription contracts issued by the nonstock corporation, and shall be computed as the Commission requires. The term "subscription contract" was amended in the definition section of the Chapter clarifying that such contracts are written only on a prepaid basis. This means that the reserve requirement will be at risk. For example, the reserve requirement shall not apply to income generated from administrative services only (ASO) contracts or other contracts where the nonstock corporation is not at risk.

In addition, § 38.2-4222 (Licensing of nonstock corporations) was modified to restrict licensure to plans that deliver prepaid contracts only. Thus if an entity does not issue subscription contracts, they would not be licensed under this chapter.

House Bill 711

Credit life and accident and sickness notice; conversion, continuation of coverage

This bill amends § 38.2-3707 (Policy provisions; disclosure to debtors) to require individual credit life and credit accident and sickness policies to contain a notice that the policy owner has at least 10 days to return the policy to the agent or company with a written request for cancellation and to receive a full refund of premium. In this case, the policy will be void from inception.

The bill also amends §§ 38.2-3416 (Conversion on termination of eligibility) and 38.2-3541 (Conversion or continuation on termination of eligibility). The conversion or continuation must now be offered even if the group policy is terminated (this had been an exception to the requirement) unless such termination is due to termination of the group policy under circumstances in which the insured person is insurable under other replacement group coverage or health care plan without waiting periods or pre-existing conditions under the replacement coverage or plan.

House Bill 717

Subrogation for medical insurance policies

This bill amends § 38.2-3405 (Certain subrogation provisions prohibited) of the accident and sickness

insurance chapter which prohibits subrogation of a person's right to recover from a third party to be included as a provision in an accident and sickness policy or subscription contract. The bill amends this section to include contracts that provide for "payment of benefits to or on behalf of persons residing in or employed in this Commonwealth."

INSURANCE AGENTS

House Bill 99 (effective March 3, 1988)

Partial qualifications

This bill amends §§ 38.2-1824 (Kinds of agents' licenses issued) and 38.2-1834 (Duration of appointment). The bill allows insurance agents who held limited licenses (partial qualifications) as of July 1, 1987 to continue to hold such licenses. This bill modifies provisions passed during the 1987 General Assembly Session which discontinued these partial qualifications. All reference to partial qualifications in the Insurance Code had been eliminated in 1979 but licenses active at that time are still in existence. This bill essentially "grandfathers" such existing qualifications but will not allow new limited licenses to be issued or allow any which lapse or are revoked to be reinstated.

House Bill 215

Public Procurement Act

This bill amends Title 11 (Contracts) by stating that a public body may procure insurance through a licensed agent or broker if a determination is made in advance that competitive negotiation is either not practicable or not fiscally advantageous. The basis for such determination must be documented in writing.

House Bill 258

Licensing of nonresident agents

The bill amends §§ 38.2-1836 (Licensing nonresident agents) and 38.2-1845 (Licensing nonresident consultants) by eliminating some of the requirements for nonresident licensure that were to be verified by certification from the insurance department of the applicant's state. The bill now requires that the certification verify only that the applicant is licensed or otherwise authorized with that state to solicit, negotiate, procure, effect or consult regarding the classes of insurance for which the license is being sought in Virginia.

The bill also adds a provision that prohibits an applicant or a nonresident Virginia license from obtaining such a license unless the applicant's state of domicile will grant a similar license to a Virginia resident.

House Bill 267

Appointment of agents

The bill amends § 38.2-1833 (Appointment of agents) by clarifying that a licensed but unappointed agent may only solicit insurance applications for a company before becoming appointed with that company. The agent may not bind coverage (negotiate, procure, or effect) until appointed by the insurer.

House Bill 733

Title agents

This bill amends § 38.2-1814.1 (Title agents) by exempting title agents from the licensing examination requirement if they were authorized title agents on January 1, 1987. Any individual seeking a title agent's license after that date is required to pass the examination prior to becoming licensed. The amendment also eliminates the specific exam criteria from the Insurance Code while retaining an examination requirement.

This bill also repeals the requirement that annual proof of financial responsibility be filed with the Commission.

House Bill 1034

Agent of record

This bill amends § 38.2-1801 (Person soliciting insurance deemed agent of insurer), providing that for the purpose of notice of claims or suits the agent or producer of record is deemed to be the agent of the insurer.

WORKERS' COMPENSATION GROUP SELF-INSURANCE ASSOCIATIONS

House Bill 328 (effective March 29, 1988)

Enforcement of joint and several liability of members

This bill amends § 65.1-104.2 (Requirements for licensure as group self-insurance association under workers' compensation) by stating that the State Corporation Commission does not have to sue the association first in order for the surety to meet its obligations.

The bill also provides that if a group self-insurance association fails to enforce the rights of the association agreement after reasonable notice from the Commission to the association, the Commission shall have the right independently to enforce on behalf of the association the joint and several liability of its members under the Act and the liability of members for any unpaid contributions and assessments. The amendment further states that the Commission shall be entitled to recover its expenses and attorney's fees.

House Bill 544 (effective April 6, 1988)

Uninsured Employer's Fund

This bill amends § 65.1-149 (Awards entered on the

Uninsured Employer's Fund under the Workers' Compensation Act) by defining a former member of a group self-insurance association whose license has been terminated by the Commission and whose security deposit with the State Treasurer or surety coverage has been exhausted as an uninsured employer who is not in compliance with § 65.1-104.1 (Requirements for licensure as group self-insurance association). This bill was amended to state that for all such uninsured employers, the Attorney General, or her designee, shall enforce the right of subrogation and recoupment as provided in § 65.1-150.

SURPLUS LINES

House Bill 268

Refunding overpayment of taxes

This bill is an amendment to §§ 38.2-4809 (Licensees to pay assessments and license taxes on insurers) and 38.2-4812 (Surplus lines insurers subject to Unlicensed Insurers Process) of the surplus lines chapter. The bill provides a method for refunding overpaid tax to the surplus lines broker. The change makes the taxing provisions of brokers consistent with that of insurers.

The bill also requires that every surplus lines insurer issuing surplus lines coverage under Chapter 48 be subject to all provisions of Title 38.2 Chapter 8, Article 1 for service of process.

House Bill 493

Credit insurance

This bill amends § 38.2-4800 (Surplus lines brokers) by adding § 38.2-122 (definition of credit insurance) to the classes of insurance which surplus lines brokers may sell. Section 38.2-4806 (Affidavits required) was also amended to include reference to credit insurance.

MISCELLANEOUS

Senate Bill 233 (effective March 20, 1988)

Virginia Birth-Related Neurological Injury Compensation Program

This bill amends § 38.2-5019 (Initial assessments) of the Virginia Birth-Related Neurological Injury Compensation Program to provide that physicians and hospitals that are otherwise eligible but did not meet the requirements of § 38.2-5001 (Definitions), including paying the required initial assessment and making the agreements with the State Board of Medicine and the Commissioner of Health by January 1, 1988, may join the program by making the agreements and paying an assessment fee by May 15, 1988. The amount of the initial assessment will be prorated for the remainder of 1988.

House Bill 147

State Corporation Commission

Use of rating service

This bill amends § 38.2-513 (Favored agent or insurer) of the Unfair Trade Practices Act which relates to the prohibition against requiring the use of a particular insurance company or agent as a condition precedent to the extension of credit. The bill states that the use of the ratings of a nationally recognized rating service shall not be deemed unreasonable provided such ratings are based on reasonable standards uniformly applied. If an insurer, duly licensed in Virginia, does not possess the required rating of a nationally recognized rating service, no person who lends money or extends credit shall refuse to accept from the insurer a certificate of one hundred percent reinsurance issued by another insurer pursuant to § 38.2-136 (Reinsurance), which does possess the required rating.

House Bill 176

Notice of contract address on policies

This bill amends §§ 38.2-300 (Scope of chapter) and 38.2-305 (Contents of policies) of the chapter on Provisions Relating to Insurance Policies and Contracts. The bill requires that a notice accompany each policy or contract. The notice shall advise the insured to contact the agent if a problem with the policy arises. The notice also must identify the appropriate contact addresses and phone numbers of the company's home or regional office issuing the policy for use if additional assistance is needed. The notice is also to include the phone number and address of the Bureau of Insurance for the insured's use in the event he is unable to contact, or obtain satisfaction from, the agent or company. An administrative letter on this bill will follow shortly.

House Bill 195

Security deposits required of insurers

This bill amends §§ 38.2-1046 (Purpose of deposits), 38.2-1047 (How deposits applied to payment of claims) and 38.2-1048 (Return of deposits) relating to security deposits required of insurers. The amendment outlines the procedure for making a claim against an insolvent or bankrupt insurer's Virginia-exclusive deposit. A claimant need only file a bill in the Circuit Court of the City of Richmond to subject the insurer's deposit to his claim. The Circuit Court will distribute the deposit among Virginia claimants.

* * * * *

Bureau of Insurance

May 10, 1988

Administrative Letter 1988-7

TO: All Licensed Liability Insurance Companies.

FROM: Steven T. Foster
Commissioner of Insurance

RE: Virginia Birth-Related Neurological Injury
Compensation Program.

Chapter 50 of Title 38.2 of the Code of Virginia enacted by the 1987 General Assembly sets forth the provisions of the Virginia Birth-Related Neurological Injury Compensation Act. The Act provides that the birth-related neurological injury compensation program will be the exclusive remedy granted to an infant of a birth-related neurological injury as defined in the Act. The effect of the Act on medical professional liability premiums is to potentially reduce the losses attributable to neurologically injured infants that would normally be covered under a physician's or hospital's medical professional liability policy.

The consulting actuary for the Bureau of Insurance has issued an analysis that indicates that potential premium savings are in the 10% to 20% range for a mature claims made policy and that analogous discounts could be selected for other maturities of claims made policies. Accordingly, the Bureau of Insurance is requiring an appropriate rate credit for participating physicians and hospitals to be filed by every company that maintains a filing for medical professional liability insurance for physicians, surgeons and hospitals. Filings should be received by the Bureau of Insurance no later than July 1, 1988. The usual sixty day delayed effect applicable to medical malpractice rate filings will apply.

A company may want to amend its policy language by excluding births that are within the scope of the Act. The Bureau of Insurance will not approve such outright exclusions for use in Virginia. However, the Bureau will consider for approval policy amendments which exclude coverage, but which also permit a physician or hospital to buy-back coverage in the event of any invalidation of the Act. Attached is a sample endorsement that may be used for this purpose. Companies should submit proposed forms in the normal manner for review by the Bureau of Insurance.

In accordance with current guidelines, it will not be permissible for an insurer to cancel any in force policy due to the non-payment of any premium due on any other policy (currently in force or previously issued) for the same insured. Further, a return premium for a policy may not be applied to any other premium that is due from the same insured for a different policy.

Virginia Birth-Related Neurological Injury
Compensation Program Provisional Premium
Endorsement for Participating Physicians and
Hospitals

In consideration of the issuance of this policy, it is agreed that the premiums stated in declarations are provisional and are subject to recomputation to the extent that the exclusive remedy provisions of Virginia Code Section 38.2-5002 are declared to be invalid by a Court of competent jurisdiction.

In such an event, the premiums for this policy shall be recomputed in accordance with the rates, rating plans and rules that were in effect for the Company as of the inception date of this policy.

As a condition precedent to this policy's applicability to any claim(s) otherwise subject to the Virginia Birth-Related Neurological Injury Compensation Program, all additional premiums as a result of any recomputation provided for herein must be paid to the insurer within 90 days from the date of billing by the insurer.

.....
Signature of Insured or
Authorized Representative

.....
Date

* * * * *

Bureau of Insurance

May 25, 1988

Administrative Letter 1988-8

TO: All Companies Licensed to Write Commercial Liability Insurance.

RE: Report of Certain Liability Claims Required by Virginia Code Section 38.2-2228.1.

Administrative Letter 1988-2, outlining the data reporting requirements of Virginia Code Section 38.2-2228.1, enacted by the 1987 General Assembly, was mailed to all appropriate companies on January 26, 1988. This letter is to provide additional information regarding the data reports and to advise of amendatory legislation passed by the 1988 General Assembly.

Exemption of Certain Carriers

The 1988 General Assembly provided that the State Corporation Commission (SCC) may exempt an insurer or insurers from any or all of the required reporting provisions. The General Assembly further provided that for the purposes of this data report, "insurer" shall mean an individual insurer or a group of insurers under common ownership or control but shall not include mutual assessment insurers operating under the provisions of Virginia Code Section 38.2-2500.

As a result of these amendments, insurers with 1987

written premiums of \$100,000, or less, for "Other Liability" and "Medical Professional Liability" combined (lines 17 and 11 respectively of page 14 of the Annual Statement) are considered exempt from the data reporting requirements. An insurance group may complete a combined report for all companies under common ownership or control. The report should clearly indicate it is a group report and the group NAIC number must be shown. In addition, the name and NAIC number of each company included must be indicated. Further, mutual assessment insurers are exempt from any of the data reporting requirements.

Reporting Instructions

CLAIMS MADE COVERAGE VS. OCCURRENCE COVERAGE - Claims made coverage and occurrence coverage data shall be reported by separate reports. In addition, tail coverage and basic coverage for claims made data should each be identified on a separate report. Each report shall clearly indicate what type of coverage is reported.

TYPE OF DATA - BODILY INJURY, PROPERTY DAMAGE, MEDICAL PAYMENTS - All types of data should be combined to provide one report for each market definition.

DEDUCTIBLE INSURANCE - All data applicable for deductible liability insurance should be included with data for non-deductible insurance and must be reported separately.

EXHIBIT 7, Commercial Contracting, has been expanded to include simplified CSP class codes that were not previously provided and some of the non-simplified classes have been amended. The revised exhibit is attached.

Insurers are reminded that the data reports are due by September 1, 1988. Companies and statistical agents should contact Jan Fatouros (804) 786-4418 at the State Corporation Commission for details regarding the computerized transmission of the report. Actuarial questions may be addressed to our consulting actuary at the following address:

Dennis R. Henry, FCAS, MAAA
Huggins Financial Services
229 S. 18th Street
Philadelphia, Pennsylvania 19103
(215) 875-2837

/s/ Steven T. Foster
Commissioner of Insurance

VIRGINIA

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
17140	Ø	Air Conditioning, Heating, or Refrigeration Systems or Combined Heating and Air Conditioning Systems - installation, servicing and repair - including shop and retail stores or display rooms Ø Code 17140 includes "Gas Appliances or Equipment - household type - installation, servicing or repair"	Payroll
91111		Air Conditioning Systems or Equipment - Dealers or distributors and installation, servicing or repair	Payroll
95647		Heating or Combined Heating and Air Conditioning System or Equipment - Dealers or distributors and installation, servicing or repair - no liquified petroleum gas (LPG) equipment sales or work	Payroll
95648		Heating or Combined Heating and Air Conditioning Systems or Equipment - dealers or distributors and installation, servicing or repair - Not Otherwise Classified	Payroll
16135		Airport Runway or Warming Apron Construction, Paving or Repaving	Payroll
91125		Airport Runway or Warming Apron - paving or repaving, surfacing, resurfacing or scraping	Payroll
76992		Boiler Inspecting or Scaling	Payroll
17145	Ø	Boiler Installation or Repair - steam Ø Code 17145 also includes "Tank Erection or Repair - metal - within buildings exclusively"	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
91250		Boiler Inspection, Installation, Cleaning or Repair	Payroll
99572		Tank Construction, Installation, Erection or Repair - metal - not pressurized - within buildings exclusively	Payroll
99573		Tank Construction, Installation, Erection or Repair - metal - pressurized - within buildings exclusively	Payroll
16275	Ø	Bridge or Elevated Highway Construction Ø Code 16275 also includes "Iron or Steel Erection - bridges"	Payroll
91265		Bridge or Elevated Highway Construction - iron or steel	Payroll
91266		Bridge or Elevated Highway Construction - concrete	Payroll
17835		Building Equipment Installation, Erection, Servicing or Repair - Not Otherwise Classified	Payroll
17885	Ø	Building or Structure Raising, Moving or Underpinning - including incidental shoring Ø Code 17885 includes "Salvage Operations" and "Underpinning Buildings or Structures"	Payroll
91280		Building Structure - raising or moving	Payroll
98698		Salvage Operations - Not Otherwise Classified	Payroll
99803		Underpinning Buildings or Structures	Payroll
17314		Cable Installation in Conduits or Subways	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u> <u>Old</u> <u>New</u>	<u>Description</u>	<u>Exposure Base</u>
91302	Cable Installation in Conduits or Subways	Payroll
17805§	Caisson Work - foundations for buildings § Code 17805 includes "Pile Driving - building foundation only"	Payroll
91324	Caisson or Cofferdam Work - foundations for buildings	Payroll
98413	Pile Driving - Building foundation only	Payroll
16235§	Caisson Work - not foundations for buildings § Code 16235 also includes "Cofferdam Work," "Shaft Sinking" and "Tunneling"	Payroll
91325	Caisson or Cofferdam work - not foundations for buildings	Payroll
98871	Shaft Sinking	Payroll
99798	Tunneling	Payroll
17535§	Carpentry - Not Otherwise Classified § Code 17535 also includes "Ceiling or Wall Installation - not plastering", "Modular Units - building erection", "Prefabricated Building Erection"	Payroll
91342	Carpentry - Not Otherwise Classified	Payroll
98502	Prefabricated Building Erection	Payroll
17621	Ceiling or Wall Installation - metal	Payroll
91436	Ceiling or Wall Installation - metal	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u> <u>Old</u> <u>New</u>	<u>Description</u>	<u>Exposure Base</u>
17745§	Cement, Concrete or Granolithic Floor Construction, Finishing or Surfacing § Code 17745 also includes "Concrete Construction - Not Otherwise Classified"	Payroll
91560	Concrete Construction	Payroll
17425§	Chimney Construction § Code 17425 also includes "Masonry - Not Otherwise Classified"	Payroll
91481	Chimney Cleaning	Payroll
97447	Masonry	Payroll
17965	Cleaning or Renovating - outside Surfaces of Buildings	Payroll
91522	Cleaning or Renovating - outside Surfaces of Buildings	Payroll
17741	Concrete Block Construction - buildings	Payroll
17745	Concrete Construction - Not Otherwise Classified	Payroll
91560	Concrete Construction	Payroll
16285	Conduit Construction	Payroll
91577	Conduit Construction for Cables or Wires	Payroll
73912	Contractors Equipment Rented to Others - cranes, derricks, power shovels and equipment incidental thereto - rented to others with operators - including installation, repair or removal	Receipts

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	11201	Contractors' Equipment - cranes, derricks, power shovels and equipment incidental thereto - rented to others with operators	Gross Sales
73917		Contractors Equipment Rented to Others - cranes, derricks, power shovels and equipment incidental thereto - rented to others without operators - including installation, repair or removal	Receipts
	11202	Contractors' Equipment - cranes, derricks, power shovels and equipment incidental thereto - rented to others without operators	Gross Sales
17861		Contractors Equipment Rented to Others - earth moving equipment other than cranes, derricks and power shovels - rented to others with operators - including installation, repair or removal	Receipts
	11205	Contractors' Equipment - earth moving equipment other than cranes, derricks and power shovels - rented to others with operators	Gross Sales
17875§		Contractors Equipment Rented to Others - hod or material platform hoists and equipment incidental thereto - rented to others with operators - excluding installation, repair or removal § Code 17875 also includes "Contractors - hod or material platform hoists, etc. - operation by Contractors" and "Hoists: Contractors - hod or material platform hoists and equipment incidental thereto - rented to others with operators - excluding installation, repair or removal"	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	11209	Contractors' Equipment - hod or material platform hoists and equipment incidental thereto - rented to others with operators	Gross Sales
73914		Contractors Equipment Rented to Others - hod or material platform hoists and equipment incidental thereto - rented to others without operators - excluding installation, repair or removal	Receipts
	11210	Contractors' Equipment - hod or material platform hoists and equipment incidental thereto - rented to others without operators	Gross Sales
73915§		Contractors Equipment Rented to Others - ladders, scaffolds, scaffolding, sidewalk bridges, towers and equipment incidental thereto - rented to others - excluding installation, repair or removal § Code 73915 also includes "Scaffolds, Scaffolding, Ladders, Sidewalk Bridges, etc. - rented to others - excluding installation, repair or removal"	Receipts
	11211	Contractors' Equipment - ladders, scaffolds, scaffolding, sidewalk bridges, towers and equipment incidental thereto - rented to others	Gross Sales
73916		Contractors Equipment Rented to Others - steam boilers, compressors, air pressure tanks, pneumatic tools and equipment incidental thereto - rented to others with operators - including installation, repair or removal	Receipts

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	11213	Contractors' Equipment - steam boilers, compressors, air pressure tanks, pneumatic tools and equipment incidental thereto - rented to others with operators	Gross Sales
73911		Contractors Equipment Rented to Others - excluding automobiles - Not Otherwise Classified - rented to others with operators - including installation, removal or repair	Receipts
	11207	Contractors' Equipment - excluding automobiles - rented to others with operators - Not Otherwise Classified	Gross Sales
73913		Contractors Equipment Rented to Others - excluding automobiles - Not Otherwise Classified - rented to others without operators - including installation, repair or removal	Receipts
	11206	Contractor's Equipment - earth moving equipment other than cranes, derricks and power shovels - rented to others without operators	Gross Sales
	11208	Contractors' Equipment - rented to others without operators - Not Otherwise Classified	Gross Sales
42264		Contractors Permanent Yards - maintenance or storage of equipment or material	Payroll
	91590	Contractors Permanent Yards - maintenance or storage of equipment or material	Payroll
59991§		Contractors Equipment Dealers - ladders or hoists - excluding scaffolds or towers § Code 59991 also includes: "Contractors Equipment Dealers - ladders or hoists - including scaffolds or towers"	Receipts

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	11203	Contractors' Equipment Dealers - ladders - excluding hoists, scaffolds or towers	Gross Sales
	11204	Contractors' Equipment Dealers - ladders, hoists, scaffolds or towers	Gross Sales
	11212	Contractors' Equipment - steam boilers, compressors, air pressure tanks, pneumatic tools and equipment incidental thereto - rented to others with operators	Gross Sales
	11214	Contractors' Equipment - steam boilers, compressors, air pressure tanks, pneumatic tools and equipment incidental thereto - rented to others without operators	Gross Sales
	17755§	Core Drilling - Not Otherwise Classified § Code 17755 also includes: "Drilling - Not Otherwise Classified"	Payroll
	92101	Drilling - Not Otherwise Classified	Payroll
	92102	Drilling - Water	Payroll
	16232	Dam or Reservoir Construction	Payroll
	91618	Dam or Reservoir Construction	Payroll
	16295§	Dike or Revetment Construction - river work only § Code 16295 also includes: "Jetty or Breakwater Construction" and "Levee Construction"	Payroll
	91641	Dike, Levee or Revetment Construction	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	96872	Jetty or Breakwater Construction	Payroll
17511		Door, Window or Assembled Millwork Erection - metal or metal covered	Payroll
	91746	Door, Window or Assembled Millwork - installation - metal	Payroll
16293		Dredging - except gold dredging	Payroll
	92055	Dredging - Not Otherwise Classified	Payroll
16144		Driveway, Parking Area or Sidewalk Construction, Paving or Repaving	Payroll
	92215	Driveway, Parking Area or Sidewalk - paving or repaving	Payroll
17946		Dry Wall or Wallboard Installation	Payroll
	92338	Dry Wall or Wallboard Installation	Payroll
16242		Electric Light or Power Line Construction - Rural Electrification Administration Projects only	Payroll
	92447	Electric Light or Power Line Construction - Rural Electrification Administration Projects only	Payroll
16245 9		Electric Light or Power Line Construction - Not Otherwise Classified	Payroll
		Ø Code 16245 also includes: "Telephone, Telegraph or Fire Alarm Line Construction"	
	92446	Electric Light or Power Line Construction - Not Otherwise Classified	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	99613	Telephone, Telegraph or Cable Television Line Construction	Payroll
	17315	Electrical Wiring - within buildings - including installation or repair of fixtures or appliances	Payroll
	91127	Alarm and Alarm Systems - installation, servicing or repair	Payroll
	92451	Electrical Apparatus - installation, servicing or repair - Not Otherwise Classified	Payroll
	92478	Electrical Work - within building	Payroll
	17845	Elevator, Escalator or moving Sidewalk Installation, Service or Repair	Payroll
	92593	Elevator or Escalator Inspecting, Installation, Servicing or Repair	Payroll
	15111	Excavation - Not Otherwise Classified	Payroll
	94007	Excavation	Payroll
	73420	Exterminators including Pest Control - excluding the use of gas	Receipts
	43470	Exterminators	Gross Sales
	17985	Fence Erection - metal	Payroll
	94276	Fence Erection Contractors	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
07313		Grading of Land - Not Otherwise Classified	Payroll
	95410	Grading of Land	Payroll
17765		Iron or Steel Erection - frame structures, iron work on outside of buildings including erecting or repairing balconies, fire escapes, railings, staircases, coal chutes or fireproof shutters	Payroll
	97651	Metal erection - frame structures - iron work on outside of buildings	Payroll
15121		Iron or Steel Erection in the construction of dwellings not exceeding two stories in height	Payroll
	97652	Metal Erection - in the construction of dwellings not exceeding two stories in height	Payroll
15122		Iron or Steel Erection - steel lock gates, gas holders, standpipes, water towers, smoke stacks, tanks, silos, prison cells or fire or burglar proof vaults	Payroll
	97654	Metal Erection - steel lock gates, gas holders, standpipes, water tower, smokestacks, tanks, silos, prison cells, fire or burglar proof vaults	Payroll
15125		Iron or Steel Erection - Not Otherwise Classified	Payroll
	97655	Metal Erection - structural - Not Otherwise Classified	Payroll
16255		Irrigation or Drainage System Construction - including pile driving or dredging	Payroll
	96702	Irrigation or Drainage System Construction	Payroll

COMMERCIAL CONTRACTING LIABILITY

<u>Class Code</u>		<u>Description</u>	<u>Exposure Base</u>
<u>Old</u>	<u>New</u>		
	15161Ø	Fireproofing - structures Ø Code 15161 also includes "Insulation Work - installation or application of acoustical or thermal insulating materials in buildings or within building walls - Not Otherwise Classified"	Payroll
	94404	Fireproofing - structures	Payroll
	96408	Insulation Work - plastic - Not Otherwise Classified	Payroll
	96409	Insulation Work - organic or plastic in solid state	Payroll
	96410	Insulation Work - mineral	Payroll
	49531Ø	Garbage, Ashes or Refuse Collecting Ø Code 49531 also includes: "Street Cleaning - including snow removal from street and highways"	Payroll
	95233	Garbage, Ash or Refuse Collecting	Payroll
	99303	Street Cleaning	Payroll
	16225	Gas, Sewer, Steam or Water Mains or Connections Construction - including tunneling at street crossings	Payroll
	95310	Gas Mains or Connections Construction	Payroll
	98820	Sewer Mains or Connections Construction	Payroll
	99163	Steam Mains or Connections Construction	Payroll
	99946	Water Main or Connections Construction	Payroll

COMMERCIAL CONTRACTING LIABILITY

Class Code Old New	Description	Exposure Base
17762	Military Reservation Construction - iron or steel erection - not over two stories in height	Payroll
16365§	Oil or Gas Pipe Construction - including pile driving and dredging	Payroll
	§ Code 16365 also includes "Pipe Line Construction - including pile driving or dredging"	
98423	Pipeline Construction - gas	Payroll
98424	Pipeline Construction - Not Otherwise Classified	Payroll
98425	Pipeline Construction - Oil	Payroll
98426	Pipeline Construction - slurry - nonflammable mixtures	Payroll
17235¶	Painting - oil or gasoline tanks - including shop operations	Payroll
	¶ Code 17235 also includes "Painting, Decorating or Paper Hanging - Not Otherwise Classified - including shop operations", "Paperhanging" and "Sign Painting or Lettering - on buildings or structures - including operations"	
98304	Painting - exterior - buildings or structures - three stories or less in height - Not Otherwise Classified	Payroll
98305	Painting - interior buildings or structures	Payroll
98306	Painting - Oil or gasoline tanks	Payroll
98344	Paperhanging	Payroll
99004	Sign Painting or Lettering on Buildings or Structures	Payroll

COMMERCIAL CONTRACTING LIABILITY

Class Code Old New	Description	Exposure Base
98307	Painting - ship hulls	Payroll
17225	Painting - steel structures or bridges	Payroll
98303	Painting - exterior - buildings or structures - exceeding three stories in height - Not Otherwise Classified	Payroll
17805	File Driving - building foundations only	Payroll
98413	File Driving - building foundations only	Payroll
16296	File Driving - sonic method	Payroll
98415	File Driving - sonic method	Payroll
16294	File Driving - including timber wharf building - Not Otherwise Classified	Payroll
98414	File Driving - Not Otherwise Classified	Payroll
17185	Plumbing - Not Otherwise Classified	Payroll
98482	Plumbing - commercial and industrial	Payroll
98483	Plumbing - residential or domestic	Payroll
99080	Solar Energy Contractors	Payroll
99948	Water Softening Equipment - installation, servicing or repair	Payroll
98636	Refrigeration Systems or Equipment - dealers and distributors and installation, servicing or repair - commercial	Payroll
17625	Roofing - all kinds - including yard employees	Payroll

<u>COMMERCIAL CONTRACTING LIABILITY</u>		
<u>Class Code</u>	<u>Description</u>	<u>Exposure Base</u>
<u>Old</u> <u>New</u>		
17802	Swimming Pools - below ground - installation, service or repair	Payroll
99507	Swimming Pools - installation, servicing or repair - below ground	Payroll
17906	Swimming Pools - above ground - installation, service or repair	Payroll
99506	Swimming Pools - above ground - installation, service or repair	Payroll
99570	Tank Construction, Installation, Erection or Repair - metal - not pressurized - Not Otherwise Classified	Payroll
99571	Tank Construction, Installation, Erection or Repair - metal - pressurized - Not Otherwise Classified	Payroll
17821	Wrecking - marine - including salvage operations	Payroll
99988	Wrecking - marine	Payroll
17821	Wrecking Buildings or Structures - not marine - Not Otherwise Classified	Payroll
99986	Wrecking - buildings or structures - Not Otherwise Classified	Payroll

<u>COMMERCIAL CONTRACTING LIABILITY</u>		
<u>Class Code</u>	<u>Description</u>	<u>Exposure Base</u>
<u>Old</u> <u>New</u>		
	98677 Roofing - commercial	Payroll
	98678 Roofing - residential	Payroll
	98705 Sandblasting	Payroll
	17615g Sheet Metal Work Erection Installation or Repair - Not Otherwise Classified	Payroll
	Ø Code 17615 also includes "Siding Installation - not wood"	
	73122 Sign Erection or Repair - not outdoor advertizing companies - including shop operations	Payroll
	98884 Sheet Metal Work - shop and outside	Payroll
	98967 Siding Installation	Payroll
	98993 Sign Erection, Installation or Repair	Payroll
	17141 Steam Pipe or Boiler Insulation	Payroll
	99165 Steam Pipe or Boiler Insulation	Payroll
	16115 Street or Road Construction or Reconstruction	Payroll
	99315 Street or Road Construction or Reconstruction	Payroll
	16125 Street or Road Paving or Repaving, Surfacing or Resurfacing or Scraping	Payroll
	99321 Street or Road Paving or Repaving, Surfacing or Resurfacing or Scraping	Payroll
	16205 Subway Construction	Payroll
	99445 Subway Construction	Payroll

State Corporation Commission

* * * * *

Bureau of Insurance

June 1, 1988

Administrative Letter 1988-9

TO: All Health Maintenance Organizations Licensed in Virginia.

RE: Implementation of Regulation 28: Reporting Dates.

On June 24, 1987, the State Corporation Commission ordered adoption of "Rules Governing Health Maintenance Organizations" (Bureau of Insurance, Regulation 28), to be effective September 1, 1987.

Section 7.A of Regulation 28 prescribes minimum net worth requirements for all licensed health maintenance organizations. However, § 7.A.4 also provides that any health maintenance organization licensed prior to September 1, 1987 and not complying with minimum net worth requirements as of September 1, 1987 shall have until January 1, 1990 to be in full compliance. Each such health maintenance organization shall increase its net worth by at least one-third of the initial deficit before January 1, 1988 and by an additional one-third before January 1, 1989.

The language of § 7.A.4 therefore contemplates calculation of an initial deficit as of September 1, 1987 for health maintenance organizations falling under this provision for a transitional period toward full compliance. In turn, any calculation of a deficit position is dependent on establishing the amount of a health maintenance organization's uncovered expenses for a previous three-month period (see § 7.A.2). Thus § 7.A.3 requires every health maintenance organization to report annually on a form prescribed by the Commission all uncovered expenses for the three month periods ending December 31, March 31, June 30, and September 30, in addition to submitting a balance sheet for the last day of the period reported on. These reporting dates for uncovered expenses prescribed by § 7.A.3, however, do not coincide with the need to calculate a specific deficit position as of September 1, 1987.

In order to relieve licensed health maintenance organizations of any extraordinary administrative burden, the State Corporation Commission/Bureau of Insurance will use financial reports as of September 30, 1987 to establish whether any health maintenance organization has an initial deficit and to set the amount of that initial deficit as contemplated under § 7.A.4 for the purpose of structuring a transitional period toward full compliance with the net worth requirements of Regulation 28.

Any health maintenance organization objecting to this September 30, 1987 calculation date and wishing to use September 1, 1987 as the date to establish any deficit for

purposes of § 7.A.4 should notify the Bureau of Insurance at the address below immediately and no later than twenty days after the date of this letter. Any health maintenance organization using a September 1, 1987 date must supply financial statements as of September 1, 1987, including a balance sheet as of September 1, 1987 and an accounting for uncovered expenses for the previous three months of June, July and August, 1987.

Bureau of Insurance
Company Licensing and Regulatory Compliance
P.O. Box 1157
Richmond, Virginia 23219
Attention: Alfred W. Gross

/s/ Steven T. Foster
Commissioner of Insurance

* * * * *

Bureau of Insurance

June 2, 1988

Administrative Letter 1988-10

TO: All Authorized Insurers, Health Services Plans, Health Maintenance Organizations, and Other Interested Parties.

RE: House Bill 176 Requiring Notice to Accompany Policies.

House Bill 176, passed by the 1988 General Assembly, will become effective July 1, 1988. This bill amends Virginia Code Sections 38.2-300 (Scope of Chapter) and 38.2-305 (Content of Policies) of the chapter on Provisions Relating to Insurance Policies and Contracts. The bill requires that a notice accompany each policy or contract advising the insured to contact the agent if a problem with the policy arises. The notice also must identify the appropriate contact addresses and phone numbers of the company's home or regional office issuing the policy for use if additional assistance is needed. The notice is also to include the phone number and address of the Bureau of Insurance for the insured's use in the event he is unable to contact, or obtain satisfaction from, the agent or company.

The statute requires the notice to accompany, rather than be attached to, the policy or contract. Therefore, the notice is not considered to be part of the policy or contract and is not required to be filed for approval with the Bureau of Insurance. We will, however, monitor compliance through routine market conduct examinations and consumer complaint reviews.

So that all companies have standard guidelines, the following address and phone numbers for the Bureau of Insurance should be used, depending on the type of policy or contract issued:

Life and Health Division
Bureau of Insurance
P.O. Box 1157
Richmond, Va. 23209

OR

Property and Casualty Division
Bureau of Insurance
P.O. Box 1157
Richmond, Va. 23209

In state toll-free calls 1-800-552-7945

Out-of-state calls 804-786-3741

The language of the notice is to be substantially the same as the language used in the bill which is attached for your information. We recommend 10-point type be used for printing the notice.

This bill applies to all property and casualty (except ocean marine, reinsurance or surety), life, annuity, health, health service plan, and health maintenance organization policies and contracts, whether personal or commercial, issued on or after July 1, 1988. The notice requirement does not apply to certificates or evidences of coverage issued under life and health group contracts or policies.

/s/ Steven T. Foster
Commissioner of Insurance

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

STATE BOARD OF ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Accountancy intends to consider promulgating, amending, and repealing regulations entitled: **State Board of Accountancy Rules and Regulations**. The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance with the Public Participation Guidelines.

Statutory Authority: § 54-1.28(5) of the Code of Virginia.

Written comments may be submitted until July 8, 1988.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, State Board of Accountancy, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT FOR THE AGING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Area Agencies on Aging**. The purpose of the proposed regulation is to set forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of an area agency on aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Area Plans for Aging Services**. The purpose of the proposed regulation is to regulate the process by which an

Area Agency on Aging develops and implements its Area Plan for Aging Services.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Financial Management Policies Applicable to Area Agencies on Aging**. The purpose of the proposed regulation is to provide policies and standards for an Area Agency on Aging in the administration of federal and state grants to provide supportive and nutrition services to older persons.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Hearings**. The purpose of the proposed regulation is to describe the hearing procedures of the Department for the Aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Long-Term Care Ombudsman Program**. The purpose of the proposed regulations is to describe the policies by which the Department for the Aging establishes and operates the Office of the State Long-Term Care Ombudsman and designates and supervises an area or local ombudsman entity.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-03-01. Rules and Regulations - Controlled Atmosphere (CA) Apples**. The purpose of the proposed action is to provide specifications for use by the Virginia Department of Agriculture and Consumer Services in identifying for the marketplace apples which have met the requirements for Controlled Atmosphere (CA) Storage. The purpose of the proposed amendments is to prescribe grade and condition standards applicable to CA apples.

Statutory Authority: § 3.1-997 of the Code of Virginia.

Written comments may be submitted until August 4, 1988, to Raymond D. Vaughan, Secretary, 1100 Bank Street, Room 210, Richmond, Virginia 23219.

Contact: Donald B. Ayers, Chief, Virginia Department of Agriculture and Consumer Services, 1100 Bank St., Room 701, Richmond, Va. 23219, telephone (804) 786-3549 or SCATS 786-3549

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Education intends to consider amending regulations entitled: **Classification of Expenditure**. The purpose of the proposed regulation is to revise and reduce the number of existing 13 classifications of expenditures to five. As a result of the revised classification of expenditures, it will be necessary to modify the expenditures on the Annual

School Report. This is in accordance with § 22.1-115 of the Code of Virginia which requires that the State Board of Education, in conjunction with the Auditor of Public Accounts, establish a modern system of accounting for all school divisions.

Statutory Authority: §§ 22.1-16 and 22.1-92 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

Contact: Robert L. Aylor, Director of Accounting and Finance, Department of Education, P. O. Box 60, Richmond, Va. 23216-2060, telephone (804) 225-2040 or SCATS 225-2040

VIRGINIA FIRE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Fire Services Board intends to consider promulgating regulations entitled: **Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities**. The purpose of the proposed action is to regulate the qualifications of individuals providing fire related training at local fire training facilities constructed, improved or expanded using Fire Programs Fund.

Statutory Authority: § 38.2-401 of the Code of Virginia.

Written comments may be submitted until August 1, 1988.

Contact: Carl N. Cimino, Executive Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia (SCHEV) intends to consider amending regulations entitled: **Virginia Scholars Program Regulations**. The purpose of the proposed action is to clarify definitions and make minor technical changes to program administration.

Statutory Authority: §§ 23-38.51 and 23-38.53:1 through 23-38.53:3 of the Code of Virginia.

Written comments may be submitted until August 12, 1988, to Barry M. Dorsey, Associate Director, SCHEV, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

General Notices/Errata

Contact: David J. Carr, Coordinator of Financial Aid, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2623 or SCATS 225-2623

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia (SCHEV) intends to consider promulgating new and repealing existing regulations entitled: **Regulations Concerning the Administration of the College Scholarship Assistance Program.** The purpose of the proposed action is to repeal the existing program regulations and promulgate new program regulations to include part-time students and decentralize the program's administration.

Statutory Authority: §§ 23-38.45 through 23-38.51 of the Code of Virginia.

Written comments may be submitted until August 12, 1988, to Barry M. Dorsey, Associate Director, SCHEV, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: David J. Carr, Coordinator of Financial Aid, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2623 or SCATS 225-2623

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Council of Higher Education for Virginia (SCHEV) intends to consider promulgating regulations entitled: **Regulations Concerning the Administration of the Virginia Work-Study Program.** The purpose of the proposed action is to establish policies and procedures for administering the Virginia Work-Study Program.

Statutory Authority: §§ 23-38.51, 23-38.70 and 23-38.71 of the Code of Virginia.

Written comments may be submitted until August 12, 1988, to Barry M. Dorsey, Associate Director, SCHEV, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

Contact: David J. Carr, Coordinator of Financial Aid, State Council of Higher Education for Virginia, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2623 or SCATS 225-2623

STATE LOTTERY DEPARTMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **The State Lottery Regulations.** The purpose of the proposed regulation is to set out general operational parameters for the department and board, including setting standards for agency procurement actions and procedures for procurement appeals and disputes; setting standards and requirements for licensing lottery retailers and procedures for appeals on licensing actions; and setting the general framework of operation of instant lottery games and payment of lottery game prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 6, 1988.

Contact: Larry J. Gray, Deputy Director, 2201 W. Broad St., P. O. Box 4689, Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Lottery Department intends to consider promulgating regulations entitled: **Guidelines for Public Participation in Regulation Development and Promulgation.** The purpose of the proposed regulations is to set out procedures for involving interested parties and the public in the development of the department's regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until July 6, 1988.

Contact: Larry J. Gray, Deputy Director, 2201 W. Broad St., P. O. Box 4689, Richmond, Va. 23220, telephone (804) 367-9130 or SCATS 367-9130

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider amending regulations entitled: **Organ Transplantation.** The purpose of the proposed action is to modify the department's policies for covering organ transplantation.

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

Written comments may be submitted until July 6, 1988, to Stephen B. Riggs, D.D.S., Director, Division of Health Services Review, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator,

Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

VIRGINIA STATE BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-1. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Chiropractic, Podiatry, Clinical Psychology and Acupuncture.** The purpose of the proposed action is to govern the treatment of certain diseased or abnormal conditions of the human eye and its adnexa with certain therapeutic pharmaceutical agents by certified optometrists as are deemed reasonable and necessary to ensure an appropriate standard of medical care for the patient.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until August 4, 1988.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-1.2. Safety and Health Regulations for Mineral Mining.** The purpose of the proposed amendment is to provide for the safety and health of persons working in surface and underground mineral (noncoal) mines.

Statutory Authority: §§ 45.1-33 and 45.1-104 of the Code of Virginia.

Written comments may be submitted until July 6, 1988.

Contact: William O. Roller, Director, Division of Mineral Mining, P. O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602 or SCATS 228-2169

DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of

Rehabilitative Services intends to consider amending regulations entitled: **Provision of Vocational Rehabilitation Services.** The purpose of the proposed action is to amend certain portions to (i) comply with new federal regulations and (ii) broaden the service capabilities of the department.

Statutory Authority: § 51.01-5 of the Code of Virginia.

Written comments may be submitted until October 1, 1988, to Charles H. Merritt, P. O. Box 11045, Richmond, Virginia 23230.

Contact: James L. Hunter, Board Administrator, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 367-6446, SCATS 367-6466, toll-free 1-800-552-5019 ☎, or (804) 367-0280 ☎

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

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: **General Relief (GR) and Auxiliary Grants (AG) Programs - Homes for Adults Rates - Condition of Participation.** The purpose of the proposed regulation is to establish the services covered by an individual home for adults rate and to provide as a condition of receipt of a rate that the amount charged for covered services cannot exceed the approved rate.

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

Written comments may be submitted until July 19, 1988, to I. Guy Lusk, Director, Division of Benefits Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carolyn Sturgill, Program Specialist, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Soil and Water Conservation Board intends to consider promulgating regulations entitled: **Impounding Structure Regulations.** The purpose of this regulation is to provide for the proper and safe design, construction, operation and maintenance of impounding structures to the extent required for the protection of public safety. The proposal will repeal regulation #9, previously of the State Water Control Board and replace it with VR 625-01-00 by the Virginia Soil and

General Notices/Errata

Water Conservation Board.

Statutory Authority: § 62.1-115.2 of the Code of Virginia until June 30, 1988. Due to recodification, effective July 1, 1988, § 10.1-605 of the Code of Virginia will control.

Written comments may be submitted until July 21, 1988.

Contact: Robert V. Gay, Chief, Dam Safety Section, Department of Conservation and Historic Resources, Division of Soil and Water Conservation, 203 Governor Street, Suite 206, Richmond, Va. 23219, telephone (804) 786-2064 or SCATS 786-2064

DEPARTMENT OF TAXATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider amending regulations entitled: **VR 630-10-87. Public Utilities.** The purpose of the proposed action is to revise telephone utility account codes contained in the existing regulation to conform with new account codes prescribed by the Federal Communications Commission in the Uniform System of Accounts, effective January 1, 1988, for use by all telephone companies.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until July 15, 1988.

Contact: Danny M. Payne, Director, Tax Policy Division, P. O. Box 6-L, Richmond, Va. 23282, telephone (804) 367-8010 or SCATS 367-8010

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **VR 385-01-3. Rules and Regulations Governing Relocation Assistance.** The purpose of the proposed action is to (i) conform to the passage of the Surface Transportation and Uniform Assistance Act of 1987; and (ii) conform to the rules and regulations as printed in the INTERIM federal regulations issued by the Office of the Secretary of the Department of Transportation (federal) (12/17/87). The amendments to this existing regulation are brought about by changes in the federal law.

Statutory Authority: § 33.1-12(5) of the Code of Virginia.

Written comments may be submitted until August 1, 1988.

Contact: L.S. Hester, Right of Way Manager, Department

of Transportation, 1401 E. Broad St., 5th Floor, Richmond, Va. 23219, telephone (804) 786-4366 or SCATS 786-4366

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **Subdivision Street Requirements.** The purpose of the proposed regulations is to provide a reference source of the Department of Transportation's requirements for the acceptance of subdivision streets into the Secondary System of State Highways.

Statutory Authority: §§ 33.1-12, 33.1-69 and 33.1-229 of the Code of Virginia.

Written comments may be submitted until August 31, 1988, to Gerald E. Fisher, State Secondary Roads Engineer, Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219.

Contact: D. L. Camper, Assistant Secondary Roads Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2745 or SCATS 786-2745

GENERAL NOTICES

DEPARTMENT OF MINES, MINERALS AND ENERGY

† Notice of Petition

Public Notification of Receipt of Lands Unsuitable for Mining Petition

In Dickenson County, Virginia

The Virginia Department of Mines, Minerals, and Energy, Division of Mined Land Reclamation has received a petition requesting the Director to declare that approximately 177 acres near the community of Counts, Virginia, in Dickenson County is unsuitable for surface coal (strip) and underground (longwall) mining. The petition was submitted under procedures contained in the Virginia Coal Surface Mining Control Reclamation Act (Section 45.1-252) and Part 480-03-19.764 of the Coal Surface Mining Reclamation Regulations.

The petition was submitted by Bernard and Vina Reilly, Route 1, Box 602, Clinchco, Virginia 24226, and received in the Division of Mined Land Reclamation's Big Stone Gap Office on Friday, June 3, 1988.

The purpose of this public notice is to notify the general public in the locale of the petition area of the receipt of the petition. The Division shall make copies of the petition available to the public and interested governmental agencies, intervenors, persons with an ownership of record

in the property, and to any other persons known to the Division to have an interest in the property.

The Virginia Division of Mined Land Reclamation will welcome any comments on the petition and the petition area. Comments will be received on the completeness of the petition until July 22, 1988, at which time a determination by the Director will be made. Additional opportunities for public comment on the nature of the petition will be announced by public notice following the Director's decision.

If you have any questions or would like to review a copy of the petition documents please contact Bob Herron or Richard Meade at the Virginia Division of Mined Land Reclamation, 622 Powell Avenue, P. O. Drawer U, Big Stone Gap, VA 24219, telephone (703) 523-2925.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE
OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET
(Transmittal Sheet) - DPBRR09

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

STATE BOARD OF ACCOUNTANCY

† July 18, 1988 - 10 a.m. - Open Meeting
† July 19, 1988 - 8 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to review (i) enforcement cases; (ii) applications for certificate and licensure; (iii) correspondence; (iv) regulations; and (v) to discuss routine business.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Fl., Richmond, Va. 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Virginia Winegrowers Advisory Board

July 11, 1988 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Annual meeting and review of project proposals.

Contact: Annette C. Ringwood, Secretary to Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, Wine Marketing Specialist, 1100 Bank St., Product Promotion, Room 703, Richmond, Va. 23219, telephone (804) 786-0481

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

† October 4, 1988 - 2 p.m. - Public Hearing
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **VR 115-05-09. Rules and Regulations - Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law.** This regulation provides official descriptions of the requirements to be used in determining the quality and grade of apples and also specifies packing and marking requirements.

STATEMENT

Subject, substance, issues, basis and purpose. The proposed amendments to these regulations, which were last amended in 1976, are for the purpose of improving clarity of the regulations, eliminating eight outdated Virginia grade standards for apples, updating the remaining Virginia standards, and adopting the U.S. Standards for determination of apple grades in Virginia.

The grade standards are used by the Virginia Department of Agriculture and Consumer Services in performing unbiased third-party determinations of the quality of apples whenever this service is requested by any interested party. This permits all interested parties to refer to the official grades as a known level of quality in price quotes and sales transactions. The regulations also specify packing and marking requirements for apples.

The proposed amendments are the result of the agency regulatory review process in which representatives of the Virginia apple industry reviewed in detail the current standards and recommended the proposed changes.

Statutory Authority: § 3.1-615 of the Code of Virginia.

Written comments may be submitted until September 3, 1988, to Raymond D. Vaughan, Secretary, 1100 Bank Street, Room 210, Richmond, Virginia 23219.

Contact: Donald B. Ayers, Chief, Department of Agriculture and Consumer Services, 1100 Bank St., Room 701, Richmond, Va. 23219, telephone (804) 786-3549

Calendar of Events

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF) AND THE DEPARTMENT OF FORESTRY (BOARD OF)

July 15, 1988 - 1:30 p.m. - Public Hearing
University of Virginia Law School, North Campus, Room 111, Arlington Boulevard, Charlottesville, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Agriculture and Consumer Services and the Department of Forestry intend to amend regulations entitled: VR 115-01-02. Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use Under the Virginia Land Use Assessment Law Entitled: Special Assessments for Agricultural, Horticultural, Forest or Open Space; and VR 312-01-02. Standards for Classification of Real Estate as Devoted to Forest Use Under the Virginia Land Use Assessment Law Entitled: Special Assessments for Agricultural, Horticultural, Forest or Open Space. These amendments provide for standards of classification of real estate as devoted to forest use, agricultural use and horticultural use under the Virginia Land Use Assessment Law.

Statutory Authority: § 58.1-3240 of the Code of Virginia.

Written comments to VR 115-01-02 may be submitted until July 22, 1988, to S. Mason Carbaugh, Commissioner of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209.

Written comments to VR 312-01-02 may be submitted until July 22, 1988, to James W. Garner, State Forester, P.O. Box 3758, Charlottesville, Va. 22903.

Contact: (VR 115-01-02) T. Graham Copeland, Jr., Director, Policy Analysis and Development, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3539. (VR 312-01-02) W. C. Stanley, Chief, Forest Management, Department of Forestry, P.O. Box 3758, Charlottesville, Va. 22903, telephone (804) 977-6555, SCATS 487-1230.

DEPARTMENT OF AIR POLLUTION CONTROL

† September 7, 1988 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Southwest Virginia Regional Office, 121 Russell Road, Abingdon, Virginia

† September 7, 1988 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Valley of Virginia Regional Office, 5338 Peters Creek Road, Suite D, Roanoke, Virginia

† September 7, 1988 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Central Virginia Regional Office, 7701-03 Timberlake Road, Lynchburg, Virginia

† September 7, 1988 - 10 a.m. - Public Hearing
Richmond Public Library, 101 East Franklin Street, Conference Room A, Richmond, Virginia

† September 7, 1988 - 10 a.m. - Public Hearing
State Air Pollution Control Board, Hampton Roads Regional Office, Old Greenbrier Village, Suite A, 2010 Old Greenbrier Road, Chesapeake, Virginia

† September 7, 1988 - 10 a.m. - Public Hearing
State Air Pollution Control Board, National Capitol Regional Office, Springfield Towers, Suite 502, 6320 Augusta Drive, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Air Pollution Control intends to amend regulations entitled: VR 120-01. Regulations for the Control and Abatement of Air Pollution. The proposed amendments to the regulations will provide the latest edition of referenced documents and incorporate newly promulgated federal NSPS and NESHAPS.

STATEMENT

Subject: Documents Incorporated by Reference.

Substance: The department proposes to update the consolidated list of documents incorporated by reference found in Appendix M of the agency's regulations. The list includes the name, reference number and edition for each document. The edition is being updated to reflect the latest available. Also included for each document is the name and address of the organization from whom it may be obtained. The amendments also update the list of NSPS and NESHAPS incorporated by reference found in Rule 5-5 and Rule 6-1 of the agency's regulations.

Purpose: The purpose of the proposed amendments is to change the agency's regulations to provide the latest edition of referenced documents and incorporate newly promulgated federal NSPS and NESHAPS.

Basis: The basis for incorporating documents by reference is § 9-6.18 of the Virginia Register Act.

Issues: The issue is whether the regulation should specify the most current edition of any documents incorporated by reference and whether the agency should obtain delegation of authority to enforce the newly promulgated federal standards.

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

Written comments may be submitted until September 7, 1988, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

Contact: Nancy Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O.

Box 10089, Richmond, Va. 23240, telephone (804) 786-1249

ALCOHOLIC BEVERAGE CONTROL BOARD

July 12, 1988 - 9:30 a.m. - Open Meeting
July 26, 1988 - 9:30 a.m. - Open Meeting
August 9, 1988 - 9:30 a.m. - Open Meeting
August 23, 1988 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901 Hermitage Rd., P. O. Box 27491, Richmond, Va. 23261, telephone (804) 367-0616 or SCATS 367-0616

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

State Board of Landscape Architects

† July 7, 1988 - 8:30 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of May 20, 1988, (ii) discuss general business and correspondence; and (iii) grade examinations.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016, or SCATS 367-8514

VIRGINIA BOATING ADVISORY BOARD

July 14, 1988 - 10 a.m. - Open Meeting
State Capitol, House Room 1, Capitol Square, Richmond, Virginia. ☒

Discussion of and action on issues of interest to recreational boaters of Virginia.

Contact: Wayland W. Rennie, 8411 Patterson Ave., Richmond, Va. 23229, telephone (804) 740-7206

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF BRISTOL

August 4, 1988 - 9 a.m. - Open Meeting
Bristol Fire Department Main Station, 211 Lee Street, Bristol, Virginia

This will be the first official meeting of this LEPC, as

per SARA/Title III requirements.

Plans will include review of Bristol Emergency Plan upgrade, including Interstate 81 involvement.

The public is invited to attend.

Contact: Charles W. Denton, Fire Chief, Bristol Fire Department, 211 Lee St., Bristol, Va. 24201, telephone (703) 669-7155

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† July 15, 1988 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeals boards regarding application of the Virginia Uniform Statewide Building Code, and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

CHARLES CITY COUNTY EMERGENCY PLANNING COMMITTEE

† August 25, 1988 - 7 p.m. - Open Meeting
Charles City Neighborhood Facility Building, Multi-Purpose Room, Charles City, Virginia. ☒ (Interpreter for deaf provided if requested)

Review draft local plan.

Contact: Fred A. Darden, County Administrator, P. O. Box 128, Charles City, Va. 23030, telephone (804) 829-2401

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

July 7, 1988 - 5:30 p.m. - Open Meeting
July 21, 1988 - 5:30 p.m. - Open Meeting
August 4, 1988 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Room 502, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P. O. Box 40, Chesterfield, Va. 23832, telephone (804) 748-1236

Calendar of Events

CHILD DAY-CARE COUNCIL

July 14, 1988 - 8:30 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building,
Conference Rooms A and B, 8007 Discovery Drive,
Richmond, Virginia

The Child Day-Care Council will meet to discuss issues, concerns, and programs that impact licensed child care centers. The morning will consist of committees discussing ways to revise the standards and regulations of child care centers and then presenting the proposed changes to the full council for adoption prior to public comment.

Contact: Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

CONSORTIUM ON CHILD MENTAL HEALTH

July 6, 1988 - 9 a.m. - Open Meeting
August 3, 1988 - 9 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th
Floor Conference Room, Richmond, Virginia. ☐

A regular business meeting open to the public followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

Contact: Wenda Singer, Planner, Virginia Department for Children, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2208 or SCATS 786-2208

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† July 25, 1988 - 10 a.m. - Open Meeting
Trinity School Conference Room, 6812 River Road,
Newport News, Virginia. ☐

The council will elect new officers and consider any public comments. It will then adjourn into two Task Forces, one on regulations revisions and the other on coordination with licensing and out-of-state issues.

Contact: Nancy W. Bockes, 120 Amory Road, Galax, Va. 24333, telephone (703) 236-2452

INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

† July 8, 1988 - 8:30 a.m. - Open Meeting

† August 12, 1988 - 8:30 a.m. - Open Meeting
† September 9, 1988 - 8:30 a.m. - Open Meeting
Department of Social Services, 1603 Santa Rosa Road,
Tyler Building, Suite 221, Richmond, Virginia. ☐

A regularly scheduled monthly meeting to discuss administrative and policy areas related to the Interdepartmental Licensure and Certification of Residential Facilities for Children.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

BOARD OF COMMERCE

† July 29, 1988 - 9 a.m. - Open Meeting
The Tide's Lodge, Irvington, Virginia

Board of Commerce Annual Retreat - The agenda will include status reports on the Agency Rules of Practice for Hearing Officers; the Examination Study RFP; "The Effect of Regulation on the Virginia Economy" and Nominating Committee Report and Election of Chair and Vice-Chair.

Contact: Catherine Walker Green, Policy Analyst, 3600 W. Broad St., 5th Fl., Richmond, Va. 23230, telephone (804) 367-8564 or toll-free 1-800-552-3016 (VA only)

STATE BOARD FOR COMMUNITY COLLEGES

July 13, 1988 - 1 p.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Board
Room, 15th Floor, Richmond, Virginia. ☐

A working session at 1 p.m. and the state board committees will meet at 3 p.m. following the working session.

July 14, 1988 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Board
Room, 15th Floor, Richmond, Virginia. ☐

A meeting of the board. The agenda is unavailable.

Contact: Joy Graham, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Falls of the James Advisory Committee

July 15, 1988 - noon - Open Meeting
August 19, 1988 - noon - Open Meeting
Richmond City Hall, 3rd Floor Conference Room,

Calendar of Events

Richmond, Virginia

A regular meeting to discuss general business and issues affecting the portion of the James River that runs through the City of Richmond.

Goose Creek Scenic River Advisory Board

July 14, 1988 - 2 p.m. – Open Meeting
Middleburg Community Center, Main Street, Middleburg, Virginia

A regular business meeting to discuss issues and matters affecting the Goose Creek Scenic River.

Contact: Richard G. Gibbons, Department of Conservation and Historic Resources, Division of Parks and Recreation, 1201 Washington Bldg., Richmond, Va. 23219, telephone (804) 786-4132

Virginia Soil and Water Conservation Board

July 6, 1988 - 2 p.m. – Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, N.W., Blacksburg, Virginia

A bimonthly meeting.

Contact: Donald L. Wells, Division of Soil and Water Conservation, 203 Governor St., Suite 206, telephone (804) 786-2064

Division of Soil and Water Conservation

July 13, 1988 - 2 p.m. – Open Meeting
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☒

The Division of Soil and Water Conservation has completed, in accordance with § 319 of the Clean Water Act of 1987, a nonpoint source management plan for Virginia. This plan addresses existing and proposed federal, state and local programs to be utilized to reduce the sources of nonpoint source pollution to the state's waters. Comments on the plan will be accepted until July 18, 1988.

Contact: Stuart Wilson, Division of Soil and Water Conservation, 203 Governor St., Richmond, Va. 23219, telephone (804) 786-4387

VIRGINIA COUNCIL ON COORDINATING PREVENTION

† **July 22, 1988 - 10 a.m.** – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A quarterly meeting of the Virginia Council on Coordinating Prevention. The agenda will include discussion of the 1990-92 Comprehensive Prevention

Plan for Virginia.

Contact: Harriet M. Russell, Staff, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1530

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

July 13, 1988 - 10 a.m. – Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room #3053A, 3rd Floor, Richmond, Virginia

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, Va. 23225, telephone (804) 674-3235

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July 7, 1988 - 7 p.m. – Public Hearing
Omni Norfolk Hotel, Norfolk, Virginia

July 13, 1988 - 10 a.m. – Public Hearing
6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** These proposed regulations set forth operating standards for Virginia Delinquency Prevention and Youth Development Act grant programs pertaining to program administration, services, personnel and fiscal management, staff training, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations for Programs, Division of Youth Services, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-0130

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July 7, 1988 - 7 p.m. – Public Hearing
Omni Norfolk Hotel, Norfolk, Virginia

July 13, 1988 - 10 a.m. – Public Hearing
6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Corrections intends to adopt regulations entitled: **VR**

Calendar of Events

230-40-006. Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants. These regulations govern application for Virginia Delinquency Prevention and Youth Development Act grants including eligibility, criteria for review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 13, 1988.

Contact: Austen C. Micklem, Jr., Acting Chief of Operations for Programs, Division of Youth Services, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-0130

VIRGINIA BOARD OF COSMETOLOGY

† July 25, 1988 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to review (i) enforcement cases; (ii) applications; (iii) correspondence; and (iv) to discuss routine business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT OF EDUCATION (STATE BOARD OF)

NOTE: CHANGE OF PUBLIC HEARING DATE

† August 16, 1988 - 10:30 a.m. - Public Hearing
James Monroe Building, Conference Room C, 101 North 14th Street, Richmond, Virginia

The July 28, 1988, public hearing has been rescheduled for August 16, 1988.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Education intends to amend regulations entitled: **VR 270-01-0020. Classification of Expenditures.** The proposed amendments prescribe the major classification of expenditures that are used by local school boards when the division superintendent, with the approval of the school board, prepares the estimate of moneys needed for public schools.

Statutory Authority: §§ 22.1-92 and 22.1-115 of the Code of Virginia.

Written comments may be submitted until July 22, 1988.

Contact: Robert L. Aylor, Director, Account and Finance,

Department of Education, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2040, SCATS 225-2040

LOCAL EMERGENCY PLANNING COMMITTEE OF FAIRFAX COUNTY - TOWN OF VIENNA - CITY OF FAIRFAX - TOWN OF HERNDON

July 14, 1988 - CANCELLED

August 11, 1988 - 10 a.m. - Open Meeting

† September 8, 1988 - 10 a.m. - Open Meeting

Wood Municipal Center, Old Lee Highway, Fairfax, Virginia

The July 14, 1988, meeting has been cancelled.

The committee is meeting in accordance to SARA Title III in order to carry out the provisions required within.

Contact: Melanie Pearson, Community Information Coordinator, 4031 University Dr., Suite 400, Fairfax, Va. 22030, telephone (703) 246-2331

VIRGINIA FARMERS' MARKET BOARD

July 6, 1988 - 1 p.m. - Open Meeting

Blacksburg Marriott Hotel, Blacksburg, Virginia

A business meeting.

Contact: R. Duke Burrus, Washington Bldg., 1100 Bank St., Richmond, Va. 23219, telephone (804) 786-1949

FLOYD COUNTY EMERGENCY PLANNING COMMITTEE

† July 6, 1988 - 7 p.m. - Open Meeting

Floyd County Courthouse, Circuit Courtroom, Floyd, Virginia. ☒

A meeting to review draft revisions to following sections of Emergency Operations Plan:

1. App. I - Direction and Control
2. App. VI - Evacuation
3. App. VII - Lodging and Care

Contact: Alan W. Thompson, Chairman, Rt. 4, Box 146, Floyd, Va. 24091, telephone (703) 745-3522

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† August 30, 1988 - 9 a.m. - Open Meeting

† August 31, 1988 - 9 a.m. - Open Meeting

Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Koger Center - West,

Richmond, Virginia. ☒

A meeting to administer the Virginia Board of Funeral Directors and Embalmers examination, and to hold a general board meeting. Proposed regulations may be discussed.

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

July 8, 1988 - 10 a.m. - Open Meeting
August 5, 1988 - 10 a.m. - Open Meeting
Main Conference Room, Virginia Museum of Fine Arts, Richmond, Virginia.

The board 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: M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

DEPARTMENT OF HEALTH (STATE BOARD OF)

† July 25, 1988 - 9 a.m. - Open Meeting
† July 26, 1988 - 9 a.m. - Open Meeting
Brandermill Center, Chesterfield, Virginia. ☒

Schedule of Board of Health meetings adopted May 10, 1988:

- September 8-9, 1988
November 2, 1988
December 15-16, 1988
January 9-10, 1989

Meeting locations were not established. Unless notified otherwise, meetings will be held at the James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia, at 9 a.m.

Contact: Darlene R. Sherrill, Executive Secretary Senior, Department of Health, Commissioner's Office, 109 Governor St., Suite 400, Richmond, Va. 23219, telephone (804) 786-3561 or SCATS 786-3561

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July 27, 1988 - 2 p.m. - Public Hearing
Roanoke County Administrative Center, 3738 Brambleton Avenue, S.W., Community Room, Roanoke, Virginia

July 28, 1988 - 7 p.m. - Public Hearing
Spotsylvania County Board of Supervisors Room, County Administration Building, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health and the State Water Control Board intend to amend jointly regulations entitled: Sewerage Regulations. These regulations specify procedures for processing applications and plans and specify minimum treatment and design requirements for sewerage systems and treatment works. Proposed amendments will update technological and regulatory advances and restructure the regulation in accordance with state requirements.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.19 of the Code of Virginia.

Written comments may be submitted until August 10, 1988, to Dr. Calmet M. Sawyer, Department of Health, 109 Governor Street, Richmond, Virginia 23219 or Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: E. Paul Farrell, Jr., Applications Engineer, Department of Health, 109 Governor St., James Madison Bldg., Room 927, Richmond, Va. 23219, telephone (804) 786-1758 or Alfred L. Willett, Office of Engineering Applications, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6136

Bureau of Radiological Health

August 10, 1988 - 10 a.m. - Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to adopt regulations entitled: VR 355-20-2, Virginia Radiation Protection Regulations: Fee Schedule. The purpose of the proposed regulation is to establish a fee schedule for the registration of X-ray machines and for inspections of X-ray machines by Department of Health personnel.

Statutory Authority: § 32.1-229.1 of the Code of Virginia.

Written comments may be submitted no later than 5 p.m., August 10, 1988.

Contact: Leslie P. Foldesi, Radiation Safety Specialist, Radiological Health, Room 915, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-5932 or toll-free 1-800-468-0138

Calendar of Events

DEPARTMENT OF HEALTH REGULATORY BOARDS

† **June 14, 1988 - 10 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The department was requested by the Senate Committee on Commerce and Labor to review issues related to House Bill 1024, carried over by the 1988 General Assembly, and to provide recommendations on third-party reimbursement of clinical nurse specialists for consideration by the 1989 Session of the Legislature. The comments of interested organizations and individuals are solicited. Oral comments may be made at this meeting, and written comments will be accepted if received by 5 p.m., Monday, August 1, 1988.

Compliance and Discipline Committee

† **July 14, 1988 - noon** – Open Meeting
Koger Center, Koger Building, 8001 Franklin Farms Drive, Suite 124, Richmond, Virginia. ☒

The committee will conduct its regular monthly meeting for the evaluation of the health professional regulatory enforcement system in Virginia.

Contact: Richard D. Morrison, Policy Analyst, Department of Health Regulatory Boards, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9904 or SCATS 662-9904

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

† **July 27, 1988 - 9:30 a.m.** – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, 805 E. Broad St., 9th Fl., Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **July 6, 1988 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, 9th Floor Conference Room, Richmond, Virginia. ☒

A monthly council meeting. The agenda is available on request.

Contact: Marla Richardson, 101 N. 14th St., 9th Fl., Richmond, Va. 23219, telephone (804) 225-2638

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 5, 1988 - 9 a.m. – Open Meeting
† **August 2, 1988 - 9 a.m.** – Open Meeting
† **September 6, 1988 - 9 a.m.** – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

July 12, 1988 - 8:30 a.m. – Open Meeting
Fourth Street Office Building, 205 North 4th Street, Richmond, Virginia. ☒

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. 4th St., Richmond, Va. 23219-1747, telephone (804) 786-4752

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **July 19, 1988 - 10 a.m.** – Open Meeting
13 South 13th Street, Richmond, Virginia. ☒

An annual meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve the Procedures, Instructions and Guidelines for the Senior Home Equity Account Program and the proposed amendments to the Rules and Regulations and the proposed amendments to the Procedures, Instructions and Guidelines for the Virginia Housing Fund; (v) hold elections for Chairman and Vice Chairman of the Board of Commissioners; and (vi) 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 office of the authority one week prior to the date of the meeting.

Calendar of Events

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

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† July 15, 1988 – Written comments may be submitted until this date.

† July 15, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-01-0001. Rules and Regulations.** The proposed amendments to the authority's Rules and Regulations establish a program for the extension of home equity loan accounts to elderly persons and families of low and moderate income and the making of loans by the authority pursuant to such program.

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 adopt regulations entitled: **VR 400-02-0012. Procedures, Instructions and Guidelines for Virginia Housing Fund.** The amendments will authorize the determination of interest rates on loans from the fund based upon a schedule and criteria established from time to time by the authority's board of commissioners.

STATEMENT

STATEMENT

Purpose: To establish a program for the extension of home equity loan accounts and the making of loans pursuant thereto by the authority to elderly persons and families of low and moderate income who are owners of single family dwelling units to enable them to use the equity in such dwelling units for purposes permitted under the program.

Purpose: To amend the authority's procedures, instructions and guidelines for Virginia housing fund by authorizing the determination of interest rates on loans from the fund based upon a schedule and criteria established by the authority's board of commissioners.

Basis: § 36-55.30:3 of the Code of Virginia.

Basis: To be adopted pursuant to regulations which were issued under § 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed regulations establish a program to permit the extension of home equity loans by the authority to elderly low and moderate income persons and families. The proposed regulations set forth the events which will cause the loans to be due and payable, provide for the factors on which the maximum amounts of the accounts will be based, require the accounts to be secured by mortgages on the principal residences of the borrowers, authorize the executive director to issue commitments for the accounts, specify the provisions to be included in the commitments, and authorize the promulgation of procedures, instructions and guidelines setting forth the requirements and criteria for eligibility of applicants and their homes and the terms and conditions governing the accounts.

Subject, substance and issues: Under the current procedures, instructions and guidelines, the interest rate on a loan from the fund is generally not lower than the rate on a U. S. government or agency security for an equivalent term. The proposed amendments will allow the interest rates on such loans to be based upon a schedule and criteria established by the authority's board of commissioners and thus will permit greater flexibility in interest rates.

Impact: The authority expects that the proposed regulations will enable the authority to establish a program under which home equity accounts will be extended annually to 100 persons or families of low and moderate income.

Impact: The proposed amendment will enhance the feasibility of proposed projects to be financed by the fund and will permit housing sponsors to serve lower income persons and families. The number of such persons and families to be served by these projects cannot at this time be reasonably estimated. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendment.

The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments.

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

Written comments may be submitted until July 15, 1988.

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

Written comments may be submitted until July 15, 1988.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

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† July 15, 1988 – Written comments may be submitted until this date.

Calendar of Events

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 adopt regulations entitled: **VR 400-02-0015. Procedures, Instructions and Guidelines for Virginia Senior Home Equity Account.** The proposed procedures, instructions and guidelines implement a program for the extension of home equity loan accounts to elderly persons and families of low and moderate income and the making of loans by the authority pursuant to such program.

STATEMENT

Purpose: The proposed procedures, instructions and guidelines implement a program for the extension of home equity loan accounts and the making of loans pursuant thereto by the authority to elderly persons and families of low and moderate income who are owners of single family dwelling units for the purpose of enabling them to use the equity in such dwelling units for purposes permitted under the program.

Basis: To be adopted pursuant to regulations which were issued under § 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: The proposed procedures, instructions and guidelines include provisions relating to the processing of applications; eligibility of applicants and dwelling units; and terms and conditions applicable to the accounts and loans made thereunder. Important matters addressed by the proposed procedures, instructions and guidelines are the minimum age and maximum incomes of eligible applicants, requirements as to the status of title and ownership of the home, the maximum amount available under the account, the occurrence of events which cause the loans to be due and payable, limits on the amount and frequency of equity payments to the borrowers, acts of defaults, limitations on the purposes for which equity payments may be required, procedures and requirements for applying for an account and for requesting equity payments thereunder, and closing requirements and fees.

Impact: The authority expects that the proposed regulations will enable the authority to extend home equity accounts to 100 elderly persons or families of low and moderate income annually.

The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments.

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

Written comments may be submitted until July 15, 1988.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

COUNCIL ON HUMAN RIGHTS

July 14, 1988 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor
Conference Room, Richmond, Virginia. ☒

A monthly council meeting.

Contact: Alison Browne Parks, Executive Assistant, Council on Human Rights, P. O. Box 717, Richmond, Va. 23206, telephone (804) 225-2438, toll-free 1-800-633-5510 or SCATS 225-2438

COUNCIL ON INDIANS

July 20, 1988 - 2 p.m. – Open Meeting
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ☒

The agenda will include a presentation on the Better Information Program, and financial aid available to Native Americans.

Contact: Mary Zoller, Special Assistant, Virginia Council on Indians, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9285

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Safety and Health Codes Board

July 11, 1988 - 10 a.m. – Open Meeting
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☒

The board will meet to consider the following:

1. Presence Sensing Device, Initiation of Mechanical Power Presses
2. Occupational Exposure to Ethylene Oxide
3. Hazard Communication; Approval of Collection of Information Requirements; Display of OMB Control Numbers Assigned to Collection of Information
4. Safety Testing or Certification of Certain Workplace Equipment and Materials
5. Occupational Exposure to Formaldehyde; Approval of Information Collection Requirements; Technical Amendment
6. Grain Handling Facilities, Corrections, 1910.272.

Contact: Jay W. Withrow, Occupational Safety and Health Technical Services Director, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-4300 or SCATS 786-4300

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

† August 9, 1988 - 2:30 p.m. - Open Meeting
County Office Building, Gate City, Virginia. ☒

Update of progress of draft of Scott County's emergency response plan for Superfund Amendments and Reauthorization Act (SARA).

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, Va. 24251, telephone (703) 386-6521

COMMISSION ON LOCAL GOVERNMENT

† July 25, 1988 - 10:30 a.m. - Open Meeting
Clarke County High School, State Route 636, Cooley School Road, Cafetorium, Berryville, Virginia

Oral presentation regarding the Town of Berryville - Clarke County Agreement Defining Annexation Rights.

† July 25, 1988 - 7:30 p.m. - Public Hearing
Clarke County High School, State Route 636, Cooley School Road, Cafetorium, Berryville, Virginia

A public hearing regarding the Town of Berryville - Clarke County Agreement Defining Annexation Rights.

Contact: Barbara W. Bingham, Executive Secretary Senior, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508

July 26, 1988 - 9 a.m. - Open Meeting
Clarke County Board of Supervisors Boardroom, 102 North Church Street, Berryville, Virginia

The commission will hold a regular meeting to consider such issues as may be presented. The meeting will also be utilized for the receipt of testimony from local governments with respect to the study being conducted under the direction of Item 76 in the Appropriations Act for the 1988-90 Biennium (HB 30). Item 76 directs the Commission to "conduct a study of the financial impact of annexation and immunity actions on affected localities with regard to state aid, mandates, and regulations."

Contact: G.E. McCormack, Jr., Assistant Director, Ninth Street Office Bldg., Room 901, Richmond, Va. 23219, telephone (804) 786-6508 or SCATS 786-6508

LONG-TERM CARE COUNCIL

July 7, 1988 - 9:30 a.m. - Open Meeting
The Virginia Center for Health Affairs, Innsbrook, 4200 Innslake Drive, Glen Allen, Virginia. ☒

Long-Term Care Council sponsored regional meetings of the local long-term care coordinating committees; to include a discussion of the coordination of acute and long-term care service delivery and reports of the Long-Term Care Council and local coordinating committees.

Contact: Catherine P. Saunders, Virginia Department for the Aging, 700 E. Franklin St., 10th Fl., Richmond, Va., telephone (804) 225-2271/TDD ☒

LONGWOOD COLLEGE

Board of Visitors

† July 28, 1988 - - Open Meeting
† July 29, 1988 - - Open Meeting
Virginia/Prince Edward Rooms, Longwood College, Farmville, Virginia

Annual meeting of the Board of Visitors to conduct business pertaining to Longwood and orientation session for recently appointed members.

Contact: Dr. George R. Healy, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 or SCATS 265-4211

MARINE RESOURCES COMMISSION

† July 7, 1988 - 9:30 a.m. - Open Meeting
Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia

The Virginia Marine Resources Commission meets on the first Tuesday of each month, except July, at which time the meeting will be on Thursday, July 7, 1988, at 9:30 a.m. in the Newport News City Council Chambers, located at 2400 Washington 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: Sandra S. Schmidt, Secretary to the Commission, 2401 West Ave., P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2208

Calendar of Events

BOARD OF MEDICAL ASSISTANCE SERVICES

July 11, 1988 - 1 p.m. - Open Meeting
Longwood College, Ruffner Hall, Farmville, Virginia

An open meeting to discuss (i) State Plan amendments; and (ii) other business pertinent to the board.

Contact: Jacqueline M. Fritz, 600 E. Broad St., Richmond, Va. 23219, telephone (804) 786-7958

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

July 6, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-4.191. Hospital Reimbursement Methodology Changes.** The purpose of the final regulation is to implement the 1988 General Assembly mandate to incorporate into the Plan the DRI inflator and establish separate group ceilings for state owned university teaching hospitals.

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

Written comments may be submitted no later than 4:30 p.m., July 6, 1988, to N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

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July 6, 1988 - Written comments may be submitted until this date.

Notice is hereby given with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.194 and VR 460-02-3.1. 1988 Nursing Home Reimbursement Changes.** The 1988 General Assembly mandated that the Board of Medical Assistance Services amend the Plan for Medical Assistance concerning several aspects of the nursing home reimbursement methodology.

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

Written comments may be submitted no later than 4:30 p.m., July 6, 1988, to N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical

Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933

VIRGINIA STATE BOARD OF MEDICINE

July 13, 1988 - 9 a.m. - Open Meeting
Supreme Court of Virginia, 101 North 9th Street, Judicial Conference Room, Richmond, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

† **August 12, 1988 - 10 a.m. - Open Meeting**
Sentara-Norfolk General Hospital, 600 Gresham Drive, Jenkins Hall, Board Room, Norfolk, Virginia. ☒

A formal hearing.

The Virginia Board of Medicine will inquire into allegations that a practitioner may have violated laws and regulations governing the practice of medicine in Virginia.

Podiatry Examination Committee

July 11, 1988 - 9 a.m. - Open Meeting
Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Virginia. ☒

A meeting to develop examination questions for the board's December Podiatry Examination and discuss any other business which may come before that committee.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

MENTAL HEALTH ADVISORY COUNCIL

† **July 22, 1988 - 10 a.m. - Open Meeting**
James Madison Building, 101 North 14th Street, 13th Floor, Richmond, Virginia. ☒

A meeting to provide information on mental health issues.

Contact: Leslie S. Tremaine, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-2991

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

July 6, 1988 - 8:30 a.m. – Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia.
☒ (Interpreter for deaf provided if requested)

A meeting of Virginia's Early Intervention Council for Part H, P.L. 99-457. The council is to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency to administer Part H, in the development and implementation of a statewide, interagency, multidisciplinary system of early intervention services of infants and toddlers with disabilities.

Contact: Michael Fehl, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

July 26, 1988 - 10 a.m. – Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

This will be a regular meeting of the board.

Contact: Marilyn Mandel, Staff Director, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385 or SCATS 786-2385

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

July 12, 1988 - 3 p.m. – Open Meeting
Montgomery County Courthouse, Supervisor's Room, 3rd Floor, Christiansburg, Virginia. ☒

A meeting to develop a Hazardous Materials Emergency Response Plan for Montgomery County and the Town of Blacksburg.

Contact: Steve Via, New River Valley Planning District Commission, P. O. Box 3726, Radford, Va. 24143, telephone (703) 639-9313 or SCATS 676-4012

VIRGINIA STATE BOARD OF NURSING

† **July 25, 1988 - 9 a.m.** – Open Meeting
† **July 26, 1988 - 9 a.m.** – Open Meeting
† **July 27, 1988 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting to consider (i) matters related to nursing education programs, (ii) discipline of licensees, (iii) licensing by examination and endorsement, and (iv) other matters under jurisdiction of the board.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

July 14, 1988 - 10 a.m. – Open Meeting
Virginia Port Authority, World Trade Center, Suite 600, Norfolk, Virginia. ☒

The board will meet to conduct routine business at its regular quarterly business meeting.

Contact: David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or toll-free 1-800-552-3016

PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

July 15, 1988 - 2 p.m. – Open Meeting
July 29, 1988 - 2 p.m. – Open Meeting
August 12, 1988 - 2 p.m. – Open Meeting
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, Va. 22192-9201, telephone (703) 335-6800

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† **August 3, 1988 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permit.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

August 12, 1988 - 10 a.m. – Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia. ☒

Calendar of Events

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 adopt regulations entitled: **VR 615-42-1. Foster Care - Guiding Principles.** The Guiding Principles provide a philosophical base for the provision of foster care services.

Statutory Authority: §§ 63.1-25 and 63.1-55.8 of the Code of Virginia.

Written comments may be submitted until August 19, 1988.

Contact: Pamela Fitzgerald, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-42-3. Foster Care - Assessing the Client's Service Needs.** This regulation concerns foster care. Assessing the Client's Service Needs requires that all children in foster care are assessed for and receive appropriate services in a timely manner.

Statutory Authority: §§ 16.1-281, 16.1-283 and 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 19, 1988.

Contact: Pamela Fitzgerald, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-43-1. Agency Placement Adoptions - Guiding Principles.** These Guiding Principles will provide a philosophical base for the provision of adoption services.

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

Written comments may be submitted until August 19, 1988.

Contact: Brenda Kerr, Child Welfare Supervisor,

Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

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August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-43-2. Agency Placement Adoptions - Preplacement Services.** These proposed regulations require reassessment of the child's situation after 12 months in foster care and a written plan for adoptive placement when the goal is adoption.

Statutory Authority: §§ 16.1-283 and 63.1-25 of the Code of Virginia.

Written comments may be submitted until August 19, 1988.

Contact: Brenda Kerr, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-43-6. Agency Placement Adoptions - AREVA.** These regulations will require children to be registered with AREVA within 30 days of termination of parental rights and eliminates deferments from the photo-listing, except when a local placement is pending.

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

Written comments may be submitted until August 19, 1988.

Contact: Brenda Kerr, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1

of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-43-8. Agency Placement Adoptions - Subsidy.** These regulations mandate the provision of adoption assistance agreements for all children determined eligible for subsidy. They also mandate the amount to be paid for maintenance payments.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Written comments may be submitted until August 19, 1988.

Contact: Brenda Kerr, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

August 12, 1988 - 10 a.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Richmond, Virginia.

☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to adopt regulations entitled: **VR 615-43-9. Agency Placement Adoptions - Appeals.** These proposed regulations will provide the right of appeal to adoptive applicants and adoptive parents.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Written comments may be submitted until August 19, 1988.

Contact: Brenda Kerr, Child Welfare Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9081 or SCATS 662-9081

* * * * *

† **September 2, 1988 -** Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services intends to amend regulations entitled: **VR 615-01-10. Aid to Dependent Children (ADC) Program - Disregard of Job Training Partnership Act (JTPA) Title IV, Part A, Income.** An amendment to disregard children's earnings income derived through participation in JTPA, Title IV, Part A, indefinitely.

STATEMENT

Subject: Proposed amendment to regulation pertaining to the treatment of income received by children in the Aid to Dependent Children (ADC) Program. This amendment is being proposed for a 60-day comment period.

Substance: Federal regulations permit states the option of disregarding all or a part of earned and unearned income of an eligible child derived from the Job Training Partnership Act (JTPA), Title IV, Part A. The earned income disregard may be given for up to six months per calendar year, while unearned income may be disregarded indefinitely. Currently, Virginia's ADC policy requires income derived from JTPA, Title IV, Part A to be considered in determining eligibility for assistance.

The State Board of Social Services is proposing to disregard the earned income of an eligible child derived from participation in the Job Training Partnership Act (JTPA), Title IV, Part A program, for six months per calendar year, and unearned income derived from participation in the Job Training Partnership Act (JTPA), Title IV, Part A programs, indefinitely, in the determination of eligibility for ADC benefits.

Issues: Under current policy approved by the State Board of Social Services, children's earnings derived through participation in programs administered under the Job Training Partnership Act (JTPA), Title II, Parts A and B, and Title IV, Part B, are disregarded for six months per calendar year, and the unearned income from these sources is disregarded indefinitely. The proposed regulation to allow the same disregards to children's earned and unearned income derived through participation in the Job Training Partnership Act (JTPA), Title IV, Part A, would create a more equitable practice of treatment of income of children participating in the Job Training Partnership Act (JTPA) program and would be a further incentive for children to participate in these programs.

Basis: 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. Title IV-A, § 402(a)(8) of the Social Security Act and 45 Code of Federal Regulations § 233.20(a)(3)(xvii), in the administration of the Aid to Dependent Children (ADC) Program, permit a state to disregard all or a portion of a dependent child's income derived from participation in the Job Training Partnership Act (JTPA), not to exceed six months per calendar year for earned income and indefinitely for unearned income.

Purpose: The purpose of the proposed regulations is to allow the disregard of children's earnings derived through participation in the Job Training Partnership Act (JTPA), Title IV, Part A, for six months per calendar year and to disregard the unearned income derived through participation in the Job Training Partnership Act (JTPA), Title IV, Part A, indefinitely, in the Aid to Dependent Children (ADC) Program in an effort to be consistent with the employment services goals of the Department of Social Services and to provide an incentive for children to participate in the Job Training Partnership Act (JTPA), Title IV, Part A program.

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

Calendar of Events

Written comments may be submitted until September 2, 1988, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Carol Holmes, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **July 18, 1988 - 9:30 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from June 8, 1988, meeting; (ii) review and revise draft regulations; (iii) review and revise draft application form; (iv) discuss content and format of examination; and (v) discuss general business and correspondence.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS 367-8514

BOARD FOR THE VISUALLY HANDICAPPED

July 6, 1988 - 11 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board meets bi-monthly to review the policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget, executive agreement, and operating plan.

Advisory Committee on Services

July 23, 1988 - 10:30 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A quarterly meeting to advise the Virginia Department for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☎

STATE WATER CONTROL BOARD

July 27, 1988 - 2 p.m. – Public Hearing
Roanoke County Administrative Center, 3738 Brambleton Avenue S.W., Community Room, Roanoke, Virginia

July 28, 1988 - 7 p.m. – Public Hearing
Spotsylvania County Board of Supervisors Room, County Administration Building, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Title of Regulation: Sewerage Regulations.

Written comments may be submitted until August 10, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

NOTICE: Please refer to Notice of Comment Period listed under the Department of Health.

* * * * *

† **August 24, 1988 - 2 p.m.** – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal existing regulations and promulgate new regulations entitled: **VR 680-16-16. Richmond-Crater Interim Water Quality Management.** The purpose is to replace all previously approved water quality plans for major municipal and industrial discharges to the Upper James and Appomattox Estuaries, in Planning District 15 (Richmond Regional) and 19 (Crater).

STATEMENT

Purpose: The Plan sets forth pollutant discharge limits for the State Water Control Board to implement in order to achieve and maintain water quality goals in the Upper James and Appomattox River Estuaries. Monthly average effluent loading limits for five-day carbonaceous biochemical oxygen demand, ammonia nitrogen, and total phosphorus are established along with minimum dissolved oxygen levels for 13 major municipal and industrial discharges.

Basis and statutory authority: Sections 62.1-44.15 (3) and (10) of the Code of Virginia authorize the State Water Control Board to establish water quality standards and policies for any state waters consistent with the purpose and general policy of the State Water Control Law, and to modify, amend, or cancel any such standards and policies.

Section 62.1-44.15 of the Code of Virginia authorizes the establishment of policies and programs for area and basin wide water quality control and management.

Title 40, Parts 35 and 130 of the Code of Federal

Regulations requires states to develop a continuing planning process of which water quality management plans (WQMP) are a part. No National Pollutant Discharge Elimination System (NPDES) permit may be issued which is in conflict with an approved WQMP.

Estimated impact: The plan will affect the NPDES permits of six municipal discharges and seven industrial discharges. The municipal discharges are estimated to serve approximately 650,000 people in the area.

Requirements of the Plan will have a financial impact on the regulated facilities. These facilities are already examining various treatment alternatives to comply with Virginia's nutrient standard. Additional costs required by this Plan will require detailed engineering studies at each facility, since actual costs will vary based on local site conditions, existing structures, and design flow.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Written comments may be submitted until 4 p.m., August 24, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Thomas D. Modena, Supervisor, Water Resources Development, State Water Control Board, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-1006 or SCATS 367-1006

BOARD FOR THE CERTIFICATION OF WATER AND WASTEWATER WORKS OPERATORS

† July 19, 1988 - 9 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☐

An open meeting to (i) continue work on regulations and (ii) consider matters which require board action.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., 5th Fl., Richmond, Va. 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

LEGISLATIVE MEETINGS

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE CAPITAL OUTLAY AND PUBLIC SAFETY

July 14, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

The subcommittee will receive a progress report from

Secretary Watts and the Department of Corrections regarding the Greenville and Buchanan prison projects.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., Capitol Sq., 9th Floor, Richmond, Va. 23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE ON JAIL AND JUVENILE DETENTION FACILITY FINANCING

July 14, 1988 - 1:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☐

This subcommittee will meet for organizational purposes and to plan agendas for future interim meetings as requested by Item 560 of the Appropriations Act.

Contact: Donna C. Johnson, House Appropriations Committee, General Assembly Bldg., Capitol Sq., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

JOINT SUBCOMMITTEE STUDYING INVESTIGATIVE PROCEDURES USED IN CHILD ABUSE CASES

† July 14, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

A public hearing to receive testimony from the public on the reporting and investigating processes in child abuse cases.

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ELECTION LAWS

July 11, 1988 - 2 p.m. - Public Hearing
General Assembly Building, Senate Room A, Richmond, Virginia. ☐

A public hearing to receive comments concerning SJR 58 (Election Laws).

Contact: For additional information contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638. Persons wishing to speak contact: Dr. Jack Austin, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

Calendar of Events

JOINT SUBCOMMITTEE STUDYING FIRE PREVENTION SERVICES

† July 14, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☐

A regular meeting. SJR 67

Contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P. O. Box 396, Richmond, Va. 23203, telephone (804) 786-4638

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

† August 3, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☐

The subcommittee will meet to hear comments from various invited speakers expressing concerns and problems regarding the Freedom of Information Act in access to state and local government meetings and records. HJR 100

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE NEEDS OF HEAD AND SPINAL INJURED CITIZENS AND NEEDS FOR RESEARCH

† July 13, 1988 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A meeting for the purposes of organization and overview of HJR 135.

Contact: Norma Szakal, Staff Attorney, or Brenda Edwards, Research Associate, Division of Legislative Services, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

July 5
Hopewell Industrial Safety Council

July 6
Child Mental Health, Consortium on

Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board
Farmers' Market Board, Virginia
† Floyd County Emergency Planning Committee
† Higher Education for Virginia, State Council of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
Visually Handicapped, Board for the

July 7

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board of
Chesterfield County, Local Emergency Planning
Committee of
Long-Term Care Council
† Marine Resources Commission

July 8

† Children's Residential Facilities, Interdepartmental
Licensure and Certification of
- Coordinating Committee
General Services, Department of
- Art and Architectural Review Board

July 11

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
Labor and Industry, Department of
- Virginia Safety and Health Codes Board
Medical Assistance Services, Board of
Medicine, Virginia State Board of
- Podiatry Examination Committee

July 12

Alcoholic Beverage Control Board
Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
Montgomery, Town of Blacksburg Local Emergency
Planning Committee, County of

July 13

Community Colleges, State Board for
Conservation and Historic Resources, Department of
- Division of Soil and Water Conservation
Corrections, State Board of
† Head and Spinal Injured Citizens and Needs for
Research, Joint Legislative Subcommittee Studying the
Needs of
Medicine, Virginia State Board of

July 14

Appropriations and Senate Finance Capital Outlay and
Public Safety, Joint Subcommittee of House
Appropriations and Senate Finance on Jail and
Juvenile Detention, Joint Subcommittee of House
Boating Advisory Board, Virginia
Child Day-Care Council
Community Colleges, State Board for
Conservation and Historic Resources, Department of
- Goose Creek Scenic River Advisory Board
† Fire Prevention Services, Joint Subcommittee

Calendar of Events

Studying

† Health Regulatory Boards, Department of
- Compliance and Discipline Committee
Human Rights, Council on
Pilots, Board of Commissioners to Examine

July 15

† Building Code Technical Review Board, State
Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee

July 18

† Accountancy, State Board of
† Soil Scientists, Board for Professional

July 19

† Accountancy, State Board of
† Housing Development Authority, Virginia
† Water and Wastewater Works Operators, Board for
the Certification of

July 20

Indians, Council on

July 21

Chesterfield County, Local Emergency Planning
Committee of

July 22

† Coordinating Prevention, Virginia Council on
† Mental Health Advisory Council

July 23

Visually Handicapped, Department for the
- Advisory Committee on Services

July 25

† Children's Facilities, Interdepartmental Council on
Rate-Setting for
† Cosmetology, Virginia Board of
† Health, State Board of
† Local Government, Commission on
† Nursing, Virginia State Board of

July 26

Alcoholic Beverage Control Board
† Health, State Board of
Local Government, Commission on
Migrant and Seasonal Farmworkers Board, Governor's
† Nursing, Virginia State Board of

July 27

† Health Services Cost Review Council, Virginia
† Nursing, Virginia State Board of

July 28

† Longwood College
- Board of Visitors

July 29

† Commerce, Board of
† Longwood College
- Board of Visitors
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee

August 2

† Hopewell Industrial Safety Council

August 3

Child Mental Health, Consortium on
† Freedom of Information Act, Joint Subcommittee
Studying the
† Sewage Handling and Disposal Appeals Review
Board, State

August 4

Bristol, Local Emergency Planning Committee, City of
Chesterfield County, Local Emergency Planning
Committee of

August 5

General Services, Department of
- Art and Architectural Review Board

August 9

Alcoholic Beverage Control Board
† Local Emergency Planning Committee - Scott County

August 11

Fairfax County, Town of Vienna, City of Fairfax, Town
of Herndon, Local Emergency Planning Committee of

August 12

† Children's Residential Facilities, Interdepartmental
Licensure and Certification of
- Coordinating Committee
† Medicine, Virginia State Board of
Prince William County, Manassas City, and Manassas
Park City Local Emergency Planning Committee

August 19

Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee

August 23

Alcoholic Beverage Control Board

August 25

† Charles City County Emergency Planning Committee

August 30

† Funeral Directors and Embalmers, Virginia Board of

August 31

† Funeral Directors and Embalmers, Virginia Board of

September 6

† Hopewell Industrial Safety Council

Calendar of Events

September 8

† Fairfax County, Town of Vienna, City of Fairfax,
Town of Herndon, Local Emergency Planning
Committee of

September 9

† Children's Residential Facilities, Interdepartmental
Licensure and Certification of
- Coordinating Committee

PUBLIC HEARINGS

July 7

Corrections, Department of

July 11

Election Laws, Joint Subcommittee Studying

July 13

Corrections, Department of

July 14

† Child Abuse Cases, Joint Subcommittee Studying
Investigative Procedures Used in

July 15

Agriculture and Consumer Services, Department of
Forestry, Department of

July 25

Local Government, Commission on

July 27

Health, Department of, and the State Water Control
Board, Jointly

July 28

Health, Department of, and the State Water Control
Board, Jointly

August 10

Health, Department of

August 12

Social Services, Department of

August 16

Education, Department of

August 24

† Water Control Board, State

September 7

† Air Pollution Control, Department of

October 4

† Agriculture and Consumer Services, Department of