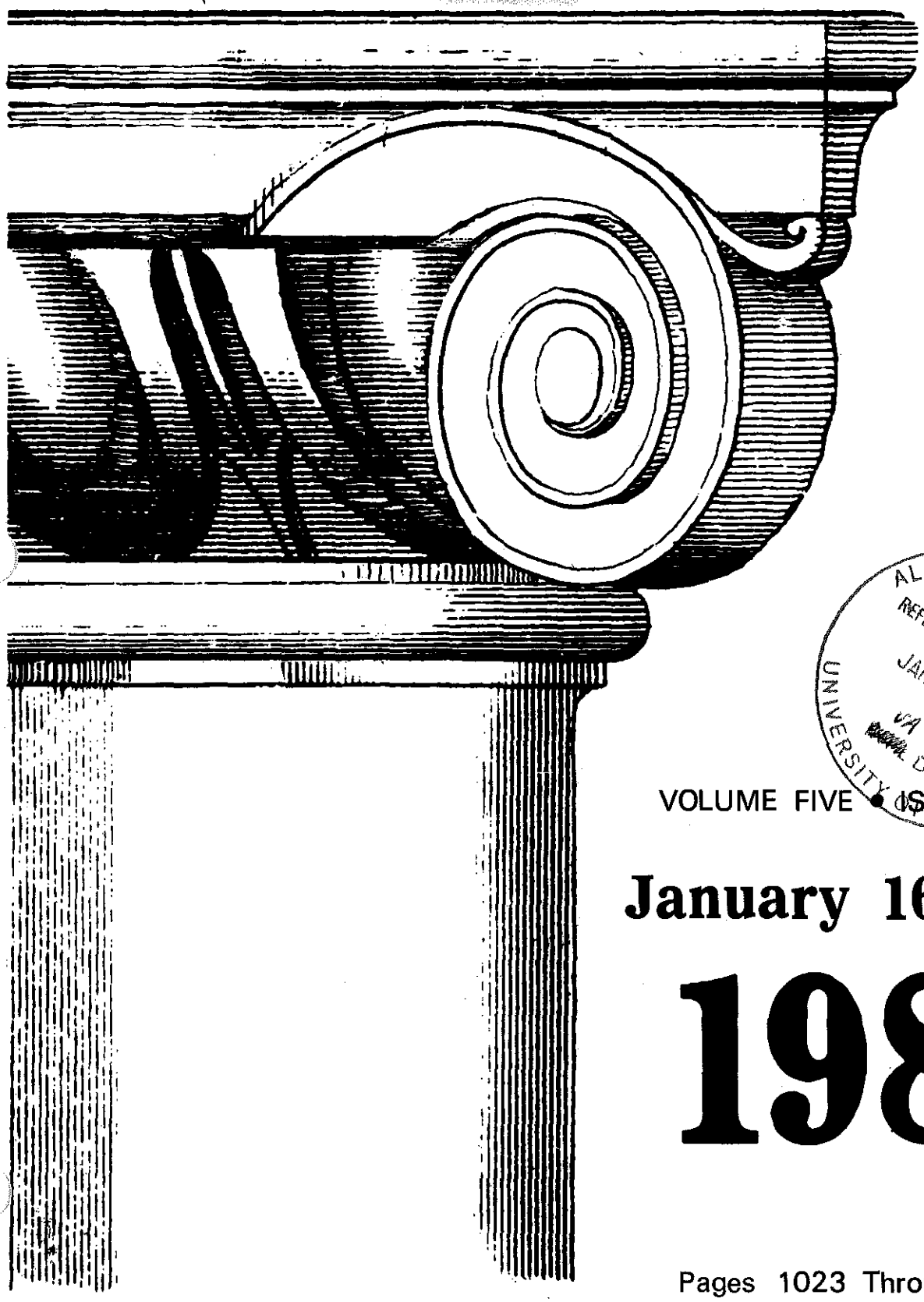
THE VIRGINIA REGISTER

OF REGULATIONS



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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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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**
Final Index - Volume 4	
Volume 5 - 1988-89	
Sept. 21	**Oct. 10**
Oct. 5	**Oct. 24**
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Nov. 16	**Dec. 5**
Nov. 30	**Dec. 19**
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Symbol Key

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

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD)

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Kraft Pulp Mills (Rule 4-13).**

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

Public Hearing Date: March 22, 1989 - 7:30 p.m.
(See Calendar of Events section for additional information)

Summary:

The purpose of the proposed amendments is to change the board's regulations to require the owner/operator to limit TRS emissions from the kraft pulp mill to a level resultant from the use of reasonably available control technology and necessary for the protection of public welfare.

VR 120-01. Regulations for the Control and Abatement of Air Pollution - Emission Standards for Kraft Pulp Mills (Rule 4-13).

§ 120-04-1301. Applicability and designation of affected facility.

A. The affected facilities in kraft pulp mills to which the provisions of this rule apply are: each recovery furnace, each smelt dissolving tank, each lime kiln, each slaker tank, and each kraft wood pulping operation. For the purpose of this rule, a kraft wood pulping operation is comprised only of any combination of the following *units* : recovery furnaces, lime kilns, ~~digesters~~ ~~and~~ *digester systems,* multiple-effect ~~evaporators~~ *evaporator systems, condensate stripper systems and smelt dissolving tanks* .

B. The provisions of this rule apply throughout the Commonwealth of Virginia.

C. The provisions of this rule do not apply to affected facilities subject to Rule 5-5, except to the extent such pollutants are emitted which are not subject to standards of performance in Rule 5-5.

§ 120-04-1302. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this rule, all terms not defined herein shall have the meaning given them in Part I, unless otherwise required by context.

C. Terms defined.

"Black lequor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, total reduced sulfur compounds from condensate streams from various processes within a kraft pulp mill.

"Cross recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains more than 7.0% by weight of the total pulp solids from the neutral sulfite semichemical process and has a green liquor sulfidity of more than 28%.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

"Green liquor sulfidity" means the sulfidity of the liquor which leaves the smelt dissolving tank.

"Kraft pulp mill" means any facility which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) *and hotwell(s)* used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

"Old design recovery furnace" means a straight kraft recovery furnace that does not have membrane wall or welded wall construction or emission control designed air systems.

"New design recovery furnace" means a straight kraft recovery furnace that has both membrane wall or welded wall construction and emission control designed air

systems.

"Recovery furnace" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct-contact furnace.

"Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Straight kraft recovery furnace" means a furnace used to recover chemicals consisting primarily of sodium and sulfur compounds by burning black liquor which on a quarterly basis contains 7.0 ~~weight percent~~ *% by weight* or less of the total pulp solids from the neutral sulfite semichemicals process or has green liquor sulfidity of 28% or less.

"Total reduced sulfur" means the sum of the following sulfur compounds (hydrogen sulfide, methyl mercaptan, dimethyl sulfide and dimethyl disulfide, reported as hydrogen sulfide) that are released during any kraft wood pulping operation.

§ 210-04-1303. Standard for particulate matter.

No owner or other person shall cause or permit to be discharged into the atmosphere from any group of similar affected facilities specified below any particulate emissions in excess of the following limits:

Affected Facility	Maximum Allowable Emission of Particulate in Lb/Equivalent Ton of Air Dried Pulp
All Recovery Furnace Units	3.00
All Smelt Dissolving Tank Units	0.75
All Lime Kiln Units	1.00
All Slaker Tank Units	0.30

§ 120-04-1304. Standard for total reduced sulfur.

~~No owner or other person shall cause or permit to be discharged into the atmosphere from any Kraft wood pulping operation any total reduced sulfur emissions in excess of the following limits: the daily average value per quarter for reduced sulfur emissions from all Kraft wood pulping operations shall not exceed 1.2 pounds of total reduced sulfur as H2S per ton of equivalent air dry pulp.~~

A. Except as provided in subsection B of this section, no owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit specified below any total reduced sulfur emissions in excess of the following limits:

1. Recovery furnaces.

a. Old design furnaces - 20 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. New design furnaces - 5 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Cross recovery furnaces - 25 ppm by volume on a dry basis, corrected to 8.0% oxygen.

2. Digester systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

3. Multiple-effect evaporator systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

4. Lime kilns - 20 ppm by volume on a dry basis, corrected to 10% oxygen.

5. Condensate stripper systems - 5 ppm by volume on a dry basis, corrected to 10% oxygen.

6. Smelt dissolving tanks - 0.033 pounds per ton black liquor solids as H2S.

B. Notwithstanding the provisions of subsection A of this section, no owner or other person shall cause or permit to be discharged into the atmosphere from any kraft wood pulping operation unit specified below any total reduced sulfur emissions in excess of the following limits:

1. Chesapeake Corporation, West Point, Virginia.

a. Recovery furnace No. 3 - 60 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Recovery furnace No. 4 - 20 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Lime kiln No. 1 - 55 ppm by volume on a dry basis, corrected to 10% oxygen.

2. Stone Container Corporation, Hopewell, Virginia.

Lime kiln - 110 ppm by volume on a dry basis, corrected to 10% oxygen.

3. Union Camp Corporation, Franklin, Virginia.

a. Recovery furnace No. 4 - 30 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Recovery furnace No. 5 - 30 ppm by volume on a dry basis, corrected to 8.0% oxygen.

c. Recovery furnace No. 6 - 10 ppm by volume on a dry basis, corrected to 8.0% oxygen.

d. Lime kiln No. 2 - 115 ppm by volume on a dry basis, corrected to 10% oxygen.

e. Lime kiln No. 3 - 205 ppm by volume on a dry basis, corrected to 10% oxygen.

f. Lime kiln No. 4 - 170 ppm by volume on a dry basis, corrected to 10% oxygen.

g. Smelt dissolving tank No. 4 - 0.13 pounds per ton black liquor solids as H2S.

h. Smelt dissolving tank No. 5 - 0.13 pounds per ton black liquor solids as H2S.

4. Westvaco Corporation, Covington, Virginia.

a. Recovery furnace - 45 ppm by volume on a dry basis, corrected to 8.0% oxygen.

b. Lime kiln - 100 ppm by volume on a dry basis, corrected to 10% oxygen.

c. Digester system - 200,000 ppm by volume on a dry basis, corrected to 10% oxygen.

d. Multiple-effect evaporator system - 10,000 ppm by volume on a dry basis, corrected to 10% oxygen.

e. Smelt dissolving tanks - 0.25 pounds per ton black liquor solids as H2S.

C. Achievement of the emission standards in this section by use of methods in § 120-04-1305 will be acceptable to the board.

D. The emission standards in subsection B of this section shall be repealed as of (five years after effective date) and after that date the emission standards in subsection A of this section shall apply to all affected facilities.

§ 120-04-1305. Control technology guidelines.

The control method should consist of one of the following:

1. Combustion of gases in a lime kiln or recovery furnace subject to the provisions of this rule.

2. Combustion of gases in equipment or a device which is not subject to the provisions of this rule and which is subjected to a minimum temperature of 1200°F for at least 0.5 seconds.

3. Any control method of equal or greater efficiency to the method in subsection B of this section, provided such method is approved by the board.

~~§ 120-04-1305.~~ *§ 120-04-1306.* Standard for visible emissions.

A. The provisions of Rule 4-1 (Emissioin Standards for Visible Emissions and Fugitive Dust/Emissions) apply except with regard to recovery furnaces; for such facilities the provisions in subsection B of this section apply instead of § 120-04-0103 A of Rule 4-1.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any recovery furnace any visible emissions which exhibit greater than 35% opacity. Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.

~~§ 120-04-1306.~~ *§ 120-04-1307.* Standard for fugitive dust/emissions.

The provisions of Rule 4-1 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions) apply.

~~§ 120-04-1307.~~ *§ 120-04-1308.* Standard for odor.

The provisions of Rule 4-2 (Emission Standards for Odor) apply.

~~§ 120-04-1308.~~ *§ 120-04-1309.* Standard for noncriteria pollutants.

The provisions of Rule 4-3 (Emission Standards for Non-Criteria Pollutants) apply.

~~§ 120-04-1309.~~ *§ 120-04-1310.* Compliance.

A. The provisions of § 120-04-02 (Compliance) apply.

B. Each owner of a facility for which an emission standard is prescribed in § 120-04-1304 B shall submit to the board by (six months after the effective date) a control program to achieve compliance with the emission standards in § 120-04-1304 A as expeditiously as possible, but in no case later than (five years after effective date).

C. For any kraft pulp mill that does not have a condensate stripper system on (effective date), the control program required by subsection B of this section shall contain a commitment to install, maintain, and operate such a system if determined to be reasonably available control technology.

D. For any emissions unit with emissions equal to or greater than 0.01 pounds per ton of air dried pulp (actual emissions at plant capacity) that are not subject to the emission standards in § 120-04-1304, the control program required by subsection B of this section shall contain a commitment to determine and implement reasonably available control technology.

~~§ 120-04-1310.~~ *§ 120-04-1311.* Test methods and procedures.

The provisions of § 120-04-03 (Emission testing) apply.

~~§ 120-04-1311.~~ *§ 120-04-1312.* Monitoring.

A. The provisions of § 120-04-04 (monitoring) apply.

B. The owner shall by (one year after the effective date):

1. Install, maintain and operate continuous monitoring equipment to monitor and record the concentration of TRS emissions on a dry basis and the percentage of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln, recovery furnace, digester system, multiple-effect evaporator system, or condensate stripper system, except where these gases are subjected to a minimum temperature of 1200°F for at least 0.5 seconds in an incinerator or other device approved by the board which does not generate TRS. The location of each monitoring system must be approved by the board.

2. Install, calibrate, maintain, and operate a monitoring device which measures the combustion temperature at the point of incineration of effluent gases which are emitted from any lime kiln, recovery furnace, digester system, multiple-effect evaporator system, or condensate stripper system unless TRS monitors are required as in subsection B 1 of this section. The monitoring device is to be certified by the manufacturer to be accurate within 1.0% of the temperature being measured.

§ ~~120-04-1312.~~ *§ 120-04-1313.* Notification, records and reporting.

A. The provisions of § 120-04-05 (Notification, records and reporting) apply.

B. Any owner subject to the provisions of § 120-04-1312 B shall:

1. Calculate and record on a daily basis 12-hour average TRS concentrations for the two consecutive periods of each operating day. Each 12-hour average shall be determined as the arithmetic mean of the appropriate 12 contiguous 1-hour average TRS concentrations provided by each continuous monitoring system installed under § 120-04-1312 B 1.

2. Calculate and record on a daily basis 12-hour average oxygen concentrations for the two consecutive periods of each operating day for the recovery furnace and lime kiln. These 12-hour averages shall correspond to the 12-hour average TRS concentrations under subsection B 1 of this section and shall be determined as an arithmetic mean of the appropriate 12 contiguous 1-hour average oxygen concentrations provided by each continuous monitoring system installed under § 120-04-1312 B 1.

3. Correct all 12-hour average TRS concentrations to 10 volume percent oxygen, except that all 12-hour average TRS concentrations from a recovery furnace shall be corrected to 8 volume percent using the following equation:

$$C_{corr} = C_{uncorr} \times \frac{(21-X)}{(21-Y)}$$

where:

C_{corr} = the concentration corrected for oxygen.

C_{uncorr} = the concentration uncorrected for oxygen.

X = the volumetric oxygen concentration in percentage to be corrected to (8.0% for recovery furnaces and 10% for lime kilns, incinerators, or other devices).

Y = the measured 12-hour average volumetric oxygen concentration.

C. Each owner required to install a continuous monitoring system shall submit a written report of excess emissions to the board for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter and shall include the following information:

1. For emissions from any recovery furnace, periods of excess emissions are all 12-hour average TRS concentrations above the applicable emission standard in § 120-04-1304.

2. For emissions from any lime kiln, periods of excess emissions are all 12-hour average TRS concentrations above the applicable emission standard in § 120-04-1304.

3. For emissions from any digester system, multiple-effect evaporator system, or condensate stripper system periods of excess emissions are:

a. All 12-hour average TRS concentrations above the applicable emission standard in § 120-04-1304 unless exempted under the provisions of § 120-04-1312 B 1; or

b. All periods in excess of five minutes and their duration during which the combustion temperature is less than 1200°F if the gases are combusted in an incinerator or other device approved by the board which does not generate TRS.

D. The board will consider periods of excess emissions reported under subsection C of this section to be indicative of a violation if:

1. The number of excess emissions from recovery furnaces exceeds 1.0% of the total number of possible contiguous periods of excess emissions in a quarter (excluding periods of startup, shutdown, or malfunction and periods when the recovery furnace is not operating).

2. The number of excess emissions from lime kilns exceeds 2.0% of the total number of possible contiguous periods of excess emissions in a quarter (excluding periods of startup, shutdown, or malfunction and periods when the lime kiln is not operating).

3. The number of excess emissions from incinerators exceeds 2.0% of the total number of possible contiguous periods of excess emissions in a quarter

(excluding periods of startup, shutdown, or malfunction and periods when the incinerator is not operating).

4. The board determines that the affected equipment, including air pollution control equipment, is not maintained and operated in a manner which is consistent with good air pollution control practice for minimizing emissions during periods of excess emissions.

~~§ 120-04-1313.~~ *§ 120-04-1314.* Registration.

The provisions of § 120-02-31 (Registration) apply.

~~§ 120-04-1314.~~ *§ 120-04-1315.* Facility and control equipment maintenance or malfunction.

The provisions of § 120-02-34 (Facility and control equipment maintenance or malfunction) apply.

~~§ 120-04-1315.~~ *§ 120-04-1316.* Permits.

A permit may be required prior to beginning any of the activities specified below and the provisions of Part V (New and Modified Sources) and Part VIII (Permits for New and Modified Sources) may apply. Owners contemplating such action should contact the appropriate regional office for guidance.

~~A.~~ *1.* Construction of a facility.

~~B.~~ *2.* Reconstruction (replacement of more than half) of a facility.

~~C.~~ *3.* Modification (any physical change to equipment) of a facility.

~~D.~~ *4.* Relocation of a facility.

~~E.~~ *5.* Reactivation (restart-up) of a facility.

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

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

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

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

Summary:

In response to federal legislation which will reduce the amount of lendable funds to be made available by the authority beginning in early 1989 for its single family mortgage loan program, the proposed amendments to the procedures, instructions and guidelines for mortgage loans to persons and families of low and moderate income will set new schedules of the maximum gross incomes and maximum sales price limits applicable to such program. Implementation of the revised sales price and income limits set forth in, or determined in accordance with, these proposed schedules is expected, among other things, to better target these limited loan funds to those borrowers most in need and reduce demand to a level consistent with available funds.

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

PART I.
GENERAL.

§ 1.1. General.

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

In order to be considered eligible for a mortgage loan hereunder, a "person" or "family" (as defined in the authority's rules and regulations) must have an "adjusted family income" or "gross family income" (as determined in accordance with the authority's rules and regulations) as applicable, which does not exceed the applicable income limitation established by the authority. Furthermore, the sales price of any single family unit to be financed hereunder must not exceed the applicable sales price limit established by the authority. In addition, each mortgage loan must satisfy all requirements of federal law applicable to loans financed with the proceeds of tax-exempt bonds. Such income and sales price limitations and other restrictions shall be set forth in the

Processing and Disbursing Guide set forth in Part II hereof.

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

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

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

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

§ 1.2. PDS agents.

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

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

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

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

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

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

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

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

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

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

B. Allocation of funds.

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

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

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

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

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

5. Housing conditions in the Commonwealth.

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

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

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

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

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

C. Processing and Disbursing Guide and Servicing Guide.

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

D. Making and purchase of new mortgage loans.

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

E. Purchase of existing mortgage loans.

The authority may purchase from time to time existing mortgage loans with funds held or received in connection with bonds issued by the authority prior to January 1, 1981, or with other funds legally available therefor. With respect to any such purchase, the executive director may request and solicit bids or proposals from the authority's PDS agents for the sale and purchase of such mortgage loans, in such manner, within such time period and subject to such terms and conditions as he shall deem appropriate under the circumstances. The executive director may take such action as he deems necessary or appropriate to solicit offers to sell mortgage loans, including mailing of the request to PDS agents, advertising in newspapers or other publications and any other method of public announcement which he may select as appropriate under the circumstances. After review and evaluation by the executive director of the bids or proposals, he shall select those bids or proposals that offer the highest yield to the authority on the mortgage loans (subject to any limitations imposed by law on the authority) and that best conform to the terms and conditions established by him with respect to the bids or proposals. Upon selection of such bids or proposals, the executive director shall issue commitments to the PDS agents to purchase the mortgage loans, subject to such terms and conditions as he shall deem necessary or appropriate and subject to the approval or ratification by the board. Upon satisfaction of the terms of the commitments, the executive director shall execute such agreements and documents and take such other action as may be necessary or appropriate in order to consummate the purchase and sale of the mortgage loans. The mortgage loans so purchased shall be serviced in accordance with the PDS agreement and the Servicing Guide. Such mortgage loans and the purchase thereof shall in all respects comply with the authority's act and rules and regulations.

F. Delegated underwriting.

The executive director may, in his discretion, delegate to one or more PDS agents the responsibility for issuing

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

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

Article I.
Eligibility Requirements.

§ 2.1. Eligible persons and families.

A. Person.

A one-person household is eligible.

B. Family.

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

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

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

§ 2.2.1. Eligible borrowers.

A. General.

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

The applicant:

1. May not have had a present ownership interest in his principal residence within the three years preceding the date of execution of the mortgage loan documents. (See § 2.2.1.B Three-year requirement);

2. Must agree to occupy and use the residential property to be purchased as his permanent, principal residence within 60 days (90 days in the case of a rehabiliation loan as defined in § 2.17) after the date of the closing of the mortgage loan. (See § 2.2.1.C Principal residence requirement);

3. Must not use the proceeds of the mortgage loan to acquire or replace an existing mortgage or debt, except in the case of certain types of temporary financing. (See § 2.2.1.D New mortgage requirement);

4. Must have contracted to purchase an eligible dwelling. (See § 2.2.2 Eligible dwellings);

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

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

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

B. Three-year requirement.

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

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

a. A fee simple interest,

b. A joint tenancy, a tenancy in common, or a tenancy by the entirety,

c. The interest of a tenant shareholder in a cooperative,

d. A life estate,

e. A land contract, under which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time, and

f. An interest held in trust for the eligible borrower (whether or not created by the eligible borrower) that would consitute a present ownership interest if held directly by the eligible borrower.

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

a. A remainder interest,

b. An ordinary lease with or without an option to purchase,

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

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

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

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

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

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

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

C. Principal residence requirement.

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

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

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

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

b. He does not intend to farm any portion (other

than as a garden for personal use) of the land financed by the mortgage loan; and

c. He does not intend to subdivide the property.

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

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

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

D. New mortgage requirement.

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

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

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

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

E. Multiple loans.

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

§ 2.2.2. Eligible dwellings.

A. In general.

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

1. Be located in the Commonwealth;

2. Be a one-family detached residence, a townhouse or one unit of an authority approved condominium; and

3. Satisfy the acquistion cost requirements set forth below.

B. Acquisition cost requirements.

1. General rule. The acquisition cost of an eligible dwelling may not exceed certain limits established by

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

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

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

a. Acquisition cost includes:

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

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

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

b. Acquisition cost does not include:

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

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

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

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

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

§ 2.2.3. Targeted areas.

A. In general.

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

B. Eligibility.

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

1. Definition of targeted areas.

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

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

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

§ 2.3. Sales price limits.

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

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

MAXIMUM ALLOWABLE SALES PRICES

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

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

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

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

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

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

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

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

MAXIMUM ALLOWABLE SALES PRICES

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

	New Construction	Substantial Rehabilitation	Existing
Washington, DC-MD-VA MSA (Virginia Portion)			

1/	$120,000	$120,000	$110,000
Norfolk-Virginia Beach-Newport News MSA			
2/	$ 81,500	$ 81,500	$ 75,500
Richmond-Petersburg MSA			
3/	$ 77,000	$ 71,500	$ 68,500
Roanoke MSA			
4/	$ 73,500	$ 56,500	$ 56,500
Lynchburg MSA			
5/	$ 65,000	$ 58,500	$ 58,500
Charlottesville MSA			
6/	$ 77,000	$ 74,500	$ 68,500
Fringe of Washington MSA			
Fauquier County	$ 77,000	$ 77,000	$ 77,000
Fredericksburg	$ 64,000	$ 60,000	$ 60,000
Spotsylvania County	$ 66,000	$ 60,000	$ 60,000
Winchester Area			
7/	$ 64,000	$ 58,500	$ 58,500
North Piedmont (Rural ~~Pt~~ *Part*)			
8/	$ 64,000	$ 56,500	$ 56,500
Balance of State	$ 64,000	$ 56,500	$ 56,500

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

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

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

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

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

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

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

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

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

§ 2.4. Net worth.

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

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

§ 2.5. Income requirements.

A. Maximum *gross* income.

~~1. Maximum gross income (only applicable to loans for which reservations are taken by the authority on or after August 10, 1987, and for assumptions of loans for which applications are taken by the PDS agent on or after August 10, 1987).~~ As provided in § 2.2.1.A.6 the gross family income of an applicant for an authority mortgage loan may not exceed the applicable income limitation imposed by the U.S. Department of the Treasury. Because the income limits of the authority imposed by this ~~paragraph 1~~ *subsection A* apply to all loans to which such federal limits apply and are in all cases below such federal limits, the requirements of § 2.2.1.A.6 are met as long as the requirements of this subsection are met. The maximum annual gross family incomes for eligible borrowers shall be *determined or set forth* as follows:

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

MAXIMUM ALLOWABLE GROSS INCOMES

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

The maximum allowable gross income for each

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

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

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

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

MAXIMUM ALLOWABLE GROSS INCOMES

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

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

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

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

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

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

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

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

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

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

~~2. Maximum adjusted family income. (Only applicable to loans for which reservations are taken by the authority before August 10, 1987, and to assumptions of loans for which applications are taken by the PDS agent before August 10, 1987.)~~

~~NOTE: No federal income limits apply to these loans. The maximum adjusted family incomes for eligible borrowers shall be as follows:~~

~~MAXIMUM ALLOWABLE ADJUSTED FAMILY INCOMES~~

~~Applicable only to loans for which reservations are taken by the authority or to assumptions for which applications are taken by the PDS agent before August 10, 1987.~~

	New Construction	Substantial Rehabilitation	Existing
Northern Virginia portion of Washington, DC MD-VA MSA 1/	$ 46,600	$ 46,600	$ 43,200
Norfolk-Virginia Beach Newport News MSA 2/	$ 34,300	$ 34,300	$ 29,000
Richmond-Petersburg 3/	$ 29,900	$ 29,900	$ 28,700
Northern Piedmont/ Roanoke MSA 4/	$ 29,900	$ 29,900	$ 28,700
Remainder of State 5/	$ 29,400	$ 29,400	$ 27,200

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

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

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

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

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

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

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

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

§ 2.6. Calculation of maximum loan amount.

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

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

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

In the case of a FHA or VA loan, the FHA or VA insurance fees charged in connection with such loan (and, if a FHA loan, the FHA permitted closing costs as well) may be included in the calculation of the maximum loan amount in accordance with applicable FHA and VA requirements; provided, however, that in no event shall this revised maximum loan amount which includes such fees and closing costs be permitted to exceed the authority's maximum allowable sales price limits set forth herein.

§ 2.7. Mortgage insurance requirements.

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

FHA and VA loans), full private mortgage insurance as described above is required unless waived by the authority.

§ 2.8. Underwriting.

A. Conventional loans.

1. Employment and income.

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

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

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

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

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

c. Income derived from sources other than primary employment.

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

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

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

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

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

2. Credit.

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

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

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

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

B. FHA loans only.

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

2. Mortgage insurance premium. Applicant's mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed, except that, in the case of a condominium, such fee may not be paid

in full in advance but instead is payable in annual installments.

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

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

C. VA loans only.

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

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

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

§ 2.9. Funds necessary to close.

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

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

B. Gift letters.

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

C. Housing expenses.

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

§ 2.10. Loan assumptions.

A. Requirements for assumptions.

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

1. Assumptions of conventional loans.

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

(1) § 2.5 (Income requirement).

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

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.2.1.B (Three year requirement)

(5) § 2.2.2.B (Acquisition cost requirement)

(6) § 2.7 (Mortgage insurance requirement).

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

(1) § 2.5 (Income requirements)

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

(3) § 2.8 (Authority underwriting requirements)

(4) § 2.7 (Mortgage insurance requirements).

2. Assumptions of FHA or VA loans.

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

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

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

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

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

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

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

B. Requirement that the authority be contacted.

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

C. Application package for assumptions.

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

1. Assumption package for conventional loans:

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

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

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

(5) Three year's tax returns.

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

(7) 4506 form (Exhibit Q).

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

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

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

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

(12) Credit report.

(13) Sales contract.

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

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

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

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

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

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

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

(4) Credit report.

(5) Sales contract.

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

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

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

2. Assumption package for FHA or VA loans.

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

(1) Affidavit of borrower (Exhibit E).

(2) Affidavit of seller (Exhibit F).

(3) Acquisition cost worksheet (Exhibit G).

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

(5) Three year's tax returns.

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

(7) 4506 form (Exhibit Q).

(8) PDS agent's loan submission cover letter (Exhibit 0(2) or (3).

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

(10) In addition, all applicable requirements, if any, of FHA or VA must also be met.

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

D. Review by the authority/additional requirements.

Upon receipt of an application package for assumption,

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

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

A. Leasing.

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

B. Loan term.

Loan terms may not exceed 30 years.

C. Owner occupancy.

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

§ 2.12. Reservations/fees.

A. Making a reservation.

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

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

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

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

4. Complete a reservation sheet (Exhibit C).

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

a. Name of primary applicant

b. Social security number of applicant

c. Estimated loan amount

d. PDS agent's servicer number

e. Gross family income of applicant and family, if any

f. Location of property (city or county)

g. Verification of receipt of the reservation fee

h. Type of mortgage insurance to be used (if conventional, the authority will assign the loan a suffix "C;" if FHA, the suffix will be "F;" and, if VA, it will be "V").

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

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

B. More than one reservation.

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

C. The reservation fee.

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

D. Other fee.

1. Commitment fee. The PDS agent must collect at the

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

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

§ 2.13. Preparation of application package for new loans.

A. Conventional loans.

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

1. Reservation sheet (Exhibit C).

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

3. Preliminary underwriting form. (Exhibit B)

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

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

6. Verification of other income.

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

8. Gift letters (and verification).

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

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

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

12. Appraiser's report. (Exhibit H)

13. Acquisition cost worksheet. (Exhibit G)

14. Affidavit of seller. (Exhibit F)

15. Affidavit of borrower. (Exhibit E)

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

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

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

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

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

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

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

B. FHA loans.

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

1. Reservation sheet (Exhibit C).

2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).

3. Copy the HUD application (FHA form 92900).

4. Copy of the Mortgage Credit Analysis Worksheet (HUD form 92900-ws).

5. Copy of the credit report.

6. Copy of verification of employment.

7. Copy of verification of other income.

8. Copy of verification of deposits.

9. Copy of gift letters (and verification).

10. Copy of sales contract.

11. Assignment letter - this must reference the case number, name of applicant.

12. Copy of appraisal - this must be on a form acceptable to FHA and must contain all supporting documentation necessary for valuation.

13. FHA Notice to Buyers (Document F-9)

14. Loan submission cover letter. (Exhibit O(2))

15. Appraiser's report. (Exhibit H)

16. Acquisition cost worksheet. (Exhibit G)

17. Affidavit of seller. (Exhibit F)

18. Affidavit of borrower. (Exhibit E)

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

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

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

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

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

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

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

C. VA loans.

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

1. Reservation sheet (Exhibit C).

2. Application - must be on the authority's form and can be handwritten if legible (Exhibit D).

3. Copy the VA application (VA form 26-1802A).

4. Copy of the Loan Analysis Worksheet (VA form 6393).

5. Copy of the credit report.

6. Copy of verification of employment.

7. Copy of verification of other income.

8. Copy of verification of deposits.

9. Copy of gift letters (and verification).

10. Copy of sales contract.

11. Copy of appraisal - this must be on a form acceptable to VA and must contain all supporting documentation necessary for valuation.

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

13. Appraiser's report. (Exhibit H)

14. Acquisition cost worksheet. (Exhibit G)

15. Affidavit of seller. (Exhibit F)

16. Affidavit of borrower. (Exhibit E)

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

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

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

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

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

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

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

D. Delivery of package to authority.

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

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

§ 2.14. Commitment. (Exhibit J)

A. In general.

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

B. Loan rejection.

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

§ 2.15. Loan settlement.

A. Loan closing.

1. In general. Upon the borrower's acceptance of the mortgage loan commitment, the PDS agent will send the authority's letter and closing instructions (see Exhibits M and N) and the closing papers to the closing attorney. The PDS agent should thoroughly familiarize himself with the closing instructions and should fill in all blanks such as per diem interest, appraisal fee, credit report charges to be collected at closing, and any special requirements of the commitment before the closing instructions are forwarded to the closing attorney. The authority will provide the PDS agent with the documents which the closing attorney is required to complete. After the authority reviews the closing attorney's preliminary work and has been advised by the PDS agent in the case of an FHA or VA loan that all applicable FHA or VA requirements have been met, it will approve closing and, a loan proceeds check will be sent to the closing attorney or firm named in the commitment or binder as approved under the issuing company's insured closing service, along with additional closing instructions. The closing attorney may disburse loan proceeds only after he has conducted the loan closing and recorded all necessary documents, including the deed of trust securing repayment of the loan to the authority and in all other respects is in a position to disburse proceeds in accordance with the authority's letter authorizing the closing, the commitment and the instructions previously issued by the PDS agent. It is the PDS agent's responsibility to see that all documents and checks are received immediately after loan closings and that they are completed in accordance with the authority's requirements, Regulation Z and ECOA.

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

from the seller's own funds and not be deducted from loan proceeds. Because of this requirement, buy-down fees may not appear as a deduction from the seller's proceeds on the HUD-1 Settlement Statement.

B. Post-closing requirements.

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

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

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

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

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

§ 2.16. Property guidelines.

A. In general.

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

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

B. Conventional loans.

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

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

C. FHA or VA loans.

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

2. Additional requirements for new construction. If such homes being financed by FHA loans are new manufactured housing they must meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified and taxed as real estate and no personal property may be financed.

§ 2.17. Substantially rehabilitated.

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

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

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

3. The authority's staff will inspect each house submitted as substantially rehabilitated to ensure compliance with our underwriting-property standards. An appraisal is to be submitted after the authority's inspection and is to list the improvements and estimate their value.

4. The authority will only approve rehabilitation loans to eligible borrowers who will be the first resident of the residence after the completion of the rehabilitation. As a result of the tax code, the proceeds of the mortgage loan cannot be used to refinance an existing mortgage, as explained in § 2.2.1.D (New mortgage requirement). The authority will approve loans to cover the purchase of a residence, including the rehabilitation:

a. Where the eligible borrower is acquiring a residence from a builder or other seller who has performed a substantial rehabilitation of the residence; and

b. Where the eligible borrower is acquiring an unrehabilitated residence from the seller and the eligible borrower contracts with others to perform a substantial rehabilitation or performs the rehabilitation work himself prior to occupancy.

§ 2.18. Condominium requirements.

A. Conventional loans.

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

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

3. Each year the authority will send Exhibit T to the Unit Owners Association requesting information concerning the condominium including a statement as to the status of the approvals of VA, FNMA and FHLMC, as applicable, and a copy of the condominium's financial statement and operating budget. The association will be advised that if the request for information is not received within 90 days from the date of the request, the authority may terminate its approval of the condominium. The authority will review the financial statement and operating budget and the questionnaire and if the condominium remains in satisfactory condition, the authority will continue to make mortgage loans on the units subject to the limitations in paragraph 4 below. In the event the authority determines a condominium is not in satisfactory condition, the Unit Owners Association will be given 60 days to correct the deficiencies. If the deficiencies are not corrected to the satisfaction of the authority, the condominium will no longer be approved for financing. The requirements and procedures in this section will also apply to condominiums previously approved by the authority.

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

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

The effective date of the foregoing amendments shall be ~~October 19, 1988~~ *March 1, 1989* .

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Title of Regulation: **VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.**

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Public Hearing Date: February 15, 1989 - 10 a.m.
(See Calendar of Events section for additional information)

EDITOR'S NOTE ON INCORPORATION BY REFERENCE: Pursuant to § 9-6.18 of the Code of Virginia, 49 Code of Federal Regulations, §§ 171-179 and 390-397, is declared a document generally available to the public and appropriate for incorporation by reference. For this reason, it will not be printed in the Virginia Register of Regulations. Copies of this document are available for inspection at the Department of Waste Management, 11th Floor, James Monroe Building, 101 N. 14th Street, Richmond, Virginia, and in the office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia.

Summary:

Amendment 7 proposes to incorporate by reference changes that were made by U.S DOT to Title 49 Code of Federal Regulations, §§ 171-179 and 390-397 from January 1, 1987, to June 30, 1988. In addition, § 2.8 is being revised to reflect changes made to § 10.1-1451 of the Code of Virginia pursuant to Clause 5, Chapter 891 of the 1988 Virginia Acts of Assembly. Changes in the U.S. DOT regulations include: (i) revision of Motor Carrier Safety rules requiring all commercial motor vehicle over 10,000 pounds gross weight be equipped with brakes on all wheels including front wheels, (ii) adjustment to the minimum dollar limit for reporting accidents resulting in property damage, (iii) emergency final rule for uranium hexafluoride due to health and safety hazards that may be associated with use of cleaning procedures, (iv) revision to the final rule on uranium hexafluoride concerning design criteria for certain types of packaging used for transportation, (v) amendment to the Hazardous Materials Regulations in order to regulate molten sulfur as an ORM-C material, (vi) clarification of method used by states in designating preferred and alternate routes for transportation of certain shipments of radioactive materials, (vii) incorporation of definitions for bulk packaging and nonbulking packaging, and to make other miscellaneous changes including required identifications of materials in bulk packaging, (viii) incorporation of a number of changes based on petitions to update and clarify the regulations, (ix) amendments to Part 395, Hours of Service of Drivers, which will provide more judicious accounting of time worked thereby reducing the possibility of accrued driver fatigue and make the regulations more easily understood, and (x) corrections, editorial changes, clarifications and other minor revisions.

VR 672-30-1. Regulations Governing the Transportation of Hazardous Materials.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified in 49 Code of Federal Regulations Parts 170-177.

"Hazardous material" means a substance or material in a form or quantity which may pose an unreasonable risk to health, safety or property when transported, and which the Secretary of Transportation of the United States has so determined by regulation or order.

"Transport" or "Transportation" means any movement of property by any mode, and any packing, loading, unloading, identification, marking, placarding, or storage incidental thereto.

PART II.
GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1 Authority for regulation.

A. These regulations are issued under the authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

B. Section 10.1-1450 of the Code of Virginia assigns the Virginia Waste Management Board the responsibility for promulgating regulations governing the transportation of hazardous materials.

C. The board is authorized to promulgate rules and regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported, such rules to be no more restrictive than applicable federal regulations.

§ 2.2. Purpose of regulations.

The purpose of these regulations is to regulate the transportation of hazardous materials in Virginia.

§ 2.3. Administration of regulations.

A. The Executive Director of the Department of Waste Management is designated by the Virginia Waste

Management Board with the responsibility to carry out these regulations.

B. The Department of Waste Management is responsible for the planning, development and implementation of programs to meet the requirements of Article 7 of (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia.

§ 2.4. Application of regulations.

Notwithstanding the limitations contained in 49 CFR § 171.1(3), and subject to the exceptions set forth in § 2.5. below, these regulations apply to any person who transports hazardous materials, or offers such materials for shipment.

§ 2.5. Exceptions.

Nothing contained in these regulations shall apply to regular military or naval forces of the United States, nor to the duly authorized militia of any state or territory thereof, nor to the police or fire departments of this Commonwealth, providing the same are acting within their official capacity and in the performance of their duties; nor to the transportation of hazardous radioactive materials in accordance with § 44-146.30 of the Code of Virginia.

§ 2.6. Regulations not to preclude exercise of certain regulatory powers.

Pursuant to § 10.1-1452 of the Code of Virginia, the provisions of these regulations shall not be construed so as to preclude the exercise of the statutory and regulatory powers of any agency, department or political subdivision of the Commonwealth having statutory authority to regulate hazardous materials on specified highways or portions thereof.

§ 2.7. Transportation under United States Regulations.

Pursuant to § 10.1-1454 of the Code of Virginia, any person transporting or offering for shipment hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of these regulations, except when such transportation is excluded from regulation under the laws or regulations of the United States.

§ 2.8. Enforcement.

A. Law-enforcement officers.

The Department of State Police ~~,~~ ~~together~~ ~~with~~ *and* all *other* law-enforcement ~~and~~ ~~peace~~ officers of the Commonwealth *who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Transportation, in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials,* shall enforce the provisions of ~~these regulations~~ *this particle, and any rule or regulation promulgated herein. Those law-enforcement officers certified to enforce the provisions of this article and any regulation promulgated hereunder, shall annually receive in-service training in current federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials* . Pursuant to § 10.1-1455 of the Code of Virginia, violation of these regulations is a Class 1 misdemeanor.

B. Civil judicial enforcement of these regulations shall be governed by § 10.1-1455 of the Code of Virginia.

§ 2.9. Application of Administrative Process Act.

The provisions of the Virginia Administrative Process Act, codified as § 9-6.14:1 of the Code of Virginia, govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings hereunder.

PART III.
COMPLIANCE WITH FEDERAL REGULATIONS.

§ 3.1. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the United States Secretary of Transportation with amendments promulgated through ~~December 31, 1986~~ *June 30, 1988* , pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations (CFR) as set forth below and which are incorporated in these regulations by reference:

1. Exemptions. Hazardous Materials Program Procedures in 49 CFR, part 107, Subpart B.

2. Hazardous Materials Regulations in 49 CFR, Parts 171 through 177.

3. Shipping Container Specifications in 49 CFR, Part 178.

4. Specifications for Tank Cars in 49 CFR Part 179.

5. Driving and Parking Rules in 49 CFR Part 397.

6. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 396.

PART IV.
HAULING EXPLOSIVES IN PASSENGER-TYPE VEHICLES.

§ 4.1. Hauling explosives in passenger-type vehicles.

Explosives shall not be transported in or on any motor vehicle licensed as a passenger vehicle or a vehicle which is customarily and ordinarily used in the transportation of passengers except upon written permission of the State Police and under their direct supervision and only in the amount and between points authorized. If the movement is intracity, the permission of the properly designated authority of such city shall be secured. Dangerous articles, including small arms ammunition, but not including other types of explosives, may be transported in passenger type vehicles provided the maximum quantity transported does not exceed 100 pounds in weight. Such transportation shall not be subject to these rules.

PART V.
OUT OF SERVICE.

§ 5.1 Out of service.

The Department of State Police shall be the agents authorized to perform inspections of motor vehicles in operation and to declare and mark vehicles "out of service" as set forth in 49 CFR Part 396.9.

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan.**

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Public Hearing Date: February 27, 1989 - 7:30 p.m.
(See Calendar of Events section for additional information)

Background:

Water Quality Management Plans set forth those measures to be taken by the State Water Control Board for reaching and maintaining applicable water quality goals both in general terms and numeric loadings for five-day Biochemical Oxygen Demand (BOD5) in identified stream segments.

Section 62.1-44.15(3) of the Code of Virginia authorizes 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 or policies established.

Section 62.1-44.15(13) of the Code of Virginia authorizes the establishment of policies and programs for area and basinwide water quality control and management.

Summary:

The proposed amendment would revise the BOD5 loading upward from 1,201 lb/day to 2,002 lb/day. This revision is necessary to incorporate a BOD5 value that represents the total assimilative capacity of the receiving stream rather than an allocation based upon an outdated design flow. The revised BOD5 value also reflects more state-of-the-art modeling techniques that demonstrated the revised value would protect water quality standards.

The major difference between the current loading rate and the proposed revised one is that the former is an allocation based upon a 20 year projected flow of 8.0 MGD and the latter represents a total assimilative capacity based upon stream studies that utilized actual field data.

The proposed revisions will maintain the water quality standards adopted by the board.

Potomac-Shenandoah River Basin Water Quality Management Plan

Reference for Harrisonburg-Rockingham Regional Sewer Authority discharge to North River WQ (1-1) on Table 28 of the Potomac-Shenandoah River Basin Water Quality Management Plan would be amended as follows:

FACILITY NUMBER	NAME	RECOMMENDED RECEIVING STREAM	FACILITY			WASTELOAD ALLOCATION[3] LB/D	INSTITUTIONAL ARRANGEMENT	COMPLIANCE[4] SCHEDULE
			RECOMMENDED ACTION	SIZE[1]	TREATMENT LEVEL[2]			
2	Harrisonburg-Rockingham Regional Sewer Authority	North River WQ (1-1)	Correct I/I	~~8.0~~ 12.0[5]	AST	~~4,201~~ 2,002	Harrisonburg-Rockingham Regional Sewer Authority	None

(1) Year 2000 design flow (MGD) unless otherwise noted

(2) Secondary treatment: 24-30 mg/l BOD_5, advanced secondary treatment (AST): 11-23 mg/l BOD_5, advanced wastewater treatment (AWT): $\leq$10 mg/l BOD_5. A range is given to recognize that various waste treatment processes have different treatment efficiencies.

(3) Recommended wasteload allocation calculated using mathematical modeling based upon 7Q10 stream flows. Tiered permits may allow greater wasteloads during periods of higher stream flows. Allocations other than BOD_5 are noted by footnote.

(4) The July 1, 1983 data is a statutory deadline required by P.L. 92-500, as amended by P.L. 92-217. The timing of Construction Grant funding may result in some localities to miss this deadline.

(5) Year 2008 design.

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)

Title of Regulation: **VR 355-28-01.02. Regulations for Disease Reporting and Control.**

Statutory Authority: § 32.1-12 of the Code of Virginia.

Effective Date: February 15, 1989

Summary:

These regulations explain the requirements for reporting communicable diseases, toxic substances related diseases, and cancer to the health department, including defining who is required to report, which diseases are reportable, and what mechanisms are available for reporting.

The amendments to the regulations include the following:

1. A modification of the emergency regulation for reporting human immunodeficiency virus infection due to a change in § 32.1-36 of the Code of Virginia, which permits physicians to report cases of HIV infection.

2. The addition of a list of infectious diseases occurring in persons dying that must be reported to funeral directors. This list includes Creutzfeldt-Jakob disease, human immunodeficiency virus infection, hepatitis B, hepatitis non A, non B, rabies, and syphilis.

3. A section defining information required to be reported to the Virginia Tumor Registry on all persons diagnosed with cancer. This will clarify the new cancer reporting requirements.

4. Additions to the list of reportable diseases, including chlamydia trachomatis infections, invasive Haemophilus influenzae infections, human immunodeficiency virus (HIV) infection, listeriosis, and Lyme disease.

5. Additions to the list of diseases requiring rapid communication, including invasive Haemophilus influenzae infections and hepatitis A.

6. Additions to the list of diseases reportable by directors of laboratories, including chlamydia trachomatis infections, Haemophilus influenzae infections, hepatitis A, listeriosis, and pertussis.

These amendments were adopted as a result of current national disease control initiatives, recent changes to the Code of Virginia, or both. Their purpose is to enable the Virginia Department of Health to monitor all communicable diseases of public health importance by adding diseases which have only recently achieved such importance to the list of reportable conditions.

An explanation of the cancer reporting requirements is necessary to make clear the different options for reporting. Hospitals, clinics, and independent pathology laboratories must report persons diagnosed with cancer to the Virginia Tumor Registry, but they have the option of reporting only basic information or more extensive clinical information, depending on whether they have cancer programs approved by the American College of Surgeons.

The only addition that has been made to these regulations since the proposed versions was published was the inclusion of Creutzfeldt-Jakob disease on the list of conditions reportable to funeral directors. Other changes involved clarifications of reporting requirements.

VR 355-28-01.02. Regulations for Disease Reporting and Control.

~~Section 2.00~~

PART I.
DEFINITIONS.

~~2.01~~ *§ 1.1.* ~~General. As used in these regulations, the words and terms hereinafter set forth have meanings respectively set forth unless the context requires a different meaning.~~ *The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:*

~~2.02 Definitions~~

~~2.02.01~~ *"Board"* means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

~~2.02.02~~ *"Carrier"* means a person who, with or without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

~~2.02.03~~ *"Commissioner"* means the State Health Commissioner *, his duly designated officer or agent* .

~~2.02.04~~ *"Communicable disease"* means an illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

~~2.02.05~~ *"Contact"* means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

~~2.02.06~~ *"Department"* means the State Department of Health.

~~2.02.07~~ *"Designee"* or *"Designated officer or agent"* means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

~~2.02.08~~ *"Epidemic"* means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

~~2.02.09~~ *"Foodborne outbreak"* means a group manifestation of illness acquired through the consumption of food or water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxications, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium perfringens* food poisoning and hepatitis A.

~~2.02.10~~ *"Immunization"* means a treatment which renders an individual less susceptible to the pathologic effects of a disease or provides a measure of protection against the disease (e.g., inoculation, vaccination).

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

~~2.02.11~~ *"Investigation"* means an inquiry into the incidence, extent, source and causation of a disease occurrence.

"Isolation" means separation for the period of communicability of infected persons or animals from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of an infectious agent from those infected to those who are susceptible. The means of isolation shall be the least restrictive means appropriate under the facts and circumstances as determined by the commissioner.

~~2.02.12~~ *"Laboratory director"* means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

~~2.02.13~~ *"Medical care facility"* means any hospital or nursing home licensed in the Commonwealth *, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia* .

~~2.02.14~~ *"Midwife"* means any person who is registered as a nurse midwife by the State Board of Nursing or who possesses a midwife permit issued by the State Health Commissioner.

~~2.02.16~~ *"Nosocomial outbreak"* means any group of illnesses of common etiology occurring in patients of a medical care facility acquired by exposure of those patients to the disease agent while confined in such a facility.

~~2.02.15~~ *"Nurse"* means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia State Board of Nursing.

~~2.02.17~~ *"Period of communicability"* means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

~~2.02.18~~ *"Physician"* means any person licensed to practice medicine by the Virginia State Board of Medicine.

~~2.02.19~~ *"Quarantine"* means generally, a period of detention for persons or domestic animals that may have been exposed to ~~or~~ ~~are~~ ~~suffering~~ ~~from~~ a reportable, contagious disease for purposes of observation or treatment.

~~a.~~ *1.* Complete quarantine. The formal limitation of freedom of movement of well persons or animals exposed to a reportable disease for a period of time not longer than the longest incubation period of the disease in order to prevent effective contact with the unexposed. *The means of complete quarantine shall be the least restrictive means appropriate under the facts and circumstances, as determined by the commissioner.*

~~b.~~ *2.* Modified quarantine. A selective, partial limitation of freedom of movement of persons or domestic animals, determined on the basis of differences in susceptibility, or danger of disease transmission. Modified quarantine is designed to meet particular situations and includes but is not limited to, the exclusion of children from school and the prohibition or restriction of those exposed to or suffering from a communicable disease from engaging in a particular occupation. *The means of modified quarantine shall be the least restrictive means appropriate under the facts and circumstances,*

pursuant to § 3.1 E of these regulations or as determined by the commissioner.

~~c.~~ *3.* Segregation. The separation for special control, or observation of one or more persons or animals from other persons or animals to facilitate control or surveillance of a reportable disease. *The means of segregation shall be the least restrictive means available under the facts and circumstances, as determined by the commissioner.*

~~2.02.20~~ *"Reportable disease"* means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment *, as determined by the board* .

~~2.02.21~~ *"Surveillance"* means the continuing scrutiny of all aspects of occurrence and spread of a disease relating to effective control of that disease. Included in the process of surveillance are the collection and evaluation of:

~~a.~~ *1.* Morbidity and mortality reports.

~~b.~~ *2.* Special reports of field investigations of epidemics and individual cases.

~~c.~~ *3.* Isolation and identification of infectious agents by laboratories.

~~d.~~ *4.* Data concerning the availability, use, and untoward side effects of the substances used in disease control.

~~e.~~ *5.* Information regarding immunity levels in segments of the population.

~~2.02.22~~ *"Toxic substance"* means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

~~Section 1.00~~

PART II.
GENERAL INFORMATION.

~~1.00~~ *§ 2.1.* Authority.

Chapter 2 of Title 32.1 of the Code of Virginia deals with the reporting and control of diseases. Specifically, § 32.1-35 directs the Board of Health to promulgate regulations specifying which diseases occurring in the Commonwealth are to be reportable and the method by which they are to be reported. Further, § 32.1-42 of the Code ~~allows~~ *authorizes* the board to promulgate regulations and orders to prevent a potential emergency caused by a disease dangerous to the public health. Section 32.1-12 of the Code empowers the Board of Health ~~with the authority~~ to adopt *such* regulations *as are necessary to carry out provisions of laws of the Commonwealth administered by the Commissioner of the Department of Health.*

~~1.01~~ *§ 2.2.* Purpose.

These regulations are designed to provide for the uniform reporting of diseases of public health importance occurring within the Commonwealth in order that appropriate control measures may be instituted to interrupt the transmission of disease.

~~1.02~~ *§ 2.3.* Administration.

~~1.02.01~~ *A.* State Board of Health.

The State Board of Health ("board") has the responsibility for promulgating regulations pertaining to the reporting and control of diseases of public health importance.

~~1.02.02~~ *B.* State Health Commissioner.

The State Health Commissioner ("commissioner") is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of *and review by* the board.

~~1.02.03~~ *C.* Local health director.

The local health director is responsible for the surveillance and investigation of those diseases specified by these regulations which occur in his jurisdiction. He is further responsible *for reporting all such surveillance and investigations to the State Department of Health* . In cooperation with the commissioner *, he is responsible for instituting measures* for disease control, ~~including~~ *which may include* quarantine or isolation as required *by the commissioner* .

~~1.02.04~~ *D.* Office of Epidemiology.

The Office of Epidemiology is responsible for the statewide surveillance of those diseases specified by these regulations, for coordinating the investigation of those diseases with the local health director and regional medical director, and for providing direct assistance where necessary. The Director of the Office of Epidemiology acts as the commissioner's designee in reviewing reports and investigations of diseases and recommendations by local health directors for quarantine or isolation. *However, authority to order quarantine or isolation resides solely with the commissioner, unless otherwise expressly provided by him.*

~~1.03~~ *§ 2.4.* Application of regulations.

These regulations have general application throughout the Commonwealth.

~~1.04~~ *§ 2.5. Effective date of original regulations.*

August 1, 1980.

Effective date of amendment No. 1:

August 21, 1984.

Effective date of emergency amendment of § 3.1:

January 4, 1988.

[~~*Proposed*~~] *Effective date of amendment No. 2:*

February 15, 1989.

~~1.05~~ *§ 2.6.* Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code, shall govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings and appeals hereunder. All hearings on such regulations shall be conducted in accordance with § 9-6.14:7.

~~1.06~~ *§ 2.7.* Powers and procedures of regulations not exclusive.

The board reserves the right to authorize a procedure for enforcement of these regulations which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 of Title 32.1 of the Code.

~~1.07. If any provision of these regulations or the application hereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these regulations and the various applications thereof are declared to be severable.~~

~~Section 3.00~~

PART III.
REPORTING OF DISEASE.

~~3.00~~ *§ 3.1. Reportable Disease List.*

The board declares the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in § ~~3.01~~ *§ 3.2* :

~~3.00.01~~ *A.* List of reportable diseases:

Acquired Immunodeficiency Syndrome
Amebiasis
Anthrax
Arboviral infections
Aseptic meningitis
Bacterial meningitis *(specify etiology)*
Botulism
Brucellosis
Campylobacter infections
Chancroid
Chickenpox
Chlamydia trachomatis infections
Congenital rubella *syndrome*
Diphtheria
Encephalitis
primary *(specify etiology)*
post-infectious
Foodborne outbreaks
Giardiasis
Gonorrhea
Granuloma inguinale
Haemophilus influenzae [~~*type b*~~] *infections invasive*
Hepatitis
A [~~(infectious)~~]
B [~~(serum)~~]
Non A, Non B
Unspecified
Histoplasmosis
Human immunodificiency virus (HIV) infection
Influenza
Kawasaki ~~Disease~~ *Syndrome*
Legionellosis
Leprosy
Leptospirosis
Listeriosis
Lyme disease
Lymphogranuloma venereum
Malaria
Measles (Rubeola)
Meningococcal infections
Mumps
Nosocomial outbreaks
Occupational illnesses
Ophthalmia neonatorum
Pertussis *(Whooping cough)*
Phenylketonuria (PKU)
Plague
Poliomyelitis
Psittacosis
Q fever
Rabies in animals
~~Post-exposure rabies treatment~~
Rabies treatment, post exposure
Reye syndrome
Rocky Mountain spotted fever
Rubella *(German measles)*
Salmonellosis
Shigellosis
Smallpox
Syphilis
Tetanus
Toxic shock syndrome
Toxic substance related illnesses
Trichinosis
Tuberculosis
Tularemia
Typhoid fever
Typhus, flea-borne
Vibrio infections including cholera
Waterborne outbreaks
Yellow fever

[**Reportable by physicians only, according to the provisions of § 3.1 D of these regulations.*]

~~3.00.02~~ *B.* Reportable diseases requiring rapid communication.

Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature ~~and/~~ or their potential for *greater* harm, *or both,* require immediate identification and control. Reporting of these diseases, listed below, shall be made by the most rapid means available, preferably that of telecommunication (e.g., telephone, telegraph, teletype, etc.) to the local health director or other professional employee of the department:

Anthrax
Botulism
Cholera
Diphtheria
Foodborne outbreaks
Haemophilus influenzae [~~*type b*~~] *infections, invasive*
Hepatitis A
Measles (Rubeola)
Meningococcal infections
Plague
Poliomyelitis
Psittacosis
Rabies in man
Smallpox
Syphilis, primary and secondary
Tubercolosis
Yellow Fever

~~3.00.03~~ *C.* Diseases to be reported by number of cases.

The following disease in the list of reportable diseases shall be reported as number-of-cases only:

Influenza [*(by type, if available*]

D. Diseases to be reported under special circumstances.

Any physician practicing in this Commonwealth may report to the local health department [~~*the identity of*~~] *any patient of his who has tested positive for exposure to human immunodeficiency virus (HIV).* [*If such report is made, it shall include the information required in § 3.2 A.*] *Only individuals who have positive blood tests for HIV antibodies as demonstrated by at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and* [~~*another testing procedure*~~ *a supplemental test*] *such as the western blot are considered to have HIV infection.* [*It is recommended that HIV infection shall be reported when the physician or primary care provider needs the Department of Health's support in patient and contact counseling and epidemiologic tracking.*]

~~3.00.04~~ *E.* Toxic substances related diseases or illnesses.

Diseases or illnesses resulting from exposure to a toxic substance, shall include, but not be limited to the following:

Occupational Lung Diseases	Occupationally-Related Cancers
silicosis	mesothelioma
asbestosis	
byssinosis	

Furthermore, all toxic substances-related diseases or illnesses, including pesticide poisonings, illness or disease resulting from exposure to a radioactive substance, or any illness or disease that is indicative of an occupational health, public health, or environmental problem shall be reported.

~~The timeliness of reporting a toxic substances-related disease or illness shall reflect the severity of the occupational health, public, or environmental problem.~~ If such disease or illness is verified, or suspected, and presents an emergency, or a serious threat to public health or safety, the report of such disease or illness shall be by rapid communication as in ~~Section 3.00.02~~ *§ 3.1 B* .

~~3.00.05~~ *F.* Unusual or ill-defined diseases, illnesses, or outbreaks.

The occurrence of outbreaks or clusters of any illness which may represent an unusual or group expression of an illness which may be of public health concern shall be reported to the local health department by the most rapid means available.

~~3.01~~ *§ 3.2. Those required to report.*

~~3.01.01~~ *A.* Physicians.

Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease, or who is suspected of being a carrier of a reportable disease shall report that person's name, address, age, sex, race, name of disease diagnosed or suspected, and the date of onset of illness except that influenza should be reported by number of cases only [*(and type of influenza, if available)*] *and* [~~*reports of*~~] *HIV infection* [*may be reported and if reported,*] *shall* [*include the information listed above and*] *comply with the provisions of § 3.1 D. It is recommended that HIV infection shall be reported when the physician or primary care provider needs the Department of Health's support in patient and contact counseling and epidemiologic tracking.* Reports are to be made to the local health department serving the jurisdiction where the ~~facility is located~~ *physician practices. Any physician making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia .*

Such reports shall be made on a form to be provided by the department (CD-24) and shall be made within seven days unless the disease in question requires rapid reporting under ~~Section 3.00.02 or 3.00.05~~ *§§ 3.1 B or 3.1 F* . (Venereal diseases are reported on Form VD-35C in the manner described above.)

~~3.01.02~~ B. Directors of laboratories.

Any person who is in charge of a laboratory conducting business in the Commonwealth shall report any laboratory examination of any specimen derived from the human body which yields evidence, by the laboratory method(s) indicated, of a disease listed below:

Anthrax - by culture

Campylobacter infections - by culture

Chlamydia trachomatis infections - by culture or antigen detection methods

Cholera - by culture
Diphtheria - by culture

Gonococcal infections - by culture or microscopic examination

Haemophilus influenzae [~~*type b*~~] *infections - by culture* [~~*of blood or cerebrospinal fluid or countercurrent immunoelectrophoresis*~~ *or antigen detection assay of blood or cerebrospinal fluid*]

Hepatitis A - by serology [*specific for IGM antibodies*]

Influenza - by culture or serology

Legionellosis - by culture or serology

Listeriosis - by culture

Malaria - by microscopic examination

Meningococcal infections - by culture [*of blood or cerebrospinal fluid*]

Mycobacterial diseases - by culture

Pertussis - by culture or direct fluorescent antibody test

Plague - by culture [*or direct fluorescent antibody test*]

Poliomyelitis - by culture or serology

Rabies in animals - by microscopic or immunologic examination

Salmonella infections - by culture

Shigella infections - by culture

Syphilis - by serology or dark field examination

Trichinosis - by microscopic examination of a muscle biopsy

Each report shall give the name and address of the person from whom the specimen was obtained and, when available, the person's age, race and sex. The name and address of the physician [*or medical facility*] for whom the examination was made shall also be provided. [*When the influenza virus is isolated, the type should be reported, if available.*] Reports shall be made within seven days to the local health department serving the jurisdiction in which the laboratory is located and shall be made on Form CD-24.3 or on the laboratory's own form if it includes the required information. *Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.*

Exceptions: With the exception of reporting laboratory evidence of gonococcal infections and syphilis, laboratories operating within a medical care facility shall be considered to be in compliance with the regulations when the director of that medical care facility assumes the reporting responsibility.

Laboratory examination results indicating gonococcal infections or syphilis shall be reported either on Form VD-36 or on Form CD-24.3 [*or another form acceptable to the Director of the Office of Epidemiology*].

A laboratory may fulfill its responsibility to report mycobacterial diseases by sending a positive culture for identification ~~and/~~ or confirmation , *or both,* to the Virginia Division of Consolidated Laboratory Services. The culture must be identified with the patient and physician information required above.

[~~Note: Refer to § 207.0 of the Rules and Regulations for the Licensure of Hospitals in Virginia (as contained in Appendix C) *Part X § 1* for additional laboratory reporting requirements.~~]

~~3.01.03~~ *C.* Person in charge of a medical care facility.

Any person in charge of a medical care facility shall make a report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in ~~3.00.01~~ *§ 3.1 A* unless he has evidence that the occurrence has been reported by a physician. *Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.* The requirement to report shall include all inpatient, outpatient and emergency care departments within the medical care facility. Such report shall contain the patient's name, age, address, sex, race, name of disease being reported, the date of admission, hospital chart number, date expired (when applicable), and attending physician. [*Influenza should be reported by number of cases only (and type of influenza, if available).*] Reports shall be made within seven days unless the disease in question requires rapid reporting under ~~3.00.02 or 3.00.05~~ *§§ 3.1 B or 3.1 F* and shall be made on Form CD-24.1. Nosocomial outbreaks shall be reported on Form CD-24.2.

(Note: See ~~3.01.02~~ *§ 3.2 B* "Exceptions")

~~3.01.04~~ *D.* Person in charge of a school.

Any person in charge of a school shall report immediately to the local health department the presence or suspected presence in his school of children who have common symptoms suggesting an epidemic or outbreak situation. *Any person so reporting shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.*

~~3.01.05~~ *E.* Local health directors.

The local health director shall forward within seven days to the Office of Epidemiology of the State Health Department any report of a disease or report of evidence of a disease which has been made on a resident of his jurisdiction. This report shall be by telecommunication if the disease is one requiring rapid communication, as required in ~~3.00.02 and 3.00.05~~ *§ 3.1 B or § 3.1 F* . All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology within seven days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individiuals residing in the latter's jurisdiction. The local health director shall review reports of diseases received from his jurisdiction and follow-up such reports, when indicated, with an appropriate investigation in order to evaluate the severity of the problem. He shall determine, in consultation with the regional medical director, ~~and~~ the Director of the Office of Epidemiology, *and the commissioner* if further investigation is required and if complete or modified

quarantine will be necessary.

Modified quarantine shall apply to situations [~~where~~ *in which*] the local health director on the scene would be best able to judge the potential threat of disease transmission. Such situations shall include, but are not limited to, the temporary exclusion of a child with a communicable disease from school and the temporary prohibition or restriction of any individual(s), exposed to or suffering from a communicable disease, from engaging in an occupation such as foodhandling that may pose a threat to the public. Modified quarantine shall also include the exclusion, under § 32.1-47 of the Code of Virginia ~~(1950)~~ ~~as amended,~~ of any unimmunized child from a school in which an outbreak, potential epidemic, or epidemic of a vaccine preventable disease has been identified. *In these situations, the local health director may be authorized as the commissioner's designee to order the least restrictive means of modified quarantine.*

Where modified quarantine is deemed to be insufficient and complete quarantine *or isolation* is necessary to protect the public health, the local health director, in consultation with the regional medical director and the ~~staff~~ *Director* of the Office of Epidemiology, shall recommend to the commissioner that a ~~formal~~ quarantine order *or isolation order* be issued.

F. Persons in charge of hospitals, nursing homes, homes for adults, and correctional facilities.

In accordance with § 32.1-37.1 of the Code of Virginia, any person in charge of a hospital, nursing home, home for adults or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral services or his agent if the dead person was known to have had, immediately prior to death, any of the following infectious diseases:

[*Creutzfeldt-Jakob disease*]

Human immunodeficiency virus infection

Hepatitis B

Hepatitis Non A, Non B

Rabies

[*Infectious*] *syphilis*

~~Section 4.00~~

PART IV.
CONTROL OF DISEASE.

~~4.00~~ *§ 4.1.* The "Methods of Control" sections of the ~~Thirteenth~~ *Fourteenth* Edition of the Control of Communicable Diseases in Man (1985) published by the American Public Health Association shall be complied with by the board and commissioner in controlling the diseases listed in ~~3.00.01~~ *§ 3.1 A, except to the extent that the requirements and recommendations therein are outdated, inappropriate, inadequate, or otherwise inapplicable* . The board and commissioner reserve the right to use any legal means to control any disease which is a threat to the public health.

~~Section 5.00~~

PART V.
IMMUNIZATION.

~~5.00~~ *§ 5.1.* Dosage and age requirements for immunizations.

Every child in Virginia shall be immunized against the following diseases by receiving the specified number of doses of vaccine by the specified ages:

~~5.00.01~~ *1.* Diphtheria, Tetanus, and Pertussis (Whooping cough) Vaccine - three doses by age one year of toxoids of diphtheria and tetanus, combined with pertussis vaccine.

~~5.00.02~~ *2.* Poliomyelitis Vaccine, trivalent type - three doses by age 18 months of attenuated (live) trivalent oral polio virus vaccine or inactivated poliomyelitis vaccine.

~~5.00.03~~ *3.* Measles (Rubeola) Vaccine - one dose at 15 months of age, or by age two years, of further attentuated (live) measles virus vaccine (Schwartz or Moraten).

~~5.00.04~~ *4.* Rubella (German measles) Vaccine - one dose at 15 months of age or by age two years of attenuated (live) rubella virus vaccine.

~~5.00.05~~ *5.* Mumps Vaccine - one dose at 15 months of age or by age two years of mumps virus vaccine (live).

~~5.01~~ *§ 5.2.* Obtaining immunization.

The required immunizations may be obtained from a physician licensed to practice medicine or from the local health department. ~~The local health department shall administer the required immunizations without charge.~~

~~Section 6.00~~

PART VI.
VENEREAL DISEASE.

~~6.00~~ *§ 6.1.* Prenatal testing.

Every physician attending a pregnant woman during gestation shall examine and test such woman for syphilis within 15 days after beginning such attendance. Every physician should examine and test a pregnant woman for

other venereal diseases as clinically indicated.

~~Section 7.00~~

PART VII.
PREVENTION OF BLINDNESS FROM OPHTHALMIA NEONATORUM.

~~7.00~~ *§ 7.1.* Procedure for preventing ophthalmia neonatorum.

The physician, nurse or midwife in charge of the delivery of a baby shall install in each eye of that newborn baby as soon as possible after birth ~~either~~ *one of the following* : ~~1)~~ *(i)* two drops of a 1.0% silver nitrate solution; ~~2)~~ *(ii)* two drops of a 1.0% tetracycline ophthalmic solution; ~~3)~~ *(iii)* one quarter inch or an excessive of 1.0% tetracycline ophthalmic ointment; or ~~4)~~ *(iv)* one quarter inch or an excessive amount of 0.5% erythromycin ophthalmic ointment. This treatment shall be recorded in the medical record of the infant.

PART VIII.
CANCER REPORTING.

§ 8.1. Authority.

Title 32.1 (§ 32.1-70) of the Code of Virginia authorizes the establishment of a statewide cancer registry.

§ 8.2. Reportable cancers.

Newly diagnosed malignant tumors or cancers, as defined in Part I, shall be reported to the Virginia Tumor Registry in the department.

§ 8.3. Those required to report.

Any person in charge of a medical care facility or independent pathology laboratory which diagnoses or treats cancer patients is required to report.

§ 8.4. Data which must be reported.

Each report shall include the patient's name, address, age, sex, date of diagnosis, primary site of cancer, histology, basis of diagnosis, and history of service in the Veitnam war and exposure to dioxin-containing compounds. Medical care facility reports shall also include social security number, date of birth, race, marital status, usual occupation, and usual industry.

The reporting requirement may be met by submitting a copy of the hospital facesheet and pathology report to the Virginia Tumor Registry. Reports shall be made within four months of the diagnosis of cancer.

§ 8.5. Additional data which may be reported.

Any person in charge of a medical care facility may also elect to provide more extensive clinical information as required for cancer programs approved by the American College of Surgeons. These additional data may include staging, treatment, and recurrence information and may be reported by submitting a hospital abstract to the Virginia Tumor Registry within six months of the diagnosis of cancer. Annual follow-up may be conducted on persons reported in this manner.

PART IX.

§ 1. Reporting and control of diseases.

Chapter 2, §§ 32.1-35 through 32.1-73 of the Code of Virginia relating to the Reporting and Control of Diseases is incorporated by reference and made a part of these regulations.

[~~*PART X.*~~

~~*§ 1. Reporting of specified organisms.*~~

~~*When a hospital diagnostic laboratory isolates from clinical, pathological or environmental specimens, any one of the special micro-organisms listed, the original culture or a subculture shall be submitted to the state laboratory for confirmation and further specific identification, accompanied by data identifying the patient and attending physician:*~~

~~*Atypical mycobacteria*~~

~~*Bacillus anthracis*~~

~~*Campylobacter species*~~

~~*Corynebacterium diphtheriae*~~

~~*Mycobacterium tuberculosis*~~

~~*Neisseria meningitidis*~~

~~*Polioviruses*~~

~~*Salmonella species*~~

~~*Shigella species*~~

~~*Vibrio cholerae*~~

~~*Yersinia pestis*~~]

(CD-24)

VIRGINIA DEPARTMENT OF HEALTH
CONFIDENTIAL MORBIDITY REPORT
(Send to Local Health Dept.)

1. Communicable Disease Reports

DISEASE			DATE OF ONSET		
NAME OF PATIENT — LAST	FIRST	MIDDLE	AGE	RACE	SEX
ADDRESS					
COMMENTS					
DISEASE			DATE OF ONSET		
NAME OF PATIENT — LAST	FIRST	MIDDLE	AGE	RACE	SEX
ADDRESS					
COMMENTS					
NAME OF PHYSICIAN	ADDRESS				

(over)

II. OCCUPATIONAL DISEASE OR TOXIC SUBSTANCE EXPOSURE REPORT

PATIENT'S NAME — LAST	FIRST	MIDDLE	AGE	RACE	SEX
ADDRESS			OCCUPATION		
DIAGNOSIS			DATE OF ONSET		
NAME OF TOXIC SUBSTANCE (General or Trade Name if Known)					
DATE(S) OF EXPOSURE					
NAME AND ADDRESS OF LOCATION OF SUSPECTED EXPOSURE					
COMMENTS					
NAME OF PHYSICIAN	ADDRESS				

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH - OFFICE OF EPIDEMIOLOGY

VIRGINIA CONFIDENTIAL MORBIDITY REPORT FOR MEDICAL CARE FACILITIES

PLEASE REPORT THE DISEASES LISTED BELOW AS REQUIRED BY SECTION 32.1-37 OF THE VIRGINIA CODE AND THE "RULES AND REGULATIONS FOR THE LICENSURE OF GENERAL AND SPECIAL HOSPITALS IN VIRGINIA." COMPLETED FORMS SHOULD BE MAILED TO THE LOCAL HEALTH DEPARTMENT AT LEAST ***WEEKLY*** IF THERE ***ARE*** CASES. A MONTHLY REPORT SHOULD BE SUBMITTED IF THERE ARE ***NO*** CASES TO BE REPORTED FOR THAT MONTH.

FOR EPIDEMIOLOGICAL ASSISTANCE OR CONSULTATION, PLEASE CALL THE LOCAL HEALTH DEPARTMENT OR THE OFFICE OF EPIDEMIOLOGY, 109 GOVERNOR STREET, RICHMOND, VIRGINIA 23219 (PH. 804-786-6261). ADDITIONAL REPORT FORMS ARE AVAILABLE THROUGH THE SAME OFFICE.

HOSPITAL NAME _____

ADDRESS _____

REPORTED BY _____ _____ _____ _____
NAME TITLE PHONE NUMBER DATE REPORTED

DIAGNOSIS	PATIENT'S NAME	ADDRESS	AGE	RACE	SEX	DATE OF ADMISSION	CHART NUMBER	PHYSICIAN	DATE IF EXPIRED

A. NOSOCOMIAL OUTBREAKS

AN OUTBREAK WILL BE CONSIDERED TO BE PRESENT WHEN THERE IS AN INCREASE IN INCIDENCE OF ANY INFECTIOUS DISEASE OR INFECTION ABOVE THE USUAL INCIDENCE. PLEASE COMPLETE FORM CD-24.2 TO REPORT OUTBREAKS.

B. REPORTABLE DISEASES

REPORT INFLUENZA BY NUMBER OF CASES ONLY.

VENEREAL DISEASE CASES SHOULD BE REPORTED ON A SPECIAL HEALTH DEPARTMENT FORM (VD35C) AVAILABLE THROUGH THE STATE VENEREAL DISEASE PROGRAM OR THE LOCAL HEALTH DEPARTMENT. CASES OF VENEREAL DISEASE WILL BE INVESTIGATED BY HEALTH DEPARTMENT PERSONNEL AFTER CONSULTATION WITH THE PATIENT'S PHYSICIAN.

ENTER MINIMAL IDENTIFYING DATA ON ALL OTHER DISEASES LISTED BELOW.

REPORT DISEASES PRECEDED BY AN ASTERISK (*) IMMEDIATELY BY TELEPHONE TO THE LOCAL HEALTH DIRECTOR OR STATE EPIDEMIOLOGIST AS WELL AS BY COMPLETING THE REPORTING FORM.

- Acquired Immune Deficiency Syndrome
- Amebiasis
- * Anthrax
- Arboviral Infections
- Aseptic Meningitis
- Bacterial Meningitis (specify etiology)
- * Botulism
- Brucellosis
- Campylobacter Infections
- Chancroid
- Chickenpox
- * Cholera ← chlamydia trachomatis infections
- Congenital Rubella Syndrome
- * Diphtheria
- Encephalitis
  - Primary (specify etiology)
  - Post-Infectious
- * Foodborne Outbreaks
- Giardiasis
- Gonorrhea
- Granuloma Inguinale ← Haemophilus ducreyi
- Hepatitis A (Infectious) ← type B infections
  - B (Serum)
  - Non A, Non B ← invasive
  - Unspecified
- Histoplasmosis
- Influenza ← Human immunodeficiency
- Kawasaki's Disease ← virus (HIV) infection
- Legionellosis
- Leprosy
- Leptospirosis ← Lyme disease
- Lymphogranuloma Venereum
- Malaria
- * Measles (Rubeola)
- * Meningococcal Infections
- Mumps
- Nosocomial Outbreaks
- Occupational Illnesses
- Opthalmia Neonatorum
- Pertussis
- Phenylketonuria (PKU)
- * Plague
- * Poliomyelitis
- * Psittacosis
- Q Fever
- * Rabies in Man
- Post Exposure Rabies Treatment in Man
- Rabies in Animals
- Reye's Syndrome
- Rocky Mountain Spotted Fever
- Rubella
- Salmonellosis
- Shigellosis
- * Smallpox
- Syphilis
  - * Primary and Secondary
- Tetanus
- Toxic Shock Syndrome
- Trichinosis
- Tularemia
- * Tuberculosis*
- Typhoid Fever
- Typhus, Flea-Borne
- Vibro Infections
- Waterborne Outbreaks
- * Yellow Fever

ANY OTHER DISEASE OR OUTBREAK OF PUBLIC HEALTH IMPORTANCE

*An additional report will be filed with the Bureau of Tuberculosis Control by the local health department

RETAIN COPY (3) FOR YOUR RECORDS. MAIL COPIES (1) AND (2) TO YOUR LOCAL HEALTH DEPARTMENT

FORM CD—24.1 198

OFFICE OF EPIDEMIOLOGY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH - DIVISION OF EPIDEMIOLOGY

NOSOCOMIAL OUTBREAK REPORT

Hospital Name _____ Date of Report _____

Address _____

_____

Reported By _____ _____ _____
Name Title Phone Number

_____

Date of Onset of Index Case _____ Date of Onset of Last Case _____

Is Outbreak Continuing? _____ # Cases to Date _____ # Deaths to Date _____

Etiology _____

Description of Outbreak _____

_____

_____

_____

_____

_____

Control Measures Instituted _____

_____

_____

_____

_____

Comments _____

_____

_____

_____

_____

(Please attach additional pages or information as needed.)
Division of Epidemiology

CD—24.2

VIRGINIA STATE DEPARTMENT OF HEALTH
CONFIDENTIAL REPORT: LABORATORY EVIDENCE OF CERTAIN COMMUNICABLE DISEASES

Last Name	First	Middle	Age	Race	Sex	Date Specimen Submitted

Address _____ City _____ Zip _____ County _____

Attending Physician _____ Address or Hospital _____

City _____ County _____ Zip _____ Phone _____

Type of Specimen
Blood ☐ CSF ☐ Stool ☐ Pharyngeal Swab ☐ Washing ☐ Sputum ☐ Discharge ☐ Other _____

Test
Culture: Bacterial ☐ Viral ☐ Parasitic ☐ Immunological (SPECIFY) _____ Microscopic ☐
Serological (SPECIFY) _____ Histologic ☐

Results

Date of Report _____ Name and Address of Lab _____ Director _____

Mail Copies (1) and (2) to Your Local Health Department

CD-24.3

Last Name | First Name | Middle Initial | Race | Sex | Date of Birth

Address | City | County

Syphilis:

- ☐ (10) Primary
- ☐ (20) Secondary
- ☐ (30) Early Latent (Less than 1 yr.'s duration)

Clinical Manifestations

- ☐ (31) Early Latent (1-2 yrs.' duration)
- ☐ (40) Late Latent (Over 2 yrs.' duration)
  - ☐ (41) Neurosyphilis
  - ☐ (42) Cardiovascular
  - ☐ (43) Other _____
- ☐ (50) Congenital
- ☐ Not infected with syphilis

Other Venereal Diseases:

- ☐ (60) Gonorrhea
- ☐ (70) Chancroid
- ☐ (80) Granuloma Inguinale
- ☐ (90) Lymphogranuloma Venereum

FOR INFORMATION, INTERVIEWING & DARKFIELD SERVICES PLEASE CALL YOUR LOCAL HEALTH DEPARTMENT OR CALL COLLECT. RICHMOND, VIRGINIA 786-6265

Signature | M.D. | Date of Report

Address

CONFIDENTIAL REPORT OF VENEREAL DISEASE
VIRGINIA STATE DEPARTMENT OF HEALTH

Form No. VD 35C
Rev. 10-65

Laboratory Tests			Treatment
Date	Type of Test	Results	

Comments:

Do You Need?

- ☐ Report Forms
- ☐ Drugs to Treat This Patient
- ☐ Professional Literature

Send To:

Your Local Health Department, or
Director—Division of Disease Control
State Department of Health
Richmond, Virginia 23219

COMMONWEALTH OF VIRGINIA — DEPARTMENT OF HEALTH
LABORATORY REPORT OF REACTIVE TESTS FOR VENEREAL DISEASE

Name of Laboratory

Address

Period Covered:

(Date) From _____ To _____

Number of Tests Performed _____

Number Reactive _____

REPORTABLE TESTS INCLUDE:

1. All Reactive and Weakly Reactive Serologic Tests for Syphilis.
2. All Positive Darkfield Tests for Syphilis
3. All Positive Smears and Cultures for Gonorrhea

§32.1-36, Code of Virginia, 1950 as amended.

"... And every director of any laboratory doing business in this Commonwealth which performs any test whose results indicate the presence of any such disease shall make a report within such time and in such manner as may be prescribed by regulations of the Board. ..."

This report shall be submitted within seven (7) days of the laboratory examination by all laboratories in Virginia. Positive darkfield tests and quantitative serologics with a titer of 1:8 or greater shall be reported within 24 hours.

Mail to: Virginia State Department of Health
Madison Building, 109 Governor Street, Rm.-723
Central Registry - Venereal Disease Control
Richmond, Virginia 23219

_____
James B. Kenley, M.D.
State Health Commissioner

Name of Patient	Address of Patient	Age	Sex	Race	Date	Test	Results	Name of Physician	Address of Physician

☐ Check if additional forms are requested

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: **VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.**

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

Effective Date: December 16, 1988

Summary:

The amendment to the procedures, instructions and guidelines for multi-family housing developments will authorize an increase in or restructuring of eligible mortgage loans for the purpose of providing funds for improvements to the multi-family developments financed by such loans or for additional housing for persons and families of low and moderate income.

VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

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

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

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

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

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

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

§ 2. Income limits and general restrictions.

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a

person or family shall not have an adjusted family income (as defined therein) greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit. The authority's rules and regulations authorize its board to establish from time to time by resolution lower income limits for initial occupancy.

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

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

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

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

§ 3. Terms of mortgage loans.

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

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

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

In accordance with the authority's rules and regulations, the executive director is authorized to prepare and from time to time revise a cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide") which shall, unless otherwise agreed to by the authority, govern the extent to which costs may be eligible for inclusion in the housing development costs as determined by the authority at final closing. Copies of such guide are available upon request.

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

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

§ 4. Solicitation of proposals.

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

§ 5. Application and acceptance for processing.

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

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

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

2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;

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

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

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

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

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

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

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions,

vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

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

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

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

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

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

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

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

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

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

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

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

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

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

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

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

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a

nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

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

§ 6. Feasibility and commitment.

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

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

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

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

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

5. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

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

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

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

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

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;

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

3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;

4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the

proposed development team.

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

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

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these procedures, instructions and guidelines.

2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's cost certification guide or under such other requirements as shall be agreed to by the authority.

4. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

5. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

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

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

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

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

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection,

energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

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

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

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

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

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

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

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

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

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

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

The board shall review and consider the analysis and recommendation of the executive director, and if it

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

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

§ 7. Initial closing.

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

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

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

§ 8. Construction.

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

§ 9. Completion of construction and final closing.

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

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

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

1. The total development costs, the fair market value of the development (if such value is to be used to determine the mortgagor's equity investment), the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;

2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow

accounts for taxes, insurance, replacement reserves, or other similar escrow items; and

3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

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

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

§ 10. Mortgage loan increases.

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

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

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;

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

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

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

1. One or more of the instances set forth in 1 through 4 above; or

2. Where costs are incurred which are:

a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;

b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;

c. Evidenced by change orders in accordance with the original contract documents or by other documentation acceptable to the authority; and

d. Approved by the authority for inclusion within the total development cost in accordance with the Act, the authority's rules and regulations and the authority's cost certification guide.

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

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

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

financed from the proceeds of the authority's notes or bonds).

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

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

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

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

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

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

§ 11. Operation, management and marketing.

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

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

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

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

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

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

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;

2. The status and physical condition of the housing then occupied by such applicants; and

3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these procedures, instructions and guidelines.

The executive director is authorized to prepare and from time to time revise a housing management handbook

which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

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

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

§ 12. Transfers of ownership.

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

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

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

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

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

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

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

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

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

d. The establishment of such new reserves and/or such additional funding of existing reserves as may

be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

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

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

If the development is subsidized or otherwise assisted by HUD, the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

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

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

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

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

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

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

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

the authority and shall contain such terms and conditions as the authority may require.

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

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

§ 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the notes or bonds issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies. The provisions of this § 13 shall be subject to modification pursuant to § 14 hereof.

§ 14. Modification of regulatory controls *and mortgage loan.*

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

1. Rents may be thereafter established and changed by the mortgagor without the prior approval of the authority, subject to (i) such restrictions as he shall deem necessary to assure that the rents shall be affordable to persons and families to be served by the development, (ii) compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines, and (iii) such limitations on rent increases to existing residents as he shall deem necessary to prevent undue financial hardship to such residents;

2. Subject to prior approval by the board, any limitation on annual dividend distributions may be increased or eliminated, as determined by him to be

necessary to provide an adequate financial return to the mortgagor without adversely affecting the financial strength or proper operation and maintenance of the development; and

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

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

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

1. Compliance with the conditions and limitations in the Act and the authority's rules and regulations and with any applicable federal law and regulations and any agreements governing federal subsidy, assistance or mortgage insurance;

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

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

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

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

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

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

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

* * *

The effective date of the foregoing amendments to multi-family procedures, instructions and guidelines shall be ~~April~~ *December* [~~20~~ *16*], 1988.

MARINE RESOURCES COMMISSION

NOTE: The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

Title of Regulation: **VR 450-01-0034. Pertaining to the Taking of Striped Bass.**

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: January 1, 1989

Preamble:

This regulation establishes a closed season, minimum size limits, creel limits, and gear restrictions for the taking or possession of striped bass in Virginia. The purpose of this regulation is to provide sufficient protection for the Chesapeake Bay stocks of striped bass to ensure that 95% of the females of the 1982 and subsequent year classes have an opportunity to reproduce at least once. These changes comply with the recommendations of the Interstate Fishery Management Plan for Striped Bass.

Section 7 of this regulation authorizes the aquaculture of striped bass and hybrid striped bass and sets forth the terms and conditions required for their culture.

VR 450-01-0034. Pertaining to the Taking of Striped Bass.

§ 1. Authority, prior regulations, effective date.

A. This regulation is promulgated pursuant to the authority contained in §§ 28.1-23 and 28.1-50 of the Code of Virginia.

B. This regulation ~~repeals regulation VR 450-01-0020, Pertaining to the Taking of Striped Bass, and regulation VR 450-01-0032, Pertaining to the Potomac River Tributaries and~~ amends previous regulation VR 450-01-0034, which was promulgated and made effective on ~~August 4, 1987~~ *November 7, 1988* .

C. The effective date of this regulation is ~~November 7, 1988~~ *January 1, 1989* .

§ 2. Purpose.

The purpose of this regulation is to provide for the immediate protection of Virginia's striped bass stocks and to reduce harvest pressure on the 1982 year class and subsequent year classes of striped bass.

The provisions pertaining to aquaculture serve to prevent escapement of cultured hybrid striped bass into the natural environment and to minimize the impact of cultured fish in the market place on the enforcement of other provisions in this regulation.

§ 3. Definitions.

A. Striped bass - any fish of the species Morone saxatilis including any hybrid striped bass.

B. Spawning rivers - the James, Pamunkey, Mattaponi and Rappahannock Rivers including all their tributaries.

C. Spawning reaches - sections within the spawning rivers as follows:

1. James River: From a line connecting Dancing Point and New Sunken Meadow Creek upstream to a line connecting City Point and Packs Point;

2. Pamunkey River: From the Route 33 bridge at West Point upstream to a line connecting Liberty Hall and the opposite shore;

3. Mattaponi River: From the Route 33 bridge at West Point upstream to the Route 360 bridge at Aylett;

4. Rappahannock River: From the Route 360 bridge at Tappahannock upstream to the Route 3 bridge at Fredericksburg.

§ 4. Closed areas, seasons, and gear limitations.

A. During the period December 1 to May 31, inclusive, a person may not take, catch, possess, transport, process, sell or offer for sale any striped bass.

B. During the period April 1 to May 31, inclusive, a person may not set or fish any anchored or staked gill net within the spawning reaches. Drift (float) gill nets may be set or fished within the spawning reaches during the closed season, but the fisherman must remain with such net while that net is in the fishing position.

§ 5. Minimum size limits.

A. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or have in possession any striped bass less than 24 inches in length, except as provided in paragraph B, below.

B. During the open season, June 1 to November 30, inclusive, it shall be unlawful for any person to take, catch, or retain possession of any striped bass from the Territorial Sea that is less than 38 inches in length.

C. Length is measured in a straight line from tip of nose to tip of tail.

§ 6. Creel limit.

A possession limit of five striped bass per person per day is imposed on all hook-and-line fishermen taking striped bass from the tidal waters of Virginia during the open season, June 1 to November 30, inclusive.

§ 7. Aquaculture of striped bass and hybrid striped bass.

A. Permit required.

It shall be unlawful for any person, firm, or corporation to operate an aquaculture facility without first obtaining a permit from the Marine Resources Commission. Such permit shall authorize the purchase, possession, sale, and transportation of striped bass or hybrid striped bass in accordance with the other rules contained in this section.

B. Application for and term of permit.

The application for a striped bass aquaculture facility shall state the name and address of the applicant, the type and location of the facility, type of water supply, location of nearest tidal waters or tributaries to tidal water, and an estimate of production capacity. All aquaculture permits shall expire on December 31 of the year of issue and are not transferable. Permits shall be automatically renewed by the Marine Resources Commission provided no structural changes in the facility have been made, the facility has been adequately maintained, and the permittee has complied with all of the provisions of this regulation.

C. Display of permit.

1. The original of each permit shall be maintained and prominently displayed at the aquaculture facility described therein.

2. A copy of such permit may be used as evidence of authorization to transport striped bass or hybrid striped bass to sell the fish away from the permitted facility under the conditions imposed in paragraph G in this section.

~~D. Water supply.~~

~~An aquaculture facility may consist of one or more ponds or artificial impoundments or a combination of both. No pond or impoundment may be constructed or situated on a natural watercourse that originates beyond the boundaries of private land upon which the pond or impoundment is located. Any outfall from the propagation system shall be screened so as to prevent entry of fish into and escape from the facility and shall be passed through a dry ground water percolation system or through a chlorination process and retention pond for dechlorination. Under no circumstance, shall there be a direct discharge from the facility to any natural watercourse.~~

D. Water supply; outfall; prevention of entry and escapement.

1. A striped bass or hybrid striped bass aquaculture facility may consist of one or more ponds, artificial impoundments, closed recirculating systems or a combination of the above.

2. No pond or impoundment used for striped bass or hybrid striped bass aquaculture may be constructed or situated on a natural water course that originates beyond the boundaries of private land upon which the pond or impoundment is located.

3. There shall be no direct and unscreened discharge from any facility to any natural watercourse. Except as provided in subdivision 4, below, outfall from any pond or impoundment shall be processed according to one of the following systems:

a. The outfall shall pass over a dry ground percolation system in which ground absorption of the water if sufficient to prevent the formation of a watercourse which is capable of reaching any natural watercourse. The outfall shall pass through a screened filter box prior to entering the percolation area.

b. The outfall shall pass through a chlorination process and retention pond for dechlorination. The outfall shall pass through a filter box prior to entering the chlorination system. Such facilities must also comply with regulations of the State Water Control Board.

4. If the outfall from an aquaculture facility may not conform to the systems described in subdivision 3 a or subdivision 3 b, above, then all of the following conditions shall be required:

a. The aquaculture of striped bass or hybrid striped bass shall be restricted to the use of cage culture. Such cages shall be constructed of a vinyl coated wire or high density polyethylene mesh material sufficient in size to retain the fish and all cages must be securely anchored to prevent capsizing. Covers shall be required on all cages.

b. The outfall from the pond or impoundment shall pass through a screened filter box. Such filter box shall be constructed of a mesh material sufficient in size to retain the fish and shall be maintained free of debris and in workable condition at all times; and

c. The outfall from the screened filter box shall pass into a containment basin lined and filled with quarry rock or other suitable material to prevent the escapement of the fish from the basin.

5. Those facilities utilizing embankment ponds shall maintain sufficient freeboard above the spillway to prevent overflow.

E. Acquisition of fish, fingerlings, fry, and eggs.

Striped bass or hybrid striped bass fingerlings, fry, or eggs, may be obtained only from state permitted fish dealers and must be certified by the seller as striped bass

or hybrid striped bass having a disease free status. Each purchase or acquisition, of striped bass or hybrid striped bass must be accompanied by a receipt or other written evidence showing the date, source, species, quantity of the acquisition and its destination. Such receipt must be in the possession of the permittee prior to transportation of such fish, fingerlings, fry, or eggs to the permitted facility. All such receipts shall be retained as part of the permittee's records. The harvesting of striped bass from the tidal waters of Virginia for the purpose of artificially spawning in a permitted aquaculture facility shall comply with all of the provisions of this regulation and state law including minimum size limits, maximum size limits, and closed harvesting seasons and areas.

F. Inspection of facilities.

1. Inspection. Agents of the Marine Resources Commission and the Department of Game and Inland Fisheries are authorized to make periodic inspection of the facilities and the stock of each operation permitted under this section. Every person engaged in the business of striped bass aquaculture shall permit such inspection at any reasonable time.

2. Diseased fish. No person permitted under this section shall maintain in the permitted facility any fish which shows evidence of any contagious disease listed in the then current list by the United States Fish and Wildlife Services as "certifiable diseases" except for the period required for application of standard treatment procedures or for approved disposition.

3. Disposition. No person permitted under this section shall sell or otherwise transfer possession of any striped bass or hybrid striped bass which shows evidence of a "certifiable disease" to any person, except that such transfer may be made to a fish pathologist for examination and diagnosis.

G. Sale of fish.

All striped bass or hybrid striped bass except fingerlings, fry, and eggs, which are the product of an aquaculture facility permitted under this section shall be packaged with a printed label bearing the name, address, and permit number of the aquaculture facility. When so packaged and labelled such fish may be transported and sold at retail or at wholesale for commercial distribution through normal channels of trade until reaching the ultimate consumer. Every such sale must be accompanied by a receipt showing the date of sale, the name, address and permit number of the aquaculture facility, the numbers and species of fish sold, and the name of the purchaser. Each subsequent resale must be accompanied by a receipt clearly identifying the seller by name and address, showing the number and species of the fish sold, the date sold, the permit number of the aquaculture facility and, if the sale is to other than the ultimate consumer, the name and address of the purchaser. The purchaser in possession of such fish must exhibit the receipt on demand of any law-enforcement officer. A duplicate copy of each such receipt must be retained for one year by the seller as part of the records of each transaction.

H. Records.

Each permitted aquaculture facility operator shall maintain a chronological file of the receipts or copies thereof showing the dates and sources of acquisitions of striped bass or hybrid striped bass and quantities thereof, and a chronological file of copies of the receipts of his sales required under paragraph G of this section. Such records shall be segregated as to each permit year, shall be made available for inspection by any authorized agent of the Marine Resources Commission or Department of Game and Inland Fisheries, and shall be retained for at least one year following the close of the permit year to which they pertain.

I. Revocation and nonrenewal of permit.

In addition to the penalties prescribed by law, any violation of § 7 shall be grounds for revocation or suspension of the permit for the aquaculture facility for the balance of the permit year. No person whose permit has been revoked shall be eligible to apply for an aquaculture facility permit for a period of two years after the date of such revocation.

J. Importation of striped bass for the consumer market.

Striped bass or hybrid striped bass which are the product of an approved and state permitted aquaculture facility in another state may be imported into Virginia for the consumer market. Such fish shall be packaged and labelled in accordance with the provisions contained in paragraph G of this section. Any sale of such fish also shall be accompanied by receipts as described in paragraph G of this section.

K. Release of live fish.

Under no circumstance shall striped bass or hybrid striped bass which are the product of a commercial aquaculture facility located within or outside the Commonwealth of Virginia be placed into the waters of the Commonwealth without first having notified the commission and having received written permission from the commissioner.

§ 8. 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

* * * * * * * *

Title of Regulation: **VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.**

Statutory Authority: § 28.1-23 of the Code of Virginia.

Effective Date: January 1, 1989

Preamble:

This regulation describes three time restrictions on commercial crabbing in Virginia. The purpose of 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. 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. 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.~~ *§ 2.* 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.~~ *§ 3.* Daily time limits.

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise.

~~§ 5.~~ *§ 4.* 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

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **State Plan for Medical Assistance.**
VR 460-03-3.1100. Amount, Duration, and Scope of Services - Elimination of Preauthorization of Routine Eye Services.
VR 460-03-3.1501. Standards of Coverage of Organ Transplants.

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

Effective Date: February 16, 1989

Summary:

These final regulations concerning organ transplantation provide for the coverage of corneal and kidney transplants only. Liver transplants are being discontinued from coverage.

Final action is not being taken at this time on the proposed amendment discontinuing all prior authorization requirements for routine eye services for all providers. (See § 6.B, Optometrists' Services and § 12 d, Eyeglasses.) The proposed amendment as published in 5:1 VA.R. 35 October 10, 1988, is being held in suspension pending final action. Final board action is expected in the near future.

VR 460-03-3.1100. Amount, Duration, and Scope of Services - Elimination of Preauthorization of Routine Eye Services.

General.

The provision of the following services cannot be reimbursed except when they are ordered or prescribed, and directed or performed within the scope of the license of a practitioner of the healing arts: laboratory and x-ray services, family planning services, and home health services. Physical therapy services will be reimbursed only when prescribed by a physician.

§ 1. Inpatient hospital services other than those provided in an institution for mental diseases.

~~1.~~ *A.* Medicaid inpatient hospital admissions (lengths-of-stay) are limited to the 75th percentile of PAS (Professional Activity Study of the Commission on Professional and Hospital Activities) diagnostic/procedure limits. For admissions under 15 days that exceed the 75th percentile, the hospital must attach medical justification records to the billing invoice to be considered for additional coverage when medically justified. For all admissions that exceed 14 days up to a maximum of 21 days, the hospital must attach medical justification records to the billing invoice. (See the exception to ~~item 6 below~~ *subsection F of this section* .)

~~2.~~ *B.* Medicaid does not pay the medicare (Title XVIII)

coinsurance for hospital care after 21 days regardless of the length-of-stay covered by the other insurance. (See exception to ~~item 6 below~~ *subsection F of this section* .)

~~3.~~ *C.* Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment to health or life of the mother if the fetus were carried to term.

~~4.~~ *D.* Reimbursement for covered hospital days is limited to one day prior to surgery, unless medically justified. Hospital claims with an admission date more than one day prior to the first surgical date will pend for review by medical staff to determine appropriate medical justification. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement for additional preoperative days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admissions will be denied.

~~5.~~ *E.* Reimbursement will not be provided for weekend (Friday/Saturday) admissions, unless medically justified. Hospital claims with admission dates on Friday or Saturday will be pended for review by medical staff to determine appropriate medical justification for these days. The hospital must write on or attach the justification to the billing invoice for consideration of reimbursement coverage for these days. Medically justified situations are those where appropriate medical care cannot be obtained except in an acute hospital setting thereby warranting hospital admission. Medically unjustified days in such admission will be denied.

~~6.~~ *F.* Coverage of inpatient hospitalization will be limited to a total of 21 days for all admissions within a fixed period, which would begin with the first day inpatient hospital services are furnished to an eligible recipient and end 60 days from the day of the first admission. There may be multiple admissions during this 60-day period; however, when total days exceed 21, all subsequent claims will be reviewed. Claims which exceed 21 days within 60 days with a different diagnosis and medical justification will be paid. Any claim which has the same or similar diagnosis will be denied.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

~~7.~~ *G.* Reimbursement will not be provided for inpatient hospitalization for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the hospital invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in the retroactive eligibility period.

~~8.~~ *H.* Reimbursement will not be provided for inpatient hospitalization for those surgical and diagnostic procedures listed on the mandatory outpatient surgery list unless the inpatient stay is medically justified or meets one of the exceptions. The requirements for mandatory outpatient surgery do not apply to recipients in the retroactive eligibility period.

~~9.~~ *I.* For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas ~~and liver transplants for those recipients under age 18, with a diagnosis of extra hepatic biliary atresia. These services, excluding corneas, require pre-authorization and the patient must be considered acceptable for coverage~~ . *Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment.* The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered *kidney* transplant services ~~, except corneas,~~ is negotiable with the providers on an individual case basis. *Reimbursement for covered cornea transplants is at the allowed Medicaid rate.* Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 2. Outpatient hospital and rural health clinic services.

2a. Outpatient hospital services.

~~A.~~ *1.* Outpatient hospital services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that:

~~1.~~ *a.* Are furnished to outpatients;

~~2.~~ *b.* Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

~~3.~~ *c.* Are furnished by an institution that:

~~a.~~ *(1)* Is licensed or formally approved as a hospital by an officially designated authority for state standard-setting; and

~~b.~~ *(2)* Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in

Medicare.

~~B.~~ *2.* Reimbursement for induced abortions is provided in only those cases in which there would be substantial endangerment of health or life to the mother if the fetus were carried to term.

~~C.~~ *3.* Reimbursement will not be provided for outpatient hospital services for any selected elective surgical procedures that require a second surgical opinion unless a properly executed second surgical opinion form has been obtained from the physician and submitted with the invoice for payment, or is a justified emergency or exemption.

2b. Rural health clinic services and other ambulatory services furnished by a rural health clinic.

~~A.~~ No limitations on this service.

§ 3. Other laboratory and x-ray services.

~~A.~~ Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

§ 4. Skilled nursing facility services, EPSDT and family planning.

4a. Skilled nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older.

~~A.~~ Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

~~A.~~ *1.* Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

~~B.~~ *2.* Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

~~C.~~ *3.* Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the Program.

4c. Family planning services and supplies for individuals of child-bearing age.

~~A.~~ Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

~~1.~~ *A.* Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve a body function.

~~2.~~ *B.* Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

~~3.~~ *C.* Routine physicals and immunizations are not covered except when the services are provided under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and when a well-child examination is performed in a private physician's office for a foster child of the local social services department on specific referral from those departments.

~~4.~~ *D.* Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension (subject to the approval of the Psychiatric Review Board) of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period. These limitations also apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine.

~~5.~~ *E.* Any procedure considered experimental is not covered.

~~6.~~ *F.* Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus were carried to term.

~~7.~~ *G.* Physician visits to inpatient hospital patients are limited to a maximum of 21 days per admission within 60 days for the same or similar diagnoses and is further restricted to medically necessary inpatient hospital days as determined by the Program.

EXCEPTION: SPECIAL PROVISIONS FOR ELIGIBLE INDIVIDUALS UNDER 21 YEARS OF AGE: Consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per

admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Payments for physician visits for inpatient days determined to be medically unjustified will be adjusted.

~~8.~~ *H.* Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

~~9.~~ *I.* Reimbursement will not be provided for physician services for those selected elective surgical procedures requiring a second surgical opinion unless a properly executed second surgical opinion form has been submitted with the invoice for payment, or is a justified emergency or exemption. The requirements for second surgical opinion do not apply to recipients in a retroactive eligibility period.

~~10.~~ *J.* Reimbursement will not be provided for physician services performed in the inpatient setting for those surgical or diagnostic procedures listed on the mandatory outpatient surgery list unless the service is medically justified or meets one of the exceptions. The requirements of mandatory outpatient surgery do not apply to recipients in a retroactive eligibility period.

~~11.~~ *K.* For the purposes of organ transplantation, all similarly situated individuals will be treated alike. Coverage of transplant services for all eligible persons is limited to transplants for kidneys and corneas ~~and liver transplants for those recipients under age 18, with a diagnosis of extra hepatic biliary atresia. These services, excluding corneas, require pre-authorization and the patient must be considered acceptable for coverage.~~ . *Kidney transplants require preauthorization. Cornea transplants do not require preauthorization. The patient must be considered acceptable for coverage and treatment.* The treating facility and transplant staff must be recognized as being capable of providing high quality care in the performance of the requested transplant. The amount of reimbursement for covered *kidney* transplant services ~~, except corneas,~~ is negotiable with the providers on an individual case basis. *Reimbursement for covered cornea transplants is at the allowed Medicaid rate.* Standards for coverage of organ transplant services are in Attachment 3.1 E.

§ 6. Medical care by other licensed practitioners within the scope of their practice as defined by state law.

A. Podiatrists' services.

1. Covered podiatry services are defined as reasonable and necessary diagnostic, medical, or surgical treatment of disease, injury, or defects of the human foot. These services must be within the scope of the license of the podiatrists' profession and defined by state law.

2. The following services are not covered: preventive health care, including routine foot care; treatment of structural misalignment not requiring surgery; cutting or removal of corns, warts, or calluses; experimental procedures; acupuncture.

3. The Program may place appropriate limits on a service based on medical necessity ~~and/~~ or for utilization control , *or both* .

B. Optometrists' services.

~~1. For recipients age 21 years and older, optometrists services are limited to preauthorized exam (refraction). For recipients younger than 21 years old, optometrists services are limited to preauthorized eye exams and eyeglasses when prescribed as a result of EPSDT.~~

[~~*1. For recipients age 21 years and older, optometrists services are covered as allowed in the Code of Virginia and the Board of Optometry's regulations, for the provision of examinations, examination services and refractions.*~~

~~*2. For recipients younger than 21 years old, optometrists services are covered as allowed in the Code of Virginia and the Board of Optometry's regulations, for the provision of examinations, examination services, refractions, and eyeglasses.*~~

~~*3. Contingent upon the appropriation of additional funding, optometrists shall be reimbursed for the full exercise of their licenses, as specified in the Code of Virginia, except for orthoptics.*~~]

[1. For recipients age 21 years and older, optometrists services are limited to preauthorized exam (refraction). For recipients younger than 21 years old, optometrists services are limited to preauthorized eye exams and eyeglasses when prescribed as a result of EPSDT.]

C. Chiropractors' services.

~~1.~~ Not provided.

D. Other practitioners' services.

1. Clinical psychologists' services.

a. These limitations apply to psychotherapy sessions by clinical psychologists licensed by the State Board of Medicine. Psychiatric services are limited to an initial availability of 26 sessions, with one possible extension of 26 sessions during the first year of treatment. The availability is further restricted to no more than 26 sessions each succeeding year when approved by the Psychiatric Review Board. Psychiatric services are further restricted to no more than three sessions in any given seven-day period.

b. Psychological testing and psychotherapy by clinical psychologists licensed by the State Board of Medicine are covered.

§ 7. Home Health services.

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts.

B. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

C. Home health aide services provided by a home health agency.

~~1.~~ Home health aides must function under the supervision of a professional nurse.

D. Medical supplies, equipment, and appliances suitable for use in the home.

1. All medical supplies, equipment, and appliances are available to patients of the home health agency.

2. Medical supplies, equipment, and appliances for all others are limited to home renal dialysis equipment and supplies, and respiratory equipment and oxygen, and ostomy supplies, as preauthorized by the local health department.

E. Physical therapy, occupational therapy, or speech pathology and audiology services provided by a home health agency or medical rehabilitation facility.

~~1.~~ Service covered only as part of a physician's plan of care.

§ 8. Private duty nursing services.

~~A.~~ Not provided.

§ 9. Clinic services.

A. Reimbursement for induced abortions is provided in only those cases in which there would be a substantial endangerment of health or life to the mother if the fetus was carried to term.

B. Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that:

1. Are provided to outpatients;

2. Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and

3. Except in the case of nurse-midwife services, as specified in 42 CFR § 440.165, are furnished by or under the direction of a physician or dentist.

§ 10. Dental services.

A. Dental services are limited to recipients under 21 years of age in fulfillment of the treatment requirements under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program and defined as routine diagnostic, preventive, or restorative procedures necessary for oral health provided by or under the direct supervision of a dentist in accordance with the State Dental Practice Act.

B. Initial, periodic, and emergency examinations; required radiography necessary to develop a treatment plan; patient education; dental prophylaxis; fluoride treatments; routine amalgam and composite restorations; crown recementation; pulpotomies; emergency endodontics for temporary relief of pain; pulp capping; sedative fillings; therapeutic apical closure; topical palliative treatment for dental pain; removal of foreign body; simple extractions; root recovery; incision and drainage of abscess; surgical exposure of the tooth to aid eruption; sequestrectomy for osteomyelitis; and oral antral fistula closure are dental services covered without preauthorization by the state agency.

C. All covered dental services not referenced above require preauthorization by the state agency. The following services are not covered: full banded orthodontics; permanent crowns and all bridges; removable complete and partial dentures; routine bases under restorations; and inhalation analgesia.

D. The state agency may place appropriate limits on a service based on dental necessity ~~and/or~~ , for utilization control *, or both* . Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray – two films (once/12 months); routine amalgam and composite restorations (once/three years); and extractions, permanent crowns, endodontics, patient education (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the state agency.

§ 11. Physical therapy and related services.

11a. Physical therapy.

~~A.~~ Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11b. Occupational therapy.

~~A.~~ Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

11c. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist; see ~~Page 1,~~ General ~~and Page 12, Physical Therapy and Related Services~~ *section and subsections 11a and 11b of this section* .)

~~A.~~ These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

§ 12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

~~A.~~ *1.* Nonlegend drugs, except insulin, syringes, and needles and all family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

~~B.~~ *2.* Legend drugs, with the exception of anorexant drugs prescribed for weight loss, are covered.

~~C.~~ *3.* The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

~~D.~~ *4.* Notwithstanding the provisions of § 32.1-87 of the Code of Virginia ~~(1950),~~ ~~as amended~~ , prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician certifies in his ~~/her~~ own handwriting "brand necessary" for the prescription to be dispensed as written.

12b. Dentures.

~~A.~~ Not provided.

12c. Prosthetic devices.

~~A.~~ Not provided.

12d. Eyeglasses.

~~A. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the State Agency. EPSDT covers recipients from birth to the age of 21 years.~~

[~~*Eyeglasses shall be reimbursed for all recipients younger than 21 years of age according to medical necessity.*~~]

[A. Eyeglasses are provided only as a result of Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and require prior authorization by the State Agency. EPSDT covers recipients from birth to the age of 21 years.]

§ 13. Other diagnostic, screening, preventive, and rehabilitative services, i.e., other than those provided elsewhere in this plan.

13a. Diagnostic services.

~~A.~~ Not provided.

13b. Screening services.

~~A.~~ Not provided.

13c. Preventive services.

~~A.~~ Not provided.

13d. Rehabilitative services.

~~A.~~ *1.* Medicaid covers intensive inpatient rehabilitation services as defined in § 2.1 in facilities certified as rehabilitation hospitals or rehabilitation units in acute care hospitals which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System.

~~B.~~ *2.* Medicaid covers intensive outpatient rehabilitation services as defined in § 2.1 in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs), or when the outpatient program is administered by a rehabilitation hospital or an exempted rehabilitation unit of an acute care hospital certified and participating in Medicaid.

~~C.~~ *3.* These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in Attachment 4.19-A.

~~D.~~ *4.* An intensive rehabilitation program provides intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech therapy, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation. The nursing staff must support the other disciplines in carrying out the activities of daily living, utilizing correctly the training received in therapy and

furnishing other needed nursing services. The day-to-day activities must be carried out under the continuing direct supervision of a physician with special training or experience in the field of rehabilitation.

§ 14. Services for individuals age 65 or older in institutions for mental diseases.

14a. Inpatient hospital services.

~~A.~~ Provided, no limitations.

14b. Skilled nursing facility services.

~~A.~~ Provided, no limitations.

14c. Intermediate care facility.

~~A.~~ Provided, no limitations.

§ 15. Intermediate care services and intermediate care services for institutions for mental disease and mental retardation.

15a. Intermediate care facility services (other than such services in an institution for mental diseases) for persons determined, in accordance with § 1902 (a)(31)(A) of the Act, to be in need of such care.

~~A.~~ Provided, no limitations.

15b. Including such services in a public institution (or distinct part thereof) for the mentally retarded or persons with related conditions.

~~A.~~ Provided, no limitations.

§ 16. Inpatient psychiatric facility services for individuals under 22 years of age.

~~A.~~ Not provided.

§ 17. Nurse-midwife services.

~~A.~~ Covered services for the nurse midwife are defined as those services allowed under the licensure requirements of the state statute and as specified in the Code of Federal Regulations, i.e., maternity cycle.

§ 18. Hospice care (in accordance with § 1905 (o) of the Act).

~~A.~~ Not provided.

§ 19. Extended services to pregnant women.

19a. Pregnancy-related and postpartum services for 60 days after the pregnancy ends.

~~A.~~ The same limitations on all covered services apply to this group as to all other recipient groups.

19b. Services for any other medical conditions that may complicate pregnancy.

~~A.~~ The same limitations on all covered services apply to this group as to all other recipient groups.

§ 20. Any other medical care and any other type of remedial care recognized under state law, specified by the Secretary of Health and Human Services.

20a. Transportation.

~~A.~~ Nonemergency transportation is administered by local health department jurisdictions in accordance with reimbursement procedures established by the Program.

20b. Services of Christian Science nurses.

~~A.~~ Not provided.

20c. Care and services provided in Christian Science sanitoria.

~~A.~~ Provided, no limitations.

20d. Skilled nursing facility services for patients under 21 years of age.

~~A.~~ Provided, no limitations.

20e. Emergency hospital services.

~~A.~~ Provided, no limitations.

20f. Personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse.

~~A.~~ Not provided.

VR 460-03-3.1501. Standards for the Coverage of Organ Transplant Services.

The following criteria will be used to evaluate specific organ transplant requests.

~~§ 1.1. Patient selection criteria for liver transplantation (LT).~~

~~A. Transplantation of the liver is a surgical treatment whereby a diseased liver is replaced by a healthy organ. Preauthorization is required. The following patient selection criteria shall apply for the consideration of all approvals for coverage and reimbursement for liver transplantation:~~

~~1. The patient is under 18 years of age, and has a diagnosis of extrahepatic biliary atresia;~~

2. Current medical therapy has failed and will not prevent progressive disability and death;

3. The patient does not have other systemic disease, including but not limited to, severe cardio/peripheral/cerebrovascular disease, active systemic infection, renal dysfunction, severe pulmonary hypertension;

4. Adequate supervision will be provided to assure there will be strict adherence by the patient to the long-term medical regimen which is required;

5. The LT is likely to prolong life for at least two years, and to restore a range of physcial and social function suited to activities of daily living;

6. The patient is not in both an irreversible terminal state and on a life support system;

7. A facility with appropriate expertise has evaluated the patient, and has indicated willingness to undertake the procedure.

8. The patient does not have multiple uncorrectable severe major system congenital anomalies.

9. Failure to meet (1) through (8) above shall result in denial of preauthorization and coverage for the requested liver transplant procedures.

§ 1.2. Facility selection criteria for liver transplantation (LT).

A. For a medical facility to qualify as an approved Virginia Medicaid provider for performing liver transplants, the following conditions must be met:

1. The facility has available expertise in gastroenterology, immunology, infectious disease, pediatrics, pathology, pharmacology, and anesthesiology;

2. The LT program staff has extensive experience and expertise in the medical and surgical treatment of hepatic disease;

3. Transplant surgeons on the staff have been trained in the LT technique at an institution with a well established LT program;

4. The transplantation program has adequate services to provide specialized psychosocial and social support for patients and families;

5. Adequate blood bank support services are present and available;

6. Satisfactory arrangements exist for donor procurement services;

7. The institution is committed to a program of at least 12 LTs a year;

8. The center has a consistent, equitable, and practical protocol for selection of patients. (At a minimum, the DMAS patient selection criteria must be met.) A copy of the protocol must be provided to DMAS prior to preauthorization;

9. The center has the capacity and commitment to conduct a systematic evaluation of outcome and cost;

10. In addition to hospital administration and medical staff endorsement, hospital staff support also exists for such a program;

11. The hospital has an active, ongoing renal dialysis service;

12. The hospital has access to staff with extensive skills in tissue typing, immunological and immunosuppressive techniques;

13. Initial approval as a LT center requires performance of at least 12 LTs within the most recent 12 months, with a one-year survival rate of at least 50%. Centers that fail to meet this requirement during the first year will be given a one year conditional approval. Failure to meet the volume requirement following the conditional approval year will result in loss of approval.

§ 2.1. *§ 1.1.* Patient selection criteria for provision of kidney transplantation (KT).

A. Transplantation of the kidney is a surgical treatment whereby a diseased kidney is replaced by a healthy organ. Preauthorization is required. The following patient selection criteria shall apply for the consideration of all approvals for coverage and reimbursement for kidney transplantation.

1. Current medical therapy has failed and patient has failed to respond to appropriate conservative management;

2. The patient does not have other systemic disease including but not limited to the following:

a. Reversible renal conditions;

b. Major extra-renal complications (malignancy, systemic disease, cerebral cardio-arterial disease);

c. Active infection;

d. Severe malnutrition, or;

e. Pancytopenia.

3. The patient is not in both an irreversible terminal

state and on a life support system;

4. Adequate supervision will be provided to assure there will be strict adherence to the medical regimen which is required;

5. The KT is likely to prolong life and restore a range of physical and social function suited to activities of daily living;

6. A facility with appropriate expertise has evaluated the patient, and has indicated willingness to undertake the procedure.

7. The patient does not have multiple uncorrectable severe major system congenital anomalies;

8. Failure to meet (1) through (7) above shall result in denial of preauthorization and coverage for the requested kidney transplant procedures.

§ ~~2.2.~~ *§ 1.2.* Facility selection criteria for kidney transplantation (KT).

A. For a medical facility to qualify as an approved Virginia Medicaid provider for performing kidney transplants, the following conditions must be met:

1. The facility has available expertise in immunology, infectious disease, pathology, pharmacology, and anesthesiology;

2. The KT program staff has extensive experience and expertise in the medical and surgical treatment of renal disease;

3. Transplant surgeons on the staff have been trained in the KT technique at an institution with a well established KT program;

4. The transplantation program has adequate services to provide specialized psychosocial and social support for patients and families;

5. Adequate blood bank support services are present and available;

6. Satisfactory arrangements exist for donor procurement services;

7. The institution is committed to a program of at least 25 KTs a year;

8. The center has a consistent, equitable, and practical protocol for selection of patients (at a minimum, the DMAS patient selection criteria must be met and adhered to);

9. The center has the capacity and commitment to conduct a systematic evaluation of outcome and cost;

10. In addition to hospital administration and medical staff endorsement, hospital staff support also exists for such a program;

11. The hospital has an active, ongoing renal dialysis service;

12. The hospital has access to staff with extensive skills in tissue typing, immunological and immunosuppressive techniques;

13. Initial approval as a KT center requires performance of 25 KTs within the most recent 12 months, with a one year survival rate of at least 90%. Centers that fail to meet this requirement during the first year will be given a one-year conditional approval. Failure to meet the volume requirement following the conditional approval will result in loss of approval.

§ ~~3.1.~~ *§ 2.1.* Patient selection criteria for provision of corneal transplantation (CT).

A. Transplantation of the cornea is a surgical treatment whereby a diseased cornea is replaced by a healthy organ. While preauthorization is not required, the following patient selection criteria shall apply for the consideration of all approvals for reimbursement for cornea transplantation.

1. Current medical therapy has failed and will not prevent progressive disability;

2. The patient is suffering from one of the following conditions:

a. Post-cataract surgical decompensation,

b. Corneal dystrophy,

c. Post-traumatic scarring,

d. Keratoconus, or,

e. Aphakia Bullous Keratopathy;

3. Adequate supervision will be provided to assure there will be strict adherence by the patient to the long term medical regimen which is required;

4. The CT is likely to restore a range of physical and social function suited to activities of daily living;

5. The patient is not in both an irreversible terminal state and on a life support system;

6. The patient does not have untreatable cancer, bacterial, fungal, or viral infection;

7. The patient does not have the following eye conditions:

a. Trichiasis,

b. Abnormal lid brush and/or function,

c. Tear film deficiency,

d. Raised transocular pressure,

e. Intensive inflammation, and

f. Extensive neo-vascularization.

§ ~~3.2.~~ *§ 2.2.* Facility selection criteria for cornea transplantation (CT).

A. For a medical facility to qualify as an approved Medicaid provider for performing corneal transplants, the following conditions must be met:

1. The facility has available expertise in immunology, infectious disease, pathology, pharmacology, and anesthesiology;

2. The CT program staff has extensive experience and expertise in the medical and surgical treatment of eye diseases;

3. Transplant physicians on the staff have been trained in the CT technique at an institution with a well established CT program;

4. The transplantation program has adequate services to provide social support for patients and families;

5. Satisfactory arrangements exist for donor procurement services;

6. The institution is committed to a program of eye surgery;

7. The center has a consistent, equitable, and practical protocol for selection of patients (at a minimum the DMAS patient selection criteria must be met and adhered to);

8. The center has the capacity and commitment to conduct a systematic evaluation of outcome and cost;

9. In addition to hospital administration and medical staff endorsement, hospital staff support also exists for such a program;

10. Initial approval as a CT center requires performance of corneal transplant surgery, with a one year graft survival rate of at least 75%. Centers that fail to meet this requirement during the first year will be given a one year conditional approval. Failure to meet this requirement following the conditional approval year will result in loss of approval.

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

Title of Regulation: **VR 245-01-02. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.**

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Effective Dates: December 22, 1988 through December 21, 1989

Preamble:

The 1988 General Assembly appropriated $750,000 to be utilized for publicity, procurement and distribution of telecommunications devices, effective July 1, 1988. The Virginia Department for the Deaf and Hard of Hearing is responsible for formulating standards, regulations and personnel to ensure efficient and effective distribution of the devices during the biennium.

DECISION BRIEF FOR THE HONORABLE GERALD L. BALILES

REQUEST: The Virginia Department for the Deaf and Hard of Hearing (VDDHH) is requesting emergency approval to adopt Telecommunication Assistance Program regulations.

RECOMMENDATION: The Secretary of Health and Human Resources recommends that the request for emergency approval be approved by the Governor.

CONCURRENCES:

Approved by: /s/ Lily P. Bess
Director of the Virginia Department for the Deaf and Hard of Hearing
Date: November 17, 1988

Approved by: /s/ Eva S. Teig
Secretary of Health and Human Resources
Date: December 8, 1988

AUTHORIZATION:

Approved by: /s/ Gerald L. Baliles, Governor
Date: December 13, 1988

Filed by: /s/ Joan W. Smith
Registrar of Regulations
Date: December 22, 1988 - 3:35 p.m.

Summary:

The Virginia Department for the Deaf and Hard of Hearing is exempt from all requirements of the Administrative Process Act (APA) pursuant to Virginia Code § 9-6.14:4.1(B)(4), but has chosen to promulgate regulations so as to receive public comment. Although the department is promulgating regulations in this manner, it is not bound by any of the other requirements of the APA.

The Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment will be used to screen hearing-impaired and speech-impaired applicants for the Telecommunications Assistance Program (TAP). Under TAP, approved applicants will receive coupons, varying in amount, which are redeemable in the purchase of telecommunications equipment from authorized vendors. The equipment available through TAP includes: Telecommunications Devices for the Deaf (TDD); telebraillers (for use by deaf-blind individuals); audible and visual ring signalers; and amplified receivers (for hearing-impaired) and transmitters (for speech-impaired). The approved applicant's contribution is determined by these regulations.

VR 245-01-02. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The words and terms used in these regulations have the following meanings unless the context indicates otherwise:

"Amplified handset" means a mechanical device that amplifies either incoming sounds for hearing-impaired persons or outgoing sounds for speech-impaired persons.

"Applicant" means a person who applies for telecommunications equipment.

"Application" means the Telecommunications Assistance Program Application (VDDHH-TDD-1).

"Audiologist" means a person who has a Masters or Doctoral degree in audiology and a Certificate of Clinical Competence from the American Speech/Language/Hearing Association.

"Completion date" means the date all supporting documentation for the application is received by the department.

"Coordinator" means the Coordinator for Statewide Telecommunications Programs for the Deaf of the Virginia Department for the Deaf and Hard of Hearing.

"Coupon" means a voucher which may be used by the recipient as credit toward the purchase of approved telecommunications equipment from a contracted vendor.

"Deaf" means a hearing loss that requires use of a Telecommunications Device for the Deaf to communicate effectively on the telephone.

"Deaf-blind" means a hearing loss and a visual impairment that requires use of a telebrailler to communicate effectively on the telephone.

"Department" means the Virginia Department for the Deaf and Hard of Hearing.

"Director" means the Director of the Virginia Department for the Deaf and Hard of Hearing.

"Family" means the applicant, their dependents and any person legally required to support the applicant, including spouses.

"Gross income" means the income, total cash receipts before taxes from all sources of the applicant, their dependents and any person legally required to support the applicant including spouses.

"Household" means a unit whose members share a common living arrangement and/or a telephone line.

"Minor" means a person less than 18 years of age whose parents are legally responsible for his support.

"Outreach specialist" means a person hired by the Department to provide outreach services and to assist the Department in carrying out activities related to the Telecommunications Assistance Program on either a regional or local level.

"Physician" means a person who has a Medical degree and a license to practice medicine in any one of the United States.

"Program" or "TAP Program" means Telecommunications Assistance Program for distributing telecommunications equipment to deaf, severely hearing-impaired, deaf-blind and speech-impaired persons who meet eligibility requirements through an application process.

"Public assistance" means and includes aid to dependent children; auxiliary grants to the aged, blind and disabled; medical assistance; food stamps; general relief; fuel assistance; and social services.

"Recipient" means a person who receives telecommunications equipment or a coupon valid toward the purchase of the equipment.

"Ring signal device" means a mechanical device that alerts a deaf, severely hearing-impaired or deaf-blind person of an incoming call.

"Severely hearing-impaired" means a hearing loss that requires use of either a Telecommunications Device for the Deaf or an amplified telephone handset to communicate effectively on the telephone.

"Speech-impaired" means a loss of verbal communication ability which prohibits normal usage of a standard telephone handset.

"Speech-language pathologist" means a person who has a Master's degree or otherwise meets the qualifications in Speech/Language Pathology and a Certificate of Clinical Competence issued by the American Speech/Language/Hearing Association.

"Telebrailler" means an electrical device for use with a telephone that utilizes a keyboard, an acoustic coupler, a visual display and a braille display to transmit and receive messages.

"Telecommunications devices for the deaf" (hereinafter called TDD) means an electrical device for use with a telephone that utilizes a keyboard, acoustic coupler and display screen to transmit and receive messages.

"Telecommunications equipment" means any mechanical adaptation for a telephone needed by a deaf, a hearing-impaired or a speech-impaired person in order to use the telephone, including amplified handsets, ring signaling devices, telebraillers, and TDDs.

PART II.
GENERAL INFORMATION.

§ 2.1. Authority for regulations.

Section 63.1-85.4 of the Code of Virginia establishes the powers and duties of the department as follows: "To operate a program of telecommunications assistance and services to persons with hearing and speech impairments, including the distribution of Telecommunications Devices for the Deaf and support of message relay services, through grants, contracts and other means, including a sliding fee scale where appropriate; and, to make, adopt and promulgate such regulations, consistent with this chapter, as may be necessary to carry out the purpose and intent of this chapter and other laws of the Commonwealth administered by the Director of the Department. Such regulations shall be binding on all officers, agents, and employees engaged in implementing the provisions of this chapter."

§ 2.2. Purpose for regulations.

The department has promulgated these regulations to establish eligibility requirements for participation in the TAP program.

§ 2.3. Administration of regulations.

These regulations are administered by the Director of the Virginia Department for the Deaf and Hard of Hearing.

§ 2.4. Recipients of service.

These regulations shall apply to all persons seeking telecommunications equipment provided by the department.

§ 2.5. Effective date of regulations.

Date these regulations are filed with the Registrar.

§ 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 department reserves the right to authorize any procedure necessary for the enforcement of the provisions set forth herein under the provisions of § 63.1-85.4 of the Code of Virginia.

PART III.
PARTICIPATION OF APPLICANT.

§ 3.1. Eligibility requirements.

Upon request for telecommunications equipment by an individual, the department will require information as to the family size, financial status, and other related data as described on the application. 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 telecommunications equipment. Applicants eligible to participate in the program shall meet the following requirements:

A. The applicant must be certified as deaf; severely hearing-impaired; deaf-blind; or speech-impaired, by a licensed physician; audiologist; speech-language pathologist; vocational rehabilitation counselor employed by the Department of Rehabilitative Services or the Department for the Visually Handicapped; a Virginia School for the Deaf and Blind representative; or other appropriate agency or government representative.

B. The applicant shall reside in the Commonwealth of Virginia.

C. The applicant must produce evidence that telephone service is in his home.

D. An applicant shall reside in a household in which no member has been a program recipient of the same kind of telecommunication equipment in the last four years.

E. An applicant shall submit a complete application.

§ 3.2. Charges for equipment.

Eligible applicants shall be granted program participation based on a first-come, first-served basis and the availability of program funds. The participation of applicants shall be by coupon. (See Part V.)

A. Cost of the program to applicant.

If the applicant's monthly gross income is such that a partial or full charge for telecommunications equipment is determined to be required, an explanation of the charges shall be provided to the recipient.

1. Applicants whose individual or family gross income is obtained solely from any one or combination of public assistance (as defined in Part I of these regulations), earnings of minor children or gifts, shall not be required to participate in the cost of any telecommunications equipment distributed to the applicant.

2. Applicants whose monthly gross income is less than or equal to the Economic Needs Guidelines found in § 3.2 A 3 of these regulations shall not be required to participate in the cost of any telecommunications equipment distributed to the applicant.

3. All other applicants are required to participate in the cost of any telecommunications equipment distributed to the applicant. The portion paid by the applicant, to the vendor, is equal to the amount their family's monthly gross income exceeds the following Economic Needs Guidelines, but not to exceed the approved equipment's total price.

	Monthly Gross Income	Annual Gross Income
Family of 1	$1,210	$14,520
Family of 2	1,583	18,996
Family of 3	1,995	23,940
Family of 4	2,327	27,924
Family of 5	2,699	32,388
Family of 6	3,072	36,864

a. Applicants whose monthly gross income exceeds the guidelines by more than the equipment's total purchase price (where the applicant's portion is the total purchase price) will be issued a coupon with a valid amount of $0. The approved applicant may use this coupon to purchase the approved equipment at the state-contract price.

b. If an applicant is paying monthly installments toward a debt(s), then the amount of one monthly installment will be subtracted from the applicant's expected contribution before the valid amount of the coupon is determined, only when:

1. The debt(s) is rendered for nonpreventative medical or dental services; and

2. The debt(s) is rendered to or for the applicant or individuals whom the applicant is legally responsible to support or is legally supported by.

§ 3.3. Type of equipment.

Depending upon the type of sensory loss, the applicant must choose the type(s) of equipment requested. The equipment available through the program includes: TDDs, telebraillers, amplified handsets and ring signal devices.

PART IV.
APPLICATION PROCEDURES.

§ 4.1. The application may be obtained from the department or the department's Outreach Specialists or other authorized distribution centers. Completed applications must be forwarded to:

Virginia Department for the Deaf and Hard of Hearing
ATTN: TAP Program
101 N. 14th St., 7th Floor
Richmond, VA 23219-3678

§ 4.2. Processing applications.

A. Approval of application.

If an applicant satisfies all eligibility requirements as defined in § 3.1 of these regulations, the coordinator shall approve the application, except as follows.

1. Original application:

a. When the applicant has already been issued a coupon which is still valid towards the purchase of telecommunications equipment under this Program.

b. When the applicant has received a device from the TAP Program within the preceding 4 years.

2. Replacement request:

a. A device previously issued by the department has been subjected to abuse, misuse or unauthorized repair by the recipient.

b. The recipient fails to provide a police report of a stolen device.

c. The recipient is found negligent in the police report, such as doors to the house or car left unlocked or unattended.

d. The recipient has lost the device.

e. The recipient has sold the device.

f. The recipient refuses to cooperate with the police investigation or in the prosecution of the suspect, including the refusal to testify in court against said persons.

§ 4.3. Notice of action on approved or denied applications.

The recipient will be notified of a decision regarding an original application within 30 days of the completion date.

PART V.
COUPON SYSTEM.

§ 5.1. Original issuance of coupon for purchase of telecommunications equipment will be processed as follows:

A. The TAP Program Coordinator shall issue coupons varying in amount, but not exceeding the equipment's contracted price, for the purchase of approved equipment to persons determined to be eligible for the Program. The Coordinator will attach a list of contracted vendors who sell the approved telecommunications equipment.

B. The coupon entitles the recipient to the approved equipment at the state-contract rate.

C. The recipient will present or send the coupon to the vendor to make a purchase of approved equipment within 30 days of the coupon's issuance date. (This date is found on the line "Recipient must redeem by.")

D. The coupon will have the signature and signature date of the recipient. The signature date indicates the order date for approved equipment by the recipient.

E. The vendor will complete their section, including signature and date, documenting the corresponding serial numbers for all approved equipment. The serial number for all equipment is required for reimbursement.

F. Within 30 days of the order date, the vendor will forward the coupon to the Virginia Department for the Deaf and Hard of Hearing (VDDHH). An invoice for payment must accompany the coupon for reimbursement. When submitting the coupon and invoice for payment, the vendor is required to provide proof of delivery to the recipient. This proof must include the recipient's signature indicating receipt of the approved equipment.

G. Payment reimbursed from VDDHH to the vendor shall not exceed the valid amount, found in the upper right-hand corner, of the coupon.

H. The difference between the equipment's state-contracted price under the Program and the value of the coupon will be collected by the vendor from the recipient.

I. Upon receipt of the authorized Coupon,

accompanying invoice, and confirmation of satisfactory delivery of the equipment, VDDHH will process an accounting voucher for the valid amount. The agency accounting voucher will be processed with an appropriate due date in accordance with the terms and conditions set forth in the Commonwealth's Prompt Payment Act.

§ 5.2. Ownership.

All telecommunications devices are the property of the recipient.

§ 5.3. Liability.

Recipients are responsible for any repairs to or loss of a device issued in the program.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-02-2.2100 and VR 460-02-2.6100. Qualified Medicare Beneficiaries.**

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

Effective Dates: January 1, 1989 through December 31, 1989

SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled "Qualified Medicare Beneficiaries" as federally required in the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360).

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action. The purpose of this emergency regulation is to implement coverage of this mandatory eligibility group to conform the Plan for Medical Assistance to Congressional direction.

/s/ Bruce U. Kozlowski, Director
Date: December 13, 1988

3. CONCURRENCES:

Concur: /s/ Eva S. Teig
Secretary of Health and Human Resources
Date: December 15, 1988

4. GOVERNOR'S ACTION:

Approve: /s/ Gerald L. Baliles, Governor
Date: December 20, 1988

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 21, 1988 - 12:00 Noon

DISCUSSION

6. BACKGROUND: Section 301 of the Medicare Catastrophic Act of 1988 (Public Law 100-360) amended section 1902(a)(10)(E) of the Social Security Act to make coverage of certain Medicare beneficiaries mandatory rather than optional. Under § 301 the state must cover under Medicaid those individuals who are qualified Medicare beneficiaries (QMBs) for the purpose of paying Medicare cost sharing expenses on their behalf.

A QMB is an individual:

- who is entitled to Medicare hospital insurance benefits under Part A;
- whose income does not exceed 100% of the official federal poverty income guideline;
- whose resources do not exceed twice the SSI resource limit.

Under this Catastrophic provision, the state was given the option of using a phase-in schedule for implementation of the income standard. For the calendar year 1989, the standard income level is 85% of the federal poverty guideline. This standard increases by 5% increments up to 100% of the federal poverty line by the year 1992.

Previously Medicaid had a Buy-In provision which paid the Part B Medicare premiums for eligible Medicaid recipients. These recipients had to be financially and categorically eligible for Medicaid at the established Medicaid income and resource levels. The new group of eligibles brought about by P.L. 100-360 will be allowed to have higher income and resource levels. For an individual eligible only as a QMB, Medicaid will pay the premiums, co-payments, and deductibles for all Medicare covered services. These individuals will also be allowed to spend-down to the Medically Needy income level which will then permit them eligibility for all Medicaid covered services as well as QMB eligibility status.

Only Aged or Disabled Medicare Part A beneficiaries can be eligible for Medicaid in this category. The Aged or Disabled individual must be eligible for and enrolled in Medicare Part A in order to become a QMB Medicaid recipient. QMB recipients must also meet current Medicaid transfer of property rules.

7. AUTHORITY TO ACT: Public Law 100-360 was enacted by the President on July 1, 1988, and amended by Public Law 100-485 (Family Support Act of 1988) on October 13, 1988. P.L. 100-485 clarified the requirements of the Catastrophic law concerning entitlement effective dates and computer system claims processing functions.

The Code of Virginia (1950) as amended, § 32.1-324,

grants to the Director of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of the Board according to its requirements. Upon the Governor's approval of this adoption request, the Director will adopt this emergency regulation.

8. FISCAL/BUDGETARY IMPACT: State Medicaid programs are now required to pay Medicare premiums, deductibles and coinsurance for new eligibles whose income exceeds current Medicaid income standards but is at or below the following guidelines:

85% of poverty: Effective January 1, 1989
90% of poverty: Effective January 1, 1990
95% of poverty: Effective January 1, 1991
100% of poverty: Effective January 1, 1992

a. These populations are estimated as follows:

(i.) Aged:

The Department of Medical Assistance Services (DMAS) determined the relationship of the percent of population as a function of percent of poverty using regression analysis based on the 1980 census. Census reports as late as 1986 show little change in the Virginia poverty population during the 1980s. Using the function described above, Medicaid estimated the percentage of the aged population in Virginia at the following poverty levels:

Percent of Poverty	Percent of Aged Population
85%	12.86%
90%	14.32%
95%	15.78%
100%	17.25%

Based on census data the DMAS estimated the aged population growth rate and potential eligibles as follows:

	Potential Eligibles	Less those meeting current standards	Times Expected Participation Rate 67%
1989	84,845	5,297	3,549
1990	97,548	15,415	10,328
1991	110,933	26,172	17,535
1992	125,147	37,673	25,241
1993	129,152	38,879	26,049

(ii.) Disabled:

DMAS estimated the disabled population by estimating the number of Social Security Disability Benefit recipients who fall at poverty increments (based on the 1986 Annual Supplement of the Social Security Bulletin). This estimate is:

Poverty	Social Security Benefits (Disability)
85%	36.6%
90%	42.5%
95%	45.5%
100%	48.5%

The 1984 (last available) total Virginia disabled population was projected forward to 1989 through 1993 using the growth rate in the aged population (the closest available similar growth rate) and then reduced by a similarly forecasted number of SSI recipients of disability benefits who also received social security. The balance of the population was reduced to 67% to reflect estimated participation with the following resultant population estimates:

1989	2,719
1990	5,803
1991	7,562
1992	9,427
1993	9,729

b. Medicaid will incur the following new costs for this population. These funds were included in DMAS' budget request for the 1989 session:

(i.) Buy-in Premium:

The Medicare Part B premium is set at $24.80/month in 1988 and, according to HCFA, it will increase to $28.00 in 1989 and $29.20 in 1990. Future years are estimated at a constant growth rate. The buy-in premiums are calculated by multiplying the premiums by the new buy-in population for each fiscal year.

(ii.) Premium Increase:

Medicaid must pay the new Part B catastrophic monthly premium for the new phased-in population. The premiums are multiplied by the new populations to arrive at the costs for each year.

(iii.) Buy-in Coinsurance:

Part B coinsurance for the new buy-in population is calculated by multiplying the projected average coinsurance costs (based on the HCFA 2082 report) by the new eligibles.

(iv.) Buy-in Deductible:

Medicaid must also pay for these individuals' deductibles which are calculated in the same manner as the coinsurance.

(v.) Drug coinsurance/Deductible:

For the new population Medicaid will experience a new cost for the drug-related coinsurance and deductible. No cost will be experienced until Medicare begins to cover this service, because Medicaid's liability will be the uncovered portion of Medicare allowable charges. Coinsurance is calculated by

multiplying the coinsurance rate by the amount of pharmacy costs (calculated from prior years and projected) in excess of the deductible.

These costs are multiplied by the respective new buy-in populations for each year. The deductibles are calculated by multiplying the deductible rate by the new buy-in populations.

(vi.) Drug premium (New Population):

The prescription drug monthly premium will be set at $1.94 in 1991, $2.45 in 1992 and $3.02 in 1993. Medicaid must pay these premiums for the new buy-in population.

(vii.) FFP Impact on Premiums:

The new legislation changes the medically needy Medicare Crossover population to categorically needy status. Medicaid will thus receive FFP for this group's medicare premiums which the agency did not receive in the past. The agency multiplied the forecasted premiums for this group by the respective federal match rates for FYs 89-93 to arrive at the Medicaid costs. General Fund savings resulting from the Department's receipt of federal matching dollars for FY 89 will be (1,638,000) and for FY 90 will be (2,851,000).

(viii.) COSTS (related to i through vi above)

	1989	1990
TOTAL	2,808,000	10,719,000
GF	(268,000)	2,478,000
NGF	3,076,000	8,241,000

9. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action. The purpose of this emergency regulation is to implement coverage of this mandatory eligibility group to conform the Plan for Medical Assistance to Congressional direction. This emergency regulation is to become effective, once adopted by the Director and filed with the Registrar of Regulations, on January 1, 1989. It is to remain in effect for one full year or until superseded by final regulations promulgated through the Administrative Process Act pursuant to the Code of Virginia.

10. APPROVAL SOUGHT FOR VR 460-02-2.2100 AND 460-02-2.6100

Approval of the Governor is sought for an emergency modification to the State Plan for Medical Assistance in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the regulation found on the following pages.

Revision: HCFA-PM-87-4 (BERC) ATTACHMENT 2.2-A
MARCH 1987 Page 19
VR 460-02-2.2100 OMB NO.: 0938-0193

Citation(s)	Condition or Requirement
435.326	____ 10. Individuals who would be ineligible if they were not enrolled in an HMO. Categorically needy individuals are covered under 42 CFR 435.212 and the same rules apply to medically needy individuals.
435.340	11. Blind and disabled individuals who: a. Meet all current requirements for Medicaid eligibility except the blindness or disability criteria, and b. Were eligible as medically needy in December 1973 as blind or disabled, and c. For each consecutive month after December 1973 continue to meet the December 1973 eligibility criteria.
1902(a)(47) and 1920 of the Act, P. L. 99-509 (Section 9407)	____ 12. Pregnant women who meet the applicable medically needy income levels specified in this plan under ATTACHMENT 2.6-A who are determined eligible by a qualified provider during a presumptive eligibility period in accordance with Section 1920 of the Act.
	D. ~~Optional~~ Mandatory Coverage - Qualified Medicare Beneficiary
1902(a)(10)(E), ~~1902(a)(3)~~ ~~1905(p)~~ of the Act, ~~P.L. 99-509~~ ~~§9403~~ P.L. 100-360 Section 301	X In addition to pregnant women and infants or children covered under section 1902(a)(10)(A)(ii)(IX) of the Act, individuals— 1. Who are entitled to hospital insurance benefit under Medicare Part A; 2. Who, except for coverage under section 1902(a)(10)(E) of the Act, are not eligible for medical assistance under the plan;

Agency that determines eligibility for coverage.

TN NO. ____
Supersedes TN NO. _____ Approval Date _____ Effective Date _____

HCFA ID: 1036P/001

Revision: HCFA-PM-87-4 (BERC) ATTACHMENT 2.2-A
MARCH 1987 Page 20
VR 460-02-2.2100 OMB NO.: 0938-0193

Citation(s)	Condition or Requirement
	3. Whose income does not exceed the income level (established at an amount up to 100 percent of the Federal nonfarm income poverty line) specified in Supplement 1 to ATTACHMENT 2.6-A for a family of the same size; and 4. Whose resources do not exceed the maximum amount allowed— ____ Under SSI; or ____ Under the State's medically needy level specified in ATTACHMENT 2.6-A (if the state has a medically needy program). 5. XX Whose resources do not exceed twice the SSI resource limit.
1905(p)(3) of the Act, P.L. 99-509 (§9403(o)	Medical assistance for this group is limited to cost sharing as defined in Section 1905(p)(3) of the Act.

*Agency that determines eligibility for coverage.

TN NO. ____
Supersedes TN NO. _____ Approval Date _____ Effective Date _____

HCFA ID: 1036P/001

Citation(s)	Condition or Requirement
1905(p)(1)(c) and (m)(5)(B) of the Act, P.L. 99-509 (Secs. 9403(b) and (f)	f. In determining countable income for qualified Medicare beneficiaries covered under Section 1902(a)(10)(E) of the Act, the following disregards are applied: XX The disregards of the SSI program. ____ The disregards of the State supplementary payment program, as follows: ____ The disregards of the SSI program except for the following restrictions, applied under the provisions of Section 1902(f) of the Act. Supplement 1 to ATTACHMENT 2.6-A specifies for non-1902(f) and 1902(f) states the income levels for optional categorically needy groups of individuals with incomes up to the Federal nonfarm income poverty line—pregnant women and infants or children covered under Section 1902(a)(10)(A)(ii)(IX) of the Act and aged and disabled individuals covered under Section 1902(a)(10)(A)(ii)(X) of the Act—and for optional groups of qualified Medicare beneficiaries covered under Section 1902(a)(10)(E) of the Act. Supplement 7 to ATTACHMENT 2.6-A specifies for 1902(f) states the income levels for categorically needy aged, blind and disabled persons who are covered under requirements more restrictive than SSI.

* * * * * * * *

Title of Regulation: **VR 460-03-2.6190. Transfer of Assets.**

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

Effective Dates: January 1, 1989 through December 31, 1989

SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled "Transfer of Assets" as federally required in the Catastrophic Health Care Act and modified by the Family Support Act of 1988.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption action. The purpose of this emergency regulation is to implement the requirements of two federal statutes while conforming to the Commonwealth's Administrative Process Act Article 2. This action supersedes the emergency regulation currently in effect.

/s/ Bruce U. Kozlowski, Director
Date: December 12, 1988

3. CONCURRENCES:

Concur: /s/ Eva S. Teig
Secretary of Health and Human Resources
Date: December 13, 1988

4. GOVERNOR'S ACTION:

Approve: /s/ Gerald L. Baliles, Governor
Date: December 15, 1988

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 21, 1988 - 12:03 p.m.

DISCUSSION

6. BACKGROUND: Since 1969, Virginia Medicaid has imposed sanctions on individuals who have transferred assets to become or remain eligible for Medicaid. Medicaid is an assistance program for indigent persons who are too poor to purchase health care services. The expense of medical treatment has risen significantly in recent years while the eligibility limits for Medicaid have remained very low. Consequently, a large number of individuals who wanted to retain assets or to leave them as inheritances have transferred ownership without fair market compensation to become eligible for Medicaid. The sanctions were designed to discourage deliberate impoverishment. Unfortunately, the legal authority under which states were imposing transfer of assets rules was questionable.

Congress passed § 1917 of the Social Security Act in 1981 because transfers of assets were becoming a growing national problem and federal courts were declaring state initiated transfer of assets rules invalid. The federal statute gave states the authority to impose a period of ineligibility depending on the uncompensated value of the transferred asset. In determining the length of ineligibility, Virginia calculated the "uncompensated value" by deducting any compensation received for the asset from the fair market value. Effective July 1, 1981, Virginia adopted the following transfer of assets sanction: for an uncompensated value of $12,000 or less, the individual waited 24 months before becoming eligible for Medicaid; for uncompensated value greater than $12,000 the waiting period was extended 2 months for each additional $1,000 of total uncompensated value.

The Catastrophic Health Care Act (Public Law 100-360), included a number of provisions affecting Medicaid, and became effective upon the President's signature on July 1, 1988. Section 1924(b) of P.L. 100-360 amended § 1917(c) of the Social Security Act which provides authority for States to impose a period of Medicaid ineligibility for individuals who transfer or dispose of assets to become or remain eligible for Medicaid. The mandatory rule of the Catastrophic Health Care Act was more liberal than the former rules.

The Catastrophic Health Care Act transfer provision was adopted by the Department, after the Governor's approval, as an emergency regulation to bring the Commonwealth into conformance with the new federal law. The existing emergency regulation now must be superseded by a new emergency regulation which conforms to the changes enacted by the Family Support Act of 1988 (commonly known as the Welfare Reform Act). Revisions to P.L. 100-360 brought about by the Welfare Reform Act will be effective on January 1, 1989.

Changes resulting from the Welfare Reform Act (P.L. 100-485) primarily affect two areas:

1. The section of the Catastrophic Health Care Act that only allowed evaluation of transfers made prior to the date of application has been changed. Welfare Reform requires the states to evaluate transfers within 30 months before and after institutionalization and/or application for Medicaid.

2. The individual is eligible for Medicaid coverage of all covered services except for long term care services.

Additionally, federal regulations concerning transfers between spouses have been clarified and will be evaluated according to provisions in the Welfare Reform Act.

An insititutionalized individual is one who:

a. is an inpatient in a nursing facility - skilled nursing facility (SNF) or an intermediate care facility (ICF).

b. is an inpatient in a medical institution, and for whom payment for care is based on a level of care (skilled or intermediate) provided in a nursing facility.

c. is currently or will be a recipient of Medicaid-approved community-based care services.

7. AUTHORITY TO ACT: The Governor is requested to approve the adoption of an emergency regulation in accordance with § 9-6.14:1(C)(5) of the Code of Virginia. This emergency regulation allows the Department of Medical Assistance Services to implement the provisions of the Welfare Reform Act which closed a major loophole created by the Catastrophic Health Care Act. This emergency regulation will supersede that now in effect and will continue to supersede the requirements of § 32.1-325 of the Code of Virginia relating to transfers of assets into irrevocable burial trusts.

The emergency regulation is needed to amend the State Plan for Medical Assistance to comply with the new federal statutory requirements. Without this emergency regulation, the amendment to the State Plan can not become effective until October, 1989, due to prior publication requirements of the Virginia Administrative Process Act, § 9-6.14:1. Therefore, the Governor is requested to authorize the Department of Medical Assistance Services to adopt this emergency regulation.

After the Governor's approval is given, the Department of Medical Assistance Services expects to immediately file this emergency regulation with the Registrar of Regulations for publication as soon as possible in the Register. The effective period of the emergency regulation will begin January 1, 1989, and be limited to one year or until full compliance with the provisions of the APA process in § 9-6.14:9 of the Code are met.

The Code of Virginia at § 32.1-325 gives the Board of Medical Assistance Services the authority to promulgate regulations which contradict Virginia Code requirements if the regulations are necessary to implement federally mandated changes. During the 1989 session of the General Assembly, the Department will request a Code amendment to conform to federal requirements.

8. FISCAL/BUDGETARY IMPACT: The transfer of assets provisions, as modified by the Welfare Reform Act, continue to count transfers from individuals who are institutionalized. Ineligibility as a result of a transfer will cause ineligibility for Medicaid coverage of long term care services only. The individual will be eligible for all other Medicaid covered services.

The transfer of assets rule was developed to discourage individuals from improverishing themselves to become eligible for Medicaid. As a result of this rule, people were required to use their resources to pay for the necessary medical care, or wait at least two years after impoverishing themselves before applying for Medicaid. Since this rule has been a sufficient deterrent in past years, data for projection of future consequences without such a rule is limited.

Based on the very limited data available, the Department can anticipate that the impact will be at least:

	Total	GF	NGF
FY89	$9,241,024	4,506,847	4,734,177

This is the annualized estimated value of resources held by nursing home residents who, in the last quality control review, were denied Medicaid eligibility because of excess resources. While current nursing home residents can not transfer property and gain eligibility, prospective residents can follow an easily identifiable series of maneuvers to obviate the rule as described in the Catastrophic Health Care Act and the subsequent Welfare Reform Act. This estimate is likely to be very low because it does not include transfers of assets by applicants who are not nursing home residents. Such transfers will now be totally exempt. Because of lack of data, estimates are not yet complete on the costs of these individuals.

In addition, DMAS anticipates a direct loss of:

	Total	GF	NGF
FY89	$999,333	487,375	511,958

This is the value of benefits to people who actually transferred assets and who will now be found eligible. Because many individuals who are informed of Medicaid eligibility rules may not have applied for benefits in the past, the loss of the deterrent effect of the rule will result in additional expenditures which cannot, at this point, be estimated.

In addition, the Department was budgeted to implement transfer of assets-related savings at $1,222,000. These savings are no longer anticipated. The effect is:

	Total	GF	NGF
FY89	$1,222,000	596,000	626,000

Thus, the total impact of this change would be a minimum of:

	Total	GF	NGF
FY89	$11,462,357	5,590,222	5,872,135

Funding is requested in the Department's 1989 Budget submission. By phone call, the Department of Planning and Budget advises that it expects to recommend approval of funding for this provision.

9. RECOMMENDATION: Recommend approval of this request for the Department to take an emergency adoption action of the regulation entitled "Transfer of Assets." The purpose of this emergency regulation is to conform the

Plan for Medical Assistance to Congressional intent. This emergency regulation is to become effective January 1, 1989, and to remain in effect for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement this new federal mandate.

10. APPROVAL SOUGHT FOR VR 460-03-2.6190.

Approval of the Governor is sought for an emergency modification to the State Plan for Medical Assistance in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

VR 460-03-2.6190. Transfer of Assets.

1. An institutionalized individual (as defined in item 6) who, at any time prior to or after the 30 month period immediately before institutionalization or the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value shall be ineligible for Medicaid coverage of long term care services for a specified period of time. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to the lesser of

a. 30 months, or

b. the total uncompensated value of the resources so transferred, divided by the average cost, to a private patient at the time of application, of nursing facility services in the State.

2. An individual shall not be ineligible for Medicaid coverage of long term care services by reason of paragraph 1 to the extent that

a. the resources transferred were a home and title to the home was transferred to

(1) a child of such individual who is under age 21, or is blind or disabled as defined in § 1614 of the Social Security Act;

(2) a sibling or half-sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution or nursing facility; or

(3) a son or daughter of such individual (other than a child described in clause 2) who was residing in such individual's home for a period of at least two years immediately before the date of such individual's admission to the medical institution or nursing facility, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

b. A satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary of the United States Department of Health and Human Services) that

(1) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration, or

(2) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; or

(3) The State determines that denial of eligibility would work an undue hardship.

3. Notwithstanding paragraphs 1 and 2, the Department shall continue to apply the regulations and policies contained in the State Plan as of June 30, 1988, with respect to resources disposed of before July 1, 1988. Furthermore, notwithstanding paragraphs 1 and 2, the Department shall continue to apply through September 30, 1988, the laws and policies established or provided for by the State as of June 30, 1988, to interspousal transfers occurring before October 1, 1989.

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 16, 1988

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI880553

Ex Parte, in re: Promulgation of
rules pursuant to Va. Code § 6.1-421
(Mortgage Lender and Broker Act)

ORDER

On or about August 24, 1988, the Commissioner of Financial Institutions, pursuant to delegated authority, disseminated to interested persons notice that contained a number of proposed rules designed to carry out various provisions of the Mortgage Lender and Broker Act (Va. Code §§ 6.1-408 et seq.) and that advised such persons that comments and requests for a hearing on the proposed rules must be received by September 23, 1988. No request for a hearing was received by September 23, 1988, but a number of written comments were filed.

The proposed rules are intended to provide a means for the enforcement of provisions of the Mortgage Lender and Broker Act related, among other things, to (1) accounting for funds received from borrowers, (2) bonds and letters of credit required of licensees, and (3) certain prohibited practices.

The Commission, after reviewing the proposed rules and comments received, deemed it appropriate to modify the proposed rules in certain respects and, upon consideration of said rules as modified, is of the opinion and finds that they should be adopted; accordingly, it is

ORDERED that the aforesaid modified rules entitled "Rules Governing Mortgage Lenders and Mortgage Brokers", attached hereto and made a part hereof, be, and the same hereby are, adopted and shall become effective February 1, 1989.

AN ATTESTED COPY of this Order and a copy of the aforesaid Rules shall be sent to the Commissioner of Financial Institutions, who shall send a copy of the same to each licensee under the Mortgage Lender and Broker Act, each person whose application for a license under such Act is pending, and to such other persons as the Commissioner deems appropriate.

REGULATION XI-1

RULES GOVERNING MORTGAGE LENDERS AND MORTGAGE BROKERS

Title 6.1, Chapter 16 - Mortgage Lender and Broker Act

Authority: § 6.1-421, Chapter 16, Title 6.1, Code of Virginia

I. Definitions

As used in this Regulation:

1. The terms "mortgage lender", "mortgage broker" and "mortgage loan" have the meaning ascribed to them in Section 6.1-409 of the Code of Virginia.

2. The term "commitment" means a written offer to make a mortgage loan signed by a mortgage lender, or by another person authorized to sign such instruments on behalf of a mortgage lender.

3. The term "commitment agreement" means a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon.

4. The term "fees paid to third persons" means the bona fide fees or charges paid by the applicant for a mortgage loan to third persons other than the mortgage lender or mortgage broker or paid by the applicant to or retained by the mortgage lender or mortgage broker for transmittal to such third persons in connection with the mortgage loan, including, but not limited to, recording taxes and fees, reconveyance or releasing fees, appraisal fees, credit report fees, attorney fees, fees for title reports and title searches, title insurance premiums, surveys and similar charges.

5. The term "commitment fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for binding the mortgage lender to make a mortgage loan in accordance with the terms of the commitment or as a requirement for acceptance by the applicant of a commitment, but the term does not include fees paid to third persons or interest.

6. The term "lock-in agreement" means a written agreement between a mortgage lender and an applicant for a mortgage loan which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement. A lock-in agreement can be entered into before mortgage loan approval, subject to the mortgage loan being approved and closed, or after such approval. A commitment agreement which establishes and sets an interest rate and the points to be charged in connection with a mortgage loan that is closed within the time period specified in the agreement is also a lock-in agreement. The interest rate that is established and set by the agreement may be either a fixed rate or an adjustable rate.

7. The term "lock-in fee" means any fee or charge accepted by a mortgage lender, or by a mortgage broker for transmittal to a mortgage lender, as consideration for making a lock-in agreement, but the

term does not include fees paid to third persons or interest.

8. The term "points" means any fee or charge retained or received by a mortgage lender or mortgage broker stated or calculated as a percentage or fraction of the principal amount of the loan, other than or in addition to fees paid to third persons or interest.

9. The term "reasonable period of time" means that period of time, determined by a mortgage lender in good faith on the basis of its most recent relevant experience and other facts and circumstances known to it, within which the mortgage loan will be closed.

II. Operating Rules

A licensee shall conduct its business in accordance with the following rules:

1. No licensee shall intentionally misrepresent the qualification requirements for a mortgage loan or any material loan terms or make false promises to induce an applicant to apply for a mortgage loan or to induce an applicant to enter into any commitment agreement or lock-in agreement or to induce an applicant to pay any commitment fee or lock-in fee in connection therewith. A "material loan term" means the loan terms required to be disclosed to a consumer pursuant to (i) the federal Truth-in-Lending Act, and regulations and official commentary issued thereunder, as amended from time to time, (ii) Section 6.1-2.9:5 of the Code of Virginia, and (iii) Part III of these Regulations.

2. All moneys received by a licensee from an applicant for fees paid to third persons shall be accounted for separately, and all disbursements for fees paid to third persons shall be supported by adequate documentation of the services for which such fees were or are to be paid.

3. The mortgagor who obtains a mortgage loan shall be entitled to continue to make payments to the transferor of the servicing rights under a mortgage loan until the mortgagor is given written notice of the transfer of the servicing rights by the transferor. The notice shall specify the name and address to which future payments are to be made and shall be mailed or delivered to the mortgagor at least ten (10) calendar days before the first payment affected by the notice.

4. If a person has been or is engaged in business as a mortgage lender or mortgage broker and has filed a bond or letter of credit with the Commissioner, as required by Virginia Code Section 6.1-413, such bond or letter of credit shall be retained by the Commissioner notwithstanding the occurrence of any of the following events:

(a) The person's application for a license is withdrawn or denied;

(b) The person's license is surrendered, suspended or revoked; or

(c) The person ceases engaging in business as a mortgage lender or mortgage broker.

III. Commitment Agreements and Lock-in Agreements

1. A commitment agreement shall include the following:

(a) Identification of the property intended to secure the mortgage loan (this does not require a formal legal description);

(b) The principal amount and term of the loan;

(c) The interest rate and points for the mortgage loan if the commitment agreement is also a lock-in agreement or a statement that the mortgage loan will be made at the mortgage lender's prevailing rate and points for such loans at the time of closing or a specified number of days prior to closing;

(d) The amount of any commitment fee and the time within which the commitment fee must be paid;

(e) Whether or not funds are to be escrowed and for what purpose;

(f) Whether or not private mortgage insurance is required;

(g) The length of the commitment period;

(h) A statement that if the loan is not closed within the commitment period, the mortgage lender is no longer obligated by the commitment agreement and any commitment fee paid by the applicant will be be refunded only under the circumstances set forth in Section III.3 of this Regulation and such other circumstances as are set forth in the commitment agreement; and

(i) Any other terms and conditions of the commitment agreement required by the lender.

2. A lock-in agreement shall include the following:

(a) The interest rate and points for the mortgage loan, and if the rate is an adjustable rate, the initial interest rate and a brief description of the method of determining the rate (such as the index and the margin);

(b) The amount of any lock-in fee and the time within which the lock-in fee must be paid;

(c) The length of the lock-in period;

(d) A statement that if the loan is not closed within the lock-in period, the mortgage lender is no longer obligated by the lock-in agreement and any lock-in fee paid by the applicant will be refunded only under the circumstances set forth in Section III.4 of this Regulation and such other circumstances as are set forth in the lock-in agreement;

(e) A statement that any terms not locked-in by the lock-in agreement are subject to change until the loan is closed at settlement; and

(f) Any other terms and conditions of the lock-in agreement required by the lender.

3. If an applicant has paid any commitment fee, and the mortgage loan is not closed due to any of the following, such commitment fee shall be refunded:

(a) The commitment period was not a reasonable period of time given the prevailing market conditions at the time the commitment agreement was entered into;

(b) The mortgage loan is turned down because of the applicant's lack of creditworthiness;

(c) The mortgage loan is turned down because of the appraised value of the property intended to secure the mortgage loan;

4. If an applicant has paid any lock-in fee and the loan is not closed because the lock-in period was not a reasonable period of time given the prevailing market conditions at the time the lock- in agreement was entered into, such lock-in fee shall be refunded.

* * * * * * * *

AT RICHMOND, DECEMBER 15, 1988

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC880035

Ex Parte: In the matter of promulgating an experimental plan for the optional regulation of telephone companies

FINAL ORDER

On April 6, 1987, the Commission had the Director of the Division of Communications establish a Task Force to study regulatory alternatives to traditional rate base/rate of return regulation for Virginia's telephone companies. Initially, the Task Force was comprised of Commission Staff members, a representative from each of the five major telephone companies, and a representative from the Division of Consumer Counsel, Office of the Attorney General. The Task Force submitted an interim report October 15, 1987.

Following the Commission's analysis of the Interim Report, the Task Force was expanded to include representatives from Virginia's interexchange carriers and a representative from the Virginia Citizens Consumer Council. This expanded Task Force met on numerous occasions during 1988 and established six committees to study various components of approaches to telephone regulation. Those committees examined the need for change, the need for incentive regulation, the classification of services as competitive or monopolistic in nature, legal requirements and procedures, and appropriate financial and service quality monitoring. The Final Report of the Task Force and its six committees was submitted July 1, 1988.

After reviewing this report, the Commission proposed an experimental plan for an alternative means of regulation of telephone companies. By order of September 20, 1988, the Commission published notice of the proposed plan and invited comments from interested parties on or before October 31, 1988. Extensive comments were received from 16 parties. By order of November 4, 1988, the Commission scheduled oral argument for those parties who had submitted comments. The hearing to receive oral argument was held on November 22, 1988. Statements were presented by three public witnesses and oral argument was presented by attorneys representing the Chesapeake and Potomac Telephone Company of Virginia, Central Telephone Company of Virginia, Contel of Virginia, Inc., GTE South, Inc., United InterMountain Telephone Company, AT&T Communications of Virginia, Inc., U.S. Sprint Communications Company of Virginia, Inc., MCI Telecommunications Company of Virginia, Inc., the Department of Defense and Federal Executive Agencies, and the Division of Consumer Counsel, Office of the Attorney General.

Having considered the comments submitted herein and the oral argument presented November 22, the Commission has determined to revise its experimental plan and to implement it January 1, 1989. A copy of the plan is appended hereto as Attachment A.

We will comment briefly on two issues.

First, the interexchange carriers were concerned about the effect that this plan will have upon the existing ban upon intra-LATA, interexchange competition. That ban was imposed by the Commission's Interim Order of June 30, 1986, in Case No. PUC850035, 1986 SCC Ann. Rep. 224. After January 1, 1990, the Commission will invite comments in Case No. PUC850035 concerning the possible lifting of the ban on intra-LATA, interexchange competition.

Second, as some parties noted, the voluntary nature of the plan encourages companies to participate when they perceive a potential advantage to their shareholders in doing so. Benefit to shareholders is not mutually exclusive of benefit to ratepayers, however. The additional revenues that can occur from the introduction of new services and the aggressive marketing of existing services may very well increase earnings to shareholders, but are expected also to offset the need for additional revenues from ratepayers. Moreover, the plan's incentives for companies to increase efficiencies and thereby enhance earnings through lowered costs should further foster lowered costs to ratepayers.

The Commission would like to commend all parties who participated in the Task Force and all those who submitted comments and oral argument on the proposed plan. Their extensive efforts and advice supplied the Commission with valuable resources from which to fashion the experimental plan. It is anticipated that each of these parties will closely monitor the operation of the plan during the next four years. As provided in the plan, they may participate in the determination of allocations. Any person aggrieved by the regulated rates of the companies may petition for relief as contemplated by § 56-235 of the Code. Accordingly,

IT IS THEREFORE ORDERED:

(1) That the experimental plan for an alternative means of regulation of telephone companies, appended hereto as Attachment A, shall take effect January 1, 1989;

(2) Participation in such plan shall be at the option of the individual telephone companies, under the procedures set forth in the plan; and

(3) That there being nothing further to come before the Commission, this docket is closed and the record developed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange telephone company operating in Virginia as set out in Attachment B attached hereto; to each certificated interexchange carrier operating in Virginia as set out in Attachment C attached hereto; to the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; to Jean Ann Fox, President, Virginia Citizens Consumer Council, 114 Coachman Drive, Tabb, Virginia 23602; to Dellon E. Coker, Chief, Regulatory Law Office, U.S. Army Legal Services Agency, JALS-RL 5611 Columbia Pike, Falls Church, Virginia 22041-5013; Ronald B. Mallard, Director, Department of Consumer Affairs, County of Fairfax, 3959 Pender Drive, Fairfax, Virginia 22030; Mr. Gerald T. Kowasic, P.O. Box 642, Locust Grove, Virginia 22508; Mr. Charles R. Smith, Hello, Inc., 2315 West Broad Street, Richmond, Virginia 23220; Sue D. Blumenfeld, Esquire, and Mary P. Jaffe, Esquire, attorneys for Cable and Wireless Communications, Inc., 3 Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20036; Andrew D. Lipman, Esquire, and Russell M. Blau, Esquire, attorneys for DAVID Systems, Inc., 3000 K Street, N.W., 3rd Floor, Washington, D.C. 20007; to the Commission's Office of General Counsel, and to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

Attachment A

EXPERIMENTAL PLAN FOR ALTERNATIVE REGULATION OF VIRGINIA TELEPHONE COMPANIES VIRGINIA STATE CORPORATION COMMISSION

The objective of this plan is to determine to the extent possible, the degree of competitive freedom that local telephone companies may be afforded that is consistent with the overall public interest and with the duty of such companies to provide economical telephone services of a monopoly nature.

1. The plan will be implemented for a four-year trial period beginning January 1, 1989, and will be optional with the individual companies.

2. An initial rate reduction will be part of the plan, based upon March 31, 1988, Annual Informational Filings (AIFs), a subsidiary capital structure, and a range of return on equity of 12%-14%.

3. Should a company elect to proceed under the plan, it must file a letter of intent to participate, specifying rate reductions with appropriate tariffs and a rate of return statement supporting the reduction attached. Should a company later desire to end its participation, it may do so, with leave of the Commission upon a showing of good cause. Any company granted permission to terminate the plan will thereafter be subject to traditional rate base/rate of return regulation on a prospective basis. The Commission retains the right to terminate a company's participation in a plan, in whole or in part, on its own motion, or upon complaint, if it finds good cause to do so, including a determination that any practices under the plan are abusive or detrimental to the public interest. In this regard, the Commission intends to monitor closely all aspects of a company's performance under the plan.

4. The plan will be evaluated in the fourth year.

5. During the four years the plan is in effect, any changes found to be necessary to the policies and procedures established under this plan will be given prospective effect only.

6. Services will be classified into categories as shown on Appendix A according to the following definitions:

Actually Competitive: Services for which there are

readily available, functionally equivalent substitutes of at least equivalent quality.

Potentially Competitive: Services which persons other than Local Exchange Companies (LECs) are capable of providing, but which do not conform to the definitions of Actually Competitive.

Discretionary: Services which can be provided only by the LECs, but which are optional, nonessential enhancements to basic communications.

Basic: Services which, due to their nature or legal/regulatory restraints, only the LECs can provide.

7. Services listed on Appendix A as Potentially Competitive, Discretionary, or Basic, together with all other existing services of a company not identified on Appendix A as Actually Competitive will remain subject to current regulatory oversight, modified, however, by subsequent paragraph 9.

8. The rate base, costs and revenues from the Actually Competitive services enumerated in Appendix A will be transferred below the line for AIF purposes, and will not be subject to price regulation.

9. Potentially Competitive services, as defined in Appendix A, and excluding access services, will be allowed flexible tariff status with the right to adjust rates for such services on an expedited basis subject to Commission notification. Prices may be increased or decreased at the company's discretion. Tariffs must be filed at least 30 days prior to the effective date, which is consistent with current tariff filing procedures. Filings which include rate reductions must include supporting data demonstrating the rate is not below long run incremental cost.

10. Tariffs shall continue to be filed for all services except Actually Competitive services.

11. Services and capabilities of a monopoly nature that are essential components of competitive services must be offered on an unbundled basis in the tariffs. When these services and capabilities are used by competitive services, the associated revenue of these monopoly components will be attributed to monopoly operations based on the tariff rates. For Actually Competitive services, essential monopoly components not now individually offered must be unbundled by tariff filings within 90 days of a company's adoption of this plan.

12. All current services not subject to regulation will continue in an unregulated status.

13. Prior Commission approval will be required to introduce any rates, charges and conditions that vary according to customers' geographic location.

14. Rate regrouping due to growth in access lines will continue in order to avoid rate discrimination between similarly sized exchanges.

15. For purposes of the Staff's monitoring during the experimental trial period, the company shall initially file with the Staff, under proprietary protection, current price lists for services, except Yellow Pages, in the Actually Competitive category. Such lists shall be updated at the end of each year during the trial period.

16. Solely for monitoring purposes, the company shall file a per books rate of return statement, under proprietary protection, for the aggregate of all its services except Customer Premise Equipment (CPE). The Commission will monitor separately the financial results from Actually Competitive services. Initially, these filing and monitoring requirements will be met on a quarterly basis, and subsequently may be required less frequently if appropriate. Annually, the company shall file a non-proprietary AIF, based upon the rate base, costs and revenues of Potentially Competitive, Discretionary, and Basic services. The rate of return statement will reflect per-books results, making adjustments for:

a. Investment Tax Credits (ITC) capital expense and its associated tax savings;

b. Restatements from Generally Accepted Accounting Principles (GAAP) to regulatory accounting;

c. Removal of out-of-period revenue and expense amounts that relate to occurrences prior to the implementation of the trial plan; and,

d. Removal of out-of-period amounts that are a direct result of the plan, and as agreed upon and reported by the Task Force Financial Monitoring Subcommittee.

17. In the event the company seeks any increase in the prices of any Basic or Discretionary services during the trial period, the company must file a rate application conforming to the rules adopted in Case No. PUE850022.

a. The financial results in this filing will include rate base, costs, and revenues from services in Potentially Competitive, Discretionary, and Basic service categories.

b. In addition, all rate base, costs, and revenues from services in the Actually Competitive category, except CPE, will be imputed to regulated financial results and considered in determining the company's revenue need.

c. The circumstances surrounding the need for an increase may affect continuing participation in the plan; however, a requested rate increase would not

necessarily preclude on-going participation.

18. During the trial period, the company's approved return on equity will be set at a range of 12% to 14%. For purposes of monitoring during the plan, return on equity and return on rate base will be calculated by using a 13-month average common equity and a 13-month average rate base number.

19. During the plan years all rates except Actually Competitive rates will become interim rates subject to paragraph 20.

20. If the company is found to have earned in excess of the authorized range of return on Potentially Competitive, Basic, and Discretionary services in the year preceding, an appropriate refund will be made with interest. If such a condition is not found to exist, the Commission, upon motion by the company, will order that the interim rates for the previous year be made permanent. All actions in this paragraph will be taken only after notice and opportunity for hearing.

21. Service quality results shall be filed by the local exchange companies on a quarterly or monthly basis as directed by the Staff.

a. These reports may be expanded to include results not contained in the present service reports.

b. Companies will report on the following seven categories of service:

- Commission complaints per 1000 access lines per year
- Trouble reports per 100 access lines
- Percent repeated trouble reports
- Service observation results
- Business office accessibility
- Repair service accessibility
- Service orders completed within 5 working days

c. Companies will also file reports showing results related to service provided to interexchange carriers as follows:

- On time performance
- Outage duration
- Blocking below the tandem

d. The Staff will analyze service results and take immediate action to resolve any service quality problems.

22. The costs associated with services in the Actually Competitive category must be determined by a cost allocation methodology.

a. During the first quarter of the first year the plan is in effect, the Staff and all companies, along with other interested parties, shall negotiate uniform generic cost allocation guidelines and principles for separating out Actually Competitive accounts.

b. The Commission will then seek comments on the results of these negotiations, modified as deemed appropriate, in a docketed and properly noticed proceeding.

c. Generic cost allocation guidelines and principles, modified as appropriate, will then be adopted by the Commission.

d. Using these guidelines, companies will file their own specific cost allocation plans for the services in the Actually Competitive category. These plans are subject to review by the Staff and will be subject to appropriate revisions in a docketed and properly noticed proceeding.

e. During each succeeding year of the plan after the first year, the cost allocations arrived at initially will be monitored and adapted to changing conditions by agreement between the Staff and the company, and interested parties as necessary.

23. Upon the request of the Staff, the company will file such other information with respect to any services or practices of the company as may be required of public service companies under current Virginia law, or any amendments thereto.

24. Thirty days prior to offering a new service, the company shall notify in writing the Staff, the Attorney General, and all certificated interexchange carriers of the new service offering.

a. Simultaneous with such notification, the company shall designate the service category into which the new service is classified.

b. Any interested party shall be afforded an opportunity, by timely petition to the Commission, to propose that the new service be classified in a different category; however, the filing of such petition shall not result in postponement of the new service offering.

c. Any such proceeding to determine the proper classification of a new service offering shall be completed within 90 days following the effective date of the new service offering.

d. This provision also applies to the reclassification of existing services.

25. Interexchange Carriers' (IXC) access charges are not included in the categories of services set out in this plan for pricing purposes. Pricing for such services will be considered separately in accordance with the procedures adopted in Case No. PUC870012. However, for purposes of the initial rate reduction called for by paragraph 2, IXC access charges may be reduced as long as no access charge prices fall beneath incremental costs as determined in Case No. PUC870012. For all other purposes, access services will be included in the categories as shown on Appendix A.

26. Within six months following the conclusion of the third year of the plan's adoption, each company will prepare and submit to the Commission a detailed, written report which is satisfactory to the Commission, and which describes and documents the perceived effects of the plan - benefits and detriments - upon the company and upon its customers, for both regulated and unregulated goods, services and equipment of whatever nature and wherever sold, used or provided.

The purpose to be served by this report is to provide an informed basis upon which the Commission can design and execute subsequent policy and predicate future action in appropriate response to the competitive and technological forces which are then identified as impacting the field of communications and information transfer.

Appendix A

MARKET CLASSIFICATIONS OF LEC SERVICES

Actually Competitive

1. Yellow Page Advertising
2. Customer Premises Equipment
3. Inside Wiring
4. CENTREX Intercom & Features
5. Billing & Collection (Processing, Rendering Inquiry)
6. Mobile Services
7. Paging Services
8. Speed Calling
9. Apartment Door Answering
10. C.O. LANs

Potentially Competitive

1. Bulk Private Line
2. Bulk Special Access
3. Operator Call Completion Services
4. 3-Way Calling
5. Call Forwarding
6. Time-of-Day Service
7. Weather Forecast Service
8. C.O. Data Sets
9. Toll Restriction

Discretionary

1. Non-list & Non-pub Numbers
2. Preferred (Vanity) Numbers
3. Additional Listings & Bold Type
4. Operator Verification & Interrupt
5. Call Waiting
6. Remote (Fixed) Call Forwarding
7. DTMF Signaling (Touch-Tone, U-Touch)
8. B&C Security Functions
9. Special Billing Numbers
10. Referral Service (customized Intercept)
11. Transfer Arrangements
12. Exclusion
13. Call Restriction
14. Make Busy Arrangements
15. Break Rotary Hunt

Basic

1. Access to Switched Network (DTLs)
2. Exchange Usage
3. Switched Access
4. MTS/WATS/800
5. Basic Service Charges
6. Optional Calling Plans
7. CENTREX Exchange Access & Usage
8. B&C With DNP
9. ANI & Recording
10. Directory Assistance
11. Maintenance Visit (Trouble Isolation)
12. "Single" Private Line & Special Access
13. Operator Service - Emergency & Troubles
14. Intercept (Standard)
15. White Page Listing
16. List Service
17. Number Screening (Selective Class of Call Screening)
18. FX Service
19. Public and Semi Public Telephone Service
20. IXC Coinless Telephone Service
21. Four-wire Service Terminating Arrangements
22. Concentrator-Identifier Equipment
23. Emergency Number "911" Service
24. Public Data Network
25. Direct Inward Dialing
26. Extended Area Calling
27. Hunting Arrangements
28. PBX Night, Sunday, etc. Arrangements
29. Split Supervisor Drops
30. Identified Outward Dialing

ATTACHMENT B

TELEPHONE COMPANIES IN VIRGINIA

Joseph E. Hicks, President
Amelia Telephone Company
P.O. Box 158
Leesburg, Alabama 35983

Raymond L. Eckels, Manager
Amelia Telephone Company
P.O. Box 76
Amelia, Virginia 23002

M. Dale Tetterton, Jr., Manager
Buggs Island Telephone Cooperative
P.O. Box 129
Bracey, Virginia 23919

Sue B. Moss, President
Burke's Garden Telephone Exchange
P.O. Box 428
Burke's Garden, Virginia 24608

Mr. J. Thomas Brown
Vice President and Division Manager
Central Telephone Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22906

Hugh R. Stallard, President
Chesapeake and Potomac Telephone Company
703 East Grace Street

Richmond, Virginia 23219

James R. Newell, Manager
Citizens Telephone Cooperative
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24001

Clarence Prestwood, President
Contel of Virginia, Inc.
P.O. Box 900
Mechanicsville, Virginia 23111-0900

Dale E. Sporleder, Vice-President and
General Counsel
4100 North Roxboro Road
Durham, South Carolina 27704

T. S. Morris, General Manager
GTE South
210 Bland Street
Bluefield, West Virginia 24701

L. Ronald Smith, General Manager
Mountain Grove-Williamsville Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

T. A. Glover, Manager
Highland Telephone Cooperative
Monterey, Virginia 24465

K. L. Chapman, Jr., President
New Hope Telephone Company
P.O. Box 38
New Hope, Virginia 24469

W. Richard Fleming, Manager
North River Telephone Cooperative
P.O. Box 8
Dayton, Virginia 22821

Ross E. Martin, General Manager
Pembroke Telephone Cooperative
P.O. Box 549
Pembroke, Virginia 24136-0549

E. B. Fitzgerald, Jr., President
and General Manager
Peoples Mutual Telephone Company, Inc.
P.O. Box 367
Gretna, Virginia 24557

Ira D. Layman, Jr., President
Roanoke and Botetourt Telephone Company
Daleville, Virginia 24083

James W. McConnell, Manager
Scott County Telephone Cooperative
P.O. Box 487
Gate City, Virginia 24251

Christopher E. French
President and General Manager
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virgnia 22824

Richard B. Cashwell, President
United Inter-Mountain Telephone Company
112 Sixth Street
P.O. Box 699
Bristol, Tennessee 37620

Dennis H. O'Hearn, General Manager
Virginia Hot Springs Telephone Co.
P.O. Box 699
Hot Springs, Virginia 24445

Ralph L. Frye, Executive Director
Virginia Telephone Association
700 Building - 14th Floor
7th and Main Streets
Richmond, Virginia 23219
Telephone 643-0688

A. J. Chisholm, Vice President and
Regulatory Affairs
The Western Union Telegraph Company
1828 "L" Street, Northwest, Suite 1001
Washington, D.C. 20036

Richard D. Gary, Esquire
* Hunton and Williams
P.O. Box 1535
Richmond, Virginia 23212

* Represents Virginia Telephone Association

ATTACHMENT C

INTER-EXCHANGE TELEPHONE COMPANIES - LONG DISTANCE

Gregory F. Allen, Vice President
AT&T Communications of Virginia
Three Flint Hill
3201 Jermantown Road, Room 3-B
Fairfax, Virginia 22003-2885

Robert S. Yeago, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 2008
Staunton, Virginia 24401

Dallas Reid
Contel of Virginia, Inc.
P.O. Box 900

Mechanicsville, Virginia 23111

Ms. Mary Rouleau
Institutional Communications Company - Virginia
2000 Corporate Ridge
McLean, Virginia 22102

William F. Marmon, Jr.
MCI Telecommunications Corp. of Virginia
Mid-Atlantic Division
601 South 12th Street
Arlington, Virginia 22202

Ira D. Layman, Jr., Manager
Roanoke & Botetourt Telephone Company
P.O. Box 174
Daleville, Virginia 24083

Warren B. French, Jr.
President & General Manager
Shenandoah Telephone Company
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Edinburg, Virginia 22824

David H. Jones
SouthernNet of Va., Inc.
61 Perimeter Street
Atlanta, Georgia 30341

Ms. Sharon Barkely, Manager
Regulatory Affairs
TDX Systems of Virginia, Inc.
1919 Gallows Road
Vienna, Virginia 22180

Rita Barmann
U.S. Sprint Communications Company
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036

Kevin J. Duane, Manager
Rates, Tariffs, Agreements
United States Transmission Systems, Inc.
100 Plaza Drive
Secaucus, New Jersey 07096

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COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE880028

Ex Parte, in re: Consideration of adoption of a policy for recovery of costs associated with Take-or-Pay liability

ORDER PRESCRIBING RECOVERY OF TAKE-OR-PAY LIABILITY

On September 27, 1988, the Virginia State Corporation Commission issued its Order Adopting Policy Statement in the captioned matter. In that order, among other things, we directed jurisdictional gas distribution companies to recover their take-or-pay liability in the same manner that contract demand charges are recovered through their respective purchase gas adjustment clauses. In that same order, we encouraged Commonwealth Gas Pipeline Corporation ("Pipeline") to work with its customers to develop its recovery mechanism for its take-or-pay related costs. We further noted that in the event Pipeline and its customers were unable to reach an agreement with regard to an appropriate means to recover Pipeline's take-or-pay costs, we would not hesitate to prescibe a recovery mechanism. We also directed Pipeline to immediately file tariffs governing recovery of its take-or-pay related costs.

By letter dated November 28, 1988, Pipeline advised the Commission that it and its customers were unable to reach agreement on an appropriate mechanism for recovery of Pipeline's take-or-pay costs. Pipeline requested that the Commission approve its currently effective contract demand allocation methodology or, in the alternative, to prescribe an alternative recovery mechanism.

On December 5, 1988, Virginia Natural Gas, Inc. ("VNG") filed a petition on behalf of itself and several other Pipeline customers. This petition maintained that the Commission should adopt a hybrid methodology based upon the numerical average of the allocations that would result from a sales deficiency allocation and a throughput allocation.

Review of the record developed in this proceeding indicates that VNG, Suffolk Gas Company ("Suffolk"), Commonwealth Gas Services, Inc. ("Services"), and the City of Richmond ("the City") did not support a hybrid proposal in either their respective comments or oral arguments. VNG, Suffolk, and the City supported allocating Pipeline's share of its interstate supplier's take-or-pay related costs in a manner comparable to that used by the Federal Energy Regulatory Commission in allocating these costs for each interstate pipeline.

In contrast to VNG and the City, Services took no position on the appropriate methodology by which Pipeline should pass through take-or-pay related costs to its customers. Instead, Services commented on the appropriateness of the various allocation methodologies as it related to recovery by a local distribution company of its share of take-or-pay relief.

Pipeline and Allied-Signal, Inc. ("Allied") supported continued use of the contract demand mechanism for recovery of take-or-pay related costs.

Based on our analysis of the record, we conclude that Pipeline's continued recovery of its take-or-pay costs through the contract demand component of its purchase gas adjustment ("PGA") clause is supported by the record and in the public interest. Each Pipeline customer has a

contract demand with Pipeline, and will share in the take-or-pay burden if it is allocated on a contract demand basis. Unlike a sales deficiency or volumetric approach, no rate design changes will be necessary because Pipeline's effective PGA already flows through fixed take-or-pay charges in proportion to the contract demand of each customer. Thus, no change in base rates will be necessary, even in the event FERC directs that Pipeline's interstate supplier refund all or a portion of such charges. Pipeline's customers also will benefit because their prospective share of these costs will be predictable and stable.

Accordingly,

IT IS ORDERED:

(1) That Pipeline may continue to recover its take-or-pay related costs through its contract demand portion of its purchase gas adjustment clause; and

(2) That there being nothing further to be done herein, the same is hereby dismissed.

AN ATTESTED COPY hereof shall be sent by the clerk of the Commission to: each gas utility subject to the jurisdiction of this Commission; Gail S. Marshall, Esquire, and William Bilenky, Esquire, Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, Richmond, Virginia 23219; Allan McClain, President, Southwestern Virginia Gas Company, P.O. Drawer 5391, Martinsville, Virginia 24115; Richard L. Belcher, Vice President - Gas Supply, Commonwealth Gas Pipeline Corporation, P.O. Box 35800, Richmond, Virginia 23235-0800; Richard D. Gary, Esquire, P.O. Box 1535, Richmond, Virginia 23212; Stephen H. Watts, II, Esquire, McGuire, Woods, Battle & Boothe, One James Center, Richmond, Virginia 23219; Nichaloas J. Bush, Suite 300, 1129 20th Street, N.W., Washington, D.C. 20036-3403; Marjorie H. Brant, Esquire, Columbia Gas of Virginia, P.O. Box 117, Columbus, Ohio 43216-0117; Donald R. Hayes, Esquire, Northern Virginia Natural Gas, 1100 H Street, N.W., Washington, D.C. 20080; David B. Kearney, Assistant City Attorney, City of Richmond, Department of Public Utilities, P.O. Box 26505, Richmond, Virginia 23261-6505; Edward L. Flippen, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-9970; Louis R. Monacell, Esquire, Christian, Barton, Epps, Brent & Chappell, 909 East Main Street, Richmond, Virginia 23219-3095; Guy T. Tripp, III, Esquire, Hunton & Williams, P.O. Box 1535, Richmond, Virginia 23212; James C. Dimitri, Esquire, Christian, Barton, Epps, Brent & Chappell, 909 E. Main Street, Richmond, Virginia 23219-3095; John S. Graham, III, Esquire, One James Center, 901 East Cary Street, Richmond, Virginia 23219; Dr. Carl J. Schleck, James River Corporation, P.O. Box 2218, Richmond, Virginia 23217; D. K. Johnson, 1501 Roanoke Boulevard, Salem, Virginia 24153; Wilbur H. Hazlegrove, Esquire, Woods, Rogers & Hazlegrove, P.O. Box 720, Roanoke, Virginia 24004-0720; and the Commission's Divisions of Energy Regulation, Accounting and Finance, and Economic Research and Development.

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COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE880109

Ex Parte, in re: Investigation into the promulgation of gas submetering standards and regulations

ORDER INITIATING INVESTIGATION

Section 56-245.3 of the Code of Virginia, adopted by the 1988 Session of the General Assembly, requires the Commission to promulgate regulations and standards under which submetering equipment may be installed in each dwelling unit, rental unit or store to fairly allocate each unit's cost of gas consumption and gas demand or customer charges. In that regard, we believe it appropriate, as a first phase, to direct the Commission Staff to conduct a general investigation into the appropriate standards and regulations for gas submetering. In its investigation, the Commission Staff should contact other Commissions, known trade associations, gas utilities and any other interested and affected persons to provide it sufficient information to carry out its investigatory efforts. Data requests, surveys, and meetings with interested and affected persons are to be a part of the Staff's research. Gas utilities subject to our regulation are expected to fully and promptly reply to any Staff data requests addressing the issues raised herein.

Moreover, the Commission further believes it appropriate to direct the Commission Staff to establish a Task Force to conduct an investigation, to develop and ultimately to propose gas submetering rules for the Commission's consideration.

We wish to encourage all interested and affected persons to provide meaningful input to assist this Commission in its duty to implement gas submetering standards and regulations. We are hopeful that such persons will provide input to the Task Force to provide this Commission as much information as possible so that the Staff's proposed rules culminating from this endeavor will reflect, to the extent possible, the concerns of all of the participants.

The foundation of the Task Force investigation should be based on § 56-245.3 of the Code of Virginia. The Virginia General Assembly therein has required that the gas submetering rules include the following:

(1) The fair allocation of the cost of gas consumption of each individual dwelling unit, rental unit, or store;

(2) The fair allocation of the gas demand or customer charges in all circumstances in which the tenants would be subject to such charges if they were receiving direct service from the utility;

(3) An established ceiling for costs may be allocated to tenants so that the tentant pays no charges over and above the cost per cubic foot or therm, plus demand or customer charges, where applicable, which the utility charges the owner of the building including any local utility tax, if any, provided that a $2.00 service charge per month per dwelling unit may be charged to cover administrative and billing costs; and

(4) A requirement that adequate records be maintained regarding submetering and that the records be made available to the tenant for inspection during reasonable business hours.

In order that this case proceed in a timely manner, we shall direct the Commission Staff and the participants on the Task Force to commence immediately coordinating their efforts to provide the necessary information to identify issues and to discuss any perceived problems so that sufficient information is made available for the Staff's evaluation. Such information should be promptly provided to the Commission Staff to allow it sufficient time for evaluation and development. In that regard, we shall also direct the Commission Staff to summarize its investigatory procedures, findings and recommendations in a report to be filed with the Commission on or before May 31, 1989. We anticipate that the report will serve as the basis of proposed rules and policies which will be the subject of public notice, comment, and opportunity for hearing in the second phase of this proceeding. Accordingly,

IT IS ORDERED:

(1) That this matter shall be docketed and assigned Case No. PUE880109;

(2) That the Commission Staff is directed to establish a Task Force; conduct a general investigation on gas submetering; and to propose gas submetering rules.

(3) That upon completing its investigation, the Commission Staff shall file its report on or before May 31, 1989, with the Commission which describes the Staff's investigatory procedures, findings, recommendations and any proposed rules which it believes should be considered by the Commission;

(4) That all Virginia gas public utilities shall respond fully and promptly to Staff requests for data regarding the issues raised herein; and

(5) That other interested and affected persons be provided an opportunity to submit data and information pertinent to the Staff's investigation, and further to participate in the Task Force created hereunder.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each gas company subject to the jurisdiction of this Commission; Frann Francis, Apartment and Office Building Association, 1413 K Street, N.W., Suite 600, Washington, D.C. 20005; Virginia Apartment and Management Association, P.O. Box 17022, Richmond, Virginia 23226; Mark Looney, Landlord Tenant Relations Office, City of Alexandria, P.O. Box 178, City Hall, Alexandria, Virginia 22313; Stephen D. Sinclair, Fairfax County Department of Consumer Affairs, 3959 Pender Drive, Fairfax, Virginia 22030; and to the Commission's Divisions of Energy Regulation, Economic Research and Development, and Accounting and Finance.

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER SIXTY-FIVE (88)

CELEBRATING THE COMMISSIONING OF THE CHANCELLORSVILLE

The Army of the Potomac, under the leadership of General Joseph Hooker, engaged the Confederate forces, under the leadership of General Robert E. Lee, in a significant battle of the Civil War at Chancellorsville, Virginia, in 1863. In recognition of the noble sacrifice of those fighting in this battle, the United States' naval ship, the Chancellorsville, will be commissioned in 1989.

To ensure that Virginians are able to fully participate in the ceremonies, by virtue of the authority vested in me as Governor, by Section 2.1-51.36 of the Code of Virginia, I hereby create the Commission for the Commissioning of the Chancellorsville.

The Commission is classified as an advisory commission, as defined in Section 9-6.25 of the Code of Virginia.

It shall be the responsibility of the Commission to assist the United States' Naval personnel in the development and implementation of appropriate ceremonial activities. The specific responsibilities of the Commission shall be to:

1. Serve as liaison between the Navy, the commanding officer of the Chancellorsville, and area communities;

2. Develop community interest in the Chancellorsville; and

3. Raise funds for appropriate ceremonial activities.

The Governor shall appoint members to the Commission who shall serve at his pleasure. The Governor shall appoint a chairperson from the membership of the Commission and shall appoint any other officers as he deems necessary.

Members of the Commission shall serve without compensation and shall not be reimbursed for expenses incurred in the performance of their official duties.

Support needed for the term of the Commission's existence shall be provided from such funds and staff as the Commission is able to raise.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until December 1, 1989, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 15th of December, 1988.

/s/ Gerald L. Baliles
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT FOR THE AGING

Title of Regulation: **VR 110-01-02. Area Agencies on Aging.**

Governor's Comment:

I concur with the form and content of this proposal. My final assessment will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: December 23, 1988

* * * * * * * *

Title of Regulation: **VR 110-01-03. Area Plans for Aging Services.**

Governor's Comment:

I concur with the form and content of this proposal. My final assessment will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: December 23, 1988

* * * * * * * *

Title of Regulation: **VR 110-01-04. Financial Management Policies.**

Governor's Comment:

I concur with the form and content of this proposal. My final assessment will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: December 23, 1988

* * * * * * * *

Title of Regulation: **VR 110-01-05. Long-Term Care Ombudsman Program.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Gerald L. Baliles
Date: December 23, 1988

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-03-3.1110. Amount, Duration, and Scope of Services - Elimination of Preauthorization of Routine Eye Services.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be subject to a review of the comments received during the public comment period.

/s/ Gerald L. Baliles
Date: December 21, 1988

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-27-02. Minimum Standards for Licensed Private Child Placing Agencies.**

Governor's Comment:

I approve the form and content of this proposal. My final approval will be contigent upon a review of the comments received during the public comment period.

/s/ Gerald L. Baliles
Date: December 22, 1988

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-21-08.8. River Basin Section Tables - James River Basin (Upper).**

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
Date: December 14, 1988

GENERAL NOTICES/ERRATA

Symbol Key †
† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Air Pollution Control intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed action is to provide the latest edition of the referenced technical and scientific documents and to incorporate newly promulgated federal New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants.

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

Written comments may be submitted until March 2, 1989.

Contact: Nancy S. Saylor, Policy and Program Analyst, Division of Program Development, Department of Air Pollution Control, P. O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249 or SCATS 786-1249

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency public participation guidelines that the Department of Commerce intends to consider promulgating regulations entitled: **Virginia Asbestos Licensing Regulations.** The purpose of the proposed regulation is to promulgate regulations to replace emergency regulations enacted July 1, 1988.

Statutory Authority: § 54-145.5 of the Code of Virginia.

Written comments may be submitted until January 20, 1989.

Contact: Peggy Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, toll-free 1-800-552-3016 or SCATS 367-8595

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Criminal Justice Services Board intends to consider amending regulations entitled: **Rules Relating to Compulsory Minimum Training Standards for Private Security Services Business Personnel.** The purpose of the proposed action is to amend and revise compulsory minimum training standards for private security services business personnel.

Statutory Authority: § 9-182 of the Code of Virginia.

Written comments may be submitted until February 2, 1989, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730 or SCATS 786-8730

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: **Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.** The purpose of the proposed action is to (i) amend certain sections in Part II "General Regulations," Part III "Distribution of Pupil Transportation Funds," and Part V "Minimum Standards for School Buses in Virginia"; (ii) conform to the funding methodology in the 1988 Appropriations Act and to effect adjustments resulting from experience gained since promulgation of the current regulations.

Statutory Authority: §§ 22.1-16 and 22.1-176 of the Code of Virginia.

Written comments may be submitted until February 1, 1989.

Contact: R. A. Bynum, Associate Director, Department of Education, P. O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2037 or SCATS 225-2037

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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: **Qualified Provider for Medicaid Expanded Prenatal Services and Maternal/Infant Care Coordination.** The purpose of the proposed action is to amend existing regulations to enroll additional qualified providers for Medicaid Expanded Prenatal Services and Targeted Care Coordination services.

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

Written comments may be submitted until January 16, 1989, to David Austin, Manager, Post Payment Review, Health Services Review, 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

DEPARTMENT OF SOCIAL SERVICES (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 Social Services intends to consider amending regulations entitled: **VR 615-01-15. Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project.** The purpose of the proposed regulation is to continue to operate the Aid to Dependent Children - Unemployed Parent Demonstration (ADC-UP Demo) Project to provide financial assistance to needy two-parent families.

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

Written comments may be submitted until February 1, 1989, to Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Barbra Caris, Program Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

DEPARTMENT OF WASTE MANAGEMENT

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Waste Management intends to consider amending regulations entitled: **VR 672-10-1. Virginia Hazardous Waste Management Regulations.** The purpose of the proposed action is to update the Virginia regulations to include changes in the federal RCRA regulations contained in Parts 260 through 270, Title 40, Code of Federal Regulation.

Statutory Authority: Chapter 14 of Title 10.1 of the Code of Virginia.

Written comments may be submitted until March 1, 1989.

Contact: W. Gulevich, Director, Division of Technical Services, Department of Waste Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2975 or SCATS 225-3975

GENERAL NOTICES

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.**

NOTE: Please see Calendar of Events section for additional information.

ATTACHMENTS A AND B

SUMMARY OF RETROFIT CONTROL TECHNIQUES FOR ALTERNATIVE CONTROL SYSTEMS ON EXISTING KRAFT MILLS

SOURCE	CONTROL SYSTEMS 1	2	3	4	5	6
Recovery Furnace	a) Replace Furnaces >10 yrs. of age b) Add 2nd Stage Black Liquor Oxidation (including furnaces <10 yrs. of age). Also improve furnace air distribution	Same as 1	a) Replace Furnaces >20 yrs. of age b) Add 2nd Stage Black liquor oxidation for all other furnaces. Also improve furnace air distribution.	Same as 3	Same as 3	Same as 1
Digester System	Incineration	Incineration	Incineration	Incineration	Incineration	Incineration
Multiple Effect Evaporators	Incineration	Incineration	Incineration	Incineration	Incineration	Incineration
Lime Kiln	a) Increase Lime Mud Washing Capacity b) Increase fan cap. & Monitor Oxygen and temp. (kiln) c) Add caustic to kiln scrubber	Same as 1	Same as 1	a) Increase Lime Mud Washing Capacity b) Increase Fan Cap. & Monitor oxygen & temp(kiln)	a) Increase Fan Cap. & Monitor Oxygen and temp. (Kiln)	Same as 5
Brown Stock Washer System	Incineration	No Control	No Control	No Control	No Control	No Control
Black Liquor Oxidation System Vents	Molecular Oxygen	No Control	No Control	No Control	No Control	No Control
Smelt Dissolving Tank	Substitute fresh water for condensate	Same as 1	Same as 1	Same as 1	Same as 1	Same as 1
Condensate Stripping System	Incineration	Incineration	Incineration	Incineration	Incineration	Incineration

ATTACHMENT A

A-1

COST EFFECTIVENESS DATA FOR ALTERNATIVE CONTROL SYSTEMS

Control System	A National Emission Reduction tons/yr.	B Marginal Emission Reduction tons/yr.	C Industry Annualized Control Costs $1000/yr	D Marginal Annualized Control Costs $1000/yr.	E Annualized Costs per ton Removed (C)÷(A), ($/ton)	F Marginal Annualized Cost per ton Removed (D)÷(B),$/ton
5	65,000	65,000	69,000	69,000	1,060	1,060
4	67,200	2,200	93,600	24,600	1,390	11,180
3	67,600	400	94,300	700	1,395	1,750
6	69,000	1,400	200,000	105,700	3,000	75,500
2	71,500	2,500	237,000	37,000	3,315	14,800
1	77,700	6,200	441,000	204,000	5,675	32,900

ATTACHMENT B

ANNUALIZED CONTROL COSTS PER YEAR TO MEET VIRGINIA STANDARD
FROM AN UNCONTROLLED SITUATION

PLANT	TOTAL ANNUALIZED COST $ PER YEAR	TRS REDUCTION TONS/YEAR	ANNUALIZED COST PER TON
CHESAPEAKE	$2,122,000	5718.1	$ 371
STONE	$ 320,000	462.0	$ 693
UNION CAMP	$3,595,000	8800.0	$ 409
WESTVACO	$9,628,300	6273.9	$1,530

ANNUALIZED CONTROL COSTS PER YEAR TO MEET EPA LIMITS
FROM THE CURRENT CONTROL SITUATION

PLANT	TOTAL ANNUALIZED COST $ PER YEAR	TRS REDUCTION TONS/YEAR	ANNUALIZED COST PER TON
CHESAPEAKE	$4,630,000	387.1	$11,960
STONE	$ 165,000	38.2	$ 4,300
UNION CAMP	$1,265,000	255.0	$ 4,960
WESTVACO	$2,246,700	60.1	$37,400

ANNUALIZED CONTROL COSTS PER YEAR TO MEET EPA LIMITS
FROM AN UNCONTROLLED SITUATION

PLANT	TOTAL ANNUALIZED COST $ PER YEAR	TRS REDUCTION TONS/YEAR	ANNUALIZED COST PER TON
CHESAPEAKE	$ 6,752,000	6105.2	$1,105
STONE	$ 485,000	500.2	$ 970
UNION CAMP	$ 4,860,000	9055.0	$ 537
WESTVACO	$11,875,000	6334.0	$1,875

CONTROL COSTS TO MEET EPA LIMITS
FROM THE CURRENT CONTROL SITUATION

	Control Measure	Capital Cost	Annualized Cost/Yr
Chesapeake	Replace furnace	$38,393,000	$ 3,802,870
	BLO unit (black liquor oxidation)	1,259,696	295,070
	Lime kiln:		
	1. Precoat filter	1,918,307	386,233
	2. Modify water distribution system	370,491	63,825
	3. Replace fan	$ 366,200	$ 81,995
	TOTAL	$42,307,694	$4,629,993
	Cost per ton TRS reduced	$ 165,913	$ 11,960
Stone Container	Lime kiln filter	$ 825,000	$ 165,000
	TOTAL	$ 825,000	$ 165,000
	Cost per ton TRS reduced	$ 21,597	$ 4,300
Union Camp	Condensate stripper	$ 3,000,000	$ 680,000
	Three lime kiln mud filters	1,300,000	215,000
	Two scrubbers for smelt dissolving tank	320,000	120,000
	Two in-line BLO units	100,000	44,000
	Caustic addition to lime kiln scrubbers	100,000	89,000
	Oxygen control for kiln	$ 90,000	$ 117,000
	TOTAL	$ 4,910,000	$1,265,000
	Cost per ton TRS reduced	$ 19,255	$ 4,960

CONTROL COSTS TO MEET EPA LIMITS
FROM THE CURRENT CONTROL SITUATION

	Control Measure	Capital Cost	Annualized Cost/Yr
Westvaco	BLOX equipment	$5,020,000	$1,255,000
	Condensate stripper	900,000	(included below)
	Mud oxidizer	1,200,000	570,000
	Incinerator	150,000	37,500
	Incinerator	171,000	42,800
	Condensate stripper	900,000	(included below)
	Scrubbers	$ 340,000	$ 341,400
	TOTAL	$8,681,000	$2,246,700
	Cost per ton TRS reduced	$ 144,442	$ 37,400

6-16/H4GPC

DEPARTMENT OF LABOR AND INDUSTRY

† VOSH Program Directive

SUBJECT: Standard Interpretation: Applicability of Virginia Confined Space Standard, 1910.146, to Insurance Companies Employing Boiler and Pressure Vessel Safety Inspectors.

A. PURPOSE. This directive transmits VOSH Citation policy concerning the applicability of the Confined Space Standard for General Industry and the Construction Industry, 1910.146, to insurance companies employing boiler and pressure vessel safety inspectors.

B. SCOPE. This directive applies to all VOSH personnel and specifically to occupational health enforcement personnel.

C. ACTION. The assistant commissioner, enforcement directors and supervisors shall assure that the procedures outlined below are adhered to by enforcement personnel when citing 1910.146 in instances involving boiler and pressure vessel inspectors for insurance companies.

D. BACKGROUND. At the request of representatives from the insurance industry and boiler and pressure vessel inspectors, a meeting was held on August 30, 1988, allowed by representatives from the insurance industry, inspectors, and the department. Members of the Safety and Health Codes Board attended as observers. As a result of the meeting the commissioner has approved this standard interpretation which addresses the concerns of the interested groups and conforms to guidelines in the Field Operations Manual.

E. GENERAL POLICY GUIDELINES.

1. The Department of Labor and Industry will recognize written contracts made between insurance companies and owner-users of boiler and pressure vessels regarding the provision of attendants and emergency equipment as required by 1910.146, when the procedures listed in G are followed.

2. Although an employer cannot contract away safety and health responsibilities, the department does recognize that those responsibilities may be met in a number of different ways on a multi-employer worksite.

3. The department will enforce 1910.146 in situations involving owner-users of boiler and pressure vessels and insurance inspectors in the same manner that it enforces other standards on multi-employer worksites.

F. SCOPE OF INTERPRETATION. This interpretation covers only those entries where 1910.146 requires an attendant. Such entries include instances where a potential for engulfment is present or in atmospheres presenting a potential for death, disablement, injury or acute illness from one or more of the following causes:

1. A flammable gas, vapor, or mist in excess of 10% of its lower explosive limit (LEL);

2. An oxygen deficient atmosphere containing less than 19.5% oxygen by volume or an oxygen enriched atmosphere containing more than 23% oxygen by volume;

3. An atmosphere concentration of any substance listed in Subpart Z of Part 1910 Standards above the listed numerical value of the permissible exposure limit (PEL); or

4. A condition immediately dangerous to life or health as defined in this subsection.

(NOTE: "Immediately dangerous to life or health (IDLH)" means any condition that poses an immediate threat to life, or which is likely to result in acute or immediately severe health effects.)

G. CITATION PROCEDURES ON MULTI-EMPLOYER WORKSITES INVOLVING OWNER-USERS OF BOILER AND PRESSURE VESSELS AND INSURANCE INSPECTORS.

1. Situations involving boiler and pressure vessels where one or more of the hazards mentioned in F is present are usually both created and controlled by one employer (the owner-user) while an employee of another employer (the insurance company inspector) may become exposed to the hazard in the normal course of work (inspecting the boiler or pressure vessel).

2. In situations such as the one described in G.1, the law imposes responsibility on both employers for the safety and health of their employees.

3. In a multi-employer worksite situation, the employer who neither creates or controls the hazard can avoid liability for a violation only by taking steps which are reasonable under the circumstances to protect their employees against the hazardous condition.

The employer must make a resonable effort to persuade the controlling employer to correct the hazard and remove or provide alternative means to protect their employees from danger until the situation is corrected (satisfactory "alternative means" would include proper atmospheric testing, personal protective equipment and training).

4. To encourage the correction or avoidance of hazards in a situation such as that described in G.1 (see also F.1 to F.4), the department will recognize a written contractual arrangement between owner-users and insurance companies as a reasonable means of achieving compliance with 1910.146 (see F, Scope of Interpretation). The written contractual agreement shall be executed before the insurance inspector

enters the boiler and pressure vessel.

5. The written contractual agreement must comply with the requirements of 1910.146 and must be rigidly adhered to by both parties. The insurance companies' actions, not the owner-users, will guide VOSH decisions regarding responsibility when an employee of the insurance company is exposed to the hazard. The same rule applies to the owner-user when an employee of the owner-user is exposed to the hazard.

If the owner-user breaches the contract and fails to protect the insurance companies employees, it will be the insurance company's responsibility to assure that its employee refuses to conduct an inspection until the contract is followed (or provides satisfactory alternative means to protect the employee from the hazard as described in G.3 above). Where the owner-user provides no attendants or rescue equipment, the inspector shall not enter the boiler or pressure vessel without first assuring the presence of a qualified attendant and emergency equipment.

H. REFERENCE. Section V.F, Multi-Employer Worksites, of the VOSH Field Operations Manual (FOM).

DISTRIBUTION:

Commissioner of Labor and Industry
Assistant Commissioner for VOSH
VOSH Technical Services Director
Directors and Supervisors
Compliance Safety and Health Staff
Voluntary Compliance and Training Staff
OSHA Regional Administrator, Region III

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

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

Publication: 5:3 VA.R. 319-335 November 7, 1988

Correction to the Final Regulation:

Page 323, subdivision 2 under the definition of "Diameter," and page 325, § 2, the cross references at the end of each paragraph should read "(See § 3.G - Marking Requirements.)"

Page 327, A. Domestic grade, the entire paragraph following this heading should be stricken.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: **VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.**

Publication: 5:6 VA.R. 877 December 19, 1988

Correction to the Notice of Comment:

The written comments date should be changed from February 17, 1989, to January 21, 1989.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1987.**

Publication: 5:6 VA.R. 806-807 December 19, 1988

Correction to the Summary of the Final Regulation:

Subdivision 4 of the summary should be deleted in its entirety.

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

BOARD FOR ACCOUNTANCY

† **January 23, 1989 - 8 a.m.** – Open Meeting
† **January 24, 1989 - 8 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to review (i) applications for certificate and licensure; (ii) correspondence; (iii) investigative files; (iv) regulations; and (v) discuss old business and new business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

February 22, 1989 - 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 115-03-01. Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples.** These regulations prescribe requirements for apples identified as stored under controlled atmosphere conditions.

Statutory Authority: § 3.1-997 of the Code of Virginia.

Written comments may be submitted until February 3, 1989, to T. Graham Copeland, Jr., 1100 Bank Street, Room 210, Richmond, Virginia 23219.

Contact: Donald B. Ayers, Director of Commodity Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 804, Richmond, Va. 23219, telephone (804) 786-0480 or SCATS 786-0480

DEPARTMENT OF AIR POLLUTION CONTROL (STATE AIR POLLUTION CONTROL BOARD)

† **March 22, 1989 - 7:30 p.m.** – Public Hearing
Dabney Lancaster Community College, Moomaw Student Center, Seminar Room, Clifton Forge, Virginia

† **March 22, 1989 - 10 a.m.** – Public Hearing
Town Council Chambers, Town Hall, 329 Sixth Street, West Point, Virginia

† **March 22, 1989 - 2 p.m.** – Public Hearing
Hopewell Circuit Court Room, Municipal Building, 300 North Main Street, Hopewell, Virginia

† **March 22, 1989 - 10 a.m.** – Public Hearing
Franklin High School, 611 Crescent Drive, Auditorium, Franklin, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The regulation requires the owner/operator to limit TRS emissions from the kraft pulp mill to a level resultant from the use of reasonably available control technology and necessary for the protection of public welfare.

STATEMENT

Purpose: The purpose of the proposed amendments is to change the board's regulations to require the owner/operator to limit TRS emissions from the kraft pulp mill to a level resultant from the use of reasonably available control technology and necessary for the protection of public welfare.

Basis: The legal basis for the proposed regulation amendments is the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia).

Substance: Based on the department's analyses, consultant analyses, work of a regulatory ad-hoc advisory group, and other information gathered in the process, the department drew certain conclusions upon which the board based the following proposals to address the four issues which are defined under the section on "issues" (see below).

1. Delete the current state standard and replace it with the EPA guideline limits. For those facilities incapable of meeting EPA limits, temporary individual limits (less stringent than the EPA limits) would be established. Within six months of the effective date of the new regulation, companies would have to submit plans to bring all facilities into compliance with the new limits within five years.

2. Delete the current plantwide state standard based on production rate (pounds per ton of air dried pulp) and replace it with source specific emission limits expressed as a concentration (parts per million).

3. Require the use of continuous emission monitoring (CEM). The effective date for the operation of CEM would be one year after the effective date of the regulation.

4. Require the development of economic and technical feasbility analyses for the control of emissions from all unregulated sources with emissions equal to or greater than 0.01 pounds per ton of air dried pulp. Require the development of economic feasibility analyses for the use of condensate stripper systems. These analyses would be required by all of the companies as part of the plans submitted under proposal one above.

Issues: The board has identified four issues that need to be resolved through the regulatory adoption process. They are listed below.

1. Should the Commonwealth adopt the 1979 EPA guidelines emission limits (as opposed to retaining the current 1972 state standard) and, if so, what should be the schedule for compliance?

2. How should the structure of the standard be changed to improve its enforceability?

3. How should on-going compliance with the standard be determined?

4. How should facilities not covered by the EPA guideline emission limits be addressed in the regulatory scheme?

Impact:

1. Regulated entity.

The standards apply to any owner/operator of a kraft pulp mill.

2. Cost to regulated entity.

The proposed regulation amendments address three issues that will result in costs to the regulated entities: (i) meeting the EPA limits; (ii) installing, maintaining, and operating continuous emission monitoring systems; and (iii) conducting the economic and technical feasibility analysis for sources not covered by the EPA limits.

a. Meeting the EPA limits.

Using economic feasibility to evaluate the cost effectiveness of six alternate control strategies (see Attachment A), EPA gathered the national emission reduction data and the industry annualized control costs and calculated the cost effectiveness in cost per ton of emission reduction. The situation of the mills nationwide varied considerably due to the differences in state regulatory programs that ranged from no control to a slight variation from the EPA limits. Both the emission reduction data and cost data represent the impact of moving from the current level of control (at the time of the survey - 1976) to the EPA limits. Thus, the cost effectiveness data (cost per ton of emission reduction) represent a nationwide average. Therefore, the cost effectiveness of the control measures that are needed for a particular mill to meet the EPA limits may be either above or below the nationwide average depending upon the particular state's regulatory program. The primary use of the cost effectiveness date by EPA was to select those cost strategies that are considered to be reasonable to meet the EPA limits. Using this approach EPA:

REJECTED three strategies (6, 2 and 1) $3,000-5,700/ton TRS - "as not being cost effective"

ACCEPTED three strategies (5, 4 and 3) $1,000-1,400/ton TRS - "not...of such a magnitude to preclude consideration of these control systems as a viable control technology"

These costs were the annualized costs in 1976 dollars. Adjusted to 1985 dollars the costs become:

REJECTED $5,000-9,600/ton TRS

ACCEPTED $1,700-2,400/ton TRS

Economic data from the Virginia mills showing the actual impact of meeting the current Virginia standard and the projected impact of meeting the EPA limits has been provided by the companies. This data, in 1985 dollars, is shown in Attachment B and includes a summary of the annualized costs expended by the mills to meet the Virginia standard from an uncontrolled situtation, an estimate of the additional annualized costs necessary to meet the EPA limits from the current situation, and a total of

the two that represents the total cost to meet the EPA limits from an uncontrolled control situation. The data also includes the emission reduction data and cost effectiveness data. Attachment B also includes a summary of the control measures needed by each company to meet the EPA limits and the cost for each.

The department lacked the necessary in-house expertise to properly review the economic data and employed a consultant in the field of economic and technical analysis of air pollution controls from kraft pulp mills. The consultant concluded that the overall control costs were within the reasonable costs provided by EPA which were based on the average of cost data from mills nationwide and that the incremental costs for each plant are expensive but that EPA provided no guidance as to whether assessment of incremental costs was acceptable. The companies contend that the economic data provided show that the costs per ton of TRS removed to meet the EPA limits are significantly higher than the reasonable costs provided in the EPA guidlines.

b. Use of continuous monitoring systems.

Based on its review of each mill, the consultant estimates the economic impact of installing, maintaining and operating a continuous emission monitoring (CEM) system for TRS for each mill would be as shown below:

ANNUAL COST OF CEM

Mill	Number of systems required	Capital cost, $1000	Operating cost, $1000/year	Other annualized cost, $1000	Total annualized cost, $1000	Unit Cost, $/TADP
Chesapeake	2	100	40	11.6	51.67	0.10
Stone Container	1	60	20	6.99	26.99	0.08
Union Camp	3	150	60	17.50	77.50	0.12
Westvaco	1[1]	0	20	0	20	0.02

[1]Westvaco has a system currently installed and therefore no additional capital cost would be incurred.

According to the consultant, the cost of a single TRS CEM system is approximately $60,000 (instrument, installation, set up, certification, data acquisition system, etc.). The cost can be reduced to approximately $50,000 by using multipoint sampling where appropriate. Maintenance costs are approximately $20,000 per year per system when conducted by mill staff (parts and labor). Manufacturers of instruments are offering maintenance programs for approximately $12,000 per year for each instrument. Based on a review of the available data with respect to CEMs for TRS at kraft pulp mills, the consultant concluded that CEMs are a national method of compliance determination and that systems are currently available and they are reliable. The companies contend that the consultant's costs are about a half of their estimates.

c. Additional analyses.

Due to the variables involved no definite information is available to estimate the cost of the economic and technical feasibility analyses for sources not covered by the EPA limits; however, based on its own experience with the use of consultants, the department estimates a cost of approximately $60,000 per mill.

3. Cost to agency.

The cost of administering the proposed regulation will be approximately $20,000 per year.

NOTE: Please see General Notices section for Attachments A and B pertaining to Systems and Costs.

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

Written comments may be submitted until March 22, 1989.

Contact: Robert A. Mann, Director, Division of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5789 or SCATS 786-5789

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Board for Land Surveyors

January 26, 1989 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes of the December 1, 1988, meeting; (ii) review applications; (iii) review general correspondence; and (iv) review enforcement files.

Board for Professional Engineers

February 8, 1989 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes of the November 9, 1988, meeting; (ii) review applications; (ii) review general correspondence; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, toll-free 1-800-552-3016 or SCATS

367-8514

STATE BUILDING CODE TECHNICAL REVIEW BOARD

† **January 27, 1989 - 10 a.m.** – Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. &

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of Virginia Uniform Statewide Building Code, and (iii) approve minutes of previous meeting.

Contact: Jack Proctor, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4752

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

February 2, 1989 - 5:30 p.m. – Open Meeting
March 2, 1989 - 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

CONSORTIUM ON CHILD MENTAL HEALTH

February 1, 1989 - 9 a.m. – Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. &

A regular business meeting open to the public, followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2208

INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

Coordinating Committee

February 10, 1989 - 8:30 a.m. – Open Meeting
March 10, 1989 - 8:30 a.m. – Open Meeting
Office of the Coordinator, Interdepartmental Licensure and Certification, 1603 Santa Rosa Drive, Tyler Building, Suite 210, Richmond, Virginia. &

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

INTERDEPARTMENTAL COUNCIL ON RATE-SETTING FOR CHILDREN'S FACILITIES

† **January 30, 1989 - 10 a.m.** – Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, 3rd Floor, Richmond, Virginia. & (Interpreter for deaf provided if requested)

The Service Provider Representative to the Interagency Consortium on Severely Emotionally Disturbed Children, who is appointed by the Rate-Setting Council, will report the Consortium's first year of activities. The council will adjourn into the Task Force on Regulation Revision and the Task Force on Coordination with Licensing of Out-of-State Issues. After lunch, the meeting will reconvene for a regular business meeting.

Contact: Nancy W. Bockes, 120 Armory Rd., Galax, Va. 24333, telephone (703) 236-2452

BOARD OF COMMERCE

† **January 26, 1989 - 11 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. &

A general business meeting of the board.

Contact: Catherine Walker Green, 3600 W. Broad St., Richmond, Va., telephone (804) 367-8564

STATE BOARD FOR COMMUNITY COLLEGES

† **January 18, 1989 - 3 p.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Board Room, 15th Floor, Richmond, Virginia. &

Committee meetings.

† **January 19, 1989 - 9 a.m.** – Open Meeting
James Monroe Building, 101 North 14th Street, Board Room, 15th Floor, Richmond, Virginia. &

A meeting to consider business that comes before the board. The agenda is unavailable.

Contact: Joy Graham, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2126

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Virginia Cave Board

† **January 21, 1989 - 1 p.m.** – Open Meeting
Longwood College, 163 East Ruffner Hall, Board Room, Farmville, Virginia

A general business meeting open to the public.

Contact: Dr. Lynn Ferguson, Department of Natural Sciences, Longwood College, Farmville, Va. 23901, telephone (804) 574-6101 (home), (804) 392-9353 (work) or SCATS 265-4353

Goose Creek Scenic River Advisory Board

January 16, 1989 - 2 p.m. – Open Meeting
Middleburg Community Center, Main Street, Middleburg, Virginia

A business meeting to discuss issues and matters pertaining to the Goose Creek Scenic River.

Contact: Richard G. Gibbons, Recreation Planning Chief, Department of Conservation and Historic Resources, Division of Planning and Recreation Services, 221 Governor St., Suite 306, Richmond, Va. 23219, telephone (804) 786-4132

Virginia Soil and Water Conservation Board

† **January 19, 1989 - 9 a.m.** – Open Meeting
Farm Credit Office, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia

A bi-monthly meeting.

Contact: Donald L. Wells, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, Va. 23219, telephone (804) 786-2064

STATE BOARD FOR CONTRACTORS

January 18, 1989 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, Richmond, Virginia. ♿

A quarterly meeting to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review staff recommendations for revisions to its rules and regulations, and (iv) review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a large portion of the board's business will be discussed in the executive session.

Contact: Laster G. Thompson, Jr., Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016

VIRGINIA COUNCIL ON COORDINATING PREVENTION

† **January 20, 1989 - 10 a.m.** – Open Meeting
Commonwealth Park Hotel, 901 Bank Street, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A quarterly meeting of the council. The agenda will cover discussion and finalization of recommendations to the Governor concerning the 1990-92 Comprehensive Prevention Plan for Virginia.

Contact: Harriet M. Russell, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-1530

STATE BOARD OF CORRECTIONS

January 18, 1989 - 10 a.m. – Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ♿

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, Va. 23225, telephone (804) 674-3235

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Virginia Juvenile Justice and Delinquency Prevention Advisory Committee

† **January 19, 1989 - 10 a.m.** – Open Meeting
Virginia Employment Commission, 703 Main Street, 2nd Floor Meeting Room, Richmond, Virginia. ♿

A meeting to consider matters relating to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

DANVILLE LOCAL EMERGENCY PLANNING COMMITTEE

January 19, 1989 - 3 p.m. – Open Meeting
Municipal Building, 2nd Floor Conference Room, Danville,

Virginia.

Local Committee, SARA Title III. Hazardous Material Community Right-to-Know.

Contact: C. David Lampley, Chairman, LEPC, 297 Bridge St., Danville, Va. 24541, telephone (804) 799-5228

BOARD OF DENTISTRY

January 18, 1989 - 1 p.m. – Open Meeting
January 20, 1989 - noon – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Informal conferences on January 18, 1989.

Formal hearings on January 20, 1989 - noon.

Informal conferences on January 20, 1989 - 3:30 p.m.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

STATE BOARD OF EDUCATION

NOTE: CHANGE OF WRITTEN COMMENTS DATE
January 21, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Education intends to amend regulations entitled: **VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.** The purpose of the proposed amendments is to ensure the provision of a free and appropriate public education in the least restrictive environment to all handicapped youth ages 2 to 21, inclusive, residing in the Commonwealth.

Statutory Authority: § 22.1-16 of the Code of Virginia and 20 USC §§ 1412 and 1413.

Written comments may be submitted until February 17, 1989.

Contact: Kathe Klare, Supervisor of Due Process Proceedings, Departmnt of Education, P.O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2887

COUNCIL ON THE ENVIRONMENT

January 18, 1989 - 7:30 p.m. – Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia.

A quarterly meeting of the council to discuss environmental matters of concern to the citizens of the Commonwealth. The agenda will include a presentation and review for the public of pending legislation and budgetary matters by member agencies. The public is invited to address the council during the public forum period of the meeting. An agenda will be available at the meeting or may be obtained prior to the meeting by calling or writing to the office in Richmond.

Contact: David J. Kinsey, Special Project Coordinator, Council on the Environment, 903 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-4500 or SCATS 786-4500

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

February 1, 1989 - 10 a.m. – Open Meeting
NOTE: CHANGE OF MEETING DATE
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor, Conference Room, Richmond, Virginia.

A regular meeting of the board.

Contact: Marilyn Mandel, Division Director, Department of Labor and Industry, P.O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385 or SCATS 786-2385

DEPARTMENT OF FIRE PROGRAMS

February 3, 1989 - 9 a.m. – Public Hearing
Holiday Inn-Downtown, 301 West Franklin Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Fire Services intends to amend regulations entitled: **VR 310-01-02. Regulations Establishing Certification Standards for Fire Inspectors.** This regulation establishes certification standards for fire inspectors and is amended to incorporate training required as a result of revisions to the Code of Virginia by the 1988 General Assembly authorizing search warrants for inspection or reinspection of buildings.

Statutory Authority: § 9-155 of the Code of Virginia.

Written comments may be submitted until February 3, 1989.

Contact: Robert A. Williams, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

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February 3, 1989 - 9 a.m. – Public Hearing

Holiday Inn-Downtown, 301 West Franklin Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Fire Programs intends to adopt regulations entitled: **VR 310-01-04. Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities.** Regulations Governing the Certification of Instructors Providing Training at Local Fire Training Facilities will require localities using Fire Programs Funds for local fire training construction, improvement and expansion to use instructors meeting standards approved by the Virginia Fire Services Board.

Statutory Authority: §§ 9-155 and 38.2-401 of the Code of Virginia.

Written comments may be submitted until 5 p.m., February 10, 1988.

Contact: Carl N. Cimino, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2681 or SCATS 225-2681

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

January 19, 1989 - 9 a.m. – Open Meeting
January 20, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

Formal administrative hearings, general board meeting and may discuss proposed legislation and proposed regulations.

January 31, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.

Informal fact-finding conferences (disciplinary matters).

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

BOARD OF GAME AND INLAND FISHERIES

† **January 19, 1989 - 1:30 p.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia.

The following committees of the board will meet on January 19 beginning at 1:30 p.m. to discuss administrative and related matters as appropriate to each committee, which will be reported to the full board at its meeting on Friday, January 20, 1989:

Finance Committee - 1:30 p.m.
Wildlife and Boat - 3 p.m.
Law and Education - 4:30 p.m.

† **January 20, 1989 - 9:30 a.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia.

A meeting to (i) review proposed 1989 legislation and consider general administrative matters; (ii) a Small Game Subcommittee Status Report will be given; (iii) committee reports will be given; and (iii) discussion on Sportsman of the Year Proposal.

Contact: Norma G. Adams, Agency Regulatory Coordinator, 4010 W. Broad St., Richmond, Va. 23230, telephone (804) 367-1000, toll-free 1-800-237-5712 (HOTLINE) or SCATS 367-1000

DEPARTMENT OF HEALTH

March 3, 1989 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Department of Health intends to adopt regulations entitled: **Regulations Governing Application Fees for Construction Permits for Onsite Sewage Disposal Systems and Private Wells.** These regulations establish application fees for an onsite sewage disposal system permit or a private well construction permit. Fee waiver and refund procedures are also established.

Statutory Authority: §§ 32.1-164 and 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until 5 p.m., March 3, 1989.

Contact: Robert B. Stroube, M.D., M.P.H., Deputy Commissioner, Community Health Services, James Madison Bldg., 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3575

BOARD OF HEALTH PROFESSIONS

† **January 17, 1989 - 11 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 1, Richmond, Virginia.

Quarterly meeting of the Board of Health Professions.

Public and Professional Information and Education Committee

† **January 17, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 1, Richmond, Virginia.

A meeting to discuss public information and educational activities of health professions.

Contact: Richard Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9918 or SCATS 662-9918

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 24, 1989 - 9:30 a.m. – Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia.

Monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Director, Health Services Cost Review Council, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

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January 24, 1989 - 11 a.m. – Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to incorporate the Commercial Diversification Survey into the regulations.

Statutory Authority: §§ 9-156 through 9-166 of the Code of Virginia.

Written comments may be submitted until February 17, 1989.

Contact: Ann Y. McGee, Director, Health Services Cost Review Council, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-6371 or SCATS 786-6371

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 7, 1989 - 9 a.m. – Open Meeting
March 7, 1989 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **February 17, 1989** – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Procedures, Instructions and Guidelines for Mortgage Loans to Persons and Families of Low and Moderate Income.**

STATEMENT

Purpose: To amend the authority's procedures, instructions and guidelines for single family mortgage loans to persons and families of low and moderate income be setting new schedules of maximum allowable gross incomes and maximum allowable sales prices for use in the authority's single family mortgage loan program.

Basis: To be adopted pursuant to regulations which were issued under § 36-55.30:3 of the Code of Virginia.

Substance and issues: As a result of recent federal legislation limiting the authority's ability to issue tax exempt bonds, the authority expects that its lending volume with respect to its single family mortgage loan programs will be reduced by approximately 35% beginning in early 1989. The proposed amendments are primarily intended to promote the targeting of these limited loan funds to those applications most in need of them while at the same time bringing into balance the supply of such funds with the demand therefor. In order to do this, the proposed amendments set forth new schedules for the maximum gross income limits and the maximum sales price limits applicable to the single family mortgage loan program.

More particularly, the proposed new schedule of maximum gross income limits is applicable to all loans reserved, or all assumptions applied for, on or after March 1, 1989, sets forth different limits for different family sizes and does so by providing a mechanism for determining the appropriate limit rather than setting forth a schedule of different dollar amount limits as has been customary in the past. A borrower's income limit is determined by multiplying the percentage shown in the proposed schedule for such borrower's family size by the applicable median family income (as defined in § 143(f)(4) of the Internal Revenue Code of 1986, as amended) for the area in which the borrower's home will be located.

This approach reflects three important changes in the

setting of income limits. First, federal legislation imposes on the single family loans made by the authority income limits which are now adjusted for family size in addition to being expressed as percentages of the applicable median family income. The proposed amendments not only adjust the authority's income limits for family size, thereby reflecting legislative intent that income limits be so adjusted, but they also prescribe lower percentages of the applicable median family income than does the federal legislation, thereby assuring deeper targeting of the available funds than required by federal law. Second, the use of such a formula for determining maximum income limits should provide a coherent and yet flexible system which permits changes in the authority's maximum gross income limits based upon the applicable median family income figures published from time to time by the U.S. Department of Housing and Urban Developme and yet insures that those federal limits will never be exceeded since the authority's percentages are lower than those set by the federal legislation. Third, while the authority now has separate gross income limits for loans to finance new construction, loans to finance existing housing and loans to finance rehabilitated properties, the new income limits will be determined without regard to the type of housing. While in some areas of the Commonwealth and for certain types of housing this feature , in conjunction with the new adjustments for family size result in the new income limits being higher than the current limits, in other areas of the Commonwealth or for other types of housing the new limits will be lower then the current limits. As mentioned above, however, the overall effect of this proposed amendment is expected to be that of reducing the number of eligible persons and families who qualify for the authority's single family mortgage loan program.

As for the proposed new schedule of maximum sales prices, it is applicable to all loans reserved on or after March 1, 1989, and it too has ceased to differentiate between the different types of housing. However, it still appears as a schedule of dollar amount limits (although, in general, it represents for each area the maximum affordable amount, based on the authority's records and determinations, which could be paid by a borrower with the maximum permissible income for such area).

In summary, the primary effects of the proposed amendments will be to better target the newly limited loan funds available for the authority's single family mortgage loan program and to bring into balance the supply of and the demand for such funds. In addition, other effects of the proposed amendments are expected to include (i) because of the new adjustments for family size, increasing the share of loans made to families with children and reducing the share of loans made to single persons, (ii) fostering consistent and equal treatment of applicants in all areas of the Commonwealth and (iii) increasing the share of loans made to finance homes in nonmetropolitan areas.

Impact: The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed amendments. It is expected that the proposed amendments will result in a reduction in the number of persons and families served by approximately 1900 persons and families per year and a reduction in the number of units financed by approximately 1900 units per year.

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

Written comments may be submitted until February 17, 1989.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 786-1986

Board of Commissioners

January 17, 1989 - 10 a.m. – Open Meeting
13 South 13th Street, Richmond, Virginia. ♿

A 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; and (iv) consider such other matters and take such other actions as they deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

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

March 9, 1989 - 10 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 18th Floor Conference Room, Richmond, Virginia. ♿

A monthly council meeting.

Contact: Alison Browne Parks, Administrative Staff Specialist, P.O. Box 717, Richmond, Va. 23206, telephone (804) 225-2292, SCATS 225-2292 or toll-free 1-800-633-5510/TDD ☎

COUNCIL ON INFORMATION MANAGEMENT

† **January 27, 1989 - 9 a.m.** – Open Meeting
Ninth Street Office Building, Cabinet Conference Room, 6th Floor, Richmond, Virginia. ♿

A regular bi-monthly meeting of the council. The Education Advisory Committee will also meet with the

council. The approval of interim report to the General Assembly will be considered.

Contact: Linda Hening, Office Manager, 1000 Washington Bldg., Richmond, Va. 23219, telephone (804) 225-3622 or SCATS 225-3622

LONGWOOD COLLEGE

Board of Visitors

January 20, 1989 - 1 p.m. – Open Meeting
Longwood College, Wygal Building, Farmville, Virginia.

A meeting to conduct business pertaining to the governance of the institution.

Contact: Dr. William F. Dorrill, Longwood College, Farmville, Va. 23901, telephone (804) 392-9211 or SCATS 265-4211

STATE LOTTERY BOARD

January 25, 1989 - 10 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Agecroft Room, Richmond, Virginia.

A regularly scheduled monthly meeting of the board. Business will be conducted according to items listed on agenda which has not yet been determined.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, Va. 23220, telephone (804) 367-9433 or SCATS 367-9433

LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF MARTINSVILLE AND HENRY COUNTY

† **February 9, 1989 - 9:30 a.m.** – Open Meeting
Martinsville Municipal Building, Martinsville, Virginia.

† **March 9, 1989 - 9:30 a.m.** – Open Meeting
Henry County Administration Building, Collinsville, Virginia.

An open meeting to discuss general business relating to SARA Title III.

Contact: Benny Summerlin, Public Safety Director, Henry County Administration Bldg., P.O. Box 7, Collinsville, Va. 24078, telephone (703) 638-5311, ext. 256

BOARD OF MEDICINE

Ad Hoc Committee on Optometry

† **February 3, 1989 - 2 p.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to review the transcript of the public hearing held on December 20, 1988, and prepare for onsite visits to schools of optometry and medicine and other pertinent matters.

Advisory Committee on Acupuncture

January 28, 1989 - 9 a.m. – Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Board Room 400-401, Richmond, Virginia.

A meeting to review patient charts and the proposed acupuncture legislation.

Informal Conference Committee

January 17, 1989 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, Richmond, Virginia.

† **January 27, 1989 - 10:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, 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.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

January 25, 1989 - 9:30 a.m. – Open Meeting
NOTE: CHANGE IN LOCATION
Virginia Treatment Center for Children, Richmond, Virginia.

A regular monthly meeting. The agenda will be published on January 18 and may be obtained by calling Jane Helfrich.

Contact: Jane V. Helfrich, State Board Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY, DIVISION OF CONTINUING EDUCATION, OFFICE OF CONTINUING LEGAL EDUCATION AND OFFICE OF CONTINUING MEDICAL EDUCATION

March 16, 1989 - Time to be announced – Open Meeting
March 17, 1989 - Time to be announced – Open Meeting
The Williamsburg Hilton, Colonial Williamsburg, Virginia. ♿

Twelfth Annual Symposium on Mental Health and the Law.

An annual symposium addressing issues related to mental health and the law. 9 hours in Category 1 CME, .9 CEU and 9 CLE credits applied for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, Va. 22901

VIRGINIA MILITARY INSTITUTE

Board of Visitors

January 28, 1989 - 8:30 a.m. – Open Meeting
Virginia Military Institute, Smith Hall, Smith Hall Board Room, Lexington, Virginia. ♿

Regular winter meeting of the VMI Board of Visitors. Committee reports.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, Va. 24450, telephone (703) 463-6206

BOARD OF NURSING

† **January 19, 1989 - 8:30 a.m.** – Open Meeting
† **February 2, 1989 - 11 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A formal hearing will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

† **January 23, 1989 - 9 a.m.** – Open Meeting
† **January 24, 1989 - 9 a.m.** – Open Meeting
† **January 25, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under the jurisdiction of the board.

Informal Conference Committee

† **February 14, 1989 - 8:30 a.m.** – Open Meeting
Koger Building, 8001 Franklin Farms Drive, Suite 124, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

† **February 24, 1989 - 8:30 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ♿ (Interpreter for deaf provided if requested)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560

BOARD OF PHARMACY

† **January 25, 1989 - 1 p.m.** – Open Meeting
Location to be determined.

A meeting to formulate proposed regulations for physicians to sell drugs.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

PRINCE GEORGE COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† **January 25, 1989 - 7:30 p.m.** – Open Meeting
Human Services Building, 6450 Courthouse Road, Conference Room, Prince George, Virginia. ♿

The local emergency planning committee meeting to finalize hazardous materials plan and to plan future projects.

Contact: Bishop Knott, Local Committee Chairman, or Gilbert M. Lee, Coordinator, P.O. Box 68, 6400 Courthouse Rd., Prince George, Va. 23875, telephone (804) 733-2640 or 733-2609

PRINCE WILLIAM COUNTY, MANASSAS CITY, AND MANASSAS PARK CITY LOCAL EMERGENCY PLANNING COMMITTEE

January 20, 1989 - 2 p.m. – Open Meeting
February 3, 1989 - 2 p.m. – Open Meeting

February 17, 1989 - 2 p.m. – Open Meeting
March 3, 1989 - 2 p.m. – Open Meeting
March 17, 1989 - 2 p.m. – Open Meeting
March 31, 1989 - 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

BOARD OF PROFESSIONAL COUNSELORS

Examination Committee

† **February 3, 1989 - 1 p.m.** – Open Meeting
117 North Fairfax Street, Alexandria, Virginia

A meeting to discuss the oral examination process.

Scope of Practice Committee

† **February 3, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to discuss the practice of professional counseling.

Contact: Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912 or SCATS 662-9912

BOARD OF PSYCHOLOGY

January 26, 1989 - 1 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) discuss general board business; (ii) conduct certification of the oral examination results; (iii) discuss the board's proposal to change the language of § 2.1.D.3.b of the board's regulations; (iii) review regulations; and (iv) conduct a credentials review consisting of licensure applications, technical assistant registrations and residency registrations.

Contact: Stephanie Sivert, Executive Director, or Phyllis Henderson, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9913

BOARD ON CONSERVATION AND DEVELOPMENT OF PUBLIC BEACHES

February 1, 1989 - 10:30 a.m. – Open Meeting
203 Governor Street, 2nd Floor Conference Room, Richmond, Virginia.

Meeting to consider pre-proposals and proposals from various localities requesting matching grant funds from the board.

Contact: Jack E. Frye, Public Beach Advisor, P.O. Box 1024, Gloucester Point, Va. 23062, telephone (804) 642-7121 or SCATS 842-7121

REAL ESTATE BOARD

January 26, 1989 - 10 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

The Virginia Real Estate Board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. William M. Thornburg, Jr.

Contact: Gayle Eubank, Hearings Coordinator, Virginia Real Estate Board, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524,

BOARD FOR RIGHTS OF THE DISABLED

January 19, 1989 - 11:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor, Conference Rooms C and D, Richmond, Virginia.

A quarterly meeting of the board to review current, on-going, and completed projects of the board and its six committees.

Education Committee

January 19, 1989 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 18th Floor, Small Conference Room, Richmond, Virginia.

A quarterly meeting to review on-going and completed projects.

Employment Committee

January 19, 1989 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor, Conference Room C, Richmond, Virginia.

A quarterly meeting to review on-going and completed projects.

Health Committee

January 19, 1989 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 1st Floor, Conference Room E, Richmond, Virginia.

A quarterly meeting to review on-going and completed

projects.

Housing Committee

January 19, 1989 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor, Fire Prevention Conference Room, Richmond, Virginia. ♿

A quarterly meeting to review on-going and completed projects.

Transportation Committee

January 19, 1989 - 9:30 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor, Forensic Conference Room, Richmond, Virginia. ♿

A quarterly meeting to review on-going and completed projects.

Contact: Sarah A. Liddle, Board Administrator, James Monroe Bldg., 101 N. 14th St., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2042, SCATS 225-2042 or toll-free 1-800-552-3962/TDD ☎

ROANOKE VALLEY LOCAL EMERGENCY PLANNING COMMITTEE

January 18, 1989 - 9 a.m. – Open Meeting
Salem Civic Center, 1001 Roanoke Boulevard, Room C, Salem, Virginia. ♿

A meeting to receive (i) public comment; (ii) reports from community coordinators; and (iii) reports from standing committees.

Contact: Warren E. Trent, Emergency Services Coordinator, 215 Church Ave., S.W., Roanoke, Va. 24011, telephone (703) 981-2425

SCOTT COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

February 14, 1989 - 1:30 p.m. – Open Meeting
County Office Building, Gate City, Virginia. ♿

Meeting of LEPC to discuss state recommendations of Annex A. 7 "Airborne Hazardous Substances."

Contact: Barbara Edwards, Public Information Officer, 112 Water St., Suite 1, Gate City, Va. 24251, telephone (703) 386-6521

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

January 25, 1989 - 10 a.m. – Open Meeting
Shenandoah County Courthouse, 112 South Main Street, County Board of Supervisors' Meeting Room, Woodstock, Virginia. ♿

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, Va. 23219, telephone (804) 786-3559

STATE BOARD OF SOCIAL SERVICES

January 18, 1989 - 2 p.m. – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ♿

A work session and formal business meeting.

If necessary, the board will also meet January 19, 1989, at 9 a.m.

February 15, 1989 - 2 p.m. – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ♿

A work session and formal business.

If necessary, the board will also meet February 16, 1989, at 9 a.m.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9236 or SCATS 622-9236

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

February 16, 1989 - 11 a.m. – Public Hearing
Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Professional Soil Scientists intends to adopt regulations entitled: **VR 627-01-1. Public Participation Guidelines.** These proposed regulations set forth public participation guidelines for the purpose of soliciting the input of interested parties in the formation and development of regulations for the Board for Professional Soil Scientists.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until February 6, 1989.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, SCATS 367-8514 or toll-free

1-800-552-3016

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February 16, 1989 - 11 a.m. – Public Hearing
Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Professional Soil Scientists intends to adopt regulations entitled: **VR 627-02-1. Board for Professional Soil Scientists Regulations.** The purpose of these proposed regulations is to establish the requirements for certification of professional soil scientists.

Statutory Authority: § 54-1.28 of the Code of Virginia.

Written comments may be submitted until February 6, 1989.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8514, SCATS 367-8514 or toll-free 1-800-552-3016

VIRGINIA BOARD FOR THE VISUALLY HANDICAPPED

March 1, 1989 - 11 a.m. – Open Meeting
397 Azalea Avenue, Richmond, Virginia. (Interpreter for deaf provided if requested)

A meeting to review policies and procedures of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget and operating plan.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

† **January 24, 1989 - 2 p.m.** – Open Meeting
Department for the Visually Handicapped, 397 Azalea Avenue, Richmond, Virginia.

A regular monthly meeting of the 13 agency representatives that comprise the council.

The council is designed to facilitate the timely delivery of appropriate services to handicapped children and youth in Virginia.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, Va. 23277, telephone (804) 371-3140 or 371-3140/TDD

DEPARTMENT OF WASTE MANAGEMENT

† **February 15, 1989 - 10 a.m.** – Public Hearing
James Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Waste Management intends to amend regulations entitled: **VR 672-30-1. Regulations Governing the Transportation of Hazarous Materials.** Amendment 7 proposes to incorporate by reference changes made from January 1, 1987, through June 30, 1988, by the US Dot Hazardous Materials Regulations. Section 2.8 is being revised to reflect changes made to § 10.1-451 of the Code of Virginia, as amended by the 1988 Session of the General Assembly. The proposed Amendment 7 to these regulations includes changes to the U.S. Department of Transportation (DOT) regulations on hazardous materials transportation and motor carrier safety. These new provisions enacted by the U.S. DOT from January 1, 1987, through June 30, 1988, require that changes be made to the existing state regulations. These proposed changes maintain consistency with the federal regulations.

STATEMENT

Basis and authority: Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia directs the Virginia Waste Management Board to promulgate rules and regulations concerning the transportation of hazardous materials in the Commonwealth; these requirements shall be no more restrictive than applicable federal laws and regulations. Changes in the federal regulations promulgated from January 1, 1987, through June 30, 1988, necessitate an amendment to keep the Virginia Regulations Governing the Transportation of Hazardous Materials consistent with these regulations.

Purpose: The Virginia Waste Management Board and the Executive Director of the Virginia Department of Waste Management promulgate these amended regulations in order to ensure that hazardous materials transported within the Commonwealth are loaded, packed, identified, marked, and placarded in order to protect public health and safety and the environment.

Summary and analysis: Amendment 7 proposes to incorporate by reference changes that were made by U.S. DOT to Title 49 Code of Federal regulations, §§ 171-179 and 390-397 from January 1, 1987, to June 30, 1988. In addition, § 2.8 is being revised to reflect changes made to § 10.1-1451 of the Code of Virginia, pursuant to Clause 5, Chapter 891 of the 1988 Virginia Acts of Assembly. Changes in the U.S. DOT regulations include: (i) revision of Motor Carrier Safety rules requiring all commercial

motor vehicle over 10,000 pounds gross weight equipped with brakes on all wheels including front wheels; (ii) adjustment to the minimum dollar limit for reporting accidents resulting in property damage; (iii) emergency final rule for uranium hexafluoride due to health and safety hazards that may be associated with use of cleaning procedures; (iv) revision to the final rule on uranium hexafluoride concerning design criteria for certain types of packaging used for transportation; (v) amendment to the Hazardous Materials Regulations in order to regulate molten sulfur as an ORM-C material; (vi) clarification of method used by states in designating preferred and alternate routes for transportation of certain shipments of radioactive materials; (vii) incorporation of definitions for bulk packaging and nonbulking packaging, and to make other miscellaneous changes including required identifications of materials in bulk packaging; (viii) incorporation of a number of changes based on petitions to update and clarify the regulations; (ix) amendments to Part 395, Hours of Service of Drivers, which will provide more judicious accounting of time worked thereby reducing the possibility of accrued driver fatigue and make the regulations more easily understood, and (x) corrections, editorial changes, clarifications and other minor revisions.

Impact: The US DOT requirements have already been through the federal rulemaking process and are in force in the interstate, and some intrastate, transport of hazardous materials. Therefore, this amendment is not expected to have a significant impact on the regulated community.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until February 15, 1989, to William F. Gilley, Department of Waste Management, James Monroe Building, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219.

Contact: Cheryl Cashman, Legislative Analyst, Department of Waste Management, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2667 or toll-free 1-800-552-2075

STATE WATER CONTROL BOARD

† **February 27, 1989 - 7:30 p.m.** – Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-16-14. Potomac-Shenandoah River Basin Water Quality Management Plan.** The purpose of the proposed amendment is to revise the five-day biochemical oxygen demand loading requirements for North River at the Harrisonburg-Rockingham Regional Sewer Authority sewage treatment plant.

STATEMENT

Subject: A proposed amendment to the Potomact-Shenandoah River Basin Water Quality Management Plan (WQMP).

Substance: Revises the allowable five-day Biochemical Oxygen Demand (BOD5) loading in North River at the Harrisonburg-Rockingham Regional Sewer Authority (HRRSA) Sewage Treatment Plant (STP).

Issue: To maintain water quality standards in the North River.

Basis: Water quality management plans set forth measures to be taken by the State Water Control Board for reaching and maintaining applicable water quality goals both in general terms and numeric loading for BOD5 for identified stream segments.

Purpose: To establish new BOD5 loading requirements for the HRRSA STP discharge to the North River based upon more recent and state-of-the-art stream assimilation study.

Impact: Virginia Pollutant Discharge Elimination System (VPDES) Permits issued to dischargers must be in compliance with appropriate area or basinwide water quality management plans. Revisions to the BOD5 loading rates would allow for plant expansion to handle service area growth.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 17, 1989, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Charles T. Mizell, Water Resources Development Supervisor, State Water Control Board, Valley Regional Office, P.O. Box 268, Bridgewater, Va. 22812, telephone (703) 828-2595 or SCATS 332-7879

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

March 22, 1989 - 1 p.m. – Public Hearing
Howard Johnson Motor Lodge, 3207 North Boulevard, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-01. Public Participation Guidelines.** The purpose of these guidelines is to solicit input of interested parties in the formation and development of regulations for the Board for Waterworks and Wastewater Works Operators.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 6, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

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March 22, 1989 - 1 p.m. – Public Hearing
Howard Johnson Motor Lodge, 3207 North Boulevard, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulations of the Board for Waterworks and Wastewater Works Operators provide general information, entry requirements and standards of practice for licensure as waterworks and wastewater works operators in this Commonwealth. These regulations supersede all previous regulations of the board.

Statutory Authority: §§ 54.1-103 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 6, 1989.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

COUNCIL ON THE STATUS OF WOMEN

January 31, 1989 - 8 p.m. – Open Meeting
Richmond Radisson, 555 East Canal Street, Richmond, Virginia

Meetings of the Standing Committees of the Virginia Council on the Status of Women.

February 1, 1989 - 9:30 p.m. – Open Meeting
Richmond Radisson, 555 East Canal Street, Richmond, Virginia

A regular meeting to conduct general board business and to receive reports from Council Standing Committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE MEETINGS

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempted from publication in The Virginia Register of Regulations with the exception of the meeting listed below. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

HOUSE APPROPRIATIONS/SENATE FINANCE COMMITTEE

† **January 16, 1989 - 1:30 p.m.** – Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia.

Governor's proposed amendment to budget.

Contact: Linda Ladd, House Appropriations Committee, General Assembly Bldg., 9th Fl., Richmond, Va. 23219, telephone (804) 786-1837

CHRONOLOGICAL LIST

OPEN MEETINGS

January 16
Conservation and Historic Resources, Department of
- Goose Creek Scenic River Advisory Board

January 17
† Health Professions, Board of
- Public and Professional Information and Education Committee

Housing Development Authority, Virginia
- Board of Commissioners

Medicine, Board of
- Informal Conference Committee

January 18
† Community Colleges, State Board for
Contractors, State Board for
Corrections, State Board of
Dentistry, Board of
Environment, Council on the
Roanoke Valley Local Emergency Planning Committee
Social Services, State Board of

January 19
† Community Colleges, State Board for
† Conservation and Historic Resources, Department of
- Virginia Soil and Water Conservation Board

† Criminal Justice Services, Department of
- Virginia Juvenile Justice and Delinquency Prevention Advisory Committee
Danville Local Emergency Planning Committee
Funeral Directors and Embalmers, Board of
† Game and Inland Fisheries, Board of
† Nursing, Board of
Rights of the Disabled, Board for
- Education Committee
- Employment Committee
- Health Committee
- Housing Committee
- Transportation committee

January 20
† Coordinating Prevention, Virginia Council on
Dentistry, Board of
Funeral Directors and Embalmers, Board of
† Game and Inland Fisheries, Board of
Longwood College
- Board of Visitors
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee

January 21
† Conservation and Historic Resources, Department of
- Virginia Cave Board

January 23
† Accountancy, Board for
† Nursing, Board of

January 24
† Accountancy, Board for
Health Services Cost Review Council, Virginia
† Nursing, Board of
† Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

January 25
Lottery Board, State
Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Nursing, Board of
† Pharmacy, Board of
† Prince George County Local Emergency Planning Committee
Sewage Handling and Disposal Appeals Review Board, State

January 26
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Land Surveyors
† Commerce, Board of
Psychology, Board of
Real Estate Board, Virginia

January 27
† Building Code Technical Review Board, State
† Information Management, Council on
† Medicine, Board of
- Informal Conference Committee

January 28
Medicine, Board of
- Advisory Committee on Acupuncture
Military Institute, Virginia
- Board of Visitors

January 30
† Children's Facilities, Interdepartmental Council on Rate-Setting for

January 31
Funeral Directors and Embalmers, Board of
Women, Council on the Status of

February 1
Child Mental Health, Consortium on
Conservation and Development of Public Beaches, Board on
Farmworkers Board, Governor's Migrant and Seasonal
Women, Council on the Status of

February 2
Chesterfield County, Local Emergency Planning Committee of
† Nursing, Board of

February 3
† Medicine, Board of
- Ad Hoc Committee on Optometry
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee
† Professional Counselors, Board of
- Scope of Practice Committee

February 7
Hopewell Industrial Safety Council

February 8
Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers

February 9
† Martinsville and Henry County, Local Emergency Planning Committee for the City of

February 10
Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for

February 14
† Nursing, Board of
- Informal Conference Committee
Scott County Local Emergency Planning Committee

February 15

Social Services, State Board of

February 17
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee

February 24
† Nursing, Board
- Informal Conference Committee

March 1
Visually Handicapped, Virginia Board for the

March 2
Chesterfield County, Local Emergency Planning Committee of

March 3
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee

March 7
Hopewell Industrial Safety Council

March 9
Human Rights, Council on
† Martinsville and Henry County, Local Emergency Planning Committee for the City of

March 10
Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for Children

March 16
Mental Health, Mental Retardation, and Substance Abuse Services; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education, Department of

March 17
Mental Health, Mental Retardation and Substance Abuse Services; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education, Department of Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee

March 31
Prince William County, Manassas City, and Manassas Park City Local Emergency Planning Committee

PUBLIC HEARINGS

January 16
† Appropriations/Senate Finance Committee, House

January 19
Social Services, Department of

January 24
Health Services Cost Review Council

February 3
Fire Programs, Department of

February 15
† Waste Management, Department of

February 16
Soil Scientists, Board for Professional

February 22
Agriculture and Consumer Services, Department of

February 27
† Water Control Board, State

March 3
Health, Department of

March 22
† Air Pollution Control, Department of
Waterworks and Wastewater Works Operators, Board for