

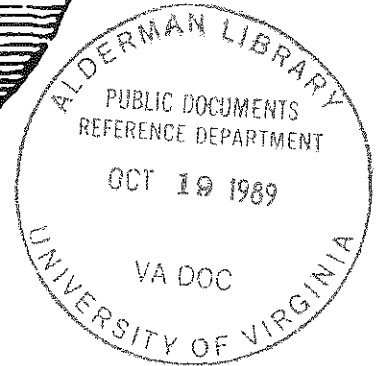
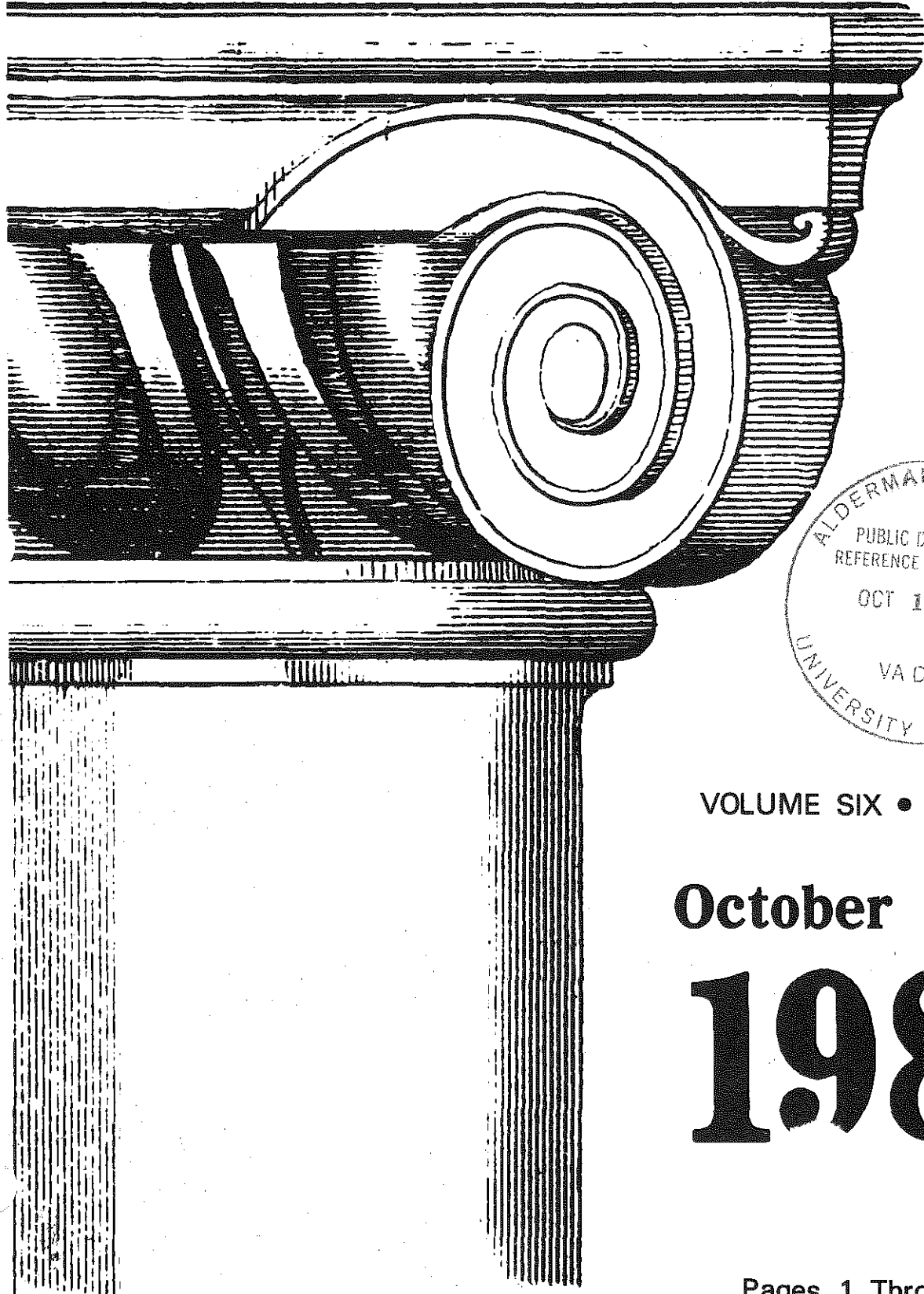
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THE VIRGINIA REGISTER

OF REGULATIONS

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October 9, 1989

1989

Pages 1 Through 118

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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July 1989 through September 1990

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June 28	July 17
July 12	July 31
July 26	Aug. 14
Aug. 9	Aug. 28
Aug. 23	Sept. 11
Sept. 6	Sept. 25
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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 GAME AND INLAND FISHERIES (BOARD OF)

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

Title of Regulations:

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. In General.

VR 325-03. FISH.

VR 325-03-1. Fishing Generally.

VR 325-03-2. Trout Fishing.

VR 325-03-3. Seines and Nets.

VR 325-04. WATERCRAFT.

VR 325-04-1. In General.

Statutory Authority: §§ 29.1-501, 29.1-502, 29.1-701 and 29.1-744 of the Code of Virginia.

Public Hearing Date: October 27, 1989 - 9:30 a.m.

(See Calendar of Events section for additional information)

Public Hearing Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed new and amended board regulations. A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any part thereof, will be held at the board's offices, 4010 West Broad Street, Richmond, Virginia, beginning at 9:30 a.m. on Friday, October 27, 1989, at which time any interested citizen present shall be heard. If the board is satisfied that the proposed regulations, or any part thereof, are advisable, in the form in which published or as amended as a result of the public hearing, the board may adopt such proposals at that time, acting upon the proposals in whole or in part.

Summary:

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

Proposed Effective Date: January 1, 1990.

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-01-1. IN GENERAL.

§ 12. Appointment of new consignment agents for sale of hunting and fishing licenses.

A. *Except as provided below*, no person shall be appointed as a consignment agent for the sale of hunting and fishing licenses unless he first sells licenses on a cash basis for at least one year. In addition, the dollar volume of actual or projected sales must equal at least 90% of the average hunting and fishing license sales of consignment agents in the locality.

B. If the cash agent sells the required number of licenses, he may be appointed as a consignment agent, provided he is approved for a surety bond by the board's bonding company.

C. This regulation is applicable to new appointments and not to transfers of existing appointments ; ~~within a locality,~~ provided, that the director may appoint consignment agents as needed to provide for a minimum of two consignment agents within a locality. In addition, the director may appoint consignment agents on state-owned or state-leased facilities.

§ 14. Endangered species—Definitions.

For the purposes of §§ 29.1-564 through 29.1-570 of the Code of Virginia, § 13 of this regulation and this section:

1. "Endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range within the Commonwealth, other than a species of the class Insecta deemed to be a pest whose protection would present an overriding risk to the health or economic welfare of the Commonwealth.

2. "Fish or wildlife" means any member of the animal kingdom, vertebrate or invertebrate, without limitation, and includes any part, products, egg or the dead body or parts thereof.

3. "Harass," in the definition of "take," means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

4. "Harm," in the definition of "take," means an act which actually kills or injures wildlife. Such act may include significant habitat modifications or degradation where it actually kills or injures wildlife by

Proposed Regulations

significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

5. "Person" means any individual, firm, corporation, association or partnership.

6. "Special concern" means any species being considered by the director for listing as an endangered or a threatened species, but not yet the subject of a proposed rule.

7. "Species" includes any subspecies of fish or wildlife and any district population segment of any species or vertebrate fish or wildlife which interbreed when mature.

8. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, possess or collect, or to attempt to engage in any such conduct.

9. "Threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range within the Commonwealth.

§ 14. § 15. Structures on department-owned lands.

There is no change in the text of this section. The only change is to renumber the section from 14 to 15.

VR 325-03. FISH.

VR 325-03-1. FISHING GENERALLY.

§ 2. Creel limits.

The creel limits for the various species of fish shall be as follows:

1. Largemouth, smallmouth and spotted bass, five a day in the aggregate; except, that on Briery Creek Lake (Prince Edward County) the limit shall be two per day in the aggregate.

2. Landlocked striped bass and landlocked striped bass X hybrids, in the aggregate, four a day; except, that in Smith Mountain Reservoir and its tributaries, including the Roanoke River upstream to Niagara Dam, the limit shall be two a day in the aggregate.

3. White bass, ~~no limit~~, except that in Gaston Reservoir the limit shall be 25 per day.

4. Walleye or yellow pike perch and sauger, ~~eight a day in the aggregate~~, and chain pickerel or jackfish, eight a day of each.

5. Northern pike and muskellunge, two a day.

6. Sauger, eight per day.

6. 7. Bluegill (bream) and other sunfish, ~~including~~ excluding crappie or silver perch and rock bass or redeye, ~~no limit~~ 50 a day in the aggregate; crappie or silver perch and rock bass or redeye, 25 a day of each species. There shall be no limit on any of the species included in this subdivision 7 in Gaston and Buggs Island Reservoirs.

§ 3. Size limit.

Except as provided in this regulation and VR 325-03-2, §§ 5, 11, 12 and 13, there shall be no size limit on any species of fish.

1. There shall be a 30-inch minimum size limit on muskellunge, a 20-inch minimum size limit on northern pike and a 20-inch minimum size limit on landlocked striped bass (rockfish) and a 15-inch minimum size limit on landlocked striped bass X white bass hybrids.

2. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass in Occoquan Reservoir from the reservoir dam upstream to the Lake Jackson Dam on Occoquan Creek and upstream to the Yates Ford Bridge (Route 612) on Bull Run Creek. It shall be unlawful to have any such bass less than 14 inches in length in one's possession on the above described waters of this reservoir.

3. There shall be a 12-inch minimum size limit on largemouth, smallmouth and spotted bass in the Chickahominy, Claytor, Philpott and Flannagan Reservoirs, and in Lake Moomaw (Gathright Project), and in the waters of Fort A.P. Hill. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 12 inches in length in one's possession while on any of the waters mentioned in the preceding sentence.

4. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass on the Roanoke (Staunton) and Dan Rivers and their tributaries and impoundments (Gaston, John Kerr, Leesville and Smith Mountain Reservoirs) downstream from Niagara Dam on the Roanoke River and the Brantly Steam Plant Dam on the Dan River; except, that as many as two of such bass of a lesser size caught in such waters may be retained in the creel, but no more than two such bass may be in possession on such waters that are less than 14 inches in length.

5. It shall be unlawful to have any largemouth, smallmouth or spotted bass from 12 to 15 inches in length, both inclusive, in one's possession on North Anna Reservoir and its tributaries, on Chesdin Reservoir or the Appomattox River from the Brasfield (Chesdin) Dam to Bevel's Bridge on Chesterfield County Route 602, on Beaverdam Reservoir (Loudon County) and on the waters of Quantico Marine Reservation.

Proposed Regulations

6. It shall be unlawful to have any walleye or yellow pike perch less than 15 inches in length in one's possession on Gaston Reservoir.

7. It shall be unlawful to have any smallmouth, largemouth or spotted bass from 11 to 14 inches in length, both inclusive, in one's possession on the Shenandoah River, including the North and South Forks downstream from the Route 42 bridge on the North Fork and from the confluence of the North and South Rivers on the South Fork below Port Republic; on the New River from Clayton Dam to the West Virginia boundary line; ~~or~~ on the James River from the confluence of the Jackson and Cowpasture rivers downstream to the Interstate 95 bridge at Richmond; ~~or~~ on North Fork Pound Reservoir ; *or on the Clinch River within the boundaries of Scott, Wise, Russell or Tazewell Counties .*

8. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 18 inches in length [in one's possession] on Briery Creek Lake (Prince Edward County).

VR 325-03-2. TROUT FISHING.

§ 5. Size limit.

Except as otherwise specifically provided by the sections appearing in this regulation, there shall be a seven-inch minimum size limit on trout generally and a 10-inch minimum size limit on trout in Philpott Reservoir and Moomaw Reservoirs.

§ 12. Special provisions applicable to certain portions of Buffalo Creek, Mossy Creek, Smith Creek and Smith River.

It shall be lawful year around to fish using only artificial lures with single hooks in that portion of Buffalo Creek in Rockbridge County from the confluence of Colliers Creek upstream 2.9 miles to the confluence of North and South Buffalo Creeks, in that portion of Mossy Creek in Augusta County upstream from the Augusta/Rockingham County line to a sign posted at the confluence of Joseph's Spring, in that portion of Smith Creek in Rockingham County from a sign posted 1.0 miles below the confluence of Lacy Spring to a sign posted 0.4 miles above Lacy Spring, and in that portion of Smith River in Henry County from the east bank of Towne Creek for a distance of approximately three miles downstream to the State Route 666 bridge crossing; except , that in Mossy Creek and Smith Creek, only flyfishing is lawful. The daily creel limit in these waters shall be two trout a day year around and the size limit shall be 16 inches or more in length. All trout caught in these waters under 16 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any natural bait or any trout under 16 inches in length in these areas.

VR 325-03-3. SEINES AND NETS.

§ 1. Haul seines to take fish for sale.

A. Authorization to take fish for sale.

A haul seine permit shall authorize the person to whom issued to take fish for sale as specified with a haul seine from the waters designated in this section.

B. Permit holder to be present when seine operated.

The holder of a haul seine permit must be present with the same at all times when it is being operated. The holder, however, may have others to assist him and such persons assisting are not required to have a permit.

C. Length and size of nets.

The length of haul seine nets shall not be more than ~~250~~ 500 yards. The size of mesh shall be 1-1/2 inch bar mesh.

D. Season and fish to be taken in Chesapeake City; set nets prohibited.

In the Northwest River, the open season to take carp, grinnel, or bowfin, and catfish, generally known in that section as roundfish, and herring with a haul seine shall be from November 1 through May 15, both dates inclusive. All set nets shall be prohibited in the Northwest River.

E. Season and fish to be taken in Virginia Beach City.

In Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake), North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River), the open season to take all fish, except game fish, with a haul seine shall be from November 1 through March 31, both dates inclusive.

F. Season and fish to be taken in Southhampton County.

In the Nottoway River, from Cary's Bridge to the North Carolina line, the open season to take shad, herring, mullet, and suckers, only, with a haul seine shall be from March 1 through May 15, both dates inclusive.

G. Labeling packages containing fish taken with haul seine.

It shall be unlawful for any person to ship or otherwise transport any package, box or other receptacle containing fish taken under a haul seine permit unless the same bears a label showing the name and address of the owner of the seine and a statement of the kind of fish contained therein.

§ 3. Gill nets.

A. Authorization to take fish.

A gill net permit shall authorize the holder thereof to

Proposed Regulations

take nongame fish during the times and in the waters and for the purposes provided for in this section. *Such gill net shall not be more than 300 feet in length. The mesh size shall be not less than 1-1/2 inch bar or square mesh (3-inch stretch mesh). Each net shall be identified by a department tag provided with such permit. All nets shall be checked daily and all game fish returned to the wild.*

B. Time and place permitted in Southampton County.

Gill nets may be used in Southampton County only in the Nottoway River from Cary's Bridge to the North Carolina line from March 1 through May 15, both dates inclusive, to take fish for private table use only and not for sale.

C. Times and places permitted in Virginia Beach City; fish which may be taken.

Gill nets may be used in Virginia Beach City in Back Bay and its natural tributaries (not including Lake Tecumseh and Red Wing Lake) and North Landing River from the North Carolina line to Pungo Ferry (not including Blackwater River) for the taking of mullet only for table use and also for sale from July 1 through November 1, both dates inclusive; and for the taking of other nongame fish, except mullet, for table use and also for sale from November 1 through March 31, both dates inclusive. *Gill nets set in Back Bay waters shall be at least 300 feet from any other net and as least 300 feet from the shoreline. All such nets shall be marked at both ends and at least every 100 feet along the length of the net with a five-inch by 12-inch minimum dimensions float.*

VR 325-04. WATERCRAFT.

VR 325-04-1. IN GENERAL.

§ 6. Throughway channel in waters of Virginia Beach.

A. *A throughway channel is established in the waters of the City of Virginia Beach from Bird Neck Point through Linkhorn Bay, the Narrows and Broad Bay to the mouth of Old Long Creek. The channel shall be clearly designated by appropriate channel markers approved by the department.*

B. *The throughway channel established by this section shall be used expressly for traversing the waters in which it is located. Such activities as fishing, crabbing, anchoring, water skiing, wind surfing and maneuvering of personal watercraft are prohibited. All cross traffic shall give way to vessels in transit in the channel.*

DEPARTMENT OF TAXATION

Title of Regulation: Virginia Tire Tax Regulations.

VR 630-27-640. Definitions.

VR 630-27-641. Imposition of the Tax.

VR 630-27-642. Collection of the Tax; Exemptions,

Deductions.

VR 630-27-643. Distribution of Revenues.

VR 630-27-644. Provisions of Chapter 6, Title 58.1 to apply, *mutatis mutandis*.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Public Hearing Date: December 11, 1989 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

These regulations explain the application of the Virginia Tire Tax to the retail sale of new tires. The tax, equal to \$.50 per tire, is applicable to sales of new tires by Virginia tire retailers. Exempt from the tax are tires for devices moved exclusively by human power, used exclusively upon stationary rails or tracks, or used exclusively for farming purposes, except for farm trucks.

The tire tax will generally be subject to the provisions of the retail sales and use tax, except that all replacement truck tires will be subject to the tire tax. As compensation for collecting the tire tax, tire retailers may retain 5.0% of the tax collected, provided that the tax is not delinquent at the time of payment.

The tax is applicable to new tires sold on and after January 1, 1990, through December 31, 1994.

VR 630-27-640. Definitions.

§ 1. Definitions.

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

"Fund" means the Waste Tire Truck Fund.

"New tire" means a tire manufactured for first time use on a vehicle. It does not include a worn or used tire that has been reconditioned to a usable state, i.e., recapped or retreaded tires.

"Replacement truck tire" means a new tire sold to replace a tire attached to or used as a spare on a truck.

"Retailer of tires" means a person engaged in the business of making retail sales of new tires within this Commonwealth.

"Retail sale of tires" means the sale of new tires to a person for any purpose other than for resale. The term also includes the withdrawal of new tires from resale inventory for use or consumption by a retailer, including withdrawals from inventory for personal use or for company use. Retail sales do not include the sale of new tires to a person solely for the purpose of resale, provided the subsequent retail sale in this Commonwealth is subject

to the tire tax or is otherwise exempt of the tax.

"Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle for transportation purposes.

"Vehicle" means any device moving on wheels upon which or by which any person or property is or can be transported or drawn and any device drawn by or designed to be drawn by such a device upon a highway. It includes all terrain vehicles, mopeds, etc., but does not include the devices exempt from the tax in VR 630-27-642 or off-road equipment, such as construction and material handling equipment, riding lawn mowers, or aircraft.

VR 630-27-641. Imposition of the tax.

§ 1. Generally.

The tire tax is imposed on each retailer of tires in this Commonwealth, in addition to all other taxes and fees currently imposed by law. The tax shall be \$.50 per tire for each new tire sold by a tire retailer, regardless of the selling price of the tire.

The tax is applicable to new tires sold on or after January 1, 1990, through December 31, 1994.

§ 2. Taxable sales.

A. Generally.

All sales of new tires are subject to the tire tax unless the contrary is established. The burden of proving that the tax does not apply rests with the retailer, unless he takes, in good faith from the purchaser, a certificate of exemption indicating that the sale is exempt from the tax. Certificates of exemptions valid for purposes of the retail sales and use tax will generally be acceptable for purposes of the tire tax, except as provided in VR 630-27-642.

If a purchaser who gives a certificate of exemption makes any use of the tire other than an exempt use, such use shall be deemed a taxable sale and the purchaser shall be liable for payment of the tax.

B. Maintenance contracts and warranty plans.

The tax is applicable to new tires provided to a customer for replacement or exchange under maintenance contracts and warranty plans.

C. Sale of tires on a "national account."

A sale of tires on a "national account" takes place when a tire manufacturer enters into a price agreement with a purchaser in which a Virginia tire retailer supplies the tires but the purchaser is billed directly by the manufacturer. The tax is applicable to new tires - supplied to a customer in the Commonwealth on all national account sales and shall be collectible from the tire

manufacturer and paid to the Department of Taxation.

§ 3. Nontaxable sales.

The tax does not apply to (i) the sale of new tires from a place of business located outside the Commonwealth (see VR 630-10-84 for definition of "place of business in Virginia"), (ii) any tires attached to a vehicle or included within or on a vehicle as a spare before the time of sale of the vehicle that are included in the sales price of the vehicle, or (iii) the sale of a new tire by a Virginia retailer that is delivered to a purchaser in another state as provided in VR 630-10-51.

The tax, however, does apply to the purchase of new tires used to replace used tires on a vehicle prior to the sale of the vehicle, i.e., the purchase of tires by a car dealer to replace tires on a used vehicle, the price of which is included in the sales price of the vehicle, is subject to the tax when purchased and no additional tax is due when the vehicle is sold.

VR 630-27-642. Collection of the tax; exemptions; deductions.

§ 1. Collection of the tax.

A. Generally.

The provisions of Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 relating to the collection of the retail sales and use tax shall apply to the tire tax, except that while the legal incidence of the retail sales and use tax is on the purchaser, the tire tax is imposed on the tire retailer and will remain his legal debt until paid. The tax may be passed on to the ultimate consumer, but is not to be added to the sales price of a tire for purposes of computing the retail sales and use tax due, provided it is separately stated on the invoice to the purchaser.

B. Registration and filing requirements.

1. Generally.

A retailer of tires is required to register for the tax with the Department of Taxation. A separate application for registration is required for each place of business in the Commonwealth.

Except as otherwise authorized by the Tax Commissioner, a retailer shall be required to file a tire tax return on a form prescribed by the Department of Taxation on a quarterly basis even if no tax is due. Returns will be due on or before the 20th day of the month following the close of the calendar quarter, i.e., April 20, July 20, October 20 and January 20.

2. Combined and consolidated returns.

Any retailer who has two or more business locations

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for which he is required to hold a certificate of registration within the same locality may elect to file a single combined return to report and remit tire tax due for all locations within that locality. The election to file a combined return, however, does not eliminate the requirement that a certificate of registration be obtained for each business location.

Any retailer who has five or more business locations for which he is required to hold a certificate of registration within the Commonwealth may request permission to file a consolidated return to report and remit tire tax due for all locations. The election to file a consolidated return, however, does not eliminate the requirement that a certificate of registration be obtained for each business location.

§ 2. Exceptions.

A. Generally.

The tax does not apply to tires for:

1. Any device moved exclusively by human power. For example, tires for bicycles, garden carts, wheelbarrows, etc., are exempt from the tax; however, new tires for use on a moped, all terrain vehicle, trailer or motorcycle are subject to the tax.

2. Any device used exclusively upon stationary rails or tracks.

3. Any device used exclusively for farming purposes, except a farm truck for highway use. For example, new tires for use on tractors are exempt from the tax.

B. Sales and use tax exemptions.

The exemptions from the retail sales and use tax provided in § 58.1-608 of the Code of Virginia are also applicable to the tire tax, except that replacement truck tires are subject to the tax. Replacement truck tires subject to the tax include, but are not limited to, tires purchased by common carriers, public service corporations, the Commonwealth of Virginia and any political subdivision thereof, fire departments and rescue squads and farmers. Replacement truck tires purchased by the United States are not subject to the tax.

C. Withdrawals from inventory.

No exemption is allowed for the withdrawal of new tires from resale inventory, except that withdrawals from inventory (i) that are donated to nonprofit organizations or the Commonwealth of Virginia, except truck tires, (ii) by a dealer for return to a manufacturer for credit or as an equivalent exchange of inventory, or (iii) that are otherwise exempt, are not subject to the tax.

§ 3. Deductions.

A. Dealers discount.

As compensation for accounting for and remitting the tax, a retailer shall be allowed 5.0% of the amount of tax due and accounted for in the form of a deduction, provided the amount due was not delinquent at the time of payment.

Example: A retailer selling 1,000 tires subject to the tire tax during a quarter would report tax due of \$500 (1,000 tires X \$.50) and retain a dealers discount of \$25 remitting the net amount of \$475, provided the tire tax return is timely filed and the tax is timely paid. The \$25 discount is calculated by multiplying the amount of tax due by 5.0% or $500 \times .05 = \$25$.

B. Other deductions.

1. Bad debts. A retailer may retain a credit for the amount of tax previously reported and paid on a return for an account which is found to be worthless. Such credit must be claimed on the return filed for the period in which the account is determined to be worthless. The credit shall be claimed in the same manner as set forth in VR 630-10-11.

2. Returned tires. A retailer may obtain a credit for the tax remitted on tires returned by a customer provided that the amount of the tax has been refunded or credited to the purchaser. The credit shall be claimed in the same manner as set forth in VR 630-10-93.

VR 630-27-643. Distribution of revenues.

All revenues from the tire tax, minus administrative expenses incurred by the Department of Taxation, will be deposited into the fund. The fund is administered by the Department of Waste Management as provided in § 10.1-1422.1 of the Code of Virginia.

VR 630-27-644. Provisions of Chapter 6 of Title 58.1 to apply mutatis mutandis.

The provisions of the Virginia Retail Sales and Use Tax Act (§§ 58.1-600 through 58.1-639) and the regulations promulgated thereunder (VR 630-10-1 et seq.) are applicable to the tire tax, mutatis mutandis, except as otherwise provided by law or this regulation.

FORM T-1 VIRGINIA TIRE TAX RETURN

VIRGINIA DEPARTMENT OF TAXATION
 PROCESSING SERVICES DIVISION
 P.O. BOX 9089
 RICHMOND, VIRGINIA 23299-9999

For Assistance Call (804) 367-9999

FOR PERIOD ENDING _____

FILING DATE _____

ACCOUNT NUMBER _____

OUT OF BUSINESS - Indicate the date
 your business was terminated or sold

1. NUMBER OF TIRES SOLD	
2. EXEMPT TIRES	
3. ITEM 1 LESS ITEM 2	
4. TAX (Multiply Item 3 by 8.50)	
5. DEALER'S 8% DISCOUNT	
6. ITEM 4 LESS ITEM 5	
7. PENALTY FOR LATE FILING AND PAYMENT	
8. INTEREST FOR LATE FILING AND PAYMENT	
9. COMBINED TAX, PENALTY AND INTEREST	

MAKE CHECK OR MONEY ORDER
 PAYABLE TO
 VIRGINIA DEPARTMENT OF TAXATION

VIRGINIA FORM T-1 \$205300 (REV. 5/88)

I declare that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

SIGNATURE _____

DATE _____ TELEPHONE NO. () _____

disk: pr13, file: formt1; trumvrate

Form R-1 COMMONWEALTH OF VIRGINIA
COMBINED REGISTRATION APPLICATION FORM

This application may be used to register for any of the following taxes: Sales and Use, Employer Withholding, Corporate Income, Litter, Consumer Use, and Tire. Contact the Department of Taxation or one of the District Offices shown on the enclosed list if you need application forms or information on taxes other than those covered by this application.

RETURN TO:
Department of Taxation
Registration Unit
P.O. Box 6-L
Richmond, Virginia 23282-0001
Phone 804-367-8057

Please PRINT or TYPE all information on this application.

SECTION I - ALL APPLICANTS MUST COMPLETE THIS SECTION

1. Taxes to register on this application. (Check appropriate boxes).
- | | |
|--|--|
| a) <input type="checkbox"/> Corporate Income | d) <input type="checkbox"/> Sales or Use Tax |
| b) <input type="checkbox"/> Employer Withholding Tax | e) <input type="checkbox"/> Consumer Use Tax |
| c) <input type="checkbox"/> Litter Tax | f) <input type="checkbox"/> Tire Tax |

FOR OFFICE USE ONLY

ID	NMAI	NPC
AC	OSDC	BC
LC	ELD	
OPNO	DATE	

BUSINESS NAME AND BUSINESS ADDRESS

Legal Name of Dealer, Employer, Partnership or Corporation:
2. _____
3. _____
"Trading As" Name (If Different From Above):
4. _____
5. _____
Street Address of Business Location (PHYSICAL LOCATION):
Rural Routes Must Have Box Number
6. _____
7. _____
City, Town, Post Office
State _____ ZIP Code _____

MAILING NAME AND MAILING ADDRESS

(Complete Only if Different from Business Address.)
Name:
14. _____
15. _____
Street or Other Mailing Address:
16. _____
17. _____
18. _____
City or County _____ State _____ ZIP Code _____

(If separate mailing addresses are desired for different taxes, check here , and attach a separate sheet showing mailing addresses desired for each tax.)

8. PHONE: _____
Area Code _____ Number _____

9. Name of City or County in which the BUSINESS LICENSE is held: _____

19. LOCATION OF RECORDS (Check appropriate box)

a) Same as Business Address
b) Same as Mailing Address
c) Other, Identify Below
Street Address: _____

City or County _____ State _____ ZIP Code _____
PHONE: _____
Area Code _____ Number _____

11. Enter your four digit code for principal business activity. (Refer to chart in instructions): _____

12. Principal Business/Activity In Which Engaged: _____

13. TYPE OF OWNERSHIP (Check Appropriate Box):

- | | |
|---|---|
| a) <input type="checkbox"/> Sole Proprietorship | d) <input type="checkbox"/> Corporation |
| b) <input type="checkbox"/> Governmental | e) <input type="checkbox"/> Sub Chapter S Corporation |
| c) <input type="checkbox"/> Partnership | f) <input type="checkbox"/> Other, Explain Below: |

20. The PLACE OF BUSINESS shown on lines 6, 7, and 8 above is located:

- a) OUTSIDE Virginia, in the state of _____
b) In the state of Virginia, ENTIRELY WITHIN the CITY or COUNTY of _____
c) In the state of Virginia, partly in the CITY or COUNTY of _____ and partly in the CITY or COUNTY of _____

(Note: Sales Tax or Tire Tax dealers with multiple places of business must file a separate application for each place of business.)

21. Is applicant now or has applicant ever been registered for any Virginia business taxes? YES NO
If "YES", list tax(es) and previous Virginia account number(s):

Tax _____	Account Number _____
Tax _____	Account Number _____
Tax _____	Account Number _____
Tax _____	Account Number _____

22. If applicant's business is a subsidiary, give name and federal employer's identification number (FEIN) of parent corporation:

Virginia Account Number _____ FEIN _____ Name _____

SECTION II - SALES TAX AND TIRE TAX: Complete if Section I(A) box 1(d), 1(e), or 1(f) was checked.

23. Date applicant began making taxable sales at this place of business or new business entity was established. MO. DAY YEAR

23a. Date applicant began making taxable sales of tires at this place of business or new business entity was established. MO. DAY YEAR

24. If your business is seasonal (not operational the entire year) and you desire to file returns only for those months you collect Sales, Use, or Tire Tax, check the month(s) active:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

25. If applicant's place of business is located outside Virginia, will any office, warehouse or other place of business be maintained in Virginia? (Does not apply to Tire Tax dealers.) YES NO
If yes, enter the address and nature of activity conducted there: _____

26. If your business activity can reasonably be expected to file Consumer Use Tax returns four or more times per year, check here and show estimated frequency of filing _____

27. Consolidated Reporting:
Applicant files a consolidated return for Sales Tax or Tire Tax and wants to add this place of business to:
 Sales Tax Tire Tax Consolidated Account Number: _____

SECTION III - EMPLOYER WITHHOLDING TAX: Complete if Section I(A) box 1(b) was checked.

28. Date employer began, should have begun, or will begin withholding Virginia Income Tax from employee wages. MO. DAY YEAR

29. If your business is seasonal (not operational the entire year) and you desire to file returns only for those months you withhold Virginia Income Tax from employee wages, check the month(s) active:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----

30. Employer reasonably expects that the aggregate amount of Virginia Income Tax to be withheld by him will be:
 \$300 or less per quarter More than \$300 but less than \$3,000 per quarter \$3,000 or more per quarter

SECTION IV - CORPORATE INCOME TAX: Complete if Section I(A) box 1(a) was checked.

31. Date of Incorporation _____ 32. State or County _____
MO. DAY YEAR

33. Date that business was initiated in Virginia, or is expected to be: _____

34. Taxable year (same as for Federal purposes): Calendar Year - January 1 to December 31
 Fiscal Year - _____ to _____
mo. day yr. to mo. day yr.

SECTION V - ALL APPLICANTS MUST COMPLETE THIS SECTION

35. Identify owners, partners, corporation officers or trustees (Please Print):
SOCIAL SECURITY NUMBER NAME, TITLE, HOME ADDRESS, CITY, STATE, ZIP CODE, HOME PHONE

36. Signed _____ Title _____
Date _____

If the business is a corporation, an officer of the corporation authorized to sign on behalf of the corporation must sign; if a partnership, one partner must sign; if an unincorporated association, one member must sign; if a sole proprietorship, the proprietor must sign. (Signatures of accountants and CPA's will not be accepted.)

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Action(s) and/or change(s) requested: _____

Reason(s): _____

Requested by: _____ Date: _____
(Name, Section or District Office and Division)

Proposed Regulations

Virginia Register of Regulations

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

NOTICE: The Chesapeake Bay Preservation Area Designation and Management Regulations (VR 173-02-01) filed by the Chesapeake Bay Local Assistance Board was previously published as a final regulation in 5:22 V.A.R. 3241-3259 July 31, 1989, to become effective September 1, 1989. The final regulation did not become effective on this date because the Governor suspended the regulatory process in accordance with §§ 9-6.14:9.1 D and 9-6.14:9.3 2 of the Code of Virginia, and requested the board to solicit additional public comments on the regulation (see 5:24 V.A.R. 3751 August 28, 1989). The final regulation published below incorporates changes made as a result of the additional public comment period. The regulation became effective October 1, 1989.

Title of Regulation: VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

Statutory Authority: §§ 10.1-2103 and 10.1-2107 of the Code of Virginia.

Effective Date: October 1, 1989.

Summary:

This regulation establishes criteria for local government designation of Chesapeake Bay Preservation Areas and for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas. This regulation also identifies the requirements for changes which local governments must incorporate into their comprehensive plans, zoning ordinances, and subdivision ordinances to protect the quality of state waters pursuant to §§ 10.1-2109 and 10.1-2111 of the Chesapeake Bay Preservation Act.

The regulation is divided into six parts dealing with (i) introductory matters, (ii) local government requirements, (iii) Chesapeake Bay Preservation Area criteria, (iv) land use and development performance criteria, (v) implementation, assistance, and determination of consistency, and (vi) enforcement.

Part I, "Introduction," establishes the purpose, authority, and applicability of the regulation and defines terms.

Part II, "Local Government Programs," sets forth the objectives of local programs that implement the

regulations and lists the elements that must be included in local programs.

Part III, "Chesapeake Bay Preservation Area Designation Criteria," includes the first set of criteria required by the Code. These criteria describe the characteristics and objectives of Chesapeake Bay Preservation Areas and list the land types that must be included or considered for inclusion in preservation areas. Chesapeake Bay Preservation Areas are to be subdivided into the more sensitive lands adjacent to the shore, called Resource Protection Areas, and less sensitive upland areas that have the potential to degrade water quality, called Resource Management Areas. In addition, this part provides local governments with the option to identify as an overlay "Intensively Developed Areas," which are allowed certain exemptions from the criteria.

Part IV, "Land Use and Development Performance Criteria," includes the second set of criteria required by the Code, called performance criteria. The performance criteria are subdivided into two groups: (i) general criteria that apply in all Chesapeake Bay Preservation Areas, and (ii) additional or more stringent criteria that apply only in the Resource Protection Areas. This part also sets forth exemptions from the criteria and establishes a local government process for granting exceptions.

Part V, "Implementation, Assistance, and Determination of Consistency," provides guidance in the orderly and timely development of local programs and criteria by which local program consistency will be determined. This part describes the local assistance manual to be provided by the board to local governments. It also addresses the first year requirements covering the mapping and designation of Chesapeake Bay Preservation Areas and the employment of the performance criteria. Finally, it addresses the second year program elements, including (i) necessary changes in local zoning and subdivision ordinances and comprehensive plans, (ii) implementation of a local process to review development proposals in preservation areas for compliance with the Act and regulations, (iii) conditions under which water quality impact assessments will be required for proposal developments, and (iv) review by the board of completed local programs for consistency and, upon request, board certification of local programs.

Part VI, "Enforcement," establishes administrative and legal procedures to secure compliance with the Act by

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local governments.

After publication of the final regulation in 5:22 VA.R. 3241-3259 July 31, 1989, the board solicited additional public comments pursuant to a directive from the Governor dated August 14, 1989. As a result, the amendments made were limited to measurements of equivalency and requirements for septic inspection and maintenance and reserve capacity.

VR 173-02-01. Chesapeake Bay Preservation Area Designation and Management Regulations.

PART I. INTRODUCTION.

§ 1.1. Application.

The board is charged with the development of regulations [~~including which establish~~] criteria that will provide for the protection of water quality [~~and conservation of habitat dependent on water quality in Chesapeake Bay Preservation Areas~~], and that also will accommodate economic development. All counties, cities, and towns in Tidewater Virginia shall comply with these regulations. Other local governments not in Tidewater Virginia [~~are encouraged to may~~] use the criteria, and [~~to~~] conform their ordinances as provided in these regulations to protect the quality of state waters in accordance with § 10.1-2110 of the Code of Virginia.

§ 1.2. Authority for regulations.

These regulations are issued under the authority of §§ 10.1-2103 and 10.1-2107 of Chapter 21 of Title 10.1 of the Code of Virginia (the Chesapeake Bay Preservation Act, hereinafter "the Act").

§ 1.3. Purpose of regulations.

[The purpose of these regulations is to protect and improve the water quality of the Chesapeake Bay, its tributaries, and other state waters by minimizing the effects of human activity upon these waters and implementing the Act, which provides for the definition and protection of certain lands called Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries.]

These regulations establish the criteria that counties, cities, and towns (hereinafter "local governments") [~~must shall~~] use to determine the extent of the Chesapeake Bay Preservation Areas within their jurisdictions. [~~They~~ These regulations] establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas. [~~They~~ These regulations] identify the requirements for changes which local governments [~~must shall~~] incorporate into their comprehensive plans, zoning ordinances, and subdivision

ordinances to protect the quality of state waters pursuant to §§ 10.1-2109 and 10.1-2111 of the Act.

§ 1.4. Definitions.

The following words and terms used in these regulations have the following meanings, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined in § 10.1-2101 of the Act.

"Act" means the Chesapeake Bay Preservation Act found in Chapter 21 (§ 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia.

["Best management practice" means a practice, or combination of practices, that is determined by a state or designated area wide planning agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.]

"Board" means the Chesapeake Bay Local Assistance Board.

"Buffer [~~zone area~~] " means an area of natural or established vegetation managed to protect [~~aquatic, wetland, shoreline and other habitat dependent on water quality~~ other components of a Resource Protection Area and state waters] from significant degradation due to [~~man-made land~~] disturbances.

"Chesapeake Bay Preservation Area" means any land designated [by a local government] pursuant to Part III of these regulations and § 10.1-2107 of the Act. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area.

"Department" means the Chesapeake Bay Local Assistance Department.

"Development" means the construction, [~~redevelopment~~] or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

"Director" means the Executive Director of the Chesapeake Bay Local Assistance Department.

"Floodplain" means [an area all lands] that would be inundated [by floodwater] as a result of a storm event of a 100-year return interval.

"Highly erodible soils" means soils [(excluding vegetation)] with an erodibility [~~(K)~~ value greater than .35 of all soils on slopes with a gradient exceeding 15%, as identified in local Soil Surveys published by the U.S. Department of Agriculture-Soil Conservation Service, where such surveys exist index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$,

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as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance]

"Highly permeable soils" means soils with a [high given] potential [for transmission of pollutants into groundwater, as identified in the soils information section of the "Field Office Technical Guides" published by the U.S. Department of Agriculture Soil Conservation Service to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Handbook" of July, 1983 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service]

["Impervious cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.]

["Infill" means utilization of vacant land in previously developed areas.]

["Intensely Developed Areas" means those areas designated by the local government pursuant to § 3.4 of these regulations.]

"Local governments" means counties, cities, and towns. These regulations apply to local governments in Tidewater Virginia, as defined in § 10.1-2101 of the Act, but the provisions of these regulations may be used by other local governments.

"Local program" means the measures by which a local government complies with the Act and regulations.

["Local program adoption date" means the date a local government meets the requirements of subsections A and B of § 2.2 of Part II.]

"Nontidal wetlands" means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the federal Clean Water Act [as amended], in 33 C.F.R. 328.3b, dated November 13, 1986.

["Plan of development" means any process for site plan review in local zoning and land development regulations

designed to ensure compliance with § 10.1-2109 of the Act and these regulations, prior to issuance of a building permit.]

"Redevelopment" means the process of developing land that is or has been [previously] developed.

"Resource Management Area" means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area.

"Resource Protection Area" means that component of the Chesapeake Bay Preservation Area comprised of [sensitive] lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters [and loss of aquatic habitat].

["Subdivision" means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision.]

["Substantial alteration" means expansion or modification of a building or development which would result in a disturbance of land exceeding an area of 2500 square feet in the Resource Management Area only.]

"Tidal shore [line] " [or "shore"] means land contiguous to a tidal body of water [to an elevation one and one-half times the local tide range above between] the mean low water level [and the mean high water level].

"Tidal wetlands" means vegetated and nonvegetated wetlands as defined in § 62.1-13.2 of the Code of Virginia.

"Tidewater Virginia" means those jurisdictions named in § 10.1-2101 of the Act.

"Tributary stream" means any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

"Use" means an activity on the land other than development, including, but not limited to agriculture, horticulture, [and] silviculture [; and recreation].

"Water-dependent facility" means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas, and (v) fisheries or other marine resources facilities.

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[§ 1.5. Local government discretion.

These regulations represent minimum criteria to be used by localities.]

PART II. LOCAL GOVERNMENT PROGRAMS.

§ 2.1. Local program development.

Local governments shall develop measures (hereinafter called "local programs") necessary to comply with the Act and regulations. Counties and towns are encouraged to cooperate in the development of their local programs. In conjunction with other state water quality programs, local programs shall encourage and promote: (i) protection of existing high quality state waters and restoration of all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (ii) safeguarding the clean waters of the Commonwealth from pollution; (iii) prevention of any increase in pollution; (iv) reduction of existing pollution; and (v) promotion of water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the Commonwealth.

§ 2.2. Elements of program.

Local programs shall contain the elements listed below. [Local governments shall adopt] elements A and B [shall be adopted] concurrently [and no later than] 12 months after the [effective adoption] date of these regulations. Elements C through G [may shall] be in place within 24 months after the [effective adoption] date.

A. A [zoning] map [designating delineating] Chesapeake Bay Preservation Areas.

B. Performance criteria applying in Chesapeake Bay Preservation Areas [at least as stringent as those provided that employ the requirements] in Part IV.

C. A comprehensive plan or revision that incorporates the protection of Chesapeake Bay Preservation Areas and of the quality of state waters.

D. A zoning ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, [and] (ii) requires compliance with all criteria set forth in Part IV [; and (iii) requires a plan of development prior to the issuance of a building permit to assure that use and development of land in Chesapeake Bay Preservation Areas are accomplished in a manner that protects the quality of state waters].

E. A subdivision ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, and (ii)

assures that all subdivisions in Chesapeake Bay Preservation Areas comply with the criteria set forth in Part IV.

F. An erosion and sediment control ordinance or revision that requires compliance with the criteria in Part IV.

G. [A building permit process or revision that requires compliance with the criteria set forth in Part IV. A plan of development process prior to the issuance of a building permit to assure that use and development of land in Chesapeake Bay Preservation Areas is accomplished in a manner that protects the quality of state waters.]

PART III. CHESAPEAKE BAY PRESERVATION AREA DESIGNATION CRITERIA.

§ 3.1. Purpose.

The criteria in this part provide direction for local government designation of the ecological and geographic extent of Chesapeake Bay Preservation Areas. Chesapeake Bay Preservation Areas are divided into Resource Protection Areas and Resource Management Areas that are subject to the criteria in Part IV and the requirements in Part V. [In addition, the criteria in this part provide guidance for local government identification of areas suitable for redevelopment that are subject to the redevelopment criteria in Part IV.]

§ 3.2. Resource Protection Areas.

A. Resource Protection Areas shall consist of sensitive lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform [and or] are sensitive to impacts which may cause significant degradation to the quality of state waters [or loss of aquatic habitat] . [In their natural condition, these lands provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.]

B. [As a minimum,] The Resource Protection Area shall include:

1. Tidal wetlands;
2. Nontidal wetlands [hydrologically] connected by surface flow and contiguous to tidal wetlands or tributary streams;
3. Tidal [shorelines shores] ;
4. Such other lands [as might qualify] under the provisions of subsection A of § 3.2 of this part [that local governments deem] necessary to protect the quality of state waters;

5. A [~~vegetated~~] buffer [~~zone area not less than 100 feet in width~~] located adjacent to and landward of the components listed in subdivisions 1 through 4 above, and along both sides of any tributary stream.

[a. The purpose of the buffer zone is to (i) provide for the removal or reduction of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries; (ii) minimize the adverse effects of human activities on wetlands, shorelines, state waters, aquatic resources, and habitat dependent on water quality; and (iii) maintain the natural environment of streams. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses or equivalent measures in compliance with Part IV of these regulations. Designation of this area shall not be subject to reduction unless based on reliable site-specific information as provided in subsection B of § 4.1, and subsections C and E of § 5.6 of these regulations.]

[b. The width of the buffer zone shall be (i) 100 feet landward of all other components of Resource Protection Areas contiguous to tidal waters, or (ii) 50 feet landward of all other components of Resource Protection Areas contiguous to nontidal waters.]

§ 3.3. Resource Management Areas.

A. Resource Management Areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for [~~causing a loss of diminishing~~] the functional value of the Resource Protection Area.

B. A Resource Management Area shall be provided contiguous to the entire inland boundary of the Resource Protection Area. The following land categories shall be considered for inclusion in the Resource Management Area:

1. Floodplains;
2. Highly erodible soils, including steep slopes;
3. Highly permeable [~~areas or other areas vulnerable to groundwater degradation soils~~];
4. Nontidal wetlands not included in the Resource Protection Area;
5. Such other lands [~~as might qualify~~] under the provisions of subsection A of § 3.3 of this part [~~that local governments deem~~] necessary to [~~prevent nonpoint source pollution protect the quality~~] of state waters.

C. Resource Management Areas shall encompass a land

area large enough to provide significant water quality protection through the employment of the criteria in Part IV and the requirements in Parts II and V.

[§ 3.4. Intensely Developed Areas.

At their option, local governments may designate Intensely Developed Areas as an overlay of Chesapeake Bay Preservation Areas within their jurisdictions. For the purposes of these regulations, Intensely Developed Areas shall serve as redevelopment areas in which development is concentrated as of the local program adoption date. Areas so designated shall comply with the performance criteria for redevelopment in Part IV.

Local governments exercising this option shall examine the pattern of residential, commercial, industrial, and institutional development within Chesapeake Bay Preservation Areas. Areas of existing development and infill sites where little of the natural environment remains may be designated as Intensely Developed Areas provided at least one of the following conditions exist:

A. Development has severely altered the natural state of the area such that it has more than 50% impervious surface;

B. Public sewer and water is constructed and currently serves the area by the effective date. This condition does not include areas planned for public sewer and water;

C. Housing density is equal to or greater than four dwelling units per acre.]

PART IV. LAND USE AND DEVELOPMENT PERFORMANCE CRITERIA.

§ 4.1. Purpose.

The purpose of this part is to [~~implement achieve~~] the goals of the Act and [~~Part II § 2.1 of these regulations~~] by establishing criteria to [~~reduce nonpoint source pollution loads entering the Bay, its tributaries and other state waters, to protect the functional integrity of the Resource Protection Area, and to conserve water resources.~~] implement the following objectives: prevent a net increase in nonpoint source pollution from new development, achieve a 10% reduction in nonpoint source pollution from redevelopment, and achieve a 40% reduction in nonpoint source pollution from agricultural and silvicultural uses.

In order to achieve these goals and objectives, these criteria establish performance standards to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, maximize rainwater infiltration, and ensure the long-term performance of the measures employed.]

[A.] These criteria [~~become mandatory upon the local~~]

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program adoption date. They] are supplemental to the various planning and zoning concepts employed by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas.

[B. Local governments may exercise judgment in determining site-specific boundaries of Chesapeake Bay Preservation Area components and in making determinations of the application of these regulations, based on more reliable or specific information gathered from actual field evaluations of the parcel, in accordance with plan of development requirements in Part V.]

§ 4.2. General performance criteria.

It must be demonstrated to the satisfaction of local governments that any use, development, or redevelopment of land in Chesapeake Bay Preservation Areas meets the following performance criteria:

1. No more land shall be disturbed than is necessary to provide for the desired use or development;

2. [Natural Indigenous] vegetation shall be preserved to the maximum extent possible [consistent with the use and development allowed];

3. [Nonstructural best management practices shall be employed rather than structural best management practices where either will perform the required function. In any case, Where the] best management practices utilized [shall be self-maintaining or regular require regular or periodic maintenance in order to continue their functions, such] maintenance [of their function must shall] be ensured [by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective];

4. All development [of land exceeding 2,500 square feet of land disturbance] shall be accomplished through a plan of development review process consistent with § 15.1-491 (h) of the Code of Virginia;

5. Land development shall minimize impervious cover [consistent with the use or development allowed];

[6. All subdivision lots platted after the effective date shall provide sufficient area for the construction of the principal structure, accessory structures, access road or driveway, and necessary on-site treatment facilities outside the Resource Protection Area.]

[7. 6.] Any land disturbing activity that exceeds an area of 2,500 square feet (including construction of all single family houses, septic tanks and drainfields, but otherwise as defined in § 10.1-560 of the Code of Virginia) shall comply with the requirements of the local erosion and sediment control ordinance;

[8. 7.] On-site sewage treatment systems not requiring a [State Water Control Board Virginia Pollutant Discharge Elimination System (VPDES)] permit shall:

a. Have [inspection and] pump-out accomplished [for all such systems] at least [once] every five years;

b. [For new construction] provide a reserve [drainfield sewage disposal] site [with a capacity at least] equal to [the area that] of the primary [drainfield sewage disposal] site. [The This] reserve [drainfield sewage disposal] site [requirement] shall [be shown on the plat map and not apply to any lot or parcel recorded prior to the effective date of these regulations, and which lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department.] Building shall be prohibited on the area of [the reserve drainfield; all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board. All sewage disposal site records shall be administered to provide adequate notice and enforcement.]

[e. Require a minimum vertical separation distance between the septic absorption area and the seasonally high water table of at least 18 inches at all times of the year.]

[8. 8.] Stormwater management criteria [at least as stringent as the following which accomplish the goals and objectives of these regulations shall] apply [: .]

[a. Sheet flows shall be maintained and concentrated flows avoided to the maximum extent possible;]

[b.] For [new] development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load based upon average land cover conditions;

[e.] Redevelopment [of any site not currently served by water quality best management practices] shall [result in achieve at least] a 10% reduction of nonpoint source pollution in runoff compared to the existing runoff load from the site. [Post-development runoff from any site to be redeveloped that is currently served by water quality best management practices shall not exceed the existing load of nonpoint source pollution in surface runoff.]

a. The following stormwater management options shall be considered to comply with this subsection of these regulations:

(1) Incorporation on the site of best management

practices that achieve the required control;

(2) Compliance with a locally adopted regional stormwater management program incorporating pro-rata share payments pursuant to the authority provided in § 15.1-466(j) of the Code of Virginia that results in achievement of equivalent water quality protection;

(3) Compliance with a state or locally implemented program of stormwater discharge permits pursuant to § 402(p) of the federal Clean Water Act, as set forth in 40 C.F.R. Parts 122, 123, 124, and 504, dated December 7, 1988;

(4) For a redevelopment site that is completely impervious as currently developed, restoring a minimum 20% of the site to vegetated open space.

b. Any maintenance, alteration, use, or improvement to an existing structure which does not degrade the quality of surface water discharge, as determined by the local government, may be exempted from the requirements of this subsection.

c. Stormwater management criteria for redevelopment shall apply to any redevelopment, whether or not it is located within an Intensely Developed Area designated by a local government.]

[10. 9.] [~~Agricultural lands~~ Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations,] shall have a soil and water [quality] conservation plan. [Such a plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with the Act and these regulations. Such a plan will be] approved by the local Soil and Water Conservation District by January 1, 1995.

[The board will request the Department of Conservation and Recreation to evaluate the existing state and federal agricultural conservation programs for effectiveness in providing water quality protection. In the event that, by July 1, 1991, the Department of Conservation and Recreation finds that the implementation of the existing agricultural conservation programs is inadequate to protect water quality consistent with the Act and these regulations, the board will consider the promulgation of regulations to provide more effective protection of water quality from agricultural activities and may require implementation of best management practices on agricultural lands within the Chesapeake Bay Preservation Areas.]

[11. Where nontidal wetlands exist on the site, the following criteria apply:

a. Disturbance of nontidal wetlands or alteration of their biological function or character shall be avoided. Man-made nontidal bodies of water, including farm and stock ponds, irrigation ditches, drainage ditches and stormwater management best management practices other than created wetlands, are not considered wetlands by these regulations. However, man-made vegetated wetlands created as water quality best management practices or for purposes of compensation shall be considered equivalent to natural wetlands.

b. Except as provided in subsection B of § 4.3 of this part, if disturbance or alteration of nontidal wetlands cannot be completely avoided and exceeds an area of 10,000 square feet, the disturbed or altered area shall be replaced by at least an equal area of compensation wetlands on the site or within the same watershed wherever possible. Compensation wetlands shall be protected by perpetual conservation easements or other method of comparable effect.

e. Silvicultural activities shall implement best management practices for wetlands as established by the Virginia Department of Forestry. Notice that a logging operation is about to commence shall be given to appropriate officials of the Virginia Department of Forestry.]

[10. Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from these regulations provided that silvicultural operations adhere to water quality protection procedures prescribed by the Department of Forestry in its "Best Management Practices Handbook for Forestry Operations." The Department of Forestry will oversee and document installation of best management practices and will monitor instream impacts of forestry operations in Chesapeake Bay Preservation Areas. In the event that, by July 1, 1991, the Department of Forestry programs are unable to demonstrate equivalent protection of water quality consistent with the Act and these regulations, the Department of Forestry will revise its programs to assure consistency of results and may require implementation of best management practices.]

[~~4~~ 11.] Local governments shall require evidence of all [~~nontidal~~] wetlands permits required by law prior to authorizing grading or other on-site activities to begin.

§ 4.3. Performance criteria for Resource Protection Areas.

The following criteria shall apply specifically within Resource Protection Areas and supplement the general performance criteria in § 4.2 of this part.

A. Allowable development.

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A water quality impact assessment shall be required for any proposed development in accordance with Part V. Land development may be allowed only if it (i) is water dependent or (ii) constitutes redevelopment.

1. A new or expanded water-dependent facility may be allowed provided that:

- a. It does not conflict with the comprehensive plan;
- b. It complies with the performance criteria set forth in this part;
- c. Any nonwater-dependent component is located outside of Resource Protection Areas;

[d. Marina and community boat mooring locations conform to criteria established by the Virginia Marine Resources Commission;]

[e. d.] Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

2. Redevelopment shall conform to [ah] applicable [stormwater management and erosion and sediment control] criteria in this part.

[B. Nontidal wetlands.

Subject to the additional criteria in subsection K of § 4-2 of this part, any disturbed or altered area of nontidal wetlands shall be replaced by compensation nontidal wetlands of at least twice the area of the wetlands disturbed or altered.]

[C. B.] Buffer [zone area] requirements.

[In order] To [satisfy the buffer zone requirements, appropriate minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life, a 100 foot buffer area of] vegetation [that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff] shall be [retained if present and] established where it does not exist [naturally. Otherwise, The 100 foot buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients. Except as noted in this subsection, a combination of a buffer area not less than 50 feet in width and appropriate best management practices located landward of the buffer area which collectively achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100 foot buffer area may be employed in lieu of the 100 foot buffer.] The following [additional] performance criteria shall apply:

1. [Natural In order to maintain the functional value of the buffer area, indigenous] vegetation [shall be preserved to the maximum extent possible, with the

following exceptions may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, as follows] :

[a. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control structures built, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements;

b. In order to maintain the functional value of the buffer zone, vegetation may be removed only to provide for reasonable sight lines, access paths, and general woodlot management.]

[a. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

b. Any path shall be constructed and surfaced so as to effectively control erosion.

c. Dead, diseased, or dying trees or shrubbery may be removed at the discretion of the landowner, and silvicultural thinning may be conducted based upon the recommendation of a professional forester or arborist.

d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.]

2. When the application of the buffer [zone area] would result in the loss of a buildable area on a lot or parcel recorded prior to the effective date [of these regulations] , modifications to the width of the buffer [zone area] may be allowed in accordance with the following criteria:

a. Modifications to the buffer [zone area] shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.

b. Where possible, an area equal to the area encroaching the buffer [zone area] shall be established elsewhere on the lot or parcel in a way to maximize water quality protection.

c. In no case shall the reduced portion of the buffer [zone area] be less than 50 feet in width.

[3. Redevelopment within Intensely Developed Areas may be exempt from the requirements of this subsection. However, while the immediate establishment of the buffer area may be impractical, local governments shall give consideration to implementing measures that would establish the buffer in these areas over time in order to maximize water quality protection, pollutant removal, and water resource conservation.]

[3. In 4. On] agricultural lands [:]

[a. Where a naturally vegetated buffer zone up to the width required in Part III exists, it shall be maintained;

b. Existing agricultural activities in the buffer zone area shall maintain, as a minimum best management practice, a 25-foot wide vegetated filter strip measured landward from the mean high water level of tidal waters or tributary streams, or from the landward edge of any wetlands. The filter strip is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District;]

[e.] the [filter strip agricultural buffer area] shall be [composed of either trees with a dense ground cover, a thick sod of grass, or an appropriate legume cover and shall be] managed to prevent concentrated flows of surface water from breaching the [strip buffer area] and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the [strip buffer area] .

[d. The filter strip shall be maintained until The agricultural buffer area may be reduced as follows:

a. To a minimum width of 50 feet when] the [landowner has implemented a program of best management practices that improve water quality in accordance with a conservation plan approved by the local Soil and Water Conservation District, provided that the portion of the conservation plan being implemented for the Resource Protection Area achieves water quality protection at least the equivalent of that provided by the filter strip adjacent land is enrolled in a federal, state, or locally-funded agricultural best management practices program, and the program is being implemented, provided that the combination of the reduced buffer area and the best management practices achieve water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100 foot buffer area;

b. To a minimum width of 25 feet when a soil and water quality conservation plan, as approved by the local Soil and Water Conservation District, has been

implemented on the adjacent land, provided that the portion of the plan being implemented for the Chesapeake Bay Preservation Area achieves water quality protection at least the equivalent of that provided by the 100 foot buffer area in the opinion of the local Soil and Water Conservation District Board. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with the Act and these regulations.

c. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the local Soil and Water Conservation District.]

[4. Silvicultural activities shall maintain, as a minimum best management practice, a streamside management zone extending the full width of the buffer zone landward from all other components of Resource Protection Areas, in accordance with criteria developed by the Virginia Department of Forestry.]

§ 4.4. [Incorporation into local programs. Local program development.]

Local governments shall incorporate the criteria in this part [; or provisions at least the equivalent thereof,] into their comprehensive plans, zoning ordinances, subdivision ordinances, and such other police and zoning powers as may be appropriate, in accordance with §§ 10.1-2111 and 10.1-2108 of the Act and Part V of these regulations. The criteria may be employed in conjunction with other planning and zoning concepts to protect the quality of state waters.

[§ 4.5. Administrative waivers and exemptions.

A. Nonconforming use and development waivers.

1. Local governments may permit the continued use, but not necessarily the expansion, of any structure in existence on the date of local program adoption. Local governments may establish an administrative review procedure to waive or modify the criteria of this part for structures on legal nonconforming lots or parcels provided that:

a. There will be no net increase in nonpoint source pollutant load.

b. Any development or land disturbance exceeding an area of 2500 square feet complies with all erosion and sediment control requirements of this part.

2. It is not the intent of these regulations to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as

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a result of casualty loss unless otherwise restricted by local government ordinances.

B. Public utilities, railroads, and facilities exemptions.

1. Construction, installation, operation, and maintenance of electric, gas, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) or an erosion and sediment control plan approved by the Virginia Soil and Water Conservation Board will be deemed to constitute compliance with these regulations.

2. Construction, installation, and maintenance of water, sewer, and local gas lines shall be exempt from the criteria in this part provided that:

a. To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas.

b. No more land shall be disturbed than is necessary to provide for the desired utility installation.

c. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal permits and designed and conducted in a manner that protects water quality.

d. Any land disturbance exceeding an area of 2500 square feet complies with all erosion and sediment control requirements of this part.

C. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempt from the criteria of this part provided that they comply with subdivisions 1 and 2 below of this subsection: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities.

1. Local governments shall establish administrative procedures to review such exemptions.

2. Any land disturbance exceeding an area of 2500 square feet shall comply with the erosion and sediment control requirements of this part.]

[§ 4.5: § 4.6.] Exceptions to the criteria.

Exceptions to the requirements of these regulations may be granted [if: (i) strict application of the criteria will result in undue hardship unique to the particular situation of the applicant and (ii) granting the exception will not result in an increase of nonpoint source pollution over what would have resulted if the criteria had been applied

, provided that: (i) exceptions to the criteria shall be the minimum necessary to afford relief, and (ii) reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act is preserved. Local governments shall design an appropriate process or processes for the administration of exceptions, in accordance with Part V].

[A. Exceptions to the criteria shall be the minimum necessary to afford relief.

B. Reasonable and appropriate conditions upon any exception granted shall be imposed as necessary so that the purpose and intent of the Act is preserved.]

PART V. IMPLEMENTATION, ASSISTANCE, AND DETERMINATION OF CONSISTENCY.

§ 5.1. Purpose.

The purpose of this part is to assist local governments in the timely preparation of local programs to implement the Act, and to establish guidelines for determining local program consistency with the Act.

[§ 5.2. Schedule of program adoption.

To ensure timely achievement of the requirements of the Act and timely receipt of assistance, local governments should adhere to the following schedule for the completion of program elements and their submission to the board for its information. The following schedule should be initiated and completed after the effective date of these regulations:

1. First year schedule.

a. Work plan within two months.

b. Proposed program for the designation of Chesapeake Bay Prevention Areas and adoption of performance criteria within six months.

c. Public hearings to designate Chesapeake Bay Preservation Areas and adopt performance criteria at the earliest possible date.

d. Work plan for second program year within nine months.

e. Local designation of Chesapeake Bay Preservation Areas and adoption of performance criteria must occur within 12 calendar months.

2. Second year schedule.

a. Proposed program for full implementation of the Act and regulations within 20 months.

b. Local adoption of complete local program within

24 months.]

[§ 5.2. Local assistance manual.

A. The department will prepare a manual to provide guidance to assist local governments in the preparation of local programs in order to implement the Act and these regulations. The manual will be updated periodically to reflect the most current planning and zoning techniques and effective best management practices. The manual will be made available to the public.

B. The manual will recommend a schedule for the completion of local program elements and their submission to the board for its information, to ensure timely achievement of the requirements of the Act and timely receipt of assistance. The board will consider compliance with the schedule in allocating financial and technical assistance. Those elements of the manual necessary to assist local governments in meeting the first year requirements will be completed by the effective date of these regulations.

C. The manual is for the purpose of guidance only and is not mandatory.]

§ 5.3. [First year program elements. Board to establish liaison.]

[A.] The board will establish liaison with each local government to assist that local government in developing and implementing its local program, in obtaining technical and financial assistance, and in complying with the Act and regulations.

[B. Program work plan.

Local governments should provide the board with a tentative work plan for accomplishing their program which should include:

1. Identification and description of elements of the local program;
2. Identification of specific tasks necessary to achieve each program element and the responsible department or agency to perform each task;
3. Maps and resources to be used to designate Chesapeake Bay Preservation Areas;
4. Tentative dates for completion of program elements;
5. Anticipated needs for technical and financial assistance for specified program elements.]

[C. § 5.4.] Planning district comments.

Local governments are encouraged to enlist the assistance and comments of regional planning district agencies early in the development of their local programs.

[Any comments from the regional planning district agency should be taken into consideration prior to completion and submission of a work plan.]

[D. Preliminary review by the board.

The board will review a work plan within 30 days. If it appears consistent with the Act, the board will schedule a conference with the local government to determine what technical and financial assistance may be needed and can be supplied to accomplish the work plan. If not, the board will notify the local government and recommend specific changes.]

[E. § 5.5.] Designation of Chesapeake Bay Preservation Areas.

[Local governments shall designate Chesapeake Bay Preservation Areas within 12 months after the effective date of these regulations. To assure timely adoption, they should prepare a proposed designation program and submit it to the board. The program should:]

[A. The designation of Chesapeake Bay Preservation Areas as an element of the local program should:]

1. [Inventory Utilizing existing data and mapping resources, identify] and [analyze describe] tidal wetlands, nontidal wetlands, tidal [shorelines shores] , tributary streams, flood plains, highly erodible soils including steep slopes, highly permeable areas, and other sensitive environmental resources as necessary to comply with Part III.
2. Determine, based upon the [inventory identification] and [analysis description] , the extent of Chesapeake Bay Preservation Areas within [its the local] jurisdiction.
3. Prepare [a an appropriate] map [or maps] delineating Chesapeake Bay Preservation Areas.
4. Prepare amendments to local ordinances which incorporate the performance criteria of Part IV or the model ordinance prepared by the board.

[F. B.] Review by the board.

The board will review a proposed [designation] program within 60 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and [can be supplied available] to accomplish the proposed program. If not [consistent] , the board will notify the local government and recommend specific changes.

[G. C.] Adoption of first year program.

[As soon as possible] After being advised of program consistency, local governments shall hold a public hearing,

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[~~designate delineate~~] Chesapeake Bay Preservation Areas [~~as an amendment to the local zoning map, on an appropriate map or maps,~~] and adopt the performance criteria. Copies of the adopted program documents and subsequent changes thereto, shall be provided to the board.

[§ 5.4. Second year program elements.

A. Work plan.

Within nine months after the effective date, local governments should provide a second year work plan to the board.

B. Preliminary review by the board.

The board will review the work plan within 30 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what technical and financial assistance may be needed and can be supplied to accomplish the work plan. If not, the board will notify the local government and recommend specific changes.]

[~~§~~ § 5.6.] Preparation and submission of management program.

[Within 20 months after the effective date, local governments should submit to the board completed local program documents Local governments must adopt the full management program] , including any revisions to comprehensive plans, zoning ordinances, subdivision ordinances, and other local authorities necessary to implement the Act [, within 24 months of the adoption date of these regulations] . Prior to adoption, local governments may submit any proposed revisions to the board for comments. Guidelines are provided below for local government use in preparing local programs and the board's use in determining local program consistency.

[~~1~~ A.] Comprehensive plans.

Local governments shall review and revise their comprehensive plans, as necessary, for compliance with § 10.1-2109 of the Act. As a minimum, the comprehensive plan or plan component should consist of the following basic elements: (i) a summary of data collection and analysis; (ii) a policy discussion; (iii) a land use plan map; (iv) implementing measures, including specific objectives and a time frame for accomplishment.

[~~a~~ 1.] Local governments should establish an information base from which to make policy choices about future land use and development that will protect the quality of state waters. This element of the plan should be based upon the following:

[~~(1)~~ Inventories and analyses a. Information] used to designate Chesapeake Bay Preservation Areas;

[~~(2)~~ b.] Other marine resources [~~and marine habitat~~] ;

[~~(3)~~ c.] Shoreline erosion problems and location of erosion control structures;

[~~(4)~~ d.] Conflicts between existing and proposed land uses and water quality [~~protection~~] ;

[~~(5)~~ e.] A map or map series, accurately representing the above information.

[~~b~~ 2.] As part of the comprehensive plan, local governments should clearly indicate local policy on land use issues relative to water quality protection. Local governments should ensure consistency among the policies developed.

[~~(1)~~ a.] Local governments should discuss each component of Chesapeake Bay Preservation Areas in relation to the types of land uses considered appropriate and [~~the reasons for including each type of land use consistent with the goals and objectives of the Act, these regulations, and their local programs~~] .

[~~(2)~~ b.] As a minimum, local governments should prepare policy statements for inclusion in the plan on the following issues:

[~~(a)~~ (1)] Physical constraints to development, including soil limitations, with an explicit discussion of soil suitability for septic tank use;

[~~(b)~~ (2)] Protection of potable water supply, including groundwater resources;

[~~(c)~~ (3)] Relationship of land use to commercial and recreational fisheries [~~; including nursery and habitat areas~~] ;

[~~(d)~~ (4)] Appropriate density for docks and piers;

[~~(e)~~ (5)] Public and private access to waterfront areas and effect on water quality;

[~~(f)~~ (6)] Existing pollution sources;

[~~(g)~~ (7)] Potential water quality improvement through the redevelopment of intensely developed areas.

[~~(3)~~ c.] For each of the policy issues listed above, the plan should contain a discussion of the scope and importance of the issue, alternative policies considered, the policy adopted by the local government for that issue, and a description of how the local policy will be implemented.

[~~(4)~~ d.] Within the policy discussion, local governments should address consistency between the

plan and all adopted land use, public services, land use value taxation ordinances and policies, and capital improvement plans and budgets.

[e. Water-dependent facilities.

(1) Local governments should include in their comprehensive plans a plan for water-dependent facilities. As a minimum, local governments should consider the following factors in the planning process:

(a) Impact of water-dependent uses on water quality;

(b) Existing wetlands, submerged aquatic plant beds, shellfish beds, anadromous fish spawning grounds, and other important habitat dependent on water quality;

(c) Extent and effects of any dredging required, including placement of dredged material;

(d) Compatibility of current land uses with water quality protection goals.

(2) Local governments should prepare an analysis of the capacity of existing water-dependent facilities and future demands. This analysis should address marinas, boat ramps, public docks, shoreline fishing areas, and other public access to the waterfront or beach. Areas currently zoned for water-dependent facilities should also be evaluated.

(3) Local governments should identify areas suitable for water-dependent facilities with respect to other comprehensive plan policies and in accordance with performance criteria in Part IV.]

[4. B.] Zoning ordinances.

Local governments shall review and revise their zoning ordinances, as necessary, to comply with § 10.1-2109 of the Act. The ordinances should:

[a. 1.] Make provisions for the protection of [Chesapeake Bay Preservation Areas the quality of state waters] ;

[b. 2.] Incorporate either explicitly or by direct reference, the performance criteria in Part IV;

[e. 3.] Be consistent with the comprehensive plan within Chesapeake Bay Preservation Areas.

[4. C.] Plan of development review.

Local governments shall make provisions as necessary to ensure that any development of land within Chesapeake Bay Preservation Areas must be accomplished through a plan of development procedure pursuant to § 15.1-491(h)

of the Code of Virginia to ensure compliance with the Act and regulations. Any exemptions from those review requirements shall be established and administered in a manner that ensures compliance with these regulations.

[4. D.] Subdivision ordinances.

Local governments shall review and revise their subdivision ordinances, as necessary, to comply with § 10.1-2109 of the Act. The ordinances should:

[a. 1.] Include language to ensure the integrity of Chesapeake Bay Preservation Areas;

[b. 2.] Incorporate, either explicitly or by direct reference, the performance criteria of Part IV.

[5. E.] Water quality impact assessment.

A water quality impact assessment shall be required for any proposed development within the Resource Protection Area consistent with Part IV and for any other development in Chesapeake Bay Preservation Areas that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development. [Local governments should notify the board of all development requiring a water quality impact assessment. Upon request, the board will provide review and comment on any water quality impact assessment within 90 days, in accordance with advisory state review requirements of § 10.1-2112 of the Act.]

[1. The purpose of the water quality impact assessment is to identify the impacts of proposed development on water quality and lands in Resource Protection Areas consistent with the goals and objectives of the Act, these regulations, and their local programs, and to determine specific measures for mitigation of those impacts. The specific content and procedures for the water quality impact assessment shall be established by local governments. Local governments should notify the board of all development requiring such assessment. Upon request, the board will provide review and comment on any water quality impact assessment within 90 days, in accordance with advisory state review requirements of § 10.1-2112 of the Act.

2. The assessment shall be of sufficient specificity to demonstrate compliance with the criteria of the local program.]

[5. F.] Review by the board.

The board will review [a any] proposed management program within 90 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and [can be supplied available] to accomplish the long-term aspects of the local program. If the program or any part thereof is not

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consistent, the board will notify the local government in writing stating the reasons for a determination of inconsistency and recommending specific changes. Copies of the adopted program documents and subsequent changes thereto [7] shall be provided to the board.

[§ 5.5. § 5.7.] Certification of local program.

Upon request, the board will certify that a local program complies with the Act and regulations.

PART VI. ENFORCEMENT.

§ 6.1. Applicability.

The Act requires that the board ensure that local governments comply with the Act and regulations and that their comprehensive plans, zoning ordinances, and subdivision ordinances are in accordance with the Act. To satisfy these requirements, the board has adopted these regulations and will monitor each local government's compliance with the Act and regulations.

[§ 6.2. Informal proceedings.

Prior to instituting notice and formal hearing proceedings or making a finding of noncompliance, the board will attempt through informal administrative proceedings to secure local program compliance with the Act.

§ 6.3. Notice and formal hearing.

When the board formally reviews a local government's compliance with the Act and regulations, it shall give the local government at least 15 days notice of the time and place of its next meeting and of its intention to then hear evidence on the local government's compliance. Evidence will be received from the staff and from the local government.

§ 6.4. Finding of noncompliance.

Upon a finding of noncompliance, the board will refer the matter for legal action.]

[§ 6.2. Administrative proceedings.

Section 10.1-2103.8 of the Act provides that the board shall ensure that local government comprehensive plans, subdivision ordinances, and zoning ordinances are in accordance with the provisions of the Act, and that it shall determine such compliance in accordance with the provisions of the Administrative Process Act. When the board determines to decide such compliance, it will give the subject local government at least 15 days notice of its right to appear before the board at a time and place specified for the presentation of factual data, argument, and proof as provided by § 9-6.14:11. The board will provide a copy of its decision to the local government. If

any deficiencies are found, the board will establish a schedule for the local government to come into compliance.

§ 6.3. Legal proceedings.

Section 10.1-2103.10 of the Act provides that the board shall take administrative and legal actions to ensure compliance by local governments with the provisions of the Act. Before taking legal action against a local government to ensure compliance, the board shall, unless it finds extraordinary circumstances, give the local government at least 15 days notice of the time and place at which it will decide whether or not to take legal action. If it finds extraordinary circumstances, the board may proceed directly to request the Attorney General to enforce compliance with the Act and regulations. Administrative actions will be taken pursuant to § 6.2.]

[§ 6.4. Adoption date.

The adoption date of these regulations shall be September 20, 1989.

§ 6.5. Effective date.

The effective date of these regulations shall be October 1, 1989.]

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 400-02-0011. Rules and Regulations for Allocation of Low Income Housing Tax Credits.

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

Effective Date: September 20, 1989

Summary:

This amendment to the regulations permits the authority's Board of Commissioners to adopt a point system to rate the applications for federal low income housing tax credits received by the authority.

VR 400-02-0011. Rules and Regulations for Allocation of Low Income Housing Tax Credits.

§ 1. Definitions.

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

"Code" means the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

"Credits" means the low-income housing tax credits as described in § 42 of the Code.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the Code.

"Qualified low-income buildings" means those buildings which meet the applicable requirements in § 42 of the Code to qualify for an allocation of credits thereunder.

§ 2. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of credits pursuant to § 42 of the Code.

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for credits, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Code.

The rules and regulations 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 the credits. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

§ 3. General description.

The Code provides for credits to the owners of residential rental projects comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than credits for developments financed with certain tax-exempt bonds) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual low-income credit authority limitation for such year under the Code. An amount equal to 10% of such limitation is set-aside for certain qualified nonprofit organizations. Credit allocations are counted against the Commonwealth's annual credit authority limitation for the calendar year in which the credits are allocated. The Code provides for the allocation of the Commonwealth's credit authority limitation to the housing credit agency of the Commonwealth. The authority has been designated by executive order of the Governor as the housing credit agency under the Code and, in such capacity, shall allocate for each calendar year credits to qualified low-income buildings in accordance herewith.

Credits are allocated to each qualified low-income building in a development separately. Credits may be allocated to such buildings either (i) during the calendar

year in which such building is placed in service or (ii) if the building meets the requirements of § 42 (h)(1)(E) of the Code, during one of the two years preceding the calendar year in which such building is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of credits as described hereinbelow and shall make such reservations of credits to qualified low-income buildings, subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or (ii) the satisfaction of the requirements of § 42 (h)(1)(E) of the Code with respect to such buildings, the credits shall be allocated to such buildings in the calendar year for which such credits were reserved by the authority.

The authority shall charge to each applicant who applies for credits an administrative fee in such amount as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the Code. Such fee shall be payable at such times as the executive director shall require.

§ 4. Solicitations of applications.

The executive director may from time to time take such action he may deem necessary or proper in order to solicit applications for credits. 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 and the selection thereof 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 credits are to be allocated and such other matters as he shall deem appropriate relating to the selection of applications. The authority may also consider and approve applications submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application.

Application for a reservation of credits 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 or approve, together with such documents and additional information as may be requested by the authority, including, but not limited to: 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; evidence of a source of financing for the proposed development; an evaluation of the need and

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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; an estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; identification of the low-income housing units; the maximum incomes of the persons and families who are to occupy the low-income housing units and the maximum rents which may be charged to such persons and families under the Code; an estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the residents of units in the proposed development; the allowances permitted by the Code for utility expenses to be paid by the residents of the low-income housing units; the amount of any governmental loan, insurance, subsidy or assistance which the applicant expects to receive for the proposed development; a schedule for the acquisition of the property, obtaining any financing, commencement and completion of any construction or rehabilitation, and placement of the development in service; a legal opinion or other assurances satisfactory to the executive director as to compliance of the proposed development with the Code; and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the application and certifying that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations.

In the case of developments which are to be financed or otherwise assisted by a federal agency or instrumentality or on which the financing is to be insured by such an agency or instrumentality, the application may be submitted on the forms provided by such agency or instrumentality, provided that all information required by this § 5 is set forth on such forms or other documents submitted with such forms.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance

herewith, both the reservation and the allocation of credits to buildings in any developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

§ 6. Review of application.

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 application. Such review shall include, but not be limited to, the following:

1. A review of the rights of the applicant with respect to the acquisition and ownership of the site and 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. A review of the proposed housing development costs and an analysis of the adequacy of the proposed financing and other available moneys to fund such costs;
3. A review and evaluation of the applicant's schedule and of the feasibility of placing the low-income housing units in service in accordance therewith;
4. A review of the estimated operating expenses, utility expenses and allowances, and proposed rents and an evaluation of the adequacy of the proposed rents and other income to sustain the proposed development based upon the occupancy rate approved or required by the authority and upon estimated operating expenses and financing costs;
5. A market analysis as to the present and projected demand for the proposed development in the market area;
6. A review of the terms and conditions of the proposed financing and any governmental assistance;
7. A 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;
8. An analysis of the proposed design and structure of the development, 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 and maintenance characteristics of the proposed development; and
9. An analysis as to the feasibility of the applicant's qualifying for the credits in accordance with the Code.

In reviewing applications, the executive director may rely on the underwriting or other review procedures performed by or on behalf of any federal agency or instrumentality which is to finance, insure the financing on, or otherwise assist the development.

§ 7. Selection of application; reservations of credits.

Based on the authority's review of applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority, the executive director shall prepare a recommendation to the board of the authority that a reservation of credits in the form of a binding commitment as described in § 42 of the Code be made with respect to the buildings described in 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 determination which could adversely affect its operation, marketability or economic feasibility.
2. There are or will be available on or before the estimated completion date 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.
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 proceed with the development in accordance with the proposed schedule and these rules and regulations.
6. The design of the proposed development will contribute to the marketability of the proposed development and will provide a safe living environment for such residents.
7. 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.

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

9. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these rules and regulations.

10. 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 multifamily 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 applicant 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.

11. All operating expenses (including customary 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.

12. 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 and comparable to income received on similar developments. 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.

13. The estimated income from the proposed development, including any governmental subsidy or assistance, is sufficient to pay debt service, operating expenses, and customary replacement and other reserves.

14. The low-income housing units will, prior to such data and during such period as the Code shall require, be occupied by persons and families whose incomes do not exceed the limits prescribed by the Code.

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15. Sufficient demand in the market area of the development exists and will exist for the units in the development during the term of the credits. Occupancy of the development 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 reserves and escrows) within the usual and customary time for a development for its size, nature, location and type and (ii) will continue to be self-sufficient for the full term of the credits.

16. 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 paragraph 15 of this section.

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

18. In the case of any development to be insured, subsidized or otherwise assisted or aided by any federal, state or local government, the proposed development will comply in all respects with any laws, rules and regulations relating thereto, and adequate 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 governmental entity.

19. The gross rents to be paid by families for the low-income housing units do not exceed 30% of the applicable qualifying income for a family of its size (reduced by any utility allowances as required by the Code). The amounts of any utility allowances are calculated in accordance with the requirements of the Code.

20. The applicant will be able to proceed with the development in accordance with the schedule submitted with the application, and as a result the proposed development will be placed in service within the time period required by the Code.

21. A reliable source of financing is available in an amount and on terms and conditions which will permit the applicant to proceed with the development as proposed. Such financing, together with other moneys to be available to the applicant, will be sufficient to fund the acquisition and any construction or rehabilitation of the proposed development.

22. 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 within a period of time consistent with the applicant's schedule for the proposed development. 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) building, occupancy, and other permits required for any construction or rehabilitation and occupancy of the proposed development, and (vi) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia.

23. The allocation of credits to the applicant will result in an increase, or will prevent a decrease, in the supply of decent, safe and sanitary housing at affordable rents for the low-income persons and families intended to be served by the credits under the Code.

24. The applicant and the proposed development will satisfy all requirements set forth in the Code in order to be eligible for receipt of the credits in the amount requested.

In the application of the above criteria for the selection of applicants, the objective of the authority shall be that credits shall be reserved for those developments which will best provide (with respect to location; design; quality of construction and management; cost of acquisition, rehabilitation or construction and operation; and other characteristics described in such criteria) decent, safe and sanitary housing at rents affordable to low income persons and families; will permit maximum use of the credits; will proceed successfully to completion or acquisition and operation; will qualify under the Code for such credits upon completion or acquisition; will thereafter continue to qualify for and fully utilize such credits in accordance with the requirements of the Code; and will best serve the housing needs of the Commonwealth.

If applications are being reviewed on a first-come, first-served basis or if only one application is being reviewed, the executive director shall recommend to the board of the authority that a reservation of credits be made with respect to the buildings described in each such application if he determines that such application adequately satisfies the criteria set forth above in this section.

In determining whether to recommend the selection of an application or applications, the executive director may take into account the desirability of allocating credits with respect to different developments located throughout the Commonwealth. The executive director may also give

special consideration to developments located in areas having severe shortages of low-income housing and to developments for the mentally and physically disabled and for persons and families having special housing needs.

In addition, the board may, by resolution, adopt a rating system to govern the selection of an application or applications. Under such a system, points shall be assigned to all or some of the foregoing criteria and shall be awarded to the application or applications which satisfy such criteria. Such a system may also include the assignment of points to additional requirements which the board deems necessary or desirable to promote and accomplish the above-described objective of the authority in applying such criteria. Upon adoption of such a system by the board, the executive director shall review each application and award points thereto in accordance with such system. The application or applications awarded more points shall be preferred for selection over an application or applications awarded fewer points. Such system shall be in writing and copies thereof shall be made available to the public upon request.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual credit authority limitation shall be available for reservation and allocation to buildings of developments in which "qualified nonprofit organizations" materially participate in the development and operation thereof, as described in the Code. In no event shall more than 90% of the Commonwealth's annual credit authority limitation be available for developments other than those described in the preceding sentence.

If the executive director determines not to recommend the reservation of credits to an applicant, he shall so notify the applicant.

If the executive director determines that one or more of the criteria set forth above in this section have not been adequately satisfied by any applicant, he may nevertheless in his discretion recommend to the board that the reservation be approved subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

The board shall review and consider the analysis and recommendation of the executive director for the reservation of credits, and, if it concurs with such recommendation, it shall by resolution approve the application and authorize the executive director to reserve the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the Code and these rules and regulations. If the board determines not to approve an application for a reservation of credits, the executive director shall so notify the applicant.

Upon approval by the board of a reservation of credits to an applicant, the executive director shall notify the applicant of such reservation and of any terms and

conditions imposed with respect thereto. The executive director may require the applicant to make a good faith deposit to assure that the applicant will comply with all requirements under the Code and these rules and regulations for allocation of the credits. Upon allocation of the credits, such deposit (or a pro rata portion thereof based upon the portion of credits so allocated) shall be refunded to the applicant.

The executive director may reserve or allocate credits as provided herein prior to approval, but subject to ratification, by the board if he determines that circumstances warrant such action without further delay.

As a condition to the reservation of credits, the executive director may require the submission of such legal and accounting opinions as he shall deem necessary to evidence that the buildings of the development will be entitled to the credits under the Code.

If all or certain of the buildings of a development are qualified low-income buildings as of the date the application is approved by the board and if the owner thereof is otherwise then entitled to the credits under the Code, the executive director may at that time allocate credits to such qualified low-income buildings without first providing a reservation of such credits.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development at its compliance with the schedule submitted with the application. If on the basis of such written confirmation and documentation and other available information the executive director determines that the buildings in the development which were to be qualified low-income buildings will not be placed in service within the time period required by the Code or will not otherwise qualify for such credits, then the executive director may terminate the reservation of such credits.

Any material changes to the development, as proposed in the application, occurring subsequent to the reservation of the credits therefor shall be subject to the prior written approval of the executive director. If such changes are made without the prior written approval of the executive director, he may terminate the reservation of such credits.

In the event that any reservation of credits are terminated by the executive director under this section, he may reserve or allocate, as applicable, such credits to other qualified applicants in accordance with the provisions hereof on a competitive basis, on a first-come, first-served basis, on a pro rata basis or in such other manner as he shall deem appropriate.

§ 8. Allocation of credits.

At such time as one or more of an applicant's buildings

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which have received a reservation of credits become qualified low-income buildings, the applicant shall so advise the authority, shall request the allocation of all of the credits so reserved or such portion thereof to which the applicant's buildings are then entitled under the Code, and shall submit such certifications, legal and accounting opinions, and other documentation as the executive director shall require in order to determine that the applicant's buildings are entitled to such credits under the Code and these rules and regulations. If the executive director determines that such buildings are so entitled to the credits, he shall allocate the credits (or such portion thereof to which he deems the buildings to be entitled) to the applicant's qualified low-income buildings in accordance with the requirements of the Code. If the executive director shall determine that the applicant's buildings are not so entitled to the credits, he shall not allocate the credits and shall so notify the applicant. In the event that any such applicant shall not request an allocation of all of its reserved credits or whose buildings shall be deemed by the executive director not to be entitled to any or all of its reserved credits, the executive director may reserve or allocate, as applicable, such unallocated credits to the buildings of other qualified applicants in accordance with the provisions hereof on a competitive basis, on a first-come, first-served basis, on a pro rata basis or in such other manner as he shall deem appropriate.

The executive director may prescribe such deadlines for submissions of requests for allocations of credits for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year.

Prior to the initial determination of the "qualified basis" (as defined in the Code) of the qualified low-income buildings of a development pursuant to the Code, an applicant to whose buildings credits have been reserved may request a reservation of additional credits. Subsequent to such initial determination of the qualified basis, the applicant may request an additional allocation of credits by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any request for an additional allocation of credits shall include such opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings will be entitled to such additional credits under the Code and these rules and regulations and shall be submitted, reviewed and selected by the executive director in accordance with the provisions hereof.

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Title of Regulation: VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

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

Effective Date: September 20, 1989

Summary:

The amendments increase the authority's flexibility in allocating the funds available from the authority's Virginia Housing Fund for its housing program for the mentally disabled. It permits allocation of the funding to certain types of housing sponsors or developments in order to best promote the goals of the program and, in addition, permit such special allocations to be based on the satisfaction of certain conditions.

VR 400-02-0013. Rules and Regulations for Multi-Family Housing Developments for Mentally Disabled Persons.

§ 1. Definitions.

"Closing" means the time of execution by the mortgagor of the documents evidencing the M/D loan, including the deed of trust note, deed of trust and other documents required by the authority. (In the case of a construction loan, "closing" means the initial closing of the M/D loan.)

"Construction" means construction of new structures and the rehabilitation, preservation or improvement of existing structures.

"DMHMR" means the Department of Mental Health, Mental Retardation and Substance Abuse Services of the Commonwealth of Virginia.

"Final closing" means, for a construction loan, the time of final disbursement of the M/D loan proceeds after satisfaction by the mortgagor of all of the authority's requirements therefor.

"M/D development" means a multi-family housing development intended for occupancy by persons of low and moderate income who are mentally disabled.

"M/D loan" means a mortgage loan made by the authority to finance the development, construction, rehabilitation and/or the ownership and operation of an M/D development.

"Seed loan" means a mortgage loan made by the authority to finance preconstruction or other related costs approved by the authority and the financing of which by the authority is determined by the authority to be necessary to the mortgagor's ability to obtain an M/D loan for the construction of an M/D development.

§ 2. Purpose and applicability.

The following rules and regulations will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the authority to mortgagors to provide the construction and/or permanent financing of M/D developments. These rules and regulations shall be applicable to the making of such M/D

loans directly by the authority to mortgagors, the purchase of such M/D loans, the participation by the authority in such M/D loans with mortgage lenders and any other manner of financing of such M/D loans under the Act. These rules and regulations shall not, however, apply to any M/D developments which are subject to any other rules and regulations adopted by the authority. If any M/D loan is to provide either the construction or permanent financing (but not both) of an M/D development, these rules and regulations shall be applicable to the extent determined by the executive director to be appropriate for such financing. In addition, notwithstanding the foregoing, the executive director may, in his discretion, determine that any M/D loan should be processed under the authority's Rules and Regulations for Multi-Family Housing Developments, whereupon the application for such M/D loan and any other information related thereto shall be transferred to the authority's multi-family division for processing under the aforementioned multi-family rules and regulations.

Mortgage loans may be made or financed pursuant to these rules and regulations only if and to the extent that the authority has made or expects to make funds available therefor.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any M/D development to waive or modify any provision herein where deemed appropriate by him for good cause, to the extent not inconsistent with the Act and covenants and agreements with the holders of its bonds.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations 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 closing documents as described in § 8 of these rules and regulations.

These rules and regulations 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 M/D loans under the authority's multi-family housing programs for M/D developments. These rules and regulations are subject to change at any time by the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs for M/D developments.

§ 3. Income limits and general restrictions.

The amounts payable, if any, by persons occupying M/D developments are deemed not to be rent. As a result, the

authority's income limit set forth under its rules and regulations limiting a person's or family's adjusted family income to an amount not greater than seven times the total annual rent is inapplicable; instead, in accordance with the authority's rules and regulations, the income limits for persons occupying such developments shall be as follows: All units of each M/D development, with the sole exception of those units occupied by an employee or agent of the mortgagor, shall be occupied or held available for occupancy by persons who have adjusted family incomes (as defined in the authority's rules and regulations and as determined at the time of their initial occupancy) which do not exceed 150% of the applicable area median income as determined by the authority and who are mentally disabled.

The board may establish, in the resolution authorizing any mortgage loan to finance an M/D development under these rules and regulations, income limits lower than those provided herein for the occupants of the units in such M/D development.

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 an M/D development, the occupancy of the M/D development shall comply with such limitations, and the adjusted family incomes (as defined in the authority's rules and regulations) of applicants for occupancy of all of the units in the M/D development shall be computed, for the purpose of determining eligibility for occupancy thereof under these rules and regulations 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 M/D 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 M/D developments, and (iii) the requirements set forth in the resolutions pursuant to which the notes or bonds, if any, are issued by the authority to finance the M/D developments. Copies of the authority's applicable note and bond resolutions, if any, are available upon request.

§ 4. 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 M/D developments. The term of the mortgage loan shall be equal to (i) if the M/D loan is to finance the construction of the proposed M/D development, the period determined by the executive director to be necessary to: (1) complete construction of the M/D development, and (2) consummate the final closing of the M/D loan; plus (ii) if the M/D loan is to finance the ownership and

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operation of the proposed M/D development, an amortization period set forth in the M/D 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 assistance or subsidy.

M/D 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 M/D loan commitment (which amount shall in no event exceed 95% of the fair market value of the property as determined by the authority) or such percentage of the housing development costs of the M/D 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 maximum principal amount specified in the M/D loan commitment (which amount shall in no event exceed 100% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is the Commonwealth of Virginia or any agency or instrumentality thereof, and which shall in no event exceed 95% of the fair market value of the property as determined by the authority in those cases in which the nonprofit sponsor is not the Commonwealth of Virginia or an agency or instrumentality thereof) or such percentage of the housing development costs of the M/D 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 M/D 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 M/D loan and the fulfillment of its public purpose. Such factors may include the economic feasibility of the proposed M/D development in terms of its ability to pay the projected debt service on the M/D loan and the projected operating expenses of the proposed M/D development.

The categories of cost which shall be allowable by the authority in the acquisition and construction of an M/D development financed under these rules and regulations shall include all reasonable, ordinary and necessary costs and expenses (including, without limitations, those categories of costs set forth in the authority's rules and regulations for multi-family housing developments) which are incurred by the mortgagor in the acquisition and construction of the M/D development. Upon completion of the acquisition and construction of the M/D development, the total of housing development costs shall be certified to the authority in accordance with these rules and regulations, subject to the review and determination of the authority. In lieu of such certification of housing development costs, the executive director may require such other assurances of housing development costs as he shall deem necessary to enable the authority to determine with reasonable accuracy the actual amount of such housing development costs.

The interest rate on the M/D loan shall be established at the closing and may be thereafter adjusted in accordance with the authority's rules and regulations and the terms of the deed of trust note. The authority shall charge a financing fee equal to 1.5% of the M/D 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.

§ 5. 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 M/D 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 M/D 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 M/D developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 6. Application and review.

A. Information to be submitted.

Application for an M/D 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:

1. Information with respect to the status of the proposed development site and the surrounding community;
2. Any option or sales contract to acquire the site;
3. An evaluation of the need and effective demand for the proposed M/D development in the market area of such site;
4. Information regarding the legal, business and financial status and experience of the applicant;
5. Information regarding amenities and services

proposed to be offered to the tenants;

6. A determination by DMHMR on such form or forms as the executive director may from time to time prescribe to the effect that (i) the mortgagor has the intent and ability to provide the services deemed necessary by DMHMR for the success of a housing development intended for occupancy by persons of low and moderate income who are mentally disabled, (ii) that the proposed location and type of housing are suitable for the contemplated residents and that there exists a need in the area of the proposed location for housing for the mentally disabled, and (iii) that the development is economically feasible to the extent that it is projected to have or receive funds in an amount sufficient to pay the debt service on the proposed M/D loan and to pay for all of the requisite services deemed necessary by DMHMR for the success of such a development (for those M/D developments which are to receive funding other than that directly from the mortgagor, a breakdown of the source and amount of such funding upon which DMHMR relied in making its determination must be included);

7. 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.

8. The applicant's (i) best estimates of the housing development costs and the components thereof, (ii) proposed M/D loan amount, (iii) proposed annual operating budget and the individual components thereof, (iv) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident, and (v) amount of any subsidy or assistance, including any described in item 6 above, that the applicant is requesting for the proposed M/D 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;

9. The applicant's proposed tenant selection plan which shall include, among other information that the executive director may require from time to time, the following: (i) any proposed fees to be charged to the tenants; (ii) the utilization of any subsidy or other assistance from the federal government or any other source; (iii) the proposed income levels of tenants; (iv) any arrangements contemplated by the applicant for tenant referrals or relocations from federal, state or local government agencies or community organizations; and (v) any criteria to be used for disapproving tenant applications and for establishing priorities among eligible tenant applicants.

10. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed M/D 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 M/D development; and

11. A nonrefundable processing fee equal to 0.5% of the proposed M/D loan amount. Such fee shall be applied at closing toward the payment of the authority's financing fee.

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.

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 M/D development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. Such appraisal shall not be obtained until the authority has received the processing fee required by § 6.A.11 above. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed M/D 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 closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

B. Review of the application.

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 M/D 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, recreational opportunities, shopping facilities and other factors affecting the site;

2. An evaluation of the ability, experience and financial capacity of the applicant;

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

4. A review of the tenant selection plans, including its effect on the economic feasibility of the proposed M/D development and its efficacy in carrying out the programs and policies of the authority;

5. An analysis of the drawings and specifications, the marketability of the units, the amenities and facilities to be provided to the proposed residents, and the management and maintenance characteristics of the proposed M/D development.

C. Requirement that application satisfy certain criteria.

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 M/D development, the executive director may issue a commitment for an M/D loan to the applicant with respect to the proposed M/D development provided that he has determined that all of the following criteria have been satisfied:

1. The vicinity of the proposed M/D development is and will continue to be a residential area suitable for the proposed M/D 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 M/D 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 and recreational facilities) in the area of the proposed M/D development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The applicant either owns or leases the site of the proposed M/D 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.

4. 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, maintenance and management of the proposed M/D development.

5. The application and proposed M/D development

conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these rules and regulations .

6. The proposed M/D development will assist in meeting the need for such housing in the market area of the proposed M/D development.

7. The applicant's estimates of housing development costs (i) include all costs necessary for the development and construction of the proposed M/D 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.

8. Subject to review by the authority, in the case of construction loans at final closing or in the case of permanent loans at 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 closing documents or under such other requirements as shall be agreed to by the authority.

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

10. The estimated income from the proposed M/D development, including any estimated subsidy or assistance, 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.

11. The drawings and specifications shall demonstrate that the proposed M/D development as a whole and the individual units therein shall provide safe and habitable living accommodations and environment for the contemplated residents.

12. The tenant selection plans submitted by the applicant shall comply with these rules and regulations and shall be satisfactory to the authority.

13. The proposed M/D development will comply with (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or

bonds, if any, issued or to be issued by the authority to finance the proposed M/D development and (ii) all requirements set forth in the resolutions, if any, pursuant to which such notes or bonds are issued or to be issued.

14. The prerequisites necessary for the applicant to acquire, own, construct or rehabilitate, operate and manage the proposed M/D 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 M/D development, (v) building permits, and (vi) 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 M/D 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 M/D development).

15. The proposed M/D development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

16. The proposed M/D development will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

17. Subject to a final determination by the board, the financing of the proposed M/D development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia. For the purposes of satisfying subsection B of the aforementioned code section, the term "substantial rehabilitation" means the repair or improvement of an existing housing unit, the value of which repairs or improvements equals at least 25% of the total value of the rehabilitated housing unit.

In addition, the executive director is authorized to make allocations of funds for M/D Loans to various types of housing sponsors and developments as he deems necessary or desirable to promote and accomplish the purposes set forth herein and in the Act. Any such allocation of funds may be made based upon such conditions as the executive director may require, including without limitation, one or both of the following: (i) DMHMR agrees, subject to terms and limitations acceptable to the authority, to provide funds for the developments in an amount sufficient to pay the operating costs thereof, including debt service with respect to the M/D Loan or loans applicable thereto; and (ii) the authority shall be able to finance the

developments by the issuance of bonds in such amount and under such terms and conditions as the authority deems satisfactory.

§ 7. Commitment.

If the executive director determines that the foregoing criteria set forth in § 6.C above are satisfied and that he will recommend approval of the application and issuance of the commitment therefor, he shall either (i) present his recommendations to the board or (ii) if the maximum principal amount of the M/D loan does not exceed \$300,000, issue the commitment subject to the approval and ratification of 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 either (i) in the case of an M/D loan application for which the board's approval is sought in advance of the issuance of the commitment therefor, recommend to the board that the application be approved and that a commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate or (ii) in the case of a commitment to be issued by the executive director subject to ratification by the board all in accordance with these rules and regulations, issue such commitment subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate.

The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize or ratify, as applicable, the M/D loan and the issuance of a commitment therefor, subject to such terms and conditions as the board shall require in such resolution.

The term of the M/D loan, the amortization period, the estimated housing development costs, the principal amount of the M/D loan, the terms and conditions applicable to any equity contribution by the applicant, any assurances of successful completion and operational stability of the proposed M/D development, and other terms and conditions of such M/D loan shall be set forth in the board's resolution authorizing or ratifying such M/D loan or in the commitment therefor. The resolution or the commitment shall also include such terms and conditions as the authority considers appropriate with respect to the construction of the proposed M/D development, the marketing and occupancy of such M/D development (including any income limits or occupancy restrictions other than those set forth in these rules and regulations), the disbursement and repayment of the loan, and other matters related to the construction and the ownership, operation and occupancy of the proposed M/D development. Such resolution or commitment may include a financial analysis of the proposed M/D development, setting forth the approved initial budget for the operation of the M/D development and a schedule of the estimated housing development costs. Such a resolution authorizing

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an M/D loan to a for-profit housing sponsor shall prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the M/D development, expressed as a percentage of such for-profit housing sponsor's equity in such M/D development (such equity being established in accordance with § 10 of these rules and regulations), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board shall not prescribe differing or discriminatory rates with respect to substantially similar M/D developments. The resolution shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative.

An M/D loan shall not be authorized or ratified by the board unless the board by resolution shall make the applicable findings required by § 36-55.39 of the Code of Virginia; provided, however, that the board may in its discretion authorize or ratify the M/D loan without making the finding, if applicable, required by subsection B of § 36-55.39 of the Code of Virginia, subject to the condition that such finding be made by the board prior to the financing of the M/D loan.

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.

§ 8. Closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "closing documents") required by the commitment within the time period specified. When the closing documents have been submitted and approved by the authority staff, the board has approved or ratified the commitment and has determined that the financing of the proposed M/D development meets all the applicable requirements of § 36-55.39 of the Code of Virginia, and all other requirements in the commitment have been satisfied, the closing of the M/D loan shall be held. At this closing, the 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 equity investment required by the closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of M/D loan proceeds will be made by the authority, if appropriate under the commitment and the closing documents.

The actual interest rate on the M/D loan shall be established by the executive director at the time of the execution of the deed of trust note at 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 M/D 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.

§ 9. Construction.

In the case of construction loans, the construction of the M/D development shall be performed in accordance with the closing documents. The authority shall have the right to inspect the M/D development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the closing documents and to ascertain the propriety and validity of M/D 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 M/D loan proceeds may only be made upon compliance with the terms and conditions of the closing documents with respect to any such disbursement; 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.

§ 10. Completion of construction and final closing.

In the case of construction loans, the closing documents shall specify those requirements and conditions that shall be satisfied in order for the M/D development to be deemed to have attained final completion. Upon such final completion of the M/D development, the mortgagor, general contractor, and any other parties required to do so by the closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the closing documents 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 closing documents in order to attain final completion, make the final disbursement of M/D loan proceeds, obtain any subsidy or assistance and otherwise consummate the final closing.

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

1. The total development costs, the final mortgage loan amount, the balance of M/D 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 initial amount of such monthly amortization payments, and the initial 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.

The equity investment of the mortgagor shall be the difference between the total housing development costs of the M/D development as finally determined by the authority and the final principal amount of the M/D loan as to such M/D development.

§ 11. Seed money loans.

Notwithstanding anything herein to the contrary, the executive director may, in his discretion, approve an application on such forms as he may prescribe for a seed money loan and issue a commitment therefor subject to ratification by the board.

§ 12. M/D loan increases.

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

Subsequent to closing, the authority will consider and, where appropriate, approve an M/D 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 M/D development approved by the authority which will improve the quality or value of the M/D development

or will reduce the costs of operating or maintaining the M/D development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the M/D development to properly perform an act for which the authority is solely responsible;
3. Where an M/D 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 closing to provide an M/D loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

Any such increase in the M/D loan subsequent to 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 M/D loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to an M/D loan to be financed from the proceeds of the authority's notes or bonds).

2. The obtaining by the owner of additional subsidy (if the M/D development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such M/D 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 M/D loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the M/D development.

4. A determination by the authority that the M/D loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the closing documents as approved by the authority) as is established in the resolution authorizing the M/D loan in accordance with § 4 of these rules and regulations.

5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the M/D 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 these 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 M/D loan

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at any time by an amount not to exceed 2.0% of the maximum principal amount of the M/D loan set forth in the commitment, provided that such increase is consistent with the Act and these rules and regulations. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 12 shall impose any duty or obligation on the authority to increase any M/D loan, as the decision as to whether to grant an M/D loan increase shall be within the sole and absolute discretion of the authority.

§ 13. Operation and management.

The M/D development shall be subject to certain regulatory covenants in closing documents entered into at closing between the authority and the mortgagor. Such regulatory covenants shall govern the occupancy, maintenance, operation, use and disposition of the M/D development and the activities and operation of the mortgagor. The mortgagor shall execute such other documents with regard to the regulation of the M/D development as the executive director may determine to be necessary or appropriate to protect the interests of the authority and to permit the fulfillment of the authority's duties and responsibilities under the Act and these rules and regulations.

The mortgagor shall lease the units in the M/D development only to persons who are eligible for occupancy thereof as described in § 3 of these rules and regulations. 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 M/D development and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the M/D development.

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 rules and regulations.

The authority shall have the power to supervise the mortgagor and the M/D development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the closing documents or other agreements relating to the M/D loans. The authority shall have the right to inspect the M/D development, conduct audits of all books and records of the M/D development and to require such reports as the authority deems reasonable to assure compliance with this § 13.

§ 14. 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, detrimentally affect this goal will not be approved.

The provisions set forth in this § 14 shall apply only to transfers of ownership to be made subject to the authority's deed of trust.

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 M/D 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 M/D 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 M/D development as proposed to be restructured by such transfer, and (ii) in the case of a transfer of the M/D development, the entity which proposes to acquire the M/D 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 M/D development, including a current audited financial report for the M/D 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 M/D development in a manner satisfactory to the authority.
2. The M/D development's physical and financial condition shall 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 M/D development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the M/D development, will reduce the costs of operating or maintaining the M/D development, will benefit the residents or otherwise improve the liveability of the M/D development, or will improve the financial strength and stability of the M/D 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 M/D 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 M/D development on its behalf must have the experience and ability necessary to manage the M/D development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

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. 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 M/D loan does not exceed the limitations specified in the Act and these 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, if any, 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 M/D development.

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.

E. A request for transfer of ownership shall be reviewed by the executive director and may be approved by him subject to such terms and conditions as he may require.

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 executive director.

The authority may require that the proposed ownership entity execute the then current forms of the authority's M/D loan documents in substitution of the existing M/D loan documents and/or to execute such amendments to the existing M/D 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 M/D development.

In the case of an M/D 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 M/D development and/or to protect the authority's interest as lender.

§ 15. Prepayments.

It shall be the policy of the authority that no prepayment of an M/D loan shall be made without its prior written consent for such period of time set forth in the note evidencing the M/D 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 also prohibit the prepayment of M/D loans during such period of time as deemed

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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, if any, 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 M/D development subsequent to prepayment, (ii) any actual or potential termination or reduction of any subsidy or other assistance, (iii) the current and future need and demand for low and moderate housing for mentally disabled persons in the market area of the development, (iv) the financial and physical condition of the M/D development, (v) the financial effect of prepayment on the authority and the notes or bonds, if any, issued to finance the M/D 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 M/D 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 M/D 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 M/D 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 § 15 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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to Disproportionate Share Adjustments.
VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care.

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

Effective Date: November 9, 1989

Summary:

This final amendment to the inpatient reimbursement methodology of the State Plan for Medical Assistance provides for additional reimbursement under special circumstances. The special circumstances, as

prescribed by the Congress, are that the hospital serves a disproportionately high number of Medicaid or indigent patients as compared to its nonmedicaid patients. This adopted final regulation is substantially the same as the previous emergency regulation and the proposed rules.

VR 460-02-4.191. Methods and Standards for Establishing Payment Rates - In-Patient Hospital Care.

The state agency will pay the reasonable cost of inpatient hospital services provided under the Plan. In reimbursing hospitals for the cost of inpatient hospital services provided to recipients of medical assistance.

I. For each hospital also participating in the Health Insurance for the Aged Program under Title XVIII of the Social Security Act, the state agency will apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such a hospital under Title XVIII of the Act, except that the inpatient routine services costs for medical assistance recipients will be determined subsequent to the application of the Title XVIII method of apportionment, and the calculation will exclude the applicable Title XVIII inpatient routing service charges or patient days as well as Title XVIII inpatient routine service cost.

II. For each hospital not participating in the Program under Title XVIII of the Act, the state agency will apply the standards and principles described in 42 CFR 447.250 and either (a) one of the available alternative cost apportionment methods in 42 CFR 447.250, or (b) the "Gross RCCAC method" of cost apportionment applied as follows: For a reporting period, the total allowable hospital inpatient charges; the resulting percentage is applied to the bill of each inpatient under the Medical Assistance Program.

III. For either participating or nonparticipating facilities, the Medical Assistance Program will pay no more in the aggregate for inpatient hospital services than the amount it is estimated would be paid for the services under the Medicare principles of reimbursement, as set forth in 42 CFR 447.253(b)(2), and/or lesser of reasonable cost or customary charges in 42 CFR 447.250.

IV. The state agency will apply the standards and principles as described in the state's reimbursement plan approved by the Secretary, HHS on a demonstration or experimental basis for the payment of reasonable costs by methods other than those described in paragraphs I and II above.

V. The reimbursement system for hospitals includes the following components:

(1) Hospitals were grouped by classes according to number of beds and urban versus rural. (Three groupings for rural—0 to 100 beds, 101 to 170 beds,

and over 170 beds; four groupings for urban—0 to 100, 101 to 400, 401 to 600, and over 600 beds.) Groupings are similar to those used by the Health Care Financing Administration (HCFA) in determining routine cost limitations.

(2) Prospective reimbursement ceilings on allowable operating costs were established as of July 1, 1982, for each grouping. Hospitals with a fiscal year end after June 30, 1982, were subject to the new reimbursement ceilings.

The calculation of the initial group ceilings as of July 1, 1982, was based on available, allowable cost data for all hospitals in calendar year 1981. Individual hospital operating costs were advanced by a reimbursement escalator from the hospital's year end to July 1, 1982. After this advancement, the operating costs were standardized using SMSA wage indices, and a median was determined for each group. These medians were readjusted by the wage index to set an actual cost ceiling for each SMSA. Therefore, each hospital grouping has a series of ceilings representing one of each SMSA area. The wage index is based on those used by HCFA in computing its Market Basket Index for routine cost limitations.

Effective July 1, 1986, and until June 30, 1988, providers subject to the prospective payment system of reimbursement had their prospective operating cost rate and prospective operating cost ceiling computed using a new methodology. This method uses an allowance for inflation based on the percent of change in the quarterly average of the Medical Care Index of the Chase Econometrics - Standard Forecast determined in the quarter in which the provider's new fiscal year began.

The prospective operating cost rate is based on the provider's allowable cost from the most recent filed cost report, plus the inflation percentage add-on.

The prospective operating cost ceiling is determined by using the base that was in effect for the provider's fiscal year that began between July 1, 1985, and June 1, 1986. The allowance for inflation percent of change for the quarter in which the provider's new fiscal year began is added to this base to determine the new operating cost ceiling. This new ceiling was effective for all providers on July 1, 1986. For subsequent cost reporting periods beginning on or after July 1, 1986, the last prospective operating rate ceiling determined under this new methodology will become the base for computing the next prospective year ceiling.

Effective on and after July 1, 1988, and until June 30, 1989, for providers subject to the prospective payment system, the allowance for inflation will be based on the percent of change in the moving average of the Data Resources, Incorporated Health Care Cost HCFA-Type Hospital Market Basket determined in the

quarter in which the provider's new fiscal year begins. Such providers will have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1988, for all such hospitals will be adjusted to reflect this change.

Effective on and after July 1, 1989, for providers subject to the prospective payment system, the allowance for inflation will be based on the percent of change in the moving average of the Health Care Cost HCFA-Type Hospital Market Basket, adjusted for Virginia, as developed by Data Resources, Incorporated, determined in the quarter in which the provider's new fiscal year begins. Such providers will have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1989, for all such hospitals will be adjusted to reflect this change.

The new method will still require comparison of the prospective operating cost rate to the prospective operating ceiling. The provider is allowed the lower of the two amounts subject to the lower of cost or charges principles.

(3) Subsequent to June 30, 1982, the group ceilings should not be recalculated on allowable costs, but should be updated by the escalator.

(4) Prospective rates for each hospital should be based upon the hospital's allowable costs plus the escalator, or the appropriate ceilings, or charges; whichever is lower. Except to eliminate costs that are found to be unallowable, no retrospective adjustment should be made to prospective rates.

Depreciation, capital interest, and education costs approved pursuant to HIM-15 (Sec. 400), should be considered as pass throughs and not part of the calculation.

(5) An incentive plan should be established whereby a hospital will be paid on a sliding scale, percentage for percentage, up to 25% of the difference between allowable operating costs and the appropriate per diem group ceiling when the operating costs are below the ceilings. The incentive should be calculated based on the annual cost report.

The table below presents three examples under the new plan:

Group Ceiling	Hospital's Allowable Cost Per Day \$	Difference % of Ceiling \$	Sliding Scale Incentive % of Difference
\$230	\$230	0	0

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\$230	207	23.00	10%	2.30	10%
\$230	172	57.50	25%	14.38	25%
\$280	143	76.00	33%	19.00	25%

(6) There will be special consideration for exception to the median operating cost limits in those instances where extensive neonatal care is provided.

(7) *Disproportionate share hospitals defined.*

Hospitals which have a disproportionately higher level of Medicaid patients and which exceed the ceiling ~~should~~ shall be allowed a higher ceiling based on the individual hospital's Medicaid utilization. This ~~should~~ shall be measured by the percent of Medicaid patient days to total hospital patient days. Each hospital with a Medicaid utilization of over 8.0% ~~should~~ shall receive an adjustment to its ceiling. The adjustment ~~should~~ shall be set at a percent added to the ceiling for each percent of utilization up to 30%.

Effective July 1, 1988, the following criteria shall be met before a hospital is determined to be eligible for a disproportionate share payment adjustment.

A. Criteria.

1. *A Medicaid inpatient utilization [rate] in excess of 8.0% for hospitals receiving Medicaid payments in the Commonwealth, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and*

2. *At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.*

3. *Subsection A 2 does not apply to a hospital:*

a. *At which the inpatients are predominantly individuals under 18 years of age; or*

b. *Which does not offer nonemergency obstetric services as of December 21, 1987.*

B. Payment adjustment.

1. *Hospitals which have a disproportionately higher level of Medicaid patients shall be allowed a disproportionate share payment adjustment based on the individual hospital's Medicaid utilization. The Medicaid utilization shall be determined by dividing*

the total number of Medicaid inpatient days by the [total] number of inpatient days. Each hospital with a Medicaid utilization of over 8.0% shall receive a disproportionate share payment adjustment. The disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 8.0%, times (ii) the lower of the prospective operating cost rate or ceiling.

2. *A payment adjustment for hospitals meeting the eligibility criteria in subsection A above and calculated under subsection B 1 above shall be phased in over a 3-year period. As of July 1, 1988, the adjustment shall be at least one-third the amount of the full payment adjustment; as of July 1, 1989, the payment shall be at least two-thirds the full payment adjustment; and as of July 1, 1990, the payment shall be the full amount of the payment adjustment. However, for each year of the phase-in period, no hospital shall receive a disproportionate share payment adjustment which is less than it would have received if the payment had been calculated pursuant to § V (5) of Attachment 4.19A to the State Plan in effect before July 1, 1988.*

VI. In accordance with Title 42 §§ 447.250 through 447.272 of the Code of Federal Regulations which implements § 1902(a)(13)(A) of the Social Security Act, the Department of Medical Assistance Services ("DMAS") establishes payment rates for services that are reasonable and adequate to meet the costs that shall be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards. To establish these rates Virginia uses the Medicare principles of cost reimbursement in determining the allowable costs for Virginia's prospective payment system. Allowable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);

2. The provider's trial balance showing adjusting journal entries;

3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of changes in financial position, and footnotes to the financial statements;

4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;

5. Home office cost report, if applicable; and
6. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

Although utilizing the cost apportionment and cost finding methods of the Medicare Program, Virginia does not adopt the prospective payment system of the Medicare Program enacted October 1, 1983.

VII. Revaluation of assets.

A. Effective October 1, 1984, the valuation of an asset of a hospital or long-term care facility which has undergone a change of ownership on or after July 18, 1984, shall be the lesser of the allowable acquisition cost to the owner of record as of July 18, 1984, or the acquisition cost to the new owner.

B. In the case of an asset not in existence as of July 18, 1984, the valuation of an asset of a hospital or long-term care facility shall be the lesser of the first owner of record, or the acquisition cost to the new owner.

C. In establishing an appropriate allowance for depreciation, interest on capital indebtedness, and return on equity (if applicable prior to July 1, 1986) the base to be used for such computations shall be limited to A or B above.

D. Costs (including legal fees, accounting and administrative costs, travel costs, and feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) shall be reimbursable only to the extent that they have not been previously reimbursed by Medicaid.

E. The recapture of depreciation up to the full value of the asset is required.

F. Rental charges in sale and leaseback agreements shall be restricted to the depreciation, mortgage interest and (if applicable prior to July 1, 1986) return on equity based on cost of ownership as determined in accordance with A and B above.

VIII. Refund of overpayments.

A. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

B. Offset.

If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

C. Payment schedule.

If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services ("the director") may approve a repayment schedule of up to 36 months.

A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

D. Extension request documentation.

In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

E. Interest charge on extended repayment.

Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in

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whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal factfinding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

IX. Effective October 1, 1986, hospitals that have obtained Medicare certification as inpatient rehabilitation hospitals or rehabilitation units in acute care hospitals, which are exempted from the Medicare Prospective Payment System (DRG), shall be reimbursed in accordance with the current Medicaid Prospective Payment System as described in the preceding sections I, II, III, IV, V, VI, VII, VIII and excluding V(6). Additionally, rehabilitation hospitals and rehabilitation units of acute care hospitals which are exempt from the Medicare Prospective Payment System will be required to maintain separate cost accounting records, and to file separate cost reports annually utilizing the applicable Medicare cost reporting forms (HCFA 2552 series) and the Medicaid forms (MAP-783 series).

A new facility shall have an interim rate determined using a pro forma cost report or detailed budget prepared by the provider and accepted by the DMAS, which represents its anticipated allowable cost for the first cost reporting period of participation. For the first cost reporting period, the provider will be held to the lesser of its actual operating cost or its peer group ceiling. Subsequent rates will be determined in accordance with the current Medicaid Prospective Payment System as noted in the preceding paragraph of IX.

X. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

XI. Pursuant to Item 389 E4 of the 1988 Appropriation

Act (as amended), effective July 1, 1988, a separate group ceiling for allowable operating costs shall be established for state-owned university teaching hospitals.

Hospital Reimbursement Appeals Process

§ 1. Right to appeal and initial agency decision.

A. Right to appeal.

Any hospital seeking to appeal its prospective payment rate for operating costs related to inpatient care or other allowable costs shall submit a written request to the Department of Medical Assistance Service within 30 days of the date of the letter notifying the hospital of its prospective rate unless permitted to do otherwise under § 5 E. The written request for appeal must contain the information specified in § 1 B. The department shall respond to the hospital's request for additional reimbursement within 30 days or after receipt of any additional documentation requested by the department, whichever is later. Such agency response shall be considered the initial agency determination.

B. Required information.

Any request to appeal the prospective payment rate must specify: (i) the nature of the adjustment sought; (ii) the amount of the adjustment sought; and (iii) current and prospective cost containment efforts, if appropriate.

C. Nonappealable issues.

The following issues will not be subject to appeal: (i) the organization of participating hospitals into peer groups according to location and bedsize and the use of bedsize and the urban/rural distinction as a generally adequate proxy for case mix and wage variations between hospitals in determining reimbursement for inpatient care; (ii) the use of Medicaid and applicable Medicare Principles of Reimbursement to determine reimbursement of costs other than operating costs relating to the provision of inpatient care; (iii) the calculation of the initial group ceilings on allowable operating costs for inpatient care as of July 1, 1982; (iv) the use of the inflation factor identified in the State Plan as the prospective escalator; and (v) durational limitations set forth in the State Plan (the "twenty-one day rule").

D. The rate which may be appealed shall include costs which are for a single cost reporting period only.

E. The hospital shall bear the burden of proof throughout the administrative process.

§ 2. Administrative appeal of adverse initial agency determination.

A. General.

The administrative appeal of an adverse initial agency

determination shall be made in accordance with the Virginia Administrative Process Act, § 9-6.14:11 through § 9-6.14:14 of the Code of Virginia as set forth below.

B. The informal proceeding.

1. The hospital shall submit a written request to appeal an adverse initial agency determination in accordance with § 9-6.14:11 of the Code of Virginia within 15 days of the date of the letter transmitting the initial agency determination.

2. The request for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia shall include the following information:

a. The adverse agency action appealed from;

b. A detailed description of the factual data, argument or information the hospital will rely on to challenge the adverse agency decision.

3. The agency shall afford the hospital an opportunity for an informal conference in accordance with § 9-6.14:11 of the Code of Virginia within 45 days of the request.

4. The Director of the Division of Provider Reimbursement of the Department of Medical Assistance Services, or his designee, shall preside over the informal conference. As hearing officer, the director (or his designee) may request such additional documentation or information from the hospital or agency staff as may be necessary in order to render an opinion.

5. After the informal conference, the Director of the Division of Provider Reimbursement, having considered the criteria for relief set forth in §§ 4 and 5 below, shall take any of the following actions:

a. Notify the provider that its request for relief is denied setting forth the reasons for such denial; or

b. Notify the provider that its appeal has merit and advise it of the agency action which will be taken; or

c. Notify the provider that its request for relief will be granted in part and denied in part setting forth the reasons for the denial in part and the agency action which will be taken to grant relief in part.

6. The decision of the informal hearing officer shall be rendered within 30 days of the conclusion of the informal conference.

§ 3. The formal administrative hearing: procedures.

A. The hospital shall submit its written request for a formal administrative hearing under § 9-6.14:12 of the

Code of Virginia within 15 days of the date of the letter transmitting the adverse informal agency decision.

B. At least 21 days prior to the date scheduled for the formal hearing, the hospital shall provide the agency with:

1. Identification of the adverse agency action appealed from; and

2. A summary of the factual data, argument and proof the provider will rely on in connection with its case.

C. The agency shall afford the provider an opportunity for a formal administrative hearing within 45 days of the receipt of the request.

D. The Director of the Department of Medical Assistance Services, or his designee, shall preside over the hearing. Where a designee presides, he shall make recommended findings and a recommended decision to the director. In such instance, the provider shall have an opportunity to file exceptions to the proposed findings and conclusions. In no case shall the designee presiding over the formal administrative hearing be the same individual who presided over the informal appeal.

E. The Director of the Department of Medical Assistance Services shall make the final administrative decision in each case.

F. The decision of the agency shall be rendered within 60 days of the conclusion of the administrative hearing.

§ 4. The formal administrative hearing: necessary demonstration of proof.

A. The hospital shall bear the burden of proof in seeking relief from its prospective payment rate.

B. A hospital seeking additional reimbursement for operating costs relating to the provision of inpatient care shall demonstrate that its operating costs exceed the limitation on operating costs established for its peer group and set forth the reasons for such excess.

C. In determining whether to award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care, the Director of the Department of Medical Assistance Services shall consider the following:

1. Whether the hospital has demonstrated that its operating costs are generated by factors generally not shared by other hospitals in its peer group. Such factors may include, but are not limited to, the addition of new and necessary services, changes in case mix, extraordinary circumstances beyond the control of the hospital, and improvements imposed by licensing or accrediting standards.

2. Whether the hospital has taken every reasonable

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action to contain costs on a hospital-wide basis.

a. In making such a determination, the director or his designee may require that an appellant hospital provide quantitative data, which may be compared to similar data from other hospitals within that hospital's peer group or from other hospitals deemed by the director to be comparable. In making such comparisons, the director may develop operating or financial ratios which are indicators of performance quality in particular areas of hospital operation. A finding that the data or ratios or both of the appellant hospital fall within a range exhibited by the majority of comparable hospitals, may be construed by the director to be evidence that the hospital has taken every reasonable action to contain costs in that particular area. Where applicable, the director may require the hospital to submit to the agency the data it has developed for the Virginia Health Services Cost Review Council. The director may use other data, standards or operating screens acceptable to him. The appellant hospital shall be afforded an opportunity to rebut ratios, standards or comparisons utilized by the director or his designee in accordance with this section.

b. Factors to be considered in determining effective cost containment may include the following:

- Average daily occupancy,
- Average hourly wage,
- FTE's per adjusted occupied bed,
- Nursing salaries per adjusted patient day,
- Average length of stay,
- Average cost per surgical case,
- Cost (salary/nonsalary) per ancillary procedure,
- Average cost (food/nonfood) per meal served,
- Cost (salary/nonsalary) per pharmacy prescription,
- Housekeeping cost per square foot,
- Maintenance cost per square foot,
- Medical records cost per admission,
- Current ratio (current assets to current liabilities),
- Age of receivables,
- Bad debt percentage,
- Inventory turnover,
- Measures of case mix,
- Average cost per pound of laundry.

c. In addition, the director may consider the presence or absence of the following systems and procedures in determining effective cost containment in the hospitals's operation.

- Flexible budgeting system,
- Case mix management systems,
- Cost accounting systems,
- Materials management system,
- Participation in group purchasing arrangements,

- Productivity management systems,
- Cash management programs and procedures,
- Strategic planning and marketing,
- Medical records systems,
- Utilization/peer review systems.

d. Nothing in this provision shall be construed to require a hospital to demonstrate every factor set forth above or to preclude a hospital from demonstrating effective cost containment by using other factors.

The director or his designee may require that an onsite operational review of the hospital be conducted by the department or its designee.

3. Whether the hospital has demonstrated that the Medicaid prospective payment rate it receives to cover operating costs related to inpatient care is insufficient to provide care and service that conforms to applicable state and federal laws, regulations and quality and safety standards.³

D. In no event shall the Director of the Department of Medical Assistance Services award additional reimbursement to a hospital for operating costs relating to the provision of inpatient care unless the hospital demonstrates to the satisfaction of the director that the Medicaid rate it receives under the Medicaid prospective payment system is insufficient to ensure Medicaid recipients reasonable access to sufficient inpatient hospital services of adequate quality.⁴ In making such demonstration, the hospital shall show that:

1. The current Medicaid prospective payment rate jeopardizes the long-term financial viability of the hospital. Financial jeopardy is presumed to exist if, by providing care to Medicaid recipients at the current Medicaid rate, the hospital can demonstrate that it is, in the aggregate, incurring a marginal loss.⁵

For purposes of this section, marginal loss is the amount by which total variable costs for each patient day exceed the Medicaid payment rate. In calculating marginal loss, the hospital shall compute variable costs at 60% of total inpatient operating costs and fixed costs at 40% of total inpatient operating costs; however, the director may accept a different ratio of fixed and variable operating costs if a hospital is able to demonstrate that a different ratio is appropriate for its particular institution.

Financial jeopardy may also exist if the hospital is incurring a marginal gain but can demonstrate that it has unique and compelling Medicaid costs, which if unreimbursed by Medicaid, would clearly jeopardize the hospital's long-term financial viability; and

2. The population served by the hospital seeking additional financial relief has no reasonable access to other inpatient hospitals. Reasonable access exists if

most individuals served by the hospital seeking financial relief can receive inpatient hospital care within a 30 minute travel time at a total per diem rate which is less to the Department of Medical Assistance Services than the costs which would be incurred by the Department of Medical Assistance Services per patient day were the appellant hospital granted relief.⁶

E. In determining whether to award additional reimbursement to a hospital for reimbursement cost which are other than operating costs related to the provision of inpatient care, the director shall consider Medicaid applicable Medicare rules of reimbursement.

§ 5. Available relief.

A. Any relief granted under §§ 1 through 4 above shall be for one cost reporting period only.

B. Relief for hospitals seeking additional reimbursement for operating costs incurred in the provision of inpatient care shall not exceed the difference between:

1. The cost per allowable Medicaid day arising specifically as a result of circumstances identified in accordance with § 4 (excluding plant and education costs and return on equity capital); and

2. The prospective operating cost per diem, identified in the Medicaid Cost Report and calculated by the Department of Medical Assistance Services.⁷

C. Relief for hospitals seeking additional reimbursement for (i) costs considered as "pass-throughs" under the prospective payment system, or (ii) costs incurred in providing care to a disproportionate number of Medicaid recipients, or (iii) costs incurred in providing extensive neonatal care shall not exceed the difference between the payment made and the actual allowable cost incurred.

D. Any relief awarded under §§ 1 through 4 above shall be effective from the first day of the cost period for which the challenged rate was set. Cost periods for which relief will be afforded are those which begin on or after January 4, 1985. In no case shall this limitation apply to a hospital which noted an appeal of its prospective payment rate for a cost period prior to January 4, 1985.

E. All hospitals for which a cost period began on or after January 4, 1985, but prior to the effective date of these regulations, shall be afforded an opportunity to be heard in accordance with these regulations if the request for appeal set forth in subsection A of § 1 is filed within 90 days of the effective date of these regulations.

§ 6. Catastrophic occurrence.

A. Nothing in §§ 1 through 5 shall be construed to prevent a hospital from seeking additional reimbursement for allowable costs incurred as a consequence of a natural

or other catastrophe. Such reimbursement will be paid for the cost period in which such costs were incurred and for cost periods beginning on or after July 1, 1982.

B. In order to receive relief under this section, a hospital shall demonstrate that the catastrophe met the following criteria:

1. One time occurrence;
2. Less than 12 months duration;
3. Could not have been reasonably predicted;
4. Not of an insurable nature;
5. Not covered by federal or state disaster relief;
6. Not a result of malpractice or negligence.

C. Any relief sought under this section must be calculable and auditable.

D. The agency shall pay any relief afforded under this section in a lump sum.

Footnotes:

¹ This effective date tracks an emergency regulation adopted September 29, 1988, by the Director of the Department of Medical Assistance Services, pursuant to the Code of Virginia § 9-6.14-9, and filed with the Registrar of Regulations. HCFA has not approved the inclusion of this disproportionate share adjustment policy's effective date in the State Plan for Medical Assistance.

² Refer to explanation at first footnote.

³ See 42 U.S.C. § 1396(a)(13)(A). This provision reflects the Commonwealth's concern that it reimburse only those excess operating costs which are incurred because they are needed to provide adequate care. The Commonwealth recognizes that hospitals may choose to provide more than "just adequate" care and, as a consequence, incur higher costs. In this regard, the Commonwealth notes that "Medicaid programs do not guarantee that each recipient will receive that level of health care precisely tailored to his or her particular needs. Instead, the benefit provided through Medicaid is a particular package of health care services. . . that package of services has the general aim of assuring that individuals will receive necessary medical care, but the benefit provided remains the individual services offered - not "adequate health care." Alexander v. Choate - U.S. - decided January 9, 1985, 53 U.S. L.W., 4072, 4075.

⁴ In Mary Washington Hospital v. Fisher, the court ruled that the Medicaid rate "must be adequate to ensure reasonable access." Mary Washington Hospital v. Fisher, at p. 18. The need to demonstrate that the Medicaid rate is inadequate to ensure recipients reasonable access derives directly from federal law and regulation. In its response to comments on the NPRM published September 30, 1981, HCFA points out Congressional intent regarding the access issue:

The report on H.R. 3982 states the expectation that payment levels for inpatient services will be adequate to assure that a sufficient number of facilities providing a sufficient level of services actively participate in the Medicaid Program to enable all Medicaid beneficiaries to obtain quality inpatient services. This report further states that payments should be set at a level that ensures the active treatment of Medicaid patients in a majority of

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the hospitals in the state.

46 Fed. Reg. 47970.

⁵ The Commonwealth believes that Congressional intent is threatened in situations in which a hospital is incrementally harmed for each additional day a Medicaid patient is treated – and therefore has good cause to consider withdrawal from the Program – and where no alternative is readily available to the patient, should withdrawal occur. Otherwise, although the rate being paid a hospital may be less than that paid by other payors – indeed, less than average cost per day for all patients – it nonetheless equals or exceeds the variable cost per day, and therefore benefits the hospital by offsetting some amount of fixed costs, which it would incur even if the bed occupied by the Medicaid patient were left empty.

It should be emphasized that application of this marginal loss or "incremental harm" concept is a device to assess the potential harm to a hospital continuing to treat Medicaid recipients, and not a mechanism for determining the additional payment due to a successful appellant. As discussed below, once a threat to access has been demonstrated, the Commonwealth may participate in the full average costs associated with the circumstances underlying the appeal.

⁶ With regard to the 30 minute travel standard, this requirement is consistent with general health planning criteria regarding acceptable travel time for hospital care.

⁷ The Commonwealth recognizes that in cases where circumstances warrant relief beyond the existing payment rate, it may share in the cost associated with those circumstances. This is consistent with existing policy, whereby payment is made on an average per diem basis. The Commonwealth will not reimburse more than its share of fixed costs. Any relief to an appellant hospital will be computed on an occupancy adjusted basis. Relief will be computed using patient days adjusted for the level of occupancy during the period under appeal. In no case will any additional payments made under this rule reflect lengths of stay which exceed the 21 day limit currently in effect.

VIRGINIA RACING COMMISSION

Title of Regulation: VR 662-01-01. Virginia Racing Commission Public Participation Guidelines for Adoption or Amendment of Regulations.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: November 8, 1989

Summary:

This proposed regulation sets forth the process the Virginia Racing Commission will use to obtain comments from interested and affected local governments, citizens groups and business entities regarding the regulations to govern horse racing and pari-mutuel wagering.

VR 662-01-01. Virginia Racing Commission Public

Participation Guidelines for Adoption or Amendment of Regulations.

§ 1. Generally.

A. These guidelines shall apply to all regulations subject to the Administrative Process Act which are administered by the Virginia Racing Commission. These guidelines shall not apply to regulations adopted on an emergency basis.

B. In developing any regulation governing horse racing and pari-mutuel wagering, the Virginia Racing Commission ("commission") is committed to obtaining comments from interested people. The commission intends to involve all interested parties in the development of those regulations.

C. Anyone who is interested in participating in the process of developing regulations should notify the commission in writing. This notification should be sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

1. The commission will maintain a list of the people who notified the commission in writing.

2. The commission will mail to everyone on the list a copy of the Notice of Intended Regulatory Action discussed in § 4 of these guidelines.

§ 2. Identification of needed regulations.

A. Anyone may identify the need for a new regulation or for an amendment, or addition to, or a repeal of any existing regulation. The request for a new regulation or suggested change to a current regulation should be made in writing and sent to: Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia 23208.

B. The commission, at its discretion, may consider any regulatory request or change.

§ 3. Identification of interested parties.

Before the commission develops a regulation, it will identify persons who either would be interested in or affected by the proposal. The methods for identifying interested parties shall include, but not be limited to, the following:

1. Obtaining the statewide listing of business, professional and civic associations published by the Virginia Chamber of Commerce. This list will be used to identify groups which might be interested in the regulation.

2. Using commission files to identify people who have raised questions or expressed an interest in the regulations.

3. Using a list, compiled by the commission, of persons who previously participated in public

proceedings.

4. Obtaining from the Secretary of the Commonwealth a list of all persons, associations and other who have registered as lobbyists for the most recent General Assembly session. This list will be used to identify groups which may be interested in the subject matter of the proposed regulation.

§ 4. Notification of interested parties.

A. Generally.

The commission will prepare a Notice of Intended Regulatory Action ("notice") before developing any regulation. The notice will identify the subject matter and purpose of the new regulation(s). The notice will specify a time deadline and location for interested persons to submit written comments.

B. Notifying those interested.

The methods for notifying interested persons shall include publishing the notice in the Virginia Register of Regulations (Virginia Register) and also may include the following:

1. Sending the notice to all persons identified as interested parties through the methods described in § 3 above; and
2. Requesting that groups, associations, and organizations to whom the notice is sent publish the notice in newsletters or journals or use other means available to them to inform their members.

§ 5. Public participation in regulation development.

A. Initial comment.

After interested parties have responded to the notice, the commission will determine the level of interest.

1. If sufficient interest exists, and if time permits, the commission may schedule informal meetings before the development of the proposed regulation. The meetings will determine the specific areas of interest and concern and will gather factual information on the subject of the regulation.
2. Instead of informal meetings, the commission may ask for additional written comments, concerns or suggestions on the development of the regulation from those who responded to the notice.
3. The commission may decide that the notice resulted in receipt of enough information so that it can develop the proposed regulation without either an informal meeting or additional written comments.

B. Preparing a proposed regulation.

After the initial public input on the intended regulatory action, the commission will develop a proposed regulation for review, revision and adoption.

§ 6. Submission of regulation under the Administrative Process Act.

A. After the drafting process ends, the commission-approved regulation will be submitted to the Registrar of Regulations under the Administrative Process Act (APA), Chapter 1.1:1 of Title 9, of the Code of Virginia. The commission-approved regulation will be published as a proposed regulation in the Virginia Register.

B. The commission will furnish a copy of the regulation published in the Virginia Register to persons who make such a request. A copy of the "Notice of Comment Period" form may be sent with the copy of the regulation.

C. If the commission elects to hold a public hearing, the time, date, and place will be specified. In addition, the cutoff date for people to notify the commission that they will participate in the public hearing will be set out. People who choose to participate in the public hearing will be encouraged to submit, in advance, written copies of their comments. These copies will help to ensure that comments are accurately recorded in the formal transcript of the hearing.

D. When the commission issues an order adopting a regulation, it may elect to send a notice to people who participated in the APA comment process. The notice will state that the regulation will be published in the Virginia Register and will specify the issue number.

§ 7. Publication and distribution of final regulation.

A. The commission will adopt all final regulations. The final regulations will be submitted for publication in the Virginia Register.

B. The commission will order the printing of all adopted final regulations and make appropriate distribution.

C. The distribution of any regulation will be made with a goal of increasing public knowledge of the policies of the commission and compliance with the commission's regulations.

EMERGENCY REGULATIONS

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Title of Regulation: VR 240-04-1. McGruff House Program Regulations.

Statutory Authority: § 9-173.4 of the Code Virginia.

Effective Dates: September 13, 1989 through September 1, 1990.

Summary:

Request: The Governor's approval is requested to adopt emergency regulation "McGruff House Program Regulations," pursuant to § 9-173.4 of the Code of Virginia.

Preamble:

Chapter 27 Article 1.3, § 9-173.4 authorizes the Department of Criminal Justice Services to develop regulations to implement the McGruff House Program in Virginia. These regulations contain the procedures the Department of Criminal Justice Services will use to implement, administer and promote the McGruff House Program in Virginia.

The Department of Criminal Justice Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. In addition to these regulations, a McGruff House Starter Kit produced by the National Crime Prevention Council, is available upon request from the Department of Criminal Justice Services. These Emergency Regulations shall expire on September 1, 1990 or unless other regulations are adopted before that date.

AUTHORITY TO ACT:

Chapter 27 Article 1.3, § 9-173.4 of the Code of Virginia.

PURPOSE OF THE REQUEST:

Section 9-173.4 of the Code of Virginia directs the Department of Criminal Justice Services to establish by regulation appropriate procedures governing (i) qualifications and criteria for designation as a McGruff House and participants' duties and responsibilities, such as regulations to include but not be limited to duties regarding reporting of incidents to the local law-enforcement agency and Department of Social Services' child-protective services program (ii) programs to day care centers, schools, and law-enforcement agencies, (iii) dissemination of the McGruff House symbol to day care centers, schools, and law-enforcement agencies, (iv) designation and registration of McGruff Houses with, and monitoring and periodic review of such houses by, local law-enforcement agencies, and (v) coordination of the program with the child-protective services component of the local Department of Social Services. This section became effective July 1, 1989 with civil penalties for

unauthorized use of McGruff House signs to become effective July 1, 1990.

The purpose of this request to take emergency action is to expedite the publication of regulations to provide guidance to localities currently using the McGruff House Program and to insure that persons and organizations do not unnecessarily subject themselves to civil penalties established by the McGruff House legislation. Prior to the passage of the McGruff House law, many Virginia localities were utilizing the McGruff House program.

The McGruff House legislation creates a civil penalty with a fine for unauthorized use of a McGruff House sign after July 1, 1990. If regulations to administer the McGruff House Program are pursued normally through the Administrative Process Act, there may be insufficient time from the effective date of the regulations until July 1, 1990 for existing programs or those that may have developed to implement guidelines which would be in accordance with regulations developed to administer the program.

BACKGROUND:

The 1989 General Assembly established the McGruff House Program in Virginia and directed the Department of Criminal Justice Services to administer the program and develop guidelines for its implementation. The Department of Criminal Justice Services has organized a McGruff House Advisory Committee to assist in developing the McGruff House Program regulation. Individuals on the committee represent the following state agencies: Department for Children; Department of State Police and Department of Social Services and the following organizations: Virginia PTA; Virginia Sheriff's Association; Virginia Association of Chiefs of Police and Virginia Crime Prevention Association. These organizations have recent experience with the McGruff House Program and other child safety programs.

PERSONS AFFECTED BY THIS REGULATION:

This regulation affects all local governments, schools, day-care centers, community groups and private citizens interested in participating in the McGruff House Program. Those who may be affected include, but are not limited to the following.

City, county and town governments and the law-enforcement agencies who serve them which are interested in sponsoring the McGruff House Program.

Public and private schools and day care centers interested in supporting the McGruff House Program through education of teachers, students and parents.

Community groups desiring to support the McGruff House Program in their community.

Private citizens desiring to have their homes serve as

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McGruff Houses or wishing to support the McGruff House Program.

FISCAL IMPACT:

The McGruff House Program regulations will incur costs to the Department of Criminal Justice Services to obtain and produce McGruff House promotional material estimated to be no more than \$5,000.00. Localities interested in participating in the McGruff House Program will incur cost to conduct background investigations of participants, for rental of McGruff House signs and for the purchase of training and promotional material.

PART I. DESCRIPTION.

§ 1.1. McGruff House Description.

A. A McGruff House is a home where a child in immediate emotional or physical danger or who is in immediate fear of abuse or neglect may seek temporary refuge for assistance.

B. The symbol of McGruff with the phrase "McGruff House" shall be the only symbol or logo authorized to designate a home participating in the McGruff House Program on or after July 1, 1989. Similar programs existing prior to July 1, 1989, such as Block Parents or Helping Hands, and others, are authorized to continue using their existing program symbols and program guidelines.

C. McGruff and McGruff House are copyright protected symbols used by the National Crime Prevention Coalition in its National "Take A Bite Out Of Crime" campaign. The symbol of McGruff must be used in accordance with guidelines developed by the National Crime Prevention Coalition.

PART II. REQUIREMENTS.

§ 2.1. Sponsorship.

A. Participation in the McGruff House program must be initiated by a local law-enforcement agency. A local law-enforcement agency may participate in the McGruff House Program by having the chief executive of the law-enforcement agency apply in writing on the Agency's stationery.

The letter of intent to participate in the McGruff House Program must be sent to the Director of the Department of Criminal Justice Services.

B. Only one law-enforcement agency within a city, county or town jurisdiction may sponsor the McGruff House Program for that locality. The decision as to which law-enforcement agency will sponsor the McGruff House Program is at the option of the locality wishing to

participate.

C. Upon written notification from a qualified local law-enforcement agency to participate in the McGruff House Program, the Department of Criminal Justice Services shall provide the requesting law-enforcement agency a copy of the McGruff House Regulations, a McGruff House Starter Kit and a McGruff House Participation Agreement form.

D. Qualified law-enforcement agencies which agree to participate in the McGruff House Program by signing the McGruff House Participation Agreement must develop internal policy guidelines. Agency internal guidelines, in accordance with these regulations, shall at a minimum prescribe the following procedures:

1. Recruitment
2. Participant Background Investigation
3. Training
4. Monitoring and Record Keeping

§ 2.2. Recruitment.

A. Participation in the McGruff House program is available to residents within a locality where a law-enforcement agency has agreed to participate in the McGruff House Program.

B. The law-enforcement agency may recruit participants through schools, day care programs, crime prevention programs, community groups or by other methods it deems necessary.

C. Individuals interested in participating in the McGruff House Program must apply directly with the law-enforcement agency sponsoring the McGruff House Program in the locality where they reside.

D. All persons 18 years or older residing in a home wishing to be designated a McGruff House must be listed on a McGruff House Participant's Application form. This form authorizes background investigations for all persons 18 years or older residing in the home wishing to participate.

E. Applications for participation in the McGruff House Program will be valid for one year. Annual re-application is required to continue participating in the McGruff House Program. Participating law-enforcement agencies will review and update background information of all re-applications.

F. The McGruff House Participation application form used by the law-enforcement agency must at a minimum require the following information.

1. Full names of all persons 18 years or older residing

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in the applying residence.

2. Birth dates of all persons 18 years or older residing in the applying residence.

3. Social security number or driver's license number of all persons 18 years or older residing in the applying residence.

4. Former home addresses of all persons 18 years or older residing in the applying residence for the previous five years.

5. Address of the applying home.

6. Description of any animals kept at the applying residence.

7. Description of any special conditions which may affect the safety of children who may come into contact with the applying residence.

G. Only those homes where all persons 18 years or older residing at the applying residence have passed the law-enforcement background investigation and have receive authorization from the law-enforcement agency may participate in the McGruff House Program.

§ 2.3. Background Investigation.

A. The sponsoring law-enforcement agency shall conduct a background investigation of all persons 18 years or older residing in the applying residence using the information provided on the McGruff House Participant's Application.

B. The background investigation and the information obtained from the background investigation shall be done in compliance with § 19.2-389 of the Virginia Code, dissemination of criminal history record information.

C. The background investigation of the McGruff House applicants at a minimum will include the following:

1. Local, state and federal criminal history check of all applicants.

2. Local and state check of child/domestic abuse complaints involving the applying residence or any of the applicants.

3. Local, state and federal check of outstanding arrest warrants for all applicants.

4. A neighborhood check of no less than three households in the immediate neighborhood.

D. Upon completing the background investigation, the law-enforcement agency must refuse participation in the McGruff House Program to any applying residence where any of the residents have been convicted of a felony, convicted of a narcotic drug law offense, or convicted of

any domestic or child abuse related charges, or convicted of any charge involving an offense committed against a juvenile. The law-enforcement agency may also, at its own discretion, refuse participation in the McGruff House Program to any individual or household it deems not suited for participation, based upon information gathered from the background investigation. All decisions regarding participation in the program shall be the responsibility of the participating law-enforcement agency, in accordance with these regulations.

E. Records of all applicants shall be maintained by the law-enforcement agency. Applicants shall be notified directly by the law-enforcement agency whether they have been accepted or denied within a reasonable period after the background investigation has been conducted. The law-enforcement agency may notify an organized community group, McGruff House Program, Neighborhood Watch, or other similar organizations of authorized McGruff House Program participants. Information pertaining to rejected applicants shall be kept confidential by the law-enforcement agency, unless the law-enforcement agency finds information of a nature which would require it to invoke its statutory law-enforcement obligations.

§ 2.4. Training .

A. Law-enforcement agencies participating in the McGruff House Program shall provide all participants a training session which addresses the following:

1. Review of emergency telephone numbers.

2. Review of emergency and suspicious situation reporting procedures.

3. Review of McGruff House regulations.

4. Review of basic child and community safety information.

5. Review of the procedures for the proper display and use of the McGruff House sign.

B. Participating law-enforcement agencies will advise all personnel of the purpose and regulations of the McGruff House Program and will develop appropriate policy to guide their personnel to implement and administer the McGruff House Program.

§ 2.5. Participant Duties and Responsibilities.

A. McGruff House participants must display the McGruff House Program sign in a prominent location so that it can be easily seen from the most frequently traveled public area adjoining the property of the residence. The sign shall be displayed at all times.

B. Participants must have a valid homeowner's or renter's liability insurance policy in effect.

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C. The participating residence must have a working telephone which can be used to make emergency or referral telephone calls.

D. Participants will provide the following assistance to children who call upon them for aid.

1. Telephone appropriate authorities for help.
2. Reassure and aid children who are frightened or lost.
3. Assist children who have medical emergencies by getting appropriate assistance.
4. Assist children who are immediately in fear of becoming victims of personal crimes or thefts, or who are in immediate fear of child abusers, gangs or bullies.
5. Report crimes and suspicious situations to law-enforcement officials.
6. Report to the law-enforcement agency details of all incidents where children request assistance.

E. McGruff House Program participants are not to do any of the following for children requesting assistance.

1. Personally provide first aid or administer medications, except in extreme emergencies and then only if qualified.
2. Act as an escort service or provide transportation.
3. Enforce laws.
4. Provide toilet facilities.
5. Provide baby-sitting or child care services.
6. Provide food or beverages.

F. The participating law-enforcement agency may at any time disqualify from participation any residence where any of its members engage in activity deemed by the law-enforcement agency to be detrimental to the objective of the McGruff House Program, or where any of the members are found guilty or any of the offenses noted in § 2.3 D of these regulations.

§ 2.6. Record Keeping and Monitoring.

A. Participating law-enforcement agencies are required to maintain records of the participants and activities of the McGruff House Program.

B. Participating law-enforcement agencies will provide an annual calendar year report of the status of the McGruff House Program to the Department of Criminal Justice Services. This report must be submitted by

February 1 of each year. The annual report will include the following:

1. The number of homes participating in the program at the beginning and end of each calendar year.
2. The number of new McGruff House Participant Applications.
3. The number of new McGruff House participants.
4. The number of McGruff House Participant Applicants denied and reason for denial.
5. The number of McGruff House Participant re-applications.
6. The number of homes which voluntarily discontinue participation in the McGruff House Program.
7. The number of homes removed from participation in the McGruff House Program and reasons for removal.
8. The number of incidents accompanied by a brief description where McGruff Houses were used by children in need of assistance.

§ 2.7. McGruff House Sign.

A. The McGruff House sign issued by the National Crime Prevention Coalition is the only sign authorized for use in the McGruff House Program (see attachment A).

B. The McGruff House signs may be obtained by the participating law-enforcement agency from the Utah Council for Crime Prevention, which has been designated to administer the McGruff House Program by the National Crime Prevention Coalition. The national McGruff Program Administrator may be contacted at:

Utah Council for Crime Prevention
4501 South 2700 West
Salt Lake City, UT 84119
(801) 965-4587

C. The McGruff House signs are rented for \$1.00 per sign by the participating law-enforcement agency. One sign is rented for each participating McGruff House. The rented signs are issued unique serial numbers which are issued to the participating law-enforcement agency which rents them. The law-enforcement agency will maintain a record of the serial numbers of signs issued to McGruff House participants.

D. A home which discontinues participation or is removed from participating in the McGruff House Program will return the McGruff House sign to the issuing law-enforcement agency within 15 business work days. Failure to return the McGruff House sign may subject the sign holder to a civil penalty of up to \$100.00.

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PART III. PENALTY.

§ 3.1. Penalty for Misuse.

A. Subsequent to July 1, 1990, display of a McGruff House symbol by persons not designated pursuant to §§ 9-173.4 and 9-173.5 of the Code of Virginia and these regulations to participate in the program, shall be subject to a civil penalty of up to \$100.00.

APPROVED:

/s/ Richard N. Harris
Director
Department of Criminal Justice Services
Date: August 18, 1989

/s/ Vivian E. Watts
Secretary
Transportation and Public Safety
Date: August 21, 1989

/s/ Gerald L. Baliles
Governor
Date: September 11, 1989

/s/ Joan W. Smith
Registrar of Regulations
Date: September 13, 1989

VIRGINIA HEALTH PLANNING BOARD

Title of Regulation: VR 359-01-01. Guidelines for Public Participation in Developing Regulations.

Stutory Authority: § 32.1-122.02 C of the Code of Virginia.

Effective Dates: September 22, 1989 through September 21, 1990

Summary:

1. Request: The emergency regulation is necessary in order to allow the new Virginia Health Planning Board to comply with the Administrative Process Act in developing and promulgating regulations that establish the framework for regional health planning in Virginia. Effective July 1, 1989, such regulations are mandated by § 32.1-122.02 C of the Code of Virginia.

2. Recommendation: Approval to implement the emergency regulation so that the Virginia Health Planning Board may proceed with its regulatory responsibilities in accordance with the Code of Virginia. The Virginia Health Planning Board approved the emergency regulation on August 24, 1989.

/s/ C. M. G. BATTERY, M.D., M.P.H.
State Health Commissioner

Date: August 31, 1989

CONCURRENCES

Concur:
/s/ Eva S. Teig
Secretary of Health and Human Resources
Date: September 7, 1989

AUTHORIZATION

Approved:
/s/ Gerald L. Baliles
Date: September 20, 1989

Filed:
/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: September 22, 1989

PART I. GENERAL INFORMATION.

Article 1. 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:

"Department" means the Virginia Department of Health.

"Developmental process" means those activities with respect to a particular regulation occurring between the Planning Board's dissemination of a notice of intent on that regulation and either its release of the proposed new or modified regulation for public comment or its decision not to take the regulatory action described in that notice.

"Notice of intent" means a Notice of Intended Regulatory Action as set forth in Form RR01 of the Virginia Code Commission.

"Planning Board" means the Virginia Health Planning Board.

"Regional agency" means a regional health planning agency as defined in § 32.1-122.01 of the Code of Virginia.

Article 2. Background, Authority, and Applicability.

§ 1.2. Background.

The Planning Board was created in 1989 to supervise and provide leadership for the statewide health planning system; to provide technical expertise in the development of state health policy; to receive data and information from the regional agencies and consider regional planning interests in its deliberations; to review and assess critical

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health care issues; and to make recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. The Department provides principal staff and administrative support services to the Planning Board.

§ 1.3. Authority.

In addition to its general duties and responsibilities, the Planning Board is required by § 32.1-122.02 C of the Code of Virginia to promulgate such regulations as may be necessary to effectuate the purposes of Article 4.1 (§ 32.1-122.01 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia including, but not limited to, the designation of health planning regions, the designation of regional agencies, and the composition and method of appointment of members of regional health Planning Boards.

As required by § 9-6.14:7.1 A of the Code of Virginia, these guidelines set forth the process by which the Planning Board shall solicit the input of interested parties in the formation and development of its regulations. These regulations are promulgated as emergency regulations; therefore, in accordance with § 9-6.14:4.1 C of the Code of Virginia, the Planning Board will receive, consider and respond to petitions by any interested party at any time with respect to reconsideration or revision.

§ 1.4. Applicability.

These guidelines apply to all regulations promulgated by the Planning Board except for emergency regulations adopted in accordance with § 9-6.14:9 of the Code of Virginia and such regulations as may be otherwise excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of the Administrative Process Act pursuant to § 9-6.14:4.1 C of the Code of Virginia.

PART II. GUIDELINES FOR PUBLIC PARTICIPATION.

Article 1.

Identification of Interested Parties.

§ 2.1. Interested parties list.

The Department shall prepare and maintain a list of parties who have demonstrated an interest in the Planning Board's regulations. Such list shall include, but not be limited to, the chief executive officer of each regional agency.

§ 2.2. Updating of list.

Periodically, but not less than once each biennium, the Department shall publish in the Virginia Register a notice requesting that any party interested in participating in the Planning Board's development of regulations so notify the Department. Respondents to such notices shall be

incorporated within the interested parties list; in addition, the Department may at any time revise that list based upon other information regarding parties desiring inclusion or evidence that they are no longer interested.

Article 2.

Notifications to Interested Parties.

§ 2.3. Preparation of notice.

When the Planning Board determines that specific regulations within its purview need to be created or modified it shall execute a notice of intent, and may include in that notice the date by which the Planning Board must be advised of any party interested in participating in the developmental process regarding the specified regulations.

§ 2.4. Dissemination of notice.

The notice of intent shall be published in the Virginia Register and shall be sent to each party then on the interested parties list. It may also be published in such newspapers of general circulation in Virginia as deemed appropriate by the Planning Board.

Article 3.

Soliciting Input from Interested Parties.

§ 2.5. Use of input received.

Information received through the developmental process is intended to assist the Planning Board in determining what, if any, proposed regulatory material it will offer for public comment. Failure of any party to receive information during the developmental process or to participate in that process for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The Planning Board has sole discretion over the use of any input received.

§ 2.6. Advisory panels.

Upon its review of responses to a notice of intent, the Planning Board may choose to form one or more advisory panels from among those respondents and others for the specific, limited purpose of assisting it during the relevant developmental process. There shall be at least three and no more than seven members on any such advisory panel. In the interest of stimulating open participation by advisory panel members, there shall be no official transcript of those panels' meetings; however, minutes shall be recorded as required by the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

§ 2.7. Other input.

Each respondent to a notice of intent who indicates a desire to participate in the developmental process for the specified regulations shall be provided a copy of any

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relevant draft materials prepared by the Planning Board's staff for review by the Planning Board or its designated committee during that process. They shall be invited to forward written comments within a specified time period from the date of material's dissemination. The Planning Board may establish and charge reasonable fees to cover duplication and distribution expenses attributable to the dissemination of such materials to persons who are not members of the Planning Board or its staff.

Article 4. Additional Opportunities for Public Input.

§ 2.8. Administrative Process Act procedures.

After proposed regulations have been developed by the Planning Board in accordance with these guidelines, they shall be submitted for public comment and adoption in final form in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Prior to its consideration for adoption, the Planning Board shall be provided a summary description of the nature of the oral and written data, views, or arguments presented during the public comment period. This may include written or oral responses of the Department and may also include the Department's recommendations for changes.

§ 2.9. Petitions for regulatory action.

Notwithstanding the public's right to bring regulatory issues or other matters to the attention of any member of the Planning Board, any interested person may at any time formally petition the Planning Board with respect to reconsideration or revision of existing regulations or the development of new regulations. The petition must be submitted in writing to the chairman of the Planning Board, who shall arrange for distribution to the Planning Board. The chairman shall advise the petitioner of any formal action taken by the Planning Board thereon.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

DECISION BRIEF FOR:
The Honorable Gerald L. Baliles
Governor

SUBJECT: EMERGENCY REGULATION for the DODGE
CONSTRUCTION INDEX

SUMMARY

1. REQUEST: The Governor's approval is hereby requested to adopt the emergency regulation entitled the Dodge Construction Index. This Dodge Construction Index policy will give the Department an updated standard against which to compare providers' new construction costs and a future standard for nursing home construction.

2. RECOMMENDATION: Recommend approval of the Department's request to take an emergency adoption

action regarding the Dodge Construction Index. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: August 24, 1989

3. CONCURRENCES:

Secretary of Health and Human Resources:
Concur:

/s/ Eva S. Teig
Date: August 24, 1989

4. GOVERNOR'S ACTION:

Approve:
/s/ Gerald L. Baliles, Governor
Date: September 21, 1989

5. FILED WITH:

/s/ Ann M. Brown
Deputy Registrar of Regulations
Date: September 21, 1989

DISCUSSION

6. BACKGROUND: The Department of Medical Assistance Services (DMAS) recently learned that a publication, the Dodge Construction Cost Index, referenced in its regulations as a reimbursement limit will no longer be available because of the publishing company's sale of a portion of its business. The Department needs immediate regulatory authority to update a construction limit for new facilities enrolling in Medicaid in 1989, and prospective regulatory authority to change its construction limit reference for January, 1990, and forward.

The State Plan Section 4.19 D Virginia Nursing Home Payment System, PART II, Article 1, § 2.2, B. states: "Reimbursable costs for building and fixed equipment will be based upon the high average per square foot costs in the Dodge Construction System Costs. The provider will have the option of selecting the Dodge Construction Cost Index which is effective on the date the Certificate of Need [CON] is issued or the date the facility is licensed. Total costs will be calculated by multiplying the high average per square foot cost times 385 sq. ft. (the average per bed square footage.)" A second Dodge Construction Cost reference is used also by the DMAS in its State Plan, and the differences in these two references and their use is explained below.

Dodge Average Construction Costs: This annual survey, which measured the average costs of construction for various types of businesses, included nursing homes. A low, average, and high cost were published for each building type. The DMAS has used the high average square foot cost for nursing homes as the reimbursement limit for

direct construction cost since 1982.

Dodge Historical Building Cost Indices/Multipliers: These indices measure the change in all construction costs from year to year starting with 1950. They are published for major metropolitan areas throughout the United States, and are used to update the cost of constructing a building from one year to another, and from one city to another. The major metropolitan areas published from Virginia are Richmond, Norfolk, Roanoke, and Charlottesville. These indices, which were formerly supplied to McGraw Hill, Inc. by Marshall & Swift Co., will still be published by the latter company, and have recently been received by the DMAS for Virginia for 1989. Effective October 1, 1986 the DMAS, following federal Health Care Financing Administration (HCFA) regulations, has used these indices to limit the reimbursable depreciation basis of a nursing home which changes ownership.

During 1988 McGraw Hill, Inc. sold the Dodge Construction Systems Cost portion of its business, and the Average Construction Costs Manual, used to limit new construction reimbursement, is no longer published. Subscribers to this McGraw Hill, Inc. service were not notified of the sale. The last published figure for the limit was January, 1989. No published survey data are available for January 1, 1989 and forward. This came to light earlier this year, when DMAS staff attempted to obtain the publication by which the construction limit is updated each January. There is no other source for this data.

In addition to a construction cost limit for 1989, the DMAS also needs another reference as a limit for future new construction. The recommended reference is R. S. Means and Co., which publishes a volume containing average per square foot costs (updated annually) and which the DMAS may subscribe to in lieu of the Dodge Construction Systems Costs series. Because the DMAS cannot retroactively change the Nursing Home Payment System regulations, there are only two alternatives:

1. To keep the 1988 Dodge Construction Cost limit in place with no inflation factor until such time as the regulations can be changed through the APA process, or
2. Through this emergency regulation, update the 1988 Dodge Limit by one of several possibilities which have been explored, and to reference another construction cost manual as a source for the construction cost limit in the future.

To update the Dodge limit for 1989 the most readily available and appropriate inflation factors have been surveyed as possibilities. A comparison of the change in the CPI-U, the Dodge Indexes (Simple Average of the four metropolitan areas published for Virginia), and the Means Construction Indexes (30 city average) has been made for both short-term and long-term time periods.

The Virginia average of the Dodge historical indices has

proved to be slightly less than the Means Index when compared on a 7 to 10 year time period. Over a longer time period, the percent of increase in the average Dodge indices has moved below or above either of the other indices. However, there is not a wide variation between the Dodge Index and the Means Index over a 27 year period, even though the Dodge Index is an average for Virginia and the Means Index is a 30 city nationwide average. This is attributed to the fact that both indices measure construction costs.

Over a 27 year time period, the CPI-U is higher than the preferred option. This is due to this index's reflection of changes to a different, and not necessarily appropriate segment of the economy. The CPI-U is higher than the preferred option. This is due to this index's reflection of changes to a different, and not necessarily appropriate segment of the economy. The CPI-U is not considered by the DMAS to be a viable alternative for inflating the 1988 Dodge Average Construction Cost for nursing homes.

In addition to the comparison of the percent of change in the indices, a nine year comparison of the actual high average square foot costs for a nursing home building, as shown in both the Dodge and Means publications, has been made. Historical data on the Means Survey were available back to 1980, and over the nine year period to the present. The survey results leveled out somewhat with Dodge being greater than Means for one period, but less than Means for another period. Over the most recent 4 year period of the comparison, the Means Square Foot Cost is considerably higher than the Dodge Square Foot Cost. Because of this recent history, the Department's use of the Means for 1990 and thereafter is expected to be received favorably by the regulated provider community.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to provide the Department with an operational rule as soon as possible. An effective regulation is needed for application in the Department's process of settling providers' cost reports.

8. FISCAL/BUDGETARY IMPACT: The State Plan for Medical Assistance presently references use of the Dodge Construction Cost Limit. There is no state specific Dodge

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Index by which the Department can bring the 1988 limit up to date. To adhere as closely as possible to the current regulations, DMAS proposes to apply the simple average increases for the four published localities to the 1988 Dodge Limit to compute the limit for 1989.

The per bed limit for new construction derived from this method is \$27,063 and results in a 4.5% increase for 1989 over the 1988 per bed limit of \$26,403. Providers will be given a choice, at the recommendation of the Attorney General's Office, of the outdated 1988 Dodge Limit or the inflated 1989 Limit of \$27,063 per bed. Effective January 1, 1990, the R. S. Means publication will be referenced in the State Plan as the construction code limit. The funds to allow for this procedure have been appropriated to the Department.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective upon its filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack both the authority to increase the Dodge Construction Cost Limit for 1989 and any reference for a nursing home construction cost limit for the future.

10. Approval Sought for VR 460-03-4.1940.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation.

§ 2.2. New Facilities and Bed Additions.

A. Providers shall be required to obtain three competitive bids when (1) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (2) purchasing the fixed equipment and/or major movable equipment related to such a project.

All bids must be obtained in an open competitive market manner, and full disclosure will be required by DMAS prior to initial rate setting. Related parties see § 2.10.

B. Reimbursable costs for building and fixed equipment will be based upon the high average per square foot costs in the Dodge Construction System Costs, *through December 31, 1988*. The provider will have the option of selecting the Dodge Construction Cost Index which is effective on the date the Certificate of Need (CON) is issued or the date the facility is licensed.

This provision will be effective for beds licensed after December 31, 1985. Total cost will be calculated by multiplying the high average per square foot cost times 385 sq. ft. (the average per bed square footage.)

For 1989 the provider will have the option of selecting the 1988 Dodge Construction Cost Limit, or a 1989 construction cost limit calculated by DMAS. DMAS will compute the 1989 limit by increasing the 1988 Dodge per bed limit by the simple average percent of increase from 1988 to 1989 for the four Dodge Construction Cost Indexes published for Richmond, Norfolk, Roanoke, and Charlottesville. Effective on or after January 1, 1990 reimbursable costs for building and fixed equipment will be based upon the high average square foot costs for nursing homes published annually by R. S. Means & Co.

However, in no case shall allowable reimbursed costs exceed 120 percent of the amounts approved in the original Certificate of Need.

C. Notwithstanding for foregoing provision, if the Certificate of Need is suspended by the Health Commissioner, a construction cost inflator (Dodge Construction Index) will be used to adjust the original CON values of construction or equipment costs.

D. If the provider can show through the CON significant change procedure methodology that this index does not appropriately reflect cost increases during the suspension period, the Department may grant an exception to the use of this index.

E. New facilities and bed additions to existing facilities must have prior approval under the State's Certification of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

§ 2.3. Major Capital Expenditures.

A. Major capital expenditures include, but are not limited to, major renovations (without bed increase), additions, modernization, other renovations, upgrading to new standards, and equipment purchases. Major capital expenditures are any capital expenditures costing \$100,000 or more each, in aggregate for like items, or in aggregate for a particular project. These include purchases of similar type equipment or like items within a one (1) year period (not necessarily the provider's reporting period).

B. Providers (including related organizations as defined in § 2.10) shall be required to obtain three competitive bids and Certificate of Need, if applicable before initiating any major capital expenditures.

All bids must be obtained in an open competitive manner, and full disclosure will be required by the Program prior to initial rate setting (related parties see § 2.10.)

C. Useful life will be determined by the American Hospital Association's (A.H.A.) Estimated Useful Lives of Depreciable Hospital Assets. If the item is not included here, reasonableness will be applied to determine useful life.

D. Major capital additions, modernization, renovations, and costs associated with upgrading the facility to new standards will be subject to cost limitations based upon the applicable Dodge Construction Cost Index.

APPENDIX III. COST REIMBURSEMENT LIMITATIONS.

October 1, 1986
Revised SEPTEMBER, 1987
Emergency Regulation
Second Revision August, 1989.

§ 1.1. Foreword.

A. The attached information relates to the operating and plant cost limitations presently being used by the Department of Medical Assistance Services.

B. All limitations will be adjusted on January 1 of each calendar year and will be effective for all providers new cost report period beginning on or after that date.

C. Limitations, unless otherwise specifically stated for the individual expense classification, will be increased based upon annualized escalator that is computed (without plant component) as of December 31 of each year.

D. Plant costs will not be increased by an escalator.

E. All of the operating cost limitations are further subject to the applicable ceilings.

§ 1.2. Compensation Administrator/Owner.

A. Management fees, consulting fees, and other services performed by owners are included in the total salaries if they are performing administrative duties regardless of what such services may be labeled.

B. Compensation is interpreted to mean remuneration paid regardless of the form in which it is paid. This includes, but is not limited to, salaries, professional fees, fringe benefits, insurance premiums, directors' fees, personal use of automobiles, consultant fees, management fees, travel allowances, relocation expenses in excess of IRS guidelines, bonuses, meal allowances, and payments to pension plans.

1. Salaries.

a. Administrator/owner compensation is based on a maximum amount established by Medicare and modified by the DMAS to vary according to facility bed size.

The compensation schedule is adjusted annually to reflect cost-of-living increases based upon the average annualized CPI for the preceding year. This schedule is based upon a forty (40) hour week.

b. In addition to serving as administrator, owners who provide other services to the facility must maintain adequate records to show that the services were needed, and the cost of the service, if performed by an outside consultant, contractor, et cetera.

c. Where the owner serves as administrator of a facility and also charges for other services rendered, it must be adequately documented that such services were necessary, reasonable and provided beyond the normal hours.

2. Fees.

a. Directors' Fees.

(1) Although Medicaid does not require a board of directors (Medicare requires only an annual stockholders' meeting), the Program will recognize reasonable costs for directors' meetings related to patient care.

(2) It is not the intent of DMAS to reimburse a facility for the conduct of business related to owner's investments, nor is it the intent of the Program to recognize such costs in a closely held corporation where one person owns all stock, maintains all control, and approves all decisions.

(3) To receive reimbursement for directors' meetings, the minutes must relate to content and purpose, members in attendance, the time the meeting began and ended, and the date.

(4) Bonafide directors may be paid an hourly rate of \$100 up to a maximum of four (4) hours per month. These fees include reimbursement for time, travel, and services performed.

b. Membership Fees.

(1) These allowable costs will be restricted to membership in health care organizations which promote objectives in the provider's field of health care activities.

(2) Membership fees will be allowed for the administrator, owner, and home office personnel in health care organizations.

(3) Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

c. Management Fees.

(1) External management services must be needed, cost effective, and non-duplicative of existing facility

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services.

(2) Costs to the provider, based upon a percentage of net and/or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. In addition, management fees must be reasonable and based upon rates related to services provided.

(3) Management fees paid to a related party may be recognized by the Program as the owner's compensation and may be subject to administrator salary guidelines.

(4) A management fees service agreement exists when the contractor provides non-duplicative personnel, equipment, services, and supervision.

(5) A consulting service agreement exists when the contractor provides non-duplicative supervisory or management services only.

(6) Limits will be based upon comparisons with other similar size facilities and/or other Program guidelines and information.

d. Pharmacy Consultants Fees.

Costs will be allowed to the extent they are reasonable and necessary.

e. Physical Therapy fees (For outside services).

Limits are based upon current HIM-15 guidelines.

f. Respiratory Therapy Fees (For outside services).

Limits are based upon current HIM-15 guidelines.

g. Medical Directors' Fees.

(1) Costs will be allowed up to \$6,000 per year to the extent that such fees are determined to be reasonable and proper. This limit will be escalated annually by a C.P.I.

3. Personal Automobile.

a. Use of personal automobiles when related to patient care will be reimbursed at the maximum of the allowable IRS mileage rate when travel is documented.

b. Flat rates for use of personal automobiles are unallowable.

4. Seminar Expenses.

These expenses will be recognized as allowable costs, providing the following criteria are met:

a. Seminar must be related to patient care activities, rather than promoting the interest of the owner or organization.

b. Expenses must be supported by:

1. Seminar brochure,

2. Receipts of room, board, travel, registration, and educational material.

5. Home Office Costs.

a. Home office costs must be reasonable, cost effective, non-duplicative of existing facility services, and related to patient care.

b. Limits will be based upon comparisons with other home office costs and/or other Program guidelines and information.

6. General Limitations.

a. Purchases from organizations are limited to the lower of the related organization's actual cost or the price for which comparable services could be purchased elsewhere. Such related organizations and costs must be identified by the provider in the cost report.

b. The allowance for depreciation is restricted to the straight line method with a useful life in compliance with the American Hospital Association's guidelines.

c. Rent or lease expenses are limited to the underlying historical depreciation, interest, and property tax costs.

7. Interest Rates.

a. The allowable interest rate will not exceed the average for Baa rated municipal bonds plus 1% during the week in which commitment for construction financing or closing for permanent financing takes place. Where bond issues are used as a source of financing, the date of sale will be considered as the date of closing.

8. Insurance Premiums.

Mortgage insurance premiums are allowed if required by the lending institution, if the lending institution is made a direct beneficiary, and if such premiums meet HIM-15 criteria for allowability.

9. Legal Retainer Fees.

a. DMAS will recognize legal retainer fees up to the extent of the following limitations:

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BED SIZE	LIMITATIONS
0 - 50	\$ 100 per month
51 - 100	150 per month
101 - 200	200 per month
201 - 300	300 per month
301 - 400	400 per month

b. The expense to be allowed by DMAS must be supported by an invoice and check when required by the Division of Provider Reimbursement.

10. Reserved for future use.

11. Payments to Providers.

Payments to providers are limited to the lower of cost, charges, ceiling, or actual costs for the providers' first two cost reporting periods.

12. Patient Days.

The greater of the actual days or 95 percent of the licensed bed complement shall be used to determine prospective per diem rates, except for distinct parts with thirty (30) beds or less, when 85 percent occupancy will apply. There are no occupancy limitations during a retrospective rate period.

13. Construction Cost Limitations.

a. Reimbursable cost for building and fixed equipment ~~will shall~~ be limited to and based on the high average per square foot costs in the Dodge Construction System Costs *through December 31, 1988*. The provider ~~will shall~~ have the option of selecting the Dodge Construction Cost Index which is effective on the date the COPN is issued or the date the facility is licensed. This provision ~~will shall~~ be effective for beds licensed after December 31, 1985.

Total costs ~~will shall~~ be calculated by multiplying the high average per square foot cost times 385 square feet (the average per bed square footage).

For 1989 the provider will have the option of selecting the 1988 Dodge Construction Cost Limit, or a 1989 construction cost limit calculated by DMAS. DMAS will compute the 1989 limit by increasing the 1988 Dodge per bed limit by the simple average percent of increase from 1988 to 1989 for the four Dodge Construction Cost Indexes published for Richmond, Norfolk, Roanoke, and Charlottesville. Effective on or after January 1, 1990 reimbursable costs for building and fixed equipment will be based upon the high average square foot costs for nursing homes published annually by R. S. Means & Co.

However, in no case shall allowable reimbursed costs exceed 120 percent of the amounts approved in the original Certificate of Need. The effective

limit ~~will shall~~ be updated annually in January of each year and ~~will shall~~ then apply to all new nursing home beds authorized through the COPN process or licensed during the applicable calendar year. When Section § 2.10, Related Organizations, is applied the reimbursement ~~will shall~~ be limited to the lower of the costs determined by Section § 2.2 or Section § 2.10.

b. The aggregate of the following costs ~~will shall~~ be limited to five (5) percent of the total allowable project costs:

1. Examination Fees

2. Guarantee Fees

3. Financing Expenses (service fees, placement fees, feasibility studies, etc.)

4. Underwriters Discounts

5. Loan Points

c. The aggregate of the following financing costs ~~will shall~~ be limited to two (2) percent of the total allowable project costs:

1. Legal Fees

2. Organizational Costs

3. Cost Certification Fees

4. Title and Recording Costs

5. Printing and Engraving Costs

6. Rating Agency Fees

14. Architect Fees.

a. Architect fees ~~will shall~~ be limited to the amounts and standards as published by the Virginia Department of General Services.

b. Since it is recognized that architect fees frequently include financing costs previously stated, care must be exercised to prevent duplication of such allowable costs.

15. Major Capital Expenditures.

a. Capital expenditures include but are not limited to, major renovations (without bed increase), additions, modernization, other renovations, upgrading to new standards, and equipment purchases. Major capital expenditures are any capital expenditure costing \$100,000 or more each, in aggregate for like items, or in aggregate for a particular project. These include purchases of

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similar type equipment or like items within a one-year period (not necessarily the provider's reporting period).

b. Providers shall be required to obtain three independent competitive bids (and Certificate of Needs, if applicable) before initiating any major capital expenditures.

Where the operator or a related party serves as the contractor or supplier, an itemized statement of costs may be substituted. All independent bids must be obtained in an open competitive market manner, and full disclosure will be required by DMAS prior to initial rate setting.

Useful life ~~will~~ shall be determined by the American Hospital Association's "Established Useful Lives of Depreciable Hospital Assets". If the item is not included, reasonableness ~~will~~ shall be applied to determine useful life.

d. Capital additions, modernization, renovations, and costs associated with upgrading the facility to new standards ~~will~~ shall be subject to cost limitations based upon the applicable Dodge Construction Cost Index.

31, 1989, to become effective July 1, 1988, follows:

11. Payments to Providers.

Payments to providers are limited to the lower of allowable cost, charges, or the applicable ceiling.

12. Patient Days.

The greater of the actual days or 95 percent of the licensed bed complement shall be used to determine prospective per diem rates, except for distinct parts with thirty (30) beds or less, when 85 percent occupancy will apply, and except as provided for under § 2.19 B of the Nursing Home Payment System (Supplement to Attachment 4.19 D).

16. DEPARTMENT OF MEDICAL ASSISTANCE SERVICES ADMINISTRATOR/OWNER COMPENSATION SCHEDULE JANUARY 1, 1986 - DECEMBER 31, 1986

BED SIZE	(1) NORMAL ALLOWABLE FOR ONE ADMINISTRATOR	(2) MAXIMUM FOR 2 OR MORE ADMINISTRATOR
1 - 75	29,748	44,623
76 - 100	32,260	48,387
101 - 125	37,096	55,645
126 - 150	41,934	62,901
151 - 175	46,952	70,429
176 - 200	51,792	77,685
201 - 225	55,421	83,128
226 - 250	59,049	88,574
251 - 275	62,679	94,015
276 - 300	66,308	98,568
301 - 325	69,935	104,906
326 - 350	73,565	110,349

17. Dodge Construction Cost Limit.

The Dodge Construction Cost limit for new-bed construction for nursing homes for January 1, 1986, through December 31, 1986, is \$23,962 per bed. This limit ~~will~~ shall be updated for each future calendar year using the applicable Dodge Construction limit as computed in accordance with Appendix III § 1.2, 13. *Construction Cost Limitations.*

Editor's Note: An outdated version of subdivisions 11 and 12 of § 1.2 of Appendix III were inadvertently filed for this emergency regulation. The correct text as approved by the Health Care Financing Administration on January

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 31, 1989

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS890340

Ex Parte: In the matter of adopting
Rules Governing Minimum Standards for
Medicare Supplement Policies

ORDER ADOPTING REGULATION

WHEREAS, pursuant to an order entered herein June 23, 1989, the Commission's Hearing Examiner conducted a hearing on July 25, 1989, for the purpose of considering the adoption of a revised regulation proposed by the Bureau of Insurance and entitled "Rules Governing Minimum Standards for Medicare Supplement Policies";

WHEREAS, on August 23, 1989, the Commission's Hearing Examiner filed his final report in this matter; and

THE COMMISSION, having considered the evidence and the report of its Hearing Examiner, concurs with the findings and recommendations of its Hearing Examiner and adopts his findings as its own,

THEREFORE, IT IS ORDERED that the regulation adopted in Case No. INS800072 be, and it is hereby, REPEALED; and the proposed revised regulation entitled "Rules Governing Minimum Standards for Medicare Supplement Policies", as amended, which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED, to be effective September 15, 1989.

AN ATTESTED COPY hereof together with a copy of the regulation shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who shall forthwith mail a copy of this order and the regulation to every insurance company licensed to sell medicare supplemental insurance in the Commonwealth of Virginia and file with the Clerk of the Commission an affidavit of compliance with the mailing requirements.

RULES GOVERNING MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT POLICIES

Section 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ ~~38.1-362.10 through 38.1-362.16, 38.1-362.17, 38.1-818, 38.1-818.1 and 38.1-52.13~~ §§ 38.2-3516 through 38.2-3520, 38.2-3600 through [~~38.2-3607~~ 38.2-3609], 38.2-4214, 38.2-4215, and 38.2-514 of the Code of Virginia.

Section 2. Purpose.

The purpose of this Regulation is to implement §§ ~~38.1-362.10 through 38.1-362.16, 38.1-362.17, 38.1-818 and 38.1-818.1~~ §§ 38.2-3516 through 38.2-3520, 38.2-3600 through [~~38.2-3607~~ 38.2-3609], 38.2-4214, and 38.2-4215 of the Code of Virginia with respect to Medicare supplement policies.

This Regulation is designed to:

- (a) provide reasonable standardization and simplification of terms and coverages of Medicare supplement policies;
- (b) facilitate public understanding and comparison;
- (c) eliminate provisions contained in Medicare supplement policies which may be misleading or unreasonably confusing in connection either with the purchase of such coverages or with the settlement of claims; and
- (d) provide for full disclosure in the sale of Medicare supplement coverages.

Section 3. Effective Date.

A. This Regulation shall be effective on ~~February 1, 1981~~ September [~~1, 15,~~] 1989.

B. No new policy form shall be approved on or after ~~May 1, 1981~~ September [~~1, 15,~~] 1989, unless it complies with this Regulation.

C. No policy form shall be delivered or issued for delivery in this *State Commonwealth* on or after ~~January 1, 1982~~ September [~~1, 15,~~] 1989, unless it complies with this Regulation.

~~D. This Regulation shall become effective on July 1, 1982 with respect to Medicare supplement subscriber contracts of hospital, medical or surgical plans delivered or issued for delivery in this State on and after July 1, 1982.~~

Section 4. Scope.

This Regulation shall apply to all Medicare supplement policies delivered or issued for delivery in this *State Commonwealth*.

For purposes of this Regulation:

A. A "Medicare supplement policy" (hereinafter referred to as "Medicare supplement policy" or "policy") is an individual or group policy of accident and sickness insurance or an individual or group subscriber contract of hospital, medical or surgical health services plans, or a certificate issued under a group policy or group subscriber contract, offered to individuals who are entitled to have payment made under Medicare, which is designed primarily to supplement Medicare by providing benefits for payment of hospital, medical or surgical expenses, or

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is advertised, marketed or otherwise purported to be a supplement to Medicare. Such term shall not include:

(1) A policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(2) A policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation;

(b) has been maintained in good faith for purposes other than obtaining insurance; and

(c) has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members.

B. "Applicant" means:

(1) in the case of an individual Medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits, and

(2) in the case of a group Medicare supplement policy or subscriber contract, the proposed certificate holder.

C. "Certificate" means any certificate issued under a group Medicare supplement policy, which policy has been delivered or issued for delivery in this State. *Commonwealth.*

Except as otherwise provided, nothing contained in this Regulation shall be construed to relieve an insurer of complying with the statutory requirements set forth in Title 38-1 38.2 of the Code of Virginia.

Section 5. Policy Definitions.

Except as provided hereafter, no Medicare supplement policy delivered or issued for delivery to any person in this State *Commonwealth* shall contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section.

A. "Benefit Period" shall not be defined as more restrictive than as that defined in the Medicare program.

B. "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals.

(1) The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

(a) be an institution operated pursuant to law;

(b) be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of duly licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and

(c) provide 24 hour nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

(2) The definition of the term "hospital" may state that such term shall not include:

(a) convalescent homes, convalescent, rest, nursing facilities;

(b) facilities primarily affording custodial, educational or rehabilitative care;

(c) facilities for the aged, drug addicts or alcoholics subject to the requirements of § 38.1-348.7 § 38.2-3412 of the Code of Virginia;

(d) facilities affording long term care with an average length of stay per patient in excess of thirty (30) calendar days, or

(e) any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for such services.

C. "Convalescent Nursing Home," "Extended Care Facility," or "Skilled Nursing Facility" shall be defined in relation to its status, facilities, and available services.

(1) A definition of such home or facility shall not be more restrictive than one requiring that it:

(a) be operated pursuant to law;

(b) be approved for payment of Medicare benefits or be qualified to receive such approval, if so requested;

(c) be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

(d) provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

(e) maintain a daily medical record of each patient.

(2) The definition of such home or facility may provide that such term shall not include:

(a) any home, facility or part thereof used primarily for rest;

(b) a home or facility for the aged or for the care of drug addicts or alcoholics; or

(c) a home or facility primarily used for the care and treatment of mental diseases, or disorders, or custodial or educational care.

D. "Accident," "Accidental Injury," or "Accidental Means" shall be defined to employ "result" language and shall not include words which establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization.

The definition shall not be more restrictive than the following: Injury or injuries, for which benefits are provided, means accidental bodily injury sustained by the insured person which are the direct result of an accident, independent of disease or bodily infirmity or any other cause, and which occur while the insurance is in force.

Such definition may provide that injuries shall not include :

(1) injuries for which benefits are provided under any [~~workmen's~~ workers'] compensation, employers' liability or similar law, or motor vehicle no-fault plan, unless prohibited by law ; or .

(2) injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.

E. "Sickness" shall not be defined to be more restrictive than the following: Sickness means sickness or disease of an insured person which manifests itself after the effective date of insurance and while the insurance is in force. The definition may be modified to exclude sickness or disease for which benefits are provided under any [~~workmen's~~ workers'] compensation, occupational disease, employers' liability or similar law.

F. "Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician ." and shall include providers included in §§ 38.2-3408 and 38.2-4221.

G. "Nurses" may be defined so that the description of

nurse is restricted to a type of nurse, such as registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse," "trained nurse" or "registered nurse" are used without specific description as to type, then the use of such terms requires the insurer to recognize the services of any individual who qualifies under such terminology in accordance with the applicable statutes or administrative rules of the licensing or registry board of the state.

H. "Medicare" shall be defined in the policy. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or "Title I, Part I of the Public Laws 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act," as then constituted and any later amendments or substitutes thereof, or words of similar import.

I. "Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind including physiological and psychological dependence on alcohol and drugs subject to § 38.1-348.7 § 38.2-3412 of the Code of Virginia.

J. "Non-Cancellable," or "Non-Cancellable and Guaranteed Renewable," as used in a renewability provision, shall not be defined more restrictively than one providing the insured the right to continue the policy in force by the timely payment of premiums as set forth in the policy. While the policy is in force the insurer has no right to make unilaterally any change in any provision of the policy.

K. "Guaranteed Renewable," as used in a renewability provision, shall not be defined more restrictively than one providing the insured the right to continue the policy in force by the timely payment of premiums as set forth in the policy. While the policy is in force the insurer has no right to make unilaterally any change in any provision of the policy except that the insurer may make changes in premium rates by class. Class should be defined by age, sex, occupation, or other broad categories in order to eliminate any possibilities of individual discrimination.

L. "Medical necessity," or words of similar meaning, shall not be defined more restrictively than all services rendered to an insured that are required by his medical condition in accordance with generally accepted principles of good medical practice, which are performed in the least costly setting and not only for the convenience of the patient or his physician.

Section 6. General Policy Requirements.

A. The term "Medicare benefit period" shall mean the

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unit of time used in the Medicare program to measure the use of services and availability of benefits under Part A, Medicare hospital insurance.

B. The term "Medicare eligible expenses" shall mean health care expenses of the kinds covered by Medicare, to the extent recognized as reasonable by Medicare. Payment of benefits by insurers for Medicare eligible expenses may be conditioned upon the same or less restrictive payment conditions, including determinations of medical necessity as are applicable to Medicare claims.

C. Coverage shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

D. Coverage shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be changed to correspond with such changes, subject to § ~~38.1-362.7~~ through § ~~38.1-362.9~~ §§ 38.2-3501 and 38.2-3600 through 38.2-3603 of the Code of Virginia and with any rules adopted pursuant thereto.

E. A "noncancellable," "guaranteed renewable," or "non-cancellable and guaranteed renewable" policy shall not: (a) provide for termination of coverage of the spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium; or (b) be cancelled or nonrenewed by the insurer solely on the grounds of deterioration of health. The policy shall provide that in the event of the insured's death, the spouse of the insured, if covered under the policy, shall become the insured.

F. The terms "noncancellable," "guaranteed renewable" or "noncancellable and guaranteed renewable" shall not be used without further explanatory language in accordance with the disclosure requirements of Section ~~0A(1)~~ 11A(1).

G. Termination of the policy shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

Section 7. Prohibited Policy Provisions.

A. No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to such dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than six (6) months. The initial renewal subsequent to the issuance of any policy or rider as a dividend shall clearly disclose that the policyholder is renewing the coverage that was provided as a dividend for the previous term and that

such renewal is optional with the policyholder.

B. No policy, regardless of whether such policy is issued on the basis of a detailed application form, a simplified application form or an enrollment form, shall exclude coverage for a loss due to a preexisting condition for a period greater than six (6) months following policy issue. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

C. No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

- (1) preexisting conditions or diseases subject to the requirements of Section 7B;
- (2) mental or emotional disorders, alcoholism and drug addiction, *addiction*, subject to § ~~38.1-348.7~~; § 38.2-3412;
- (3) illness, treatment or medical condition arising out of:
 - (a) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary thereto;
 - (b) suicide (sane or insane), attempted suicide or intentionally self-inflicted injury;
 - (c) aviation;
- (4) cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;
- (5) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;
- (6) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column;
- (7) treatment provided in a government hospital; benefits provided under Medicare or other governmental program (except Medicaid), any state or federal [~~workmen's~~ *workers'*] compensation, employers' liability or occupational disease law, or any

motor vehicle no-fault law; services rendered by employees of hospitals, laboratories, or other institutions; services performed by a member of the covered person's immediate family and services for which no coverage charge is normally made in the absence of insurance;

(8) dental care or treatment;

(9) eye glasses, hearing aids and examination for the prescription or fitting thereof;

(10) rest cures, custodial care, transportation and routine physical examinations ; ;

(11) territorial limitations ; *outside the United States*;

(12) services or care not medically necessary. Policies, however, may not contain when issued, limitations or exclusions of the type enumerated in items (5), (6), (10), (11) or (12) above that are more restrictive than those of Medicare. Policies may exclude coverage for any expenses to the extent of any benefit available to the insured under Medicare.

D. Waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions shall not be used.

E. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the Commission to disapprove other policy provisions in accordance with § 38.1-362.13B § 38.2-3518.B which, in the opinion of the Commission, are unjust, unfair, or unfairly discriminatory to the policyholder, beneficiary, or any person insured under the policy.

F. No Medicare supplement insurance policy, contract, or certificate in force in the Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

Section 8. Medicare Supplement Minimum Benefit Standards.

No policy shall be *advertised, solicited, delivered* or issued for delivery in this State *Commonwealth* as a Medicare supplement policy which does not meet the following minimum benefit standards. No policy may be marketed or labeled as a Medicare supplement policy nor may the terms "Medicare supplement," "Medigap" and words of similar import be used unless the policy meets the minimum benefit standards required by this Regulation. These are minimum benefit standards and do not preclude the inclusion of other benefits which are not inconsistent with these standards.

Minimum Benefit Standards

All Medicare supplement policies must fit into one of three categories:

Medicare Supplement 1

Medicare Supplement 2

Medicare Supplement 3

Medicare Supplement 1 is the minimum benefit standard required by this Regulation.

(1) A policy designated as **MEDICARE SUPPLEMENT 1** must at least include the following minimum benefits:

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(c) Upon exhaustion of all Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90% of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(d) Coverage of 20% of the amount of Medicare eligible expenses under Part

B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$200 of such expenses and to a maximum benefit of at least \$5,000 per calendar year.

(2) A policy designated as **MEDICARE SUPPLEMENT 2** must at least include the following minimum benefits:

(a) Coverage of Part A Medicare deductible;

(b) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's life-time hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90% of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage of Part A Medicare eligible expenses for extended care services in a skilled nursing

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facility during the first 100 days to the extent not covered by Medicare;

(f) Coverage of 20% of the amount of Medicare eligible expenses under Part

B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$100 of such expenses and to a maximum benefit of at least \$10,000 per calendar year.

(3) A policy designated as **MEDICARE SUPPLEMENT 3** must at least include the following minimum benefits:

(a) Coverage of the Part A Medicare deductible;

(b) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(c) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(d) Upon exhaustion of all Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90% of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(e) Coverage of Part A Medicare eligible expenses for extended care services in a skilled nursing facility during the first 100 days to the extent not covered by Medicare;

(f) Coverage of 20% of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, less the Medicare Part B deductible;

(g) Coverage for at least 80% of prescription drug expenses subject to a maximum calendar year deductible of \$100;

[(1) A.] Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount.

[(2) B.] Coverage for the daily copayment amount of Medicare Part A eligible expenses for the first eight (8) days per calendar year incurred for skilled nursing facility care.

[(3) C.] Coverage for the reasonable cost of the first three (3) pints of blood or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare Part A unless replaced in accordance with federal regulations.

[(4)(a) D. (1)] Until January 1, 1990, coverage for

twenty percent of the amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$200 of such expenses and to a maximum benefit of at least \$5,000 per calendar year.

[(5) (2)] Effective January 1, 1990, coverage for the copayment amount (20 percent) of Medicare eligible expenses excluding outpatient prescription drugs under Medicare Part B regardless of hospital confinement up to the maximum out-of-pocket amount for Medicare Part B after the Medicare deductible amount.

[(5) E.] Effective January 1, 1990, coverage under Medicare Part B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations.

[(6) F.] Effective January 1, 1990, coverage for the copayment amount (20 percent) of Medicare eligible expenses for covered home intravenous (IV) therapy drugs (as determined by the Secretary of Health and Human Services) subject to the Medicare outpatient prescription drug deductible amount, if applicable.

[(7) G.] Effective January 1, 1990, coverage for the copayment amount of Medicare eligible expenses for outpatient drugs used in immunosuppressive therapy subject to the Medicare outpatient prescription drug deductible, if applicable.

Section 9. Standards for Claims Payment.

A. Every entity providing Medicare supplement policies or contracts shall comply with all provisions of Section 4081 of the Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203).

B. Compliance with the requirements set forth in subsection A above must be certified on the Medicare supplement insurance experience reporting form.

Section 10. Loss Ratio Standards.

Medicare supplement policies shall return to policyholders in the form of aggregate benefits under the policy, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices:

A. At least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

B. At least 60 percent of the aggregate amount of premiums earned in the case of individual policies. All filings of rates and rating schedules shall demonstrate that actual and expected losses in relation to premiums comply with the requirements of this section.

C. Every entity providing Medicare supplement policies in this Commonwealth shall file annually its rates, rating schedule and supporting documentation including ratios of incurred losses to earned premiums by number of years of policy duration demonstrating that it is in compliance with the foregoing applicable loss ratio standards and that the period for which the policy is rated is reasonable in accordance with accepted actuarial principles and experience. For the purposes of this section as well as Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Policy Forms, a rate filing must be made whenever premiums are changed. Premiums may not be changed to correspond with changes in Medicare coverage without demonstrating that the loss ratio standards in subsections A and B of this section are being met.

D. As soon as practicable, but no later than sixty (60) days prior to the effective date of Medicare benefit changes required by the Medicare Catastrophic Coverage Act of 1988, every insurer, health services plan or other entity providing Medicare supplement insurance or contracts in this Commonwealth (except employers subject to the requirements of Section 421 of the Medicare Catastrophic Coverage Act of 1988), shall file with the Commission in accordance with the applicable filing procedures of this Commonwealth:

(1) Appropriate premium adjustments necessary to produce loss ratios as originally anticipated for the applicable policies or contracts. Such supporting documents as necessary to justify the adjustment shall accompany the filing. Every insurer, health services plan or other entity providing Medicare supplement insurance or benefits to a resident of this Commonwealth pursuant to Chapter 36 shall make such premium adjustments as are necessary to produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the insurer, health services plan or other entity for such Medicare supplement insurance policies or contracts. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein shall be made with respect to a policy at any time other than upon its renewal date or anniversary date. Premium adjustments shall be in the form of refunds or premium credits and shall be made no later than upon renewal if a credit is given, or within sixty (60) days of the renewal date or anniversary date if a refund is provided to the premium payer. Premium adjustments shall be calculated for the period commencing with Medicare benefit changes.

(2) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit

duplications with Medicare. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

Section 911 . Required Disclosure Provisions.

A. General Rules for All Policies:

(1) Each policy shall include a renewal, continuation or nonrenewal provision. The language or specifications of such provision must be consistent with the type of contract to be issued. Such provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

(2) Except for riders or endorsements by which the insurer fulfills a request made in writing by the policyholder or exercises a specifically reserved right under the policy ; or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement which increases benefits or coverage with an accompanying increase in premium during the policy term must be agreed to in writing signed by the insured, except unless the benefits are required by the minimum standards for Medicare supplement insurance policies or if the increased benefit or coverage is required by law or regulation.

(3) Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge shall be set forth in the policy [and the accompanying outline of coverage] .

(4) A policy [and the accompanying outline of coverage] which provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include an explanation of such terms.

(5) If a policy contains any limitations with respect to preexisting conditions such limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations."

(6) If a policy contains a conversion privilege, it shall comply, in substance, with the following:

(a) the caption of the provision shall be "Conversion Privilege," or words of similar import;

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(b) the provision shall indicate the persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised;

(c) the provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

(7) Insurers issuing accident and sickness policies, certificates or subscriber contracts, which provide hospital or medical expense coverage on an expense incurred or indemnity basis other than incidentally, to persons eligible for Medicare by reason of age, shall provide a Medicare supplement buyer's guide as required by this section. Until the Commission prescribes an alternative form, the buyer's guide will be in the form of the most current pamphlet developed jointly by the National Association of Insurance Commissioners and the Health Care Financing Administration and entitled "Guide to Health Insurance for People with Medicare." Delivery of the buyer's guide shall be made whether or not such policy, certificate, or subscriber contract meets the minimum standards as set forth in this Regulation, or whether or not such policy, certificate or subscriber contract is advertised, solicited or issued as a Medicare supplement policy as defined in this Regulation. Except in the case of direct response insurers, delivery of the buyer's guide shall be made at the time of application and acknowledgement of receipt of certification of delivery of the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide not later than at the time the policy, certificate or subscriber contract is delivered.

(8) Insurers issuing Medicare supplement policies shall provide the Medicare supplement buyer's guide subject to the requirements in (7) above.

B. Notice Requirements.

(1) As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, every insurer, health services plan or other entity providing Medicare supplement insurance or benefits to a resident of this Commonwealth shall notify its policyholders, contract holders and certificate holders of modifications it has made to Medicare supplement insurance policies or contracts in a format acceptable to the Commission. For the years 1989 and 1990 and if prescription drugs are covered in 1991, such notice shall be in a format prescribed by the Commission or in the format prescribed in Appendices A, B and C if no other format is prescribed by the Commission. In addition, such notice shall:

(a) Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy or contract, and

(b) Inform each covered person as to when any premium adjustment is to be made due to changes in Medicare.

(2) The notice of benefit modifications and any premium adjustments shall be in outline form and in clear and simple terms so as to facilitate comprehension.

(3) Such notices shall not contain or be accompanied by any solicitation.

B C . Specified Rules for Policies Which Comply with Section 8 Policy Labeling.

(1) Each policy shall be labeled with the proper designation as prescribed in Section 8.

(2) Each shall contain the following caption: The Virginia Bureau of Insurance has established three categories of Medicare supplement insurance and minimum benefit standards for each. They are Medicare Supplement 1 (the least comprehensive), Medicare Supplement 2 (more comprehensive) and Medicare Supplement 3 (the most comprehensive). Review the outline of coverage or other information provided you for an explanation of the differences between this policy and policies in the other categories.

(3) Every Medicare supplement policy must be clearly labeled as a Medicare Supplement Policy. The caption and the appropriate designation label must appear on the first page of the policy. The designation may be printed, clearly stamped or printed on gum labels. The designation shall be printed in capitals in clear, contrasting ink in 18-point type of a style in general use, and the caption label shall be printed in a clear contrasting ink in 12 18 -point type of a style in general use.

E D. Notice Regarding Policies or Subscriber Contracts Which Are Not Medicare Supplement Policies.

Any accident and sickness insurance policy or subscriber contract other than a Medicare supplement policy or subscriber contract; basic hospital expense policy or subscriber contract; basic medical-surgical expense policy or subscriber contract; major medical expense policy or subscriber contract; disability income protection policy ; income replacement policy or subscriber contract; or single premium nonrenewable policy or subscriber contract issued for delivery in this state to persons eligible for Medicare by reason of age shall notify insureds under the policy or subscriber contract that the policy or subscriber

contract is not a Medicare supplement policy. Such notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy or subscriber contract; or if no outline of coverage is delivered, to the first page of the policy, certificate or subscriber contract delivered to insureds. Such notice shall be in not less than twelve (12) point type and shall contain the following language:

"THIS (POLICY, CERTIFICATE OR SUBSCRIBER CONTRACT) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare review the Medicare Supplement Buyer's Guide available from the company."

D E. Outline of Coverage Requirements for All Medicare Supplement Policies:

(1) Insurers issuing Medicare supplement policies subject to this Regulation shall deliver an outline of coverage to the applicant at the time application is made and, except for a direct response policy, acknowledgement of receipt or certification of delivery of such outline of coverage shall be provided to the insurer; and

(2) If an outline of coverage was delivered at the time of application and the individual policy or contract is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or contract must accompany such policy or contract when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

E F. Outline of Coverage for All Medicare Supplement Policies:

An outline of coverage shall be issued in substantially the following form as prescribed below: The term "certificate" should be substituted for the word "policy" throughout the outline of coverage where appropriate. The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)

OUTLINE OF MEDICARE

SUPPLEMENT COVERAGE

(1) Read your Policy Carefully - This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your

insurance company. It is, therefore, important that you **READ YOUR POLICY CAREFULLY!**

(2) Medicare Supplement Coverage - Policies of this category are designed to supplement Medicare by covering some hospital, medical, and surgical services which are partially covered by Medicare. Coverage is provided for hospital inpatient charges and some physician charges, subject to any deductibles and copayment provisions which may be in addition to those provided by Medicare, and subject to other limitations which may be set forth in the policy. The policy does not provide benefits for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine (delete if such coverage is provided).

(3) (a) (for agents:)

Neither (insert company's name) nor its agents are connected with Medicare.

(b) (for direct response:)

(insert company's name) is not connected with Medicare.

(4) (A brief summary of the major benefit gaps in Medicare Parts A and B with a parallel description of supplemental benefits, including dollar amounts, and indexed copayments or deductibles, as appropriate, provided by the Medicare supplement coverage in the following order:)

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(5) The following charts shall accompany the outline of coverage:

<u>DESCRIPTION</u>	<u>THIS POLICY PAYS</u>	<u>YOU PAY</u>
SERVICE		
<u>PART A</u>		
INPATIENT HOSPITAL SERVICES:		
Semi-Private Room & Board		
Miscellaneous Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room		
SKILLED NURSING FACILITY CARE		
BLOOD		
<u>PARTS A & B</u>		
Home Health Services		
<u>PART B</u>		
MEDICAL EXPENSE:		
Services of a Physician/Outpatient Services		
Medical Supplies other than Prescribed Drugs		
BLOOD		
MAMMOGRAPHY SCREENING		
OUT-OF-POCKET MAXIMUM		
PRESCRIPTION DRUGS		
<u>MISCELLANEOUS</u>		
Home IV-Drug Therapy		
Immunosuppressive Drugs		
Respite Care Benefits		

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

Part B
MEDICARE BENEFITS IN

Service PART B	1988	1989	1990	1991
Medical Expense: Services of a Physician/Outpatient Services	80% of reasonable charges after an annual \$75 deductible	80% after annual \$75 deductible	80% of reasonable charges after an annual \$75 deductible	Same as '90
Medical Supplies Other than Prescribed Drugs	80% of reasonable charges after an annual \$75 deductible	80% of costs except non-replacement fees (blood deductible) for 1st 3 pints in each benefit period after \$75 deductible	80% of approved charge for elderly & disabled Medicare beneficiaries - exams available every other year for women 65 & over	Same as '89
Blood	80% of costs except non-replacement fees (blood deductible) for 1st 3 pints in each benefit period after \$75 deductible	Pays 80% of all costs except payment of deductible (equal to costs for 1st 3 pints) each calendar year	80% of approved charge for elderly & disabled Medicare beneficiaries - exams available every other year for women 65 & over	Same as '90
Mammography Screening				Same as '90
Out-of-Pocket Maximum				\$1,770 consisting of Part B \$75 deductible, Part B blood deductible and 20% co-insurance
Outpatient Prescription Drugs				There is a \$550 total deductible applicable to home IV drug and immunosuppressive drug therapies as noted below
Home IV-Drug Therapy				80% of IV therapy drugs subject to \$550 deductible (deductible waived if home therapy is a continuation of therapy initiated in a hospital
Immunosuppressive Drug Therapy				80% of IV therapy drugs subject to standard drug deductible (deductible waived if home therapy is a continuation of therapy initiated in a hospital
Respite Care Benefit				Same as '88 for 1st year following # transplant; 80% of costs during 2nd and following years (subject to \$550 deductible)

Part A
MEDICARE BENEFITS IN

Service PART A	1988	1989	1990	1991
Inpatient Hospital Services:	All but \$540 for first 60 days/benefit period	All but \$560 deductible for an unlimited number of days/calendar year	All but Part A deductible for an unlimited number of days/calendar year	All but Part A deductible for an unlimited number of days/calendar year
Semi-Private Room & Board	All but \$135 a day for 61st-90th days/benefit period			
Miscellaneous Hospital Services & Supplies, such as Drugs, X-Rays, Lab Tests & Operating Room	All but \$270 a day for 91st-150th days (if the individual chooses to use 60 nonrenewable lifetime reserve days)			
Skilled Nursing Facility Care	Nothing beyond 150 days	80% of Medicare reasonable costs for 1st 8 days per calendar year w/out prior hospitalization requirement	80% for 1st 8 days/calendar year	80% for 1st 8 days/calendar year
Blood	100% of costs for 1st 20 days (after a 3 day prior hospital confinement)	100% of costs thereafter up to 150 days/calendar year	100% for 9th-150th day/calendar year	100% for 9th-150th day/calendar year
Parts A & B	Pays all costs except nonreplacement fees (blood deductible) for first 3 pints in each benefit period	Pays all costs except payment of deductible (equal to costs for 1st 3 pints) each calendar year. Part A blood deductible and Part B extent paid under Part B	All but blood deductible (equal to costs for 1st 3 pints)	All but blood deductible (equal to costs for 1st 3 pints)
Home Health Services	Intermittent skilled nursing care and other services in the home (daily skilled nursing care for up to 21 days or longer in some cases)- 100% of covered services and 80% of durable medical equipment under both Parts A & B	Same as '88	Intermittent skilled nursing care for up to 7 days a week for up to 38 days allowing for continuation of services under unusual circumstances; other services - 100% of covered services and 80% of durable medical equipment under both Parts A & B	Same as '90

State Corporation Commission

~~(5)~~ (6) (Statement that the policy does or does not cover the following:)

- (a) Private duty nursing.
- (b) Skilled nursing home care costs (beyond what is covered by Medicare).
- (c) Custodial nursing home care costs.
- (d) Intermediate nursing home care costs.
- (e) Home health care (above number of visits covered by Medicare).
- (f) Physicians charges (above Medicare's reasonable charge).
- (g) Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay).
- (h) Care received outside of U.S.A.
- (i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.

~~(6)~~ (7) (A description of any policy provision which excludes, eliminates, resists, reduces, limits, delays, or in any other manner operates to qualify payment of the benefits described in (4) above, including conspicuous statements:)

- (a) (That the chart summarizing Medicare benefits only briefly describes such benefits.)
- (b) (That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.)

~~(7)~~ (8) (A description of policy provisions respecting renewability or continuation of coverage, including any reservation of right to change premium.)

~~(8)~~ (9) (The amount of premium for this policy.)

~~(9)~~ (Companies have the option of including the following disclosure information in The Outline of Coverage or using a supplementary form.)

MEDICARE SUPPLEMENT CATEGORIES

All individual Medicare supplement policies sold in Virginia must fit into one of three categories: Medicare Supplement 1 (the least comprehensive), Medicare Supplement 2 (more comprehensive) and Medicare Supplement 3 (the most comprehensive).

These categories were set up as a guide for you. Select the category that provides the range of benefits that you

want. Shop around and compare benefits and premium costs for policies in that category. Then choose the policy that best suits your needs and budget.

The following chart explains the coverages provided by each category:

SECTION ~~10~~ 12. Requirements for Replacement.

A. Application forms shall include a question designed to elicit information as to whether the insurance to be issued is intended to replace any other accident and sickness insurance presently in force.

B. Upon determining that a sale will involve replacement, an insurer, other than a direct response insurer, or its agent shall furnish the applicant, prior to issuance or delivery of the policy, the notice described in (C) below. An insurer may satisfy this requirement by printing the required replacement notice on the application. One (1) copy of such notice or section of the application containing such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy, the notice described in (D) below.

C. The notice required by (B) above for an insurer, other than a direct response insurer, shall provide, in substantially the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS INSURANCE

According to your application, you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (insert Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to

terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded. The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

D. The notice required by (B) above for a direct response insurer shall be as follows:

**NOTICE TO APPLICANT REGARDING
REPLACEMENT OF ACCIDENT AND SICKNESS
INSURANCE**

According to your application, you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (insert Company Name) Insurance Company. Your new policy provides 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have, (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (insert Company Name and Address) within 10 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

Section 13. Filing Requirements for Advertising.

Every insurer, health services plan or health maintenance organization providing Medicare supplement insurance or benefits in this Commonwealth shall file with the Commission a copy of any Medicare supplement advertisement intended for use in this Commonwealth whether through written, radio or television medium.

Section 14. Severability.

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

APPENDIX A SERVICES

[COMPANY NAME]

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT INSURANCE - 1989

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1989. ADDITIONAL CHANGES WILL OCCUR ON MEDICAL BENEFITS IN FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES, YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE, ALSO. THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1989 Medicare Will Pay Per Calendar Year	Your 1988 Coverage Per Benefit Period	Effective January 1, 1989 Your Coverage Will Pay Per Calendar Year
MEDICARE PART A SERVICES AND SUPPLIES	First 60 days - All but \$540 61st to 90 day - All but \$135 a day 91st to 150 day - All but \$270 a day (if individual chooses to use 60 nonrenewable lifetime reserve days) Beyond 150 days - Nothing	Unlimited number of hospital days after \$[560] deductible		
SKILLED NURSING FACILITY CARE	Requires a 3 day prior stay and enter the facility generally within 30 days after hospital discharge First 20 days - 100% of costs 21st through 100th day - All but \$67.50 a day Beyond 100 days - Nothing	There is no prior confinement requirement for this benefit First 8 days - All but \$[22.00] a day 9th through 150th day - 100% of costs Beyond 150 days - Nothing		

MEDICARE PART B SERVICES AND SUPPLIES

Medicare Now Pays Per Calendar Year
80% of allowable charges (after \$75 deductible)

In 1989 Medicare Part B Pays the Same as in 1988

NOTE: Medicare benefits change on January 1, 1990 as follows: 80% of allowable charges (after \$[75] deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1990 is \$1370* and will be adjusted on an annual basis.

YOUR MEDICARE SUPPLEMENT COVERAGE

Your Policy Now Pays
Effective January 1, 1989 Your Policy Will Pay

PRESCRIPTION DRUGS

Inpatient prescription drugs only.

In 1989 Medicare covers inpatient prescription drugs only.

Effective January 1, 1990 Per Calendar Year 80% of allowable charges for some intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after \$[550 in 1990] calendar year deductible is met.

Effective January 1, 1991 Per Calendar Year inpatient prescription drugs: 50% of allowable charges for all other outpatient prescription drugs after a \$600 calendar year deductible is met (the deductible will change). Coverage will increase to 60% of allowable charges in 1992 and to 80% of allowable charges from 1993 on.

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about premium adjustments that may be necessary due to changes in Medicare benefits, or when premium changes, information will be sent.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT] [ADDRESS/PHONE NUMBER]

APPENDIX B SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

[COMPANY NAME]

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT INSURANCE - 1990

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1990. ADDITIONAL CHANGES WILL OCCUR IN MEDICAL BENEFITS IN FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES, YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE. ALSO, THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

PRESCRIPTION DRUGS

Medicare Now Pays
Per Calendar Year

Effective January 1, 1990
Medicare Will Pay Per
Calendar Year

Your Coverage Now
Pays Per Calendar Year

Effective January 1, 1990
Your Coverage Will Pay
Per Calendar Year

Inpatient prescription
drugs.

Inpatient prescription drugs.
80% of allowable charges for
home intravenous (IV) therapy
drugs and 50% of allowable
charges for immunosuppressive
drugs after (\$550 in 1990)
calendar year deductible is
met.

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

Medicare Now Pays
Per Calendar Year

Effective January 1, 1990
Medicare Will Pay
Per Calendar Year

Your Coverage Now
Pays Per Calendar Year

Effective January 1, 1990
Your Coverage Will Pay
Per Calendar Year

MEDICARE PART A
SERVICES AND
SUPPLIES

Unlimited number of
hospital days after
\$[560] deductible

SKILLED NURSING
FACILITY CARE

There is no prior
confinement require-
ment for this benefit

First 8 days -
All but \$[] a day

9th through 150 day -
100% of costs

Beyond 150 days -
Nothing

[Include information about premium adjustments that may be necessary due to changes in Medicare benefits, or when premium changes, information will be sent.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT] [ADDRESS/PHONE NUMBER]

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

Medicare Now Pays
Per Calendar Year

Effective January 1, 1990
Medicare Will Pay Per
Calendar Year

Your Coverage Now
Pays Per Calendar Year

Effective January 1, 1990
Your Coverage Will Pay
Per Calendar Year

MEDICARE PART B
SERVICES AND
SUPPLIES

80% of allowable
charges (after \$75
deductible)

80% of allowable charges
(after \$75 deductible)
until an annual Medicare
Catastrophic Limit* is met.
100% of allowable charges
for the remainder of the
calendar year. The limit in
1990 is \$1370 and will be
adjusted on an annual basis.

APPENDIX C

[COMPANY NAME]

NOTICE OF CHANGES IN MEDICARE AND YOUR MEDICARE SUPPLEMENT INSURANCE - 1991

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1991. ADDITIONAL CHANGES WILL OCCUR IN MEDICAL BENEFITS IN FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE, ALSO. THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

SERVICES MEDICARE BENEFITS YOUR MEDICARE SUPPLEMENT COVERAGE

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
MEDICARE PART A SERVICES AND SUPPLIES	Unlimited number of hospital days after \$[] deductible			
SKILLED NURSING FACILITY CARE	There is no prior confinement requirement for this benefit. First 8 days - All but \$[] a day 9th through 150 day - 100% of costs Beyond 150 days - Nothing			

SERVICES MEDICARE BENEFITS YOUR MEDICARE SUPPLEMENT COVERAGE

SERVICES	MEDICARE BENEFITS		YOUR MEDICARE SUPPLEMENT COVERAGE	
	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
MEDICARE PART B SERVICES AND SUPPLIES	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit is met. 100% of allowable charges for the remainder of the calendar year. The Limit in 1990 is \$[] and will be adjusted on an annual basis.	80% of allowable charges (after \$75 deductible) until an annual Medicare Catastrophic Limit* is met. 100% of allowable charges for the remainder of the calendar year. The limit in 1991 is \$[] and will be adjusted on an annual basis.		

SERVICES

MEDICARE BENEFITS

YOUR MEDICARE SUPPLEMENT COVERAGE

	Medicare Now Pays Per Calendar Year	Effective January 1, 1991 Medicare Will Pay Per Calendar Year	Your Coverage Now Pays Per Calendar Year	Effective January 1, 1991 Your Coverage Will Pay Per Calendar Year
	PRESCRIPTION DRUGS	Inpatient prescription drugs. 80% of allowable charges for home IV therapy drugs and 50% of allowable charges for immunosuppressive drugs after a \$550 calendar year deductible is met.	Same as 1990 and 50% of allowable charges for all other outpatient prescription drugs after \$600 calendar year deductible is met.	

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about premium adjustments that may be necessary due to changes in Medicare benefits, or when premium changes, information will be sent.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT] [ADDRESS/PHONE NUMBER]

State Corporation Commission

STATE CORPORATION COMMISSION

May 18, 1987

TO: ALL INVESTOR-OWNED UTILITIES OPERATING IN VIRGINIA

Enclosed is an additional instruction circular regarding the filing of securities applications with the Commission. This circular is to supplement those provided with letter dated March 6, 1987. This circular concerns the identification of affiliated interests in connection with applications to issue securities under the Public Utilities Securities Law. This circular as well as those provided with the March 6 letter will remain in effect until such time as changes in Commission policy occur. If you have any questions, please call Robert C. Dalton at (804) 786-4958.

/s/ Ronald A. Gibson
Director

Finance Circular No. 5

Identification of Affiliated Interests in Connection with Application to Issue Securities Under the Public Utilities Securities Law

In connection with any applications for authority to issue securities, it is requested that arrangements with any party considered to be an affiliate as defined in § 56-76 of the Code of Virginia be identified in the application, such identification to include a precise description of the affiliation. Securities applications which involve arrangements with an affiliate should be filed under both Chapters 3 and 4 of Title 56, Code of Virginia.

FINANCE CIRCULAR NO. 6
SEPTEMBER 1, 1989

TO ALL SMALL INVESTOR-OWNED TELEPHONE UTILITIES

RE: Section 56-533, Regulation by State Corporation Commission, of Chapter 19, Small Investor-Owned Telephone Utility Act, of the Code of Virginia.

This is to advise that the Virginia State Corporation Commission has determined that the above-referenced section refers to all small investor-owned telephone utilities as defined in § 56-531, Chapter 19 of the Code of Virginia as subject to Chapter 3, Title 56 of the Code of Virginia and will be required to file for approval of the issuance of securities thereunder, if affiliated interests exist. Securities issuances require Commission approval even if affiliates are not involved in the financing.

Enclosed you will find a package of circulars containing instructions and guidelines for filing applications under Chapter 3 (Securities Act) as well as Chapter 4 (Affiliates Act).

Any questions concerning this determination should be directed to Robert C. Dalton (804) 786-4958.

ACCOUNTING AND FINANCE CIRCULAR

June 21, 1989

TO ALL INVESTOR-OWNED UTILITIES OPERATING IN VIRGINIA

Enclosed are four instruction circulars regarding the filing of securities and/or affiliates applications and applications involving the transfer of assets with the Commission. Each circular is designed to provide information we need to process your application as efficiently as possible. Please note changes in Circular No. 4.

Circular No. 1 - General Instructions for Filing Securities and/or Affiliates and/or Asset Transfer Transactions. These general instructions will be modified with changes in Commission policy.

Circular No. 2 - Annual Financing Plan. Each investor-owned utility with revenues over \$1,000,000 should file a prospective financing plan each year by January 31.

- Review of Variable Rate Long-Term Debt and Preferred Stock. Each utility filing an Annual Financing Plan should file a Review of Variable Rate Long-Term Debt and Preferred Stock each year by January 31.

Circular No. 3 - Financing Summary. A Financing Summary should be filed with each Chapter 3 application and is designed to outline the essential components of each application.

Circular No. 4 - Separation of Combined Securities and Affiliates Applications.

This letter supersedes the letters dated January 30, 1985, October 8, 1985, December 19, 1985, and March 6, 1987 (all previous Finance Circulars). The circulars will become effective as of the date of this correspondence and will remain in effect until such time as changes in Commission policy occur.

If you have any questions of if you would like to schedule a session with our Staff to discuss the type of information needed in the Financing Summary portion of securities applications or any other matter relating to filings covered by this letter, please call Robert C. Dalton (804) 786-4958.

/s/ Ronald A. Gibson
Director

Finance Circular No. 1

General Instructions for Filing Securities, Affiliates, and/or Utility Transfers Applications

A) Applications must be filed with the Document Control

State Corporation Commission

Center. Mailing address:

Document Control Center
Jefferson Building - B1
P.O. Box 2118
Richmond, Virginia 23216

- B) Pursuant to Virginia Code § 56-75, appropriate filing fees must accompany Chapter 3 and joint applications involving Chapter 3 of Title 56 of the Virginia Code and also must be filed with the Document Control Center. Applications which do not have appropriate filing fees will not be regarded as filed for the purposes of Virginia Code § 56-61, and no further processing of this application will occur. Checks for such fees should be made payable to "State Corporation Commission."
- C) Document Control Center must have an original application and four (4) copies. Additional copies of the application must be provided if requested.
- D) Each securities application, including joint applications involving Chapter 3, should contain a Financing Summary, as described in Finance Circular No. 3. Securities applications and applications involving Chapter 3 which do not contain a Financing Summary or which are accompanied by a Financing Summary that is not fully completed or not entirely responsive to Financing Summary items will not be regarded as filed for the purposes of Virginia Code § 56-61. In that case, no further processing of the application will occur.
- E) Securities applications filed by companies which have not filed an Annual Financing Plan as required in Finance Circular No. 2 will not be processed until the required financing plan has been filed.
- F) If an application involving Chapter 3 fails in any respect to be complete, (as described in (B), (D), and (E) above), the application will not be processed and will not be regarded as filed. The application will be returned, accompanied by a letter describing what is needed before the application is considered filed. The Commission's Accounting and Finance Staff will review applications as to completeness.
- G) When joint applications are filed involving Chapter 3, the Accounting and Finance Staff may separate the Chapter 3 portion of the application and process that portion of the application in accordance with the time for the decision-making process specified by Virginia Code § 56-61. For example, if an application for approval of a stock issuance and service agreement is filed jointly, the Staff will process the stock issuance within the 25 day framework set out in § 56-61, subject to the applicable continuances specified therein, and may process the service agreement within a 45 day framework. In the event the application involves issuance of a security to an affiliate, the Staff

will again apply the timetable for decision specified in § 56-61.

- H) All applications involving Chapter 3 of Title 56 should be filed so as to allow 25 days before a decision is needed. Amendments to these applications will restart the 25 day time period in which the Commission may render its decision. In the event a joint application involving Chapter 3 is filed, the portion of the application relating to Chapter 3 may be separated from the joint application and processed separately from the remainder of the joint application.
- I) All affiliates applications and applications involving Chapter 5 should be filed so as to allow 45 days before a decision is needed.

Finance Circular No. 2

Annual Financing Plan

(to be filed with Director of Accounting and Finance)

In an effort to understand the financing needs of the major electric, gas, water and telephone utilities better, we request that you provide us each year by January 31, a proposed financing plan for that calendar year currently underway.

The plan should include:

- (a) A description of the proposed mix of securities that will be raised externally for the company operating the Virginia jurisdictional business;
- (b) A list of the purposes for which the funds will be raised both internally and externally (capital outlays should be segregated by major projects);
- (c) A pro forma balance sheet for the end of the upcoming calendar year;
- (d) A statement of cash requirements and sources of cash for the upcoming calendar year; and
- (e) A brief narrative describing the logic that led your company to suggest the proposed financing mix. This should include Company's target capital structure, if applicable.

Review of Variable Rate Long-Term Debt and Preferred Stock

(to be filed with Director of Accounting and Finance)

In an effort to monitor the cost of variable rate long-term debt and preferred stock incurred by the major electric, gas, water, and telephone utilities, we request that you provide us each year by January 31, a review of variable rate debt and preferred stock issues outstanding for the preceding year. The review should include:

- (a) A description of all variable rate long-term debt

and preferred stock issues outstanding during the preceding year; i.e., First Mortgage Bonds, Series E, etc.;

- (b) Amount outstanding at year end;
- (c) Average interest or dividend rate for each month as well as the high and low rates for each month;
- (d) Date of Commission approval for the issue; and
- (e) Case Number in which issue was approved.

Finance Circular No. 3

Financing Summary to Accompany Application to Issue Securities Under the Public Utilities Securities Law

With each application to issue securities under the Public Utilities Securities Law, we request that you submit a "Financing Summary" related to the proposed transaction. The Financing Summary should follow a standardized format covering the questions posed and following the instructions in the attached sample copy.

A more detailed explanation of the financing issue along with any supporting documents would be contained in the application itself. Schedules supporting the responses to Item 5 of the Financing Summary should be attached to the Summary. While it isn't necessary to standardize the contents of the application, we hope, as a minimum, the application would expand upon each of the items listed in the Financing Summary and contain updated financial statements. It would also be helpful if the application made reference to the proposed financing plan submitted previously to the Commission by January 31 of each year.

As before, after the securities transaction has been completed, the company must file information about the actual terms, costs of issuance, and effects on the Company.

We believe that the standardized Financing Summary will enable us to process your request for approval of securities transactions more efficiently.

APPLICATION FOR AUTHORITY TO ISSUE SECURITIES UNDER PUBLIC UTILITIES SECURITIES LAW FINANCING SUMMARY

Item 1: Brief Description of Issue:

- (1) Type of security.
- (2) Proposed amount.
- (3) Proposed date(s) of issue.

Item 2: Purpose(s) of Issue:

- (1) Proposed use of proceeds.
- (2) Specific uses of proceeds and estimated amounts.

Item 3: Terms of Issue:

Debt and/or Preferred Stock Financing

- (1) Estimated Interest or Dividend Rate.
- (2) Specify any minimum or maximum rates.
- (3) Timing of payments, e.g., monthly, quarterly, annually, etc.
- (4) Fixed or Variable rates.
- (5) Terms of any rate adjustment-Include frequency of adjustment, basis for adjustment (any particular index involved).
- (6) Current security rating.
- (7) Proposed maturity.
- (8) The following should be discussed:

- Call provisions
- Sinking fund provisions
- Conversion privileges
- Warrants
- Assets pledged
- Restrictive covenants
- Indenture requirements.

- (9) If a parent/subsidiary intercompany financing arrangement, summarize any other relevant characteristics.

Equity Financing

- (1) Number of shares currently authorized and issued.
- (2) Number of shares to be issued, issue price estimate and how determined.
- (3) Preemptive rights.
- (4) Voting rights.
- (5) Warrants.
- (6) If a capital transfer from parent company, summarize any other characteristics.

Item 4: Nature of Issuance and Expense Estimate:

- (1) Public offering, private placement, or intercompany financing arrangement.
- (2) Underwriter(s).
- (3) Special distribution e.g., equity via dividend reinvestment, employee plan, etc.
- (4) Estimate of underwriting costs.
- (5) Estimate of other costs related to issuance (attach list).

Item 5: Impact on Company:

- (1) Change in capital structure due to issue:
 - Show actual and pro forma capital structure amounts and weights (provide financial statements to support actual amounts).
 - The capital structure should consist of permanent capital only and should include financing applications pending and financings authorized but not yet issued only when such financings are

State Corporation Commission

expected to take place between the financial statement date used in the application and the expected date of the proposed issuance.

- Permanent capital should include all items recorded in the capitalization section of the company's balance sheet and long-term debt due and preferred stock redeemable within one year.
- The amount of short-term debt should be shown separately.
- Actual capital structure should be for the most recent statement date available.
- Pro forma capital structure should be the actual capital structure adjusted for changes due solely to the proposed financing (changes due to other factors should not be included).
- Explanations of changes as well as any assumptions used should be given. The Commission Staff should be able to trace figures from actual to pro forma.
- If a parent/subsidiary relationship exists, show capital structure for the entity raising capital and the consolidated company.
- The following example can be used:

Entity Raising Capital

Capital Structure as of Month/Date/Year

	<u>Actual</u>	<u>Adjustment</u>	<u>Pro Forma</u>
	<u>Amount</u>	<u>%</u> (provide explanations)	<u>Amount</u> <u>%</u>
Long-term Debt			
Preferred Stock			
Common Equity			
Total	100%		100%
Short-term debt			

Consolidated Company

	<u>Actual</u>	<u>Adjustment</u>	<u>Pro Forma</u>
	<u>Amount</u>	<u>%</u> (provide explanations)	<u>Amount</u> <u>%</u>
Long-term Debt			
Preferred Stock			
Common Equity			
Total	100%		100%
Short-term debt			

(2) Change in revenue requirements due to issue:

- Show the current capital structure and cost of capital using capital structure methodology approved by the Commission in the last rate case. A schedule should be provided to support capital structure amounts and cost rates (i.e., amounts outstanding, interest rates, maturities). The capital structure should include financing applications pending and

financings authorized but not yet issued only when such financings are expected to take place between the financial statement date used in the application and the date of proposed issuance.

- Show the current capital structure and cost of capital adjusted for changes due solely to proposed financing (changes due to other factors should not be included).
- Show change in weighted cost of capital.
- Show current rate base as approved in last rate case.
- Show before-tax revenue requirements due to change in cost of capital.
- Show change in income taxes due to change in interest deduction.
- Show effect of taxes.
- Explanation of changes as well as any assumptions used should be given. The Commission Staff should be able to trace figures from actual to pro forma.
- The following example can be used:

Virginia Utility

Change in Revenue Requirements Due to Issue

- (a) Change in cost of capital due to issue (attach supporting schedules showing actual and pro forma capitalization and cost of capital).
- (b) Current rate base as of Month/Date/Year.
- (c) Before-tax revenue requirements due to change in cost of capital = (a) x (b).
- (d) Change in income taxes due to change in interest deduction.
- (e) Before-tax revenue requirements = (c) + (d).
- (f) Adjustment for taxes (conversion factor).
- (g) Change in revenue requirements (e)/(f).

(3) Change in return on equity due to issue:

- Show actual earnings available for common, common equity, and return on equity as of a recent statement date (same as in (1) and (2) - provide financial statements to support actual amounts). Actual figures should reflect the effect of financing applications pending and financings authorized but not yet issued only when such financings are expected to take place between the financial statement date used in the application and the date of proposed issuance.
- Show pro forma earnings available for common, common equity, and return on equity. Pro forma figures should be actual figures adjusted for changes due solely to the proposed financing (changes due to other factors should not be included).
- An explanation of all adjustments should be given as well as all assumptions used.
- If a parent/subsidiary relationship exists, show calculations for the entity raising capital and the consolidated company.
- The following example can be used:

State Corporation Commission

Entity Raising Capital

Return on Equity As of Month/Date/Year

<u>Actual</u>	<u>Adjustment</u>	<u>Pro Forma</u> (provide explanations)
Balance for common Common equity (Average or year end- Specify)		
Return on equity (Balance for common/ Common equity)		

Consolidated Company

<u>Actual</u>	<u>Adjustments</u>	<u>Pro Forma</u> (provide explanations)
Balance for common Common equity (Average or year end- Specify)		
Return on equity (Balance for common/ Common equity)		

(4) Change in interest coverage due to issue:

- Show actual pre-tax interest coverage as of a recent statement date (same as (1), (2) and (3) - provide financial statements to support actual amounts). Actual figures should reflect the effect of financing applications pending and financings authorized but not yet issued only when such financings are expected to take place between the financial statement date used in the application and the date of the proposed issuance.
- Show pro forma pre-tax interest coverage. Pro forma coverage should be actual coverage adjusted for changes due solely to proposed financing (changes due to other factors should not be included).
- An explanation of all adjustments should be given as well as all assumptions used.
- If a parent/subsidiary relationship exists, show calculation for the entity raising capital and the consolidated company.
- Pre-tax interest coverage = Earnings before interest and taxes/Interest.
- Earnings before interest and taxes = Net income + Income taxes + Total interest.
- Interest = Total interest and includes amortization of discount, expense and premium on debt without deducting an allowance for borrowed funds.
- Income taxes = Federal income taxes + State income taxes.
- The following example can be used:

Entity Raising Capital

Interest Coverage for the 12 Months Ended Month/Date/Year

<u>Actual</u>	<u>Adjustments</u>	<u>Pro Forma</u> (provide explanations)
Net income		
Income taxes		
Federal		
State		
Net income before taxes		
Interest on long-term debt		
Other interest		
Total interest charges		
Income before interest and taxes		

Consolidated Company

Interest Coverage for the 12 Months Ended Month/Date/Year

<u>Actual</u>	<u>Adjustments</u>	<u>Pro Forma</u> (provide explanations)
Net income		
Income taxes		
Federal		
State		
Net income before taxes		
Interest on long-term debt		
Other interest		
Total interest charges		
Income before interest and taxes		

(5) Change in net cash flow/permanent capital due to issue.

- Show actual net cash flow/permanent capital as of a recent statement date (same as (1), (2), (3) and (4) - provide financial statements to support actual amounts). Actual figures should reflect the effect of financing applications pending and financings authorized but not yet issued only when such financings are expected to take place between the financial statement date used in the application and the expected date of the proposed issuance.
- Show pro forma net cash flow/permanent capital. Pro forma ratio should be actual adjusted for changes due solely to proposed financing (changes due to other factors should not be included).
- Net cash flow = Cash flow - Common dividends - Preferred dividends.
- Cash flow = Net income + Amortization + Depreciation + Change in deferred taxes + change in investment tax credits - AFUDC.

State Corporation Commission

ITEM 6: Brief Discussion of Reasonableness of Issue/Financing Strategy:

(1) How does the issue fit in with the Company's financing plan submitted to the Commission at the beginning of the year? With the Company's target capital structure?

(2) If debt, compare the interest rate with that of recent issues of similar quality and terms in the capital markets.

(3) If equity, show market/book ratio, price earnings ratio, and any other relevant comparisons.

(4) If a leasing arrangement or other form of indebtedness, summarize the economic justification for choosing this alternative (e.g., leasing versus ownership), such summary to include any analysis performed.

(5) If the purpose of the proposed financing is the refunding of obligations, provide a description of the obligations including the principal amounts, discount or premium applicable, the date of issue and maturity. Also, provide an analysis showing the break-even refund rate. The analysis should include all costs of refunding and should show the rate at which it would not be beneficial to issue securities for the purpose of refunding the obligations in question.

ITEM 7: Amendments to previously Authorized Financing Proposals: (If Applicable)

(1) Trace the history of amendments made since the original proposal.

(2) Summarize cost and other justification for the amendment.

Finance Circular No. 4

Separation of Combined Securities and Affiliates Applications

The State Corporation Commission will no longer process combined securities and affiliates applications, except for public service applications requesting authority to issue securities to an affiliate.

Any utility simultaneously filing a securities and an affiliates application except as noted above must submit two separate applications.

It is our belief that separation will enable us to process your request for approval of securities and affiliate transactions more efficiently.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to the New Drug Review Program.

VR 460-03-3.1100. Amount, Duration and Scope of Services.

VR 460-05-2000.000. New Drug Review Program.

VR 460-05-2000.1000. New Drugs Not Covered by Medicaid.

Governor's Comment:

I concur with the Department's assessment of the need to adopt this regulation at this time; however, I urge the Department to address the concerns expressed by the Attorney General's office and the Department of Planning and Budget regarding clarification of the scope of the underlying statutory authority and the composition of the proposed Technical Advisory Panel.

/s/ Gerald L. Baliles
Date: September 13, 1989

BOARD OF MEDICINE

Title of Regulation: VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology and Acupuncture.

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: September 7, 1989

BOARD OF NURSING

Title of Regulation: VR 495-01-1. Board of Nursing Regulations.

Governor's Comment:

I have reviewed the regulations for Policies Governing Clinical Nurse Specialists (VR 495-01-1) under the procedures of Executive Order Number Five (86).

I concur with the form of this proposal. I do have some concerns, however, about the extent to which the Board has deferred to the American Nurses' Association (ANA) in assessing the qualifications for clinical nurse specialists

in Virginia.

I would strongly urge the Board to consider making the regulations more flexible in allowing alternative evidence of qualification for registration. I also recommend that the Board consider procedures for recognizing areas of specialty in addition to those acknowledged by the ANA.

/s/ Gerald L. Baliles
Date: September 11, 1989

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-43-3. Nonagency Placements for Adoption - Consent

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: September 20, 1989

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-21-01. Surface Water Standards with General, Statewide Application.
VR 680-21-03. Water Quality Criteria for Surface Water.

Governor's Comment:

These regulations are intended to protect aquatic life, as well as ensure the preservation of the public welfare, safety and health. They are consistent with requirements of the Clean Water Act for implementing water quality standards. The potential financial impact on the coal industry and certain municipalities should be carefully examined. I request the Board to give careful consideration to public comments to determine whether the financial impact on these entities can be lessened without jeopardizing Virginia's commitment to reducing the discharge of toxic pollutants.

/s/ Gerald L. Baliles
Date: September 15, 1989

AGENCY RESPONSE TO GUBERNATORIAL OBJECTION

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 20, 1989

The Honorable Gerald L. Baliles
Governor of Virginia
Capitol Square
Richmond, Virginia 23219

Dear Governor Baliles:

Pursuant to your directive of August 16, 1989, the Chesapeake Bay Local Assistance Board solicited additional public comment on VR 173-02-01 "Chesapeake Bay Preservation Area Designation and Management Regulations," specifically, measurements of equivalency and requirements for septic system inspection, maintenance, and reserve capacity.

As the attachments note, public comments on these issues provided the Board with better definition of equivalency measures, identified areas where more flexibility could be afforded landowners without compromising water quality, and supported the reinsertion of the two septic system requirements.

Accordingly, on September 13 the Board revised the final regulations to include these items. The amendments provide greater clarity of purpose by establishing measurements to determine equivalency and provide agricultural uses with expanded options for compliance. Additionally, the amendments include revised standards for septic system inspection, maintenance, and reserve capacity which the Board believes can be readily incorporated into local government programs.

/s/ Stanley R. Balderson
Deputy Executive Director

Editor's Note: The amendments to the final regulations: VR 173-02-01 are published in this issue of The Virginia Register.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-01-01. Rules Governing the Solicitation of Contributions.** The purpose of the proposed action is to (i) review the regulations for currency and continued need; (ii) define certain terms contained in statute regarding exemption from annual registration; (iii) specify pursuant to § 57-55.2 (i) of the Code of Virginia the name or names by which a professional solicitor may identify himself and his employer; and (iv) consider other measures to enforce the Solicitation of Contributions Law (§§ 57-48 et seq. of the Code of Virginia) and to assure uniform regulation of charitable solicitations throughout the Commonwealth.

Drafts of the amended regulations will be sent to those who respond to this notice.

Statutory Authority: §§ 57-66 of the Code of Virginia.

Written comments may be submitted until October 15, 1989.

Contact: Jo Freeman, Chair, Revisions Committee, Department of Agriculture and Consumer Services, Division of Consumer Affairs, 1100 Bank St., P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-1343, toll-free 1-800-552-9963 or SCATS 786-1343

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-05-1. Asbestos Licensing Regulations.** The purpose of the proposed action is to carry out the provisions of Title 54.1, Chapter 5 of the Code of Virginia regarding training and licensing of any person or entity engaging in work as an asbestos worker, supervisor, contractor, inspector, management planner or project designer and RFS contractor.

Amendments include inclusions of RFS contractor licensure requirements, additional licensure requirements for

inspectors and management planners, contractors notification requirements, requirements that certificates be issued to students by approved trainers and revisions in license application procedures and fees.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Written comments may be submitted until October 11, 1989.

Contact: Peggy J. 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

BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **Supervision Fee Rules, Regulations and Procedures.** The purpose of the proposed action is to provide procedural instruction for the collection and accounting of supervision fees required of adult offenders.

Statutory Authority: § 53.1-150 of the Code of Virginia.

Written comments may be submitted until October 31, 1989.

Contact: Walter M. Pulliam, Jr., Manager, Probation and Parole Support Services, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3063 or SCATS 674-3063

BOARD FOR COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Cosmetology intends to consider amending regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The purpose of the proposed action is to solicit public comment on amending regulations to require hours and performances be reported to the board upon termination of a student from a cosmetology school for any reason.

Statutory Authority: § 54.1-201 5 and Chapter 12 (§ 54.1-1200 et seq.) of Title 54.1 of the Code of Virginia.

General Notices/Errata

Written comments may be submitted until October 11, 1989.

Contact: Roberta L. Banning, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT OF HEALTH (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Governing the Newborn Screening and Treatment Program**. The purpose of the proposed action is to (i) revise the regulations to include diseases of newborn infants as specified in § 32.1-65 of the Code of Virginia and (ii) clarify the critical time periods for submitting newborn screening tests in order to more accurately test for diseases that are mandated.

Statutory Authority: § 32.1-12 and Article 7 of Chapter 2 of Title 32.1 of the Code of Virginia.

Written comments may be submitted until January 6, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Program Director, Department of Health, Division of Maternal and Child Health, James Madison Bldg., 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367 or SCATS 786-7367

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **Rules and Regulations Governing the Licensing of Commercial Blood Banks and Minimum Standards and Qualification for Noncommercial and Commercial Blood Banks**. The purpose of the proposed action is to update the 1980 regulations to reflect change in federal regulations, American Association of Blood Bank guidelines and current blood banking technology.

Statutory Authority: §§ 32.1-2, 32.1-12, 32.1-42 and 32.1-140 of the Code of Virginia.

Written comments may be submitted until January 8, 1990.

Contact: Dr. Martin A. Cader, Director, Division of Communicable Disease Control, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-6261 or SCATS 786-6261

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's

public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-12-02. Regulations Governing Children's Specialty Services**. The proposals include additions of covered services, the setting of eligibility resource limitation for patients receiving large awards through litigation, revised eligibility criteria and addition of Child Development Services Program.

Statutory Authority: §§ 32.1-12 and 32.1-77 of the Code of Virginia.

Written comments may be submitted until October 11, 1989.

Contact: Nancy R. Bullock, R.N., M.P.H., Nurse Consultant, Children's Specialty Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3691 or SCATS 786-3691

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider promulgating regulations entitled: **VR 355-34-01. Private Well Regulations**. The proposed regulations will provide construction and location standards for all private wells drilled, whether intended as a potable water supply source or for other purposes. Water quality standards are established for potable water supplies.

A notice of intended regulatory action was originally published on November 24, 1986.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-1750 or SCATS 786-1750

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Health intends to consider amending regulations entitled: **VR 355-34-02. Sewage Handling and Disposal Regulations**. The purpose of this action is to repeal portions of Article 11 of these regulations that duplicate the construction, location, and quality requirements of the Private Well Regulations.

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, Room 500,

Madison Bldg., 109 Governor St., Richmond, VA 23219,
telephone (804) 786-1750 or SCATS 786-1750

COUNCIL ON HUMAN RIGHTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Council on Human Rights intends to consider promulgating regulations entitled: **VR 402-01-03. Regulations to Safeguard Virginian's Human Rights from Unlawful Discrimination.** The purpose of these regulations is to supplement the Virginia Human Rights Act (§ 2.1-714 et seq.) which safeguards all individuals within the Commonwealth from unlawful discrimination.

Statutory Authority: 2.1-720.6 of the Code of Virginia.

Written comments may be submitted until November 8, 1989, to Sandra D. Norman, P.O. Box 717, Richmond, Virginia 23206.

Contact: Lawrence J. Dark, Director, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2292, toll-free 1-800-633-5510 or SCATS 225-2292

LIBRARY BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Library Board intends to consider amending regulations entitled: **The Virginia State Library Board Regulations.** The purpose of the intended regulatory action is to conduct an informational proceeding thereby soliciting public comment on the certification regulations as to effectiveness, efficiency, clarity and cost of compliance in accordance with the Virginia State Library Board's authority under § 42.1-15.1 of the Code of Virginia.

A public hearing will be held November 13, 1989, at 2 p.m. in the General Assembly Building, Capitol Square, House Room C, Richmond, Virginia.

Statutory Authority: § 42.1-15.1 of the Code of Virginia.

Written comments may be submitted until November 3, 1989, to Ella Gaines Yates, State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, Virginia 23219.

Contact: Dr. Vance Helms, Human Resources Officer, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-8956

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medicine intends to consider amending regulations entitled: **VR 465-02-01. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Chiropractic, Clinical Psychology, Podiatry, Acupuncture, and Other Healing Arts.** The purpose of the proposed action is (i) to amend Part IV to establish requirements for maintaining patient records treated with acupuncture to increase number of hours for approved training; (ii) to delete supervised clinical training and (iii) to increase number of hours for approved training in acupuncture.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until October 25, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

PESTICIDE CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given that the Pesticide Control Board intends to consider promulgating regulations entitled: **Public Participation Guidelines.** The purpose of the proposed action is to establish public participation guidelines governing the Pesticide Control Board.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider promulgating regulations entitled: **Regulations Establishing Civil Penalties.** The purpose of the proposed action is to establish civil penalties authorized by the Pesticide Control Act.

Statutory Authority: §§ 3.1-249.28, 3.1-249.30 and 3.1-249.70 of the Code of Virginia.

General Notices/Errata

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Pesticide Control Board intends to consider promulgating regulations entitled: **Regulations Governing Commercial Applicators, Technicians, Product Registration and Business Licenses Pursuant to the Virginia Pesticide Control Act.** The purpose of the proposed action is to establish regulations governing commercial applicators, technicians, product registration, and business licenses and the fees related thereto.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until November 9, 1989.

Contact: C. Kermit Spruill, Jr., Division Director, Department of Agriculture and Consumer Services, Division of Product and Industry Regulation, P.O. Box 1163, Room 403, 1100 Bank Street, Richmond, VA 23209, telephone (804) 786-3523

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 State Board of Social Services intends to consider amending regulations entitled: **Employment Services Program.** The purpose of the proposed action is to amend the current Employment Services Program to include requirements of the Job Opportunities and Basic Skills Training (JOBS) Program of the Family Support Act of 1988.

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

Written comments may be submitted until October 9, 1989, to Joan Kerby, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Legislative Analyst, Department of Social Services, Division of Service Programs, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

DEPARTMENT OF TAXATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **VR 630-6-4006. Income Tax Withholding: Lottery Winnings.** The purpose of the proposed regulation is to set forth the application of income tax withholding requirements on lottery winnings of the State Lottery Department.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until October 23, 1989.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

COMMISSION ON VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (VASAP)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commission on Virginia Alcohol Safety Action Program intends to consider amending regulations entitled: **VR 647-01-2. VASAP Policy and Procedure Regulations.** The purpose of the proposed action is to consider changes to the Policy and Procedure Manual, the Certification Review Manual, and the Case Management Manual as they pertain to Certification of VASAP Programs by adding additional requirements and clarification and to consider changes recommended by the Department of Planning and Budget dated August 28, 1989.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until November 8, 1989.

Contact: Donald R. Henck, Ph.D., Executive Director, 1001 E. Broad St., Old City Hall Bldg., Box 29, Richmond, VA 23219, telephone (804) 786-5896 or SCATS 786-5896

GENERAL NOTICES

DEPARTMENT OF HEALTH

Notice of Intent to Solicit Comments on the Proposed WIC Program State Plan of Program Operations and Administration for Federal Fiscal Year 1990

Notice is hereby given that the Special Supplemental

Food Program for Women, Infants and Children (WIC) is soliciting additional comments from the general public regarding its proposed WIC State Plan for Federal FY 1990.

The WIC State Plan includes state goals and objectives for FY 1990, names and addresses of local agencies, a map identifying the areas being served, an affirmative action plan, a description of the financial management system, fair hearing procedures, state agency monitoring procedures, an outreach program description, a plan for the provision of nutrition education, a description of the methods used to certify participants, the specific nutritional risk criteria used to determine a person's eligibility, a description of the food delivery system and other sections required by federal regulations.

The State WIC Office has provided one copy of the proposed State Plan for public review at the headquarters office in each of the state's 36 health districts. The location of the office in your area may be obtained by calling your local health department or the State WIC Office at (804) 786-5420. Additional copies of the proposed State Plan are available on a limited basis upon request.

Those individuals wishing to comment in person on the proposed State Plan are invited to attend a public hearing from 1 - 5 p.m. on September 12, 1989, in the Main Floor Conference Room, James Madison Building, 109 Governor Street, Richmond, VA 23319.

Written comments will be accepted until 5 p.m. on October 13, 1989, and should be sent to:

WIC Program Director
State Department of Health
109 Governor Street - 6th Floor
Richmond, Virginia 23219

VIRGINIA HEALTH PLANNING BOARD

Notice

The Virginia Health Planning Board is establishing a mailing list of parties interested in participating in the development of its regulations. Those regulations generally pertain to the board's responsibility to supervise and provide leadership for the statewide health planning system, through which it makes recommendations to the Secretary of Health and Human Resources of the Commonwealth of Virginia, the Governor, and the General Assembly concerning health policy, legislation, and resource allocation. In particular, the board is required to promulgate regulations for the designation of health planning regions, the designation of regional health planning agencies, the composition and method of appointment of members of regional health planning boards, and the administration of state funding for regional planning.

Parties interested in receiving a notice whenever the board decides that such regulations need to be created or modified should send a written request to be placed on the Virginia Health Planning Board regulatory notice mailing list, along with their name and mailing address, to: Virginia Health Planning Board, c/o VDH Division of Health Planning, 1010 Madison Building, 109 Governor Street, Richmond, VA 23219. Further information may be obtained from the Division of Health Planning by calling (804) 786-4891.

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) - DPBR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

ERRATA

MARINE RESOURCES COMMISSION

Title of Regulation: VR 450-01-0036. Pertaining to Time Restrictions on Commercial Crabbing.

Publication: 5:22 VA.R. 3264 July 31, 1989

Correction to the Final Regulation:

Page 3264, § 1 C should read:

C. Sections 3 and 4 of this regulation were added and

General Notices/Errata

made effective by Commission action on May 23, 1988; the original regulation was promulgated on November 26, 1986. The effective date of this regulation as amended is May 4, 1989 July 1, 1989 .

Page 3264, § 3 should read:

It shall be unlawful to take or catch crabs for commercial purposes between sunset and three hours before sunrise , *provided; however, it shall be unlawful to take crabs by crab dredge, as defined in § 28.1-165.1 of the Code of Virginia, between sunset and sunrise .*

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

DEPARTMENT FOR THE AGING

- † November 2, 1989 - 9 a.m. - Open Meeting
† November 3, 1989 - 9 a.m. - Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The third statewide conference on Long-Term Care "Setting the Direction for Quality Care." Wide ranging and timely workshops for health and human service professionals, policy makers, providers, consumers and elected officials. The opening session will feature an update on the work of the Legislative Joint Subcommittee Studying Health Care for All Virginians. The subcommittee study under SJR 214 has resulted from the Legislature's growing concern about the rising cost of health care, the burden of uncompensated hospital care, long-term care and indigent health care.

Over 20 concurrent workshops have been planned covering a wide range of topics.

Contact: Thelma E. Bland, Deputy Commissioner, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2271 or toll-free 1-800-552-4464

VIRGINIA AVIATION BOARD

- † October 17, 1989 - 9 a.m. - Open Meeting
Richmond International Airport, Board Room, Richmond, Virginia. ☒

A meeting to discuss matters of interest to the aviation community.

Contact: Kenneth A. Rowe, Director, Department of Aviation, 4508 S. Laburnum Ave., Richmond, VA 23231, telephone (804) 786-6284

VIRGINIA BOATING ADVISORY BOARD

- † October 19, 1989 - 10 a.m. - Open Meeting
Pier 4, 6th and Water Streets, S.W., Washington, D.C.

A joint meeting with Maryland Boat Advisory Committee focusing on problems, legislation and regulations affecting the recreational boating public in Virginia and Maryland.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, VA 23229, telephone (804) 740-7206

STATE BUILDING CODE TECHNICAL REVIEW BOARD

- † October 27, 1989 - 10 a.m. - Open Meeting
Fourth Street Office Building, 205 North Fourth Street, 2nd Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeals boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4752

CHARLES CITY COUNTY EMERGENCY PLANNING COMMITTEE

- † November 30, 1989 - 7 p.m. - Open Meeting
Charles City Neighborhood Facility Building, Board of Supervisors Conference Room, Charles City, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to conduct a review of the local plan.

Contact: Fred A. Darden, County Administrator, P.O. Box 128, Charles City, VA 23030, telephone (804) 829-9201

Calendar of Events

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

October 13, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Chesapeake Bay Local Assistance Board intends to adopt regulations entitled: **VR 173-01-00. Public Participation Procedures for the Formulation and Promulgation of Regulations.** These regulations establish public participation procedures for the development or revision of regulations by the Chesapeake Bay Local Assistance Board, in accordance with Administrative Process Act.

Statutory Authority: § 10.1-2103 of the Code of Virginia.

Written comments may be submitted until 5 p.m., October 13, 1989.

Contact: Scott Crafton, Regulatory Assistance Coordinator, Chesapeake Bay Local Assistance Department, 701 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229 or SCATS 225-3440

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

† November 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 the 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

CHILD-DAY CARE COUNCIL

† October 12, 1989 - 9 a.m. - Open Meeting
† November 9, 1989 - 9 a.m. - Open Meeting
† December 14, 1989 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building, Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to discuss issues, concerns, and programs that impact licensed child care centers. A public comment period is scheduled at 9 a.m.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217 or SCATS 662-9217

CONSORTIUM ON CHILD MENTAL HEALTH

November 1, 1989 - 9 a.m. - Open Meeting
December 6, 1989 - 9 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session for purposes of confidentiality; and to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Virginia Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208 or SCATS 786-2208

DEPARTMENT FOR CHILDREN

State-Level Runaway Youth Services Network

October 26, 1989 - 10:30 a.m. - Open Meeting
Department of Corrections, 6900 Atmore Drive, Room 3056, Richmond, Virginia. ☒

A regular business meeting open to the public.

Contact: Martha Frickert, Human Resources Developer, Department for Children, 805 E. Broad St., 11th Floor, Richmond, VA 23219, telephone (804) 786-5994 or SCATS 786-5994

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

October 13, 1989 - 8:30 a.m. - Open Meeting
November 9, 1989 - 8:30 a.m. - Open Meeting
December 8, 1989 - 8:30 a.m. - Open Meeting
Interdepartmental Licensure and Certification, Office of the Coordinator, Tyler Building, 1603 Santa Rosa Drive, Suite 210, Richmond, Virginia. ☒

Regularly scheduled meetings to consider such administrative and policy issues as may be presented to the committee.

Contact: John Allen, Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124 or SCATS 662-7124

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Advisory Board

† October 20, 1989 - noon - Open Meeting
City Hall, 3rd Floor, Conference Room, Richmond,

Calendar of Events

Virginia. ☒

A review of river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or SCATS 786-4132

Outdoor Recreation Advisory Board

October 11, 1989 - 1 p.m. - Open Meeting
The 1763 Inn, U.S. Route 50 between Paris and Upperville, Upperville, Virginia

A business meeting to review statewide recreation matters.

Contact: Art Buehler, Director, Division of Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-5046, SCATS 786-5046 or 786-2121/TDD ☎

BOARD FOR CONTRACTORS

October 18, 1989 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting of the board to (i) address policy and procedural issues, (ii) review and render decisions on applications for contractors' licenses, (iii) review and render case decisions on matured complaints against licensees, and (iv) consider the adoption of final regulations governing contractors. The meeting is open to the public; however, a portion of the board's business may be discussed in executive session.

Complaints Committee

† **October 18, 1989 - 1 p.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular meeting to review complaints against regulants and determine disposition of those cases.

Contact: Mr. Kelly G. Ragsdale, 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

† **October 20, 1989 - 10 a.m. - Open Meeting**
General Assembly Building, Capitol Square, 9th Floor Conference Room, Richmond, Virginia. ☒

A meeting to discuss the goals of the 1990-92 Comprehensive Prevention Plan and how to integrate it in private and state goals.

Contact: Ron Collier, Virginia Council on Coordinating Prevention c/o Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530

BOARD OF CORRECTIONS

NOTE: CHANGE OF MEETING TIME

October 11, 1989 - 9:30 a.m. - Open Meeting
† **November 15, 1989 - 10 am. - 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 of Corrections.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

October 11, 1989 - 9:30 a.m. - Public Hearing
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to adopt regulations entitled: **VR 230-40-005. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** The proposed regulations establish operating standards for Virginia Delinquency Prevention and Youth Development Act grant programs pertaining to program administration, services personnel and fiscal management, staff training, and monitoring and evaluation.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until October 25, 1989.

Contact: Glenn D. Radcliffe, Chief of Operations for Community Programs, Department of Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3392 or SCATS 674-3392

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November 10, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections

Calendar of Events

intends to repeal regulations entitled: **VR 230-01-002. Rules and Regulations for the Purchase of Services for Clients.** The regulation discusses the requirements for purchasing services for clients when such services are not available within the Department of Corrections.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until November 10, 1989.

Contact: Ben Hawkins, Agency Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3262 or SCATS 674-3262

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November 14, 1989 - 1 p.m. - Public Hearing
Department of Corrections, 6900 Atmore Drive, Richmond, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Board of Corrections intends to adopt regulations entitled: **VR 230-01-003. Regulations Governing the Certification Process.** These regulations establish the procedures utilized to conduct compliance audits.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Written comments may be submitted until October 16, 1989.

Contact: John T. Britton, Certification Unit Manager, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3237 or SCATS 674-3237

EASTERN SHORE ASAP POLICY BOARD

† **October 11, 1989 - noon - Open Meeting**
Market Street Inn, Onancock, Virginia

A quarterly policy board meeting to (i) conduct election of officers; (ii) review insurance coverage; and (iii) discuss other business that may come before the board.

Contact: Stephen J. Hearne, Director, Eastern Shore ASAP, Box 433, Accomac, VA 23301, telephone (804) 787-7220

STATE EDUCATION ASSISTANCE AUTHORITY

Board of Directors

November 21, 1989 - 10 a.m. - Open Meeting
State Education Assistance Authority, 6 North 6th Street, Suite 300, Richmond, Virginia

A general business meeting.

Contact: Lyn Hammond, Secretary to the Board, State Education Assistance Authority, 6 N. 6th St., Suite 300, Richmond, VA 23219, telephone (804) 786-2035, toll-free 1-800-792-5626 or SCATS 786-2035

BOARD OF EDUCATION

October 24, 1989 - 9 a.m. - Open Meeting

October 25, 1989 - 9 a.m. - Open Meeting
Longwood College, Farmville, Virginia

November 14, 1989 - 8 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☐

The Board of Education and the Board of Vocational Education will hold regularly scheduled meetings. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540

LOCAL EMERGENCY PLANNING COMMITTEE FOR FAIRFAX COUNTY, THE CITY OF FAIRFAX, AND THE TOWNS OF HERNDON AND VIENNA

† **October 12, 1989 - 10 a.m. - Open Meeting**
John C. Wood Municipal Center, Lee Highway, Fairfax, Virginia. ☐

A regular meeting.

Contact: Eileen McGovern, 4031 University Dr., Fairfax, VA 22030, telephone (703) 246-2331

FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA

† **October 14, 1989 - 10 a.m. - Open Meeting**
Blair Building, 8007 Discovery Drive, Conference Room C, Richmond, Virginia. ☐

A regular meeting.

Contact: Mary B. Mullins, Executive Director, Family and Children's Trust Fund of Virginia, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217

VIRGINIA FIRE SERVICES BOARD

† **October 19, 1989 - 7:30 p.m. - Public Hearing**
Washington County Board of Supervisors Room, 205 Academy Drive, Abingdon, Virginia

A public hearing to discuss fire training and fire policies. This public hearing is for comments and questions relating to the fire services in the Commonwealth and the area in which the hearing is held.

† **October 20, 1989 - 9 a.m.** – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia

A regular business meeting. This meeting is open to the public for their input and comments.

Fire Prevention Committee

† **October 19, 1989 - 9 a.m.** – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia

A meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Fire Training/EMS Education Committee

† **October 19, 1989 - 1 p.m.** – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia

A meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Legislative Committee

† **October 19, 1989 - 1 p.m.** – Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon, Virginia

A meeting to discuss fire training and fire policies. The meeting is open to the public for their input.

Contact: Anne J. Bales, Executive Secretary Senior, 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

October 30, 1989 - 9 a.m. – Open Meeting
Omni Hotel, 235 West Main Street, Charlottesville, Virginia

A general board meeting to include certifying candidates for the November examination session. Proposed regulations may be discussed.

† **October 31, 1989 - 9 a.m.** – Open Meeting
Omni Hotel, 235 West Main Street, Charlottesville, Virginia

Informal fact-finding conferences.

Contact: Meredyth P. Partridge, Executive Director, 1601

Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9907

BOARD OF GAME AND INLAND FISHERIES

† **October 26, 1989 - 10 a.m.** – Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The following committees of the board will meet to discuss administrative and related matters which will be reported to the full board at its meeting on Friday, October 27, 1989.

Planning Committee - 10 a.m.
Finance - 10:30 a.m.
Wildlife and Boat - 11 a.m.
Law and Education - 11:30 a.m.

† **October 27, 1989 - 9:30 a.m.** – Public Hearing
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will act on fish regulation proposals for the 1989-90 season, proposal for appointment of new consignment agents for sale of hunting and fishing licenses, and a throughway channel in waters of Virginia Beach.

Sportsman Award Presentation

General administrative matters will be considered.

Memorandum of agreement with Wild Turkey Federation.

Committee reports will be given.

The board will act on VR 325-02-1, § 2 Hunting with crossbows, poison arrows or explosive-head arrows prohibited.

The board will act on a proposal VR 325-01 regarding definitions of endangered species.

Recognition of Frank Sutton, former board member.

Planning Committee

October 11, 1989 - 10 a.m. – Open Meeting
4010 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss the development of a planning assessment team.

Contact: Nancy B. Dowdy, Agency Regulatory Coordinator/Board Secretary, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000 or toll-free

Calendar of Events

1-800-237-5712

GLOUCESTER COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

October 25, 1989 - 6:30 p.m. - Open Meeting
Old Courthouse, Court Green, Main Street, Gloucester,
Virginia. ☒

A meeting to critique the recent HAZ-MAT Tabletop
exercise and address committee assignments and goals
for 1990.

Contact: Georgette N. Hurley, Assistant County
Administrator, P.O. Box 329, Gloucester, VA 23061,
telephone (804) 693-4042

BOARD OF HEALTH

December 13, 1989 - 9 a.m. - Open Meeting
Department of Health, James Madison Building, 109
Governor Street, Richmond, Virginia. ☒

A working session will be held.

December 14, 1989 - 9 a.m. - Open Meeting
Department of Health, James Madison Building, 109
Governor Street, Richmond, Virginia. ☒

A regular business meeting will be held.

Contact: Sarah H. Jenkins, Secretary to the Board,
Department of Health, 109 Governor St., Richmond, VA
23219, telephone (804) 786-3561

DEPARTMENT OF HEALTH (STATE BOARD OF)

November 12, 1989 - Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Health
intends to amend regulations entitled: **VR 355-28-01.02.
Board of Health Regulations Governing Vital
Records.** The regulations will specify which items are
to be included on official records of birth, death, fetal
death, induced abortion, marriage, and divorce.

Statutory Authority: §§ 32.1-250 and 32.1-252 of the Code of
Virginia.

Written comments may be submitted until November 12,
1989.

Contact: Russell E. Booker, Jr., State Registrar, Division of
Vital Records, Department of Health, P.O. Box 1000,
Richmond, VA 23208-1000, telephone (804) 786-6221 or
SCATS 786-6221

* * * * *

October 10, 1989 - 7 p.m. - Public Hearing
Virginia Highlands Community College, Auditorium, Room
200, Abingdon, Virginia

Notice is hereby given in accordance § 9-6.14:7.1 of
the Code of Virginia that the Board of Health intends
to amend regulations entitled: **VR 355-32-01.01.
Regulations Governing Emergency Medical Services.**
The purpose of the proposed amendments is to (i)
update and clarify minimum standards for provision of
emergency medical services and (ii) revise and update
Procedures and Guidelines for Basic Life Support
Training Programs.

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

Written comments may be submitted until November 11,
1989.

Contact: Susan D. McHenry, Director, Department of
Health, Division of Emergency Medical Services, 1538 E.
Parham Rd., Richmond, VA 23228, telephone (804)
371-3500 or toll-free 1-800-523-6019

* * * * *

October 10, 1989 - 7 p.m. - Public Hearing
Virginia Highlands Community College, Auditorium, Room
220, Abingdon, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Health
intends to amend regulations entitled: **VR 355-32-02.
Regulations Governing Financial Assistance for
Emergency Medical Services.** The purpose of the
proposed amendments is to update and clarify
mechanisms for administration of the Virginia Rescue
Squad Assistance Fund.

Statutory Authority: §§ 32.1-12 and 32.1-115 through 32.1-116
of the Code of Virginia.

Written comments may be submitted until November 11,
1989.

Contact: Susan D. McHenry, Director, Department of
Health, Division of Emergency Medical Services, 1538 E.
Parham Rd., Richmond, VA 23228, telephone (804)
371-3500, toll-free 1-800-523-6019 or SCATS 371-3500

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November 16, 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 Board of Health intends
to amend regulations entitled: **VR 355-28-01.02.**

Calendar of Events

Regulations for Disease Reporting and Control. The regulations are being amended to comply with current disease control policies and statutory requirements.

Statutory Authority: §§ 32.1-12 and 32.1-35 through 32.1-38 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Diane Woolard, M.P.H., Senior Epidemiologist, Department of Health, 109 Governor St., Room 701, Richmond, VA 23219, telephone (804) 786-6261

* * * * *

November 6, 1989 - 7 p.m. - Public Hearing
County of Henrico, Parham and Hungary Springs Roads, Board Room, Administration Building, Richmond, Virginia

November 13, 1989 - 7 p.m. - Public Hearing
Harrisonburg Electric Commission, 89 West Bruce Street, 2nd Floor Conference Room, Harrisonburg, Virginia

November 14, 1989 - 7 p.m. - Public Hearing
Peninsula Health Center, 416 J. Clyde Morris Boulevard, Auditorium, Newport News, Virginia

November 15, 1989 - 7 p.m. - Public Hearing
Prince William County, Old Board Chambers, 9250 Lee Avenue, Corner of Lee and Grant Avenue, Manassas, Virginia

November 21, 1989 - 7 p.m. - Public Hearing
Norfolk Health Department, Auditorium, 401 Colley Avenue, Norfolk, Virginia

November 28, 1989 - 7 p.m. - Public Hearing
Washington County Public Library, Oak Hill and East Valley Streets, Abingdon, Virginia

November 29, 1989 - 7 p.m. - Public Hearing
Roanoke County Administrative Office, Community Room, 3738 Brambleton Avenue, S.W., Roanoke, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health intends to adopt regulations entitled: **VR 355-34-01. Private Well Regulations.** These proposed regulations establish location, construction and water quality standards for private wells.

Statutory Authority: § 32.1-176 of the Code of Virginia.

Written comments may be submitted until December 1, 1989.

Contact: Donald J. Alexander, Director, Bureau of Sewage and Water Services, Department of Health, James Madison Bldg., 109 Governor St., Room 500, Richmond, VA 23219, telephone (804) 786-1750

HEALTH SERVICES COST REVIEW COUNCIL

October 24, 1989 - 9:30 a.m. - Open Meeting
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

A monthly meeting to address financial, policy or technical matters which may have arisen since the last meeting.

Contact: Ann Y. McGee, Executive Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎ or SCATS 786-6371

HISTORIC RESOURCES BOARD AND STATE REVIEW BOARD OF THE DEPARTMENT OF HISTORIC RESOURCES

† **October 30, 1989 - 10 a.m. - Open Meeting**
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

A joint meeting to consider (i) the work program of the Department of Historic Resources and (ii) the listing of the Brandy Station Battlefield Historic District, Culpeper County, on the Virginia Landmarks Register.

Contact: Margaret Peters, Information Officer, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, SCATS 786-3143 or (804) 786-4726/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

Board of Trustees of the Preservation Foundation

† **October 31, 1989 - 5 p.m. - Open Meeting**
† **November 1, 1989 - Open Meeting**
Donaldson Brown Center, Virginia Polytechnic Institute and State University, Conference Room D, Blacksburg, Virginia. ☒

A two-day meeting beginning at 5 p.m. on Tuesday, October 31 and continuing on November 1 to plan for the operations of the Preservation Foundation.

Contact: Margaret Peters, Information Officer, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, SCATS 786-3143 or (804) 786-4276/TDD ☎

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

† **November 16, 1989 - 9 a.m. - Open Meeting**
Fourth Street Office Building, 205 North Fourth Street, 7th

Calendar of Events

Floor Conference Room, Richmond, Virginia. ☐

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the board.

Contact: Jack A. Proctor, CPCA, Deputy Director, Division of Building Regulatory Services, Department of Housing and Community Development, 205 N. Fourth St., Richmond, VA 23219-1747, telephone (804) 786-4752 or (804) 786-5405/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **October 17, 1989 - 9 a.m.** – Open Meeting
Marriott, 2801 Hershberger Road, N.W., Roanoke, Virginia.
☐

A regular meeting of the Board of Commissioners 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 may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986

COUNCIL ON INDIANS

November 15, 1989 - 2 p.m. – Open Meeting
Old City Hall, 1001 East Broad Street, AT&T Communications Conference Room, 1st Floor, Richmond, Virginia

A regular meeting of the Council on Indians to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Information Director, Virginia Council on Indians, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or SCATS 662-9285

COUNCIL ON INFORMATION MANAGEMENT

† **October 18, 1989 - 9 a.m.** – Open Meeting
Washington Building, 9th Floor Conference Room, Richmond, Virginia. ☐

A regular meeting of the council to discuss 1990-92 information technology budget requests from agencies and institutions.

Contact: Linda Hening, Administrative Assistant, Suite 1100, Washington Bldg., Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

JAMES RIVER ASAP BOARD

† **October 10, 1989 - 6 p.m.** – Open Meeting
The Ivy Inn, 2244 Old Ivy Road, Charlottesville, Virginia

A general quarterly business meeting to include (i) finances; (ii) reports of activities; (iii) suggestions for policy change; and (iv) committee reports.

Contact: Mary E. Hutchinson, Executive Director, 104 Fourth St., N.E., Suite 201, Charlottesville, VA 22901, telephone (804) 977-3553

DEPARTMENT OF LABOR AND INDUSTRY

November 15, 1989 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, Richmond, Virginia ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR 425-01-64. Standard for Boiler and Pressure Vessel Operator Certification.** The proposed regulation provides a uniform standard to be used by the governing bodies of counties, cities, and towns which have adopted ordinances requiring the certification of boiler and pressure vessel operators.

Statutory Authority: § 15.1-11.6 of the Code of Virginia.

Written comments may be submitted until October 30, 1989 to John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241.

Contact: John J. Crisanti, Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385 or SCATS 786-2385

COMMISSION ON LOCAL GOVERNMENT

† **November 2, 1989 - 7 p.m.** – Public Hearing
Site to be determined, Dayton, Virginia

A public hearing regarding the Town of Dayton - Rockingham County Agreement defining annexation rights.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Bldg., 805 E. Broad St., Richmond, VA

23219, telephone (804) 786-6508

VIRGINIA LONG-TERM CARE COUNCIL

† **October 11, 1989 - 9:30 a.m. - Open Meeting**
Ninth Street Office Building, Room 622, Cabinet
Conference Room, Richmond, Virginia. ☒

A meeting to develop increased long-term care
services for disabled or chronically ill people for all
ages.

November 2, 1989 - 9:30 a.m. - Open Meeting
November 3, 1989 - 9 a.m. - Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond,
Virginia

Statewide conference on long-term care issues of
interest to professionals in the field, providers of
services and consumers.

Contact: Thelma E. Bland, Deputy Commissioner, 700 E.
Franklin St., 10th Floor, Richmond, VA 23219-2327,
telephone (804) 225-2271/TDD ☎ , toll-free 1-800-552-4464
or SCATS 225-2271

LONGWOOD COLLEGE

Board of Visitors

† **October 20, 1989 - 10 a.m. - Open Meeting**
Ruffner Building, Virginia Room, Longwood College,
Farmville, Virginia. ☒

A meeting to conduct business pertaining to the
governance of the institution.

Contact: William F. Dorrill, President, Longwood College,
Farmville, VA 23901, telephone (804) 395-2001

STATE LOTTERY BOARD

† **October 25, 1989 - 10 a.m. - Open Meeting**
State Lottery Department, 2201 West Broad Street,
Conference Room, Richmond, Virginia. ☒

A regularly scheduled monthly meeting of the board.
Business will be conducted according to items listed
on the 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

November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street,

Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Lottery Board intends
to amend regulations entitled: **VR 447-01-2. Administration Regulations.** The purpose of the
proposed action is to amend certain portions of the
Administration Regulations which deal with ineligible
players, Operations Special Reserve Fund, procedures
for small purchases and vendor background checks.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21,
1989.

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

November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Lottery Board intends
to amend regulations entitled: **VR 447-02-1. Instant
Game Regulations.** The purpose of the proposed
action is to amend certain portions of the Instant
Game Regulations in order to conform to the State
Lottery Law and to refine sections which deal with
general operational parameters.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21,
1989.

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

November 21, 1989 - 10 a.m. - Public Hearing
State Lottery Department, 2201 West Broad Street,
Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Lottery Board intends
to adopt regulations entitled: **VR 447-02-2. On-Line
Game Regulations.** The purpose of the proposed
regulation is to set out general parameters for the
on-line game. This includes setting standards and
requirements for licensing of on-line lottery retailers,
ticket validation, setting the framework for the
operations of on-line lottery games and the payment of
prizes.

Calendar of Events

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until November 21, 1989.

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

CITY OF LYNCHBURG LOCAL EMERGENCY PLANNING COMMITTEE

October 20, 1989 - 10 a.m. – Open Meeting
Lynchburg Public Library, 2315 Memorial Avenue, Lynchburg, Virginia. ☐

A meeting to (i) discuss established Community Right to Know guidelines; (ii) discuss the local Emergency Operations Plan; and (iii) answer any questions presented by the attending public.

Contact: Barry K. Martin, Local Emergency Planning Committee Coordinator, 800 Madison St., Lynchburg, VA 24504, telephone (804) 847-1600

MARINE RESOURCES COMMISSION

NOTE: CHANGE OF MEETING DATE

† **October 12, 1989 - 9:30 a.m. – Open Meeting**
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia ☐

The Virginia Marine Resources Commission will meet on the first Tuesday of each month, except October, at which time the meeting will be held on Thursday, October 12, 1989. It hears and decides cases on fishing licensing, oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes and beaches. It hears and decides appeals made on local wetlands board decisions.

Fishery management and conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days and is empowered to take specialized marine life harvesting and conservation measures within five days.

Contact: Sandra S. Schmidt, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-2208

BOARD OF MEDICAL ASSISTANCE SERVICES

October 17, 1989 - 2 p.m. – Open Meeting
600 East Broad Street, Suite 1300, Richmond, Virginia. ☐

An open meeting to discuss recommendations of the Technical Advisory Panel to the Virginia Indigent Health Care Trust Fund.

Contact: Jacqueline Fritz, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

October 31, 1989 - 2 p.m. – Open Meeting
Hyatt Hotel, I-64 and West Broad Street, Richmond, Virginia. ☐

An open meeting to discuss 1990 proposed legislation and proposed budget addenda items.

Contact: Jacqueline Fritz, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958

BOARD OF MEDICINE

October 16, 1989 - 9 a.m. – Public Hearing
Department of Health Professions, 1601 Rollings Hills Drive, Board Room 1, Richmond, Virginia. ☐

A public hearing on a Petition for Rulemaking - Recognition of Straight Chiropractic Academic Standards Association, Inc. (SCASA) for recognition as an accrediting agency for schools of chiropractic. Persons wishing to speak at this hearing shall sign in the morning of the hearing. Written comments will be considered if received by October 20, 1989.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

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November 10, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-02-01. Practice of Medicine, Osteopathy, Podiatry, Chiropractic, Clinical Psychology, and Acupuncture.** The purpose of the proposed action is to amend regulations to clarify the requirements for licensure by endorsement for the practice of medicine and osteopathy.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 10, 1989.

Contact: Hilary H. Connor, M.D., Executive Director, or

Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

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November 24, 1989 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The proposed amendments to the regulations establish provisions for specific institutions, upon approval to utilize more than three physical therapist assistants under the supervision of a single physical therapist, and establish a new fee for reinstatement of an expired license.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

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November 3, 1989 - 9 a.m. – Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 2, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-05-01. Regulations Governing the Practice of Physicians' Assistants.** The proposed amendments are to more clearly define a physician's supervisory responsibilities when delegating to the assistant and establish environment required for specific procedures.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925 or SCATS 662-9925

Advisory Board of Occupational Therapy

† **October 26, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia ☐

A meeting for orientation on the Department of Health Professions and the Board of Medicine to

select a chairperson, begin the development of regulations, and forms for certification of occupational therapists.

Chiropractic Examination Committee

October 12, 1989 - 2 p.m. – Open Meeting
Embassy Suites, 2925 Emerywood Parkway, Board Room 500, Richmond, Virginia. ☐

A meeting to develop questions for the January 1990 chiropractic examination and discuss any other items which may come before this committee.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925

Informal Conference Committee

† **October 11, 1989 - 9 a.m.** – Open Meeting
Sheraton Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☐

† **October 17, 1989 - 9 a.m.** – Open Meeting
Courtyard by Marriott, 6400 West Broad Street, Richmond, Virginia. ☐

† **October 20, 1989 - 9 a.m.** – Open Meeting
Fort Magruder, Route 60 East, Williamsburg, Virginia. ☐

† **October 26, 1989 - 9 a.m.** – Open Meeting
Best Western Johnny Appleseed, Route 12, Box 30, Fredericksburg, Virginia. ☐

† **October 27, 1989 - 9 a.m.** – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, 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 A 6 of the Code of Virginia.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-7006

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

October 25, 1989 - 9:30 a.m. – Open Meeting
Northern Virginia Mental Health Institute, Falls Church, Virginia ☐

A regular monthly meeting. The agenda will be published on October 18, 1989, and may be obtained by calling Jane Helfrich.

Calendar of Events

Tuesday, October 24, 1989 - Committee meeting 6 p.m., informal session 8:30 p.m.

Wednesday, October 25, 1989 - Legislative breakfast 7:30, regular session 9:30 a.m.

Contact: Jane Helfrich, Board Administrator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921 or SCATS 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

October 13, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mental Health, Mental Retardation and Substance Abuse Services intends to adopt new regulations and repeal existing regulations entitled: **VR 470-03-02. Regulations to Ensure the Rights of Residents.** The purpose is to delineate the rights of residents in state operated facilities by the Department of Mental Health, Mental Retardation and Substance Abuse Services. These regulations apply to all facilities operated by the DMHMRSAS.

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

Written comments may be submitted until October 13, 1989.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988 or SCATS 786-3988

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October 23, 1989 - 7 p.m. - Public Hearing
Tidewater Community College, Chesapeake Campus, Auditorium, Chesapeake, Virginia

October 25, 1989 - 7 p.m. - Public Hearing
Wytheville Community College, 1000 East Main Street, Bland Hall Auditorium, Wytheville, Virginia

October 26, 1989 - 7 p.m. - Public Hearing
J. Sargeant Reynolds Community College, Downtown Campus, Auditorium, 7th and Jackson Streets, Richmond, Virginia

October 30, 1989 - 7 p.m. - Public Hearing
McCoart Building, 1 County Complex Court, Board Chambers, Prince William, Virginia

NOTE: CHANGE OF MEETING DATE

November 1, 1989 - 7 p.m. - Public Hearing

Western State Hospital, Staff Development Building, Auditorium, Staunton, Virginia

The department is seeking input and comments on its Draft Plan of the Mental Retardation Support System. This plan is the product of a year-long effort focused on identification of the philosophy and direction of services to mentally retarded persons in the community and it specifies how services need to be provided between now and the end of the century.

Contact: Stanley Butkus, Ph.D., Director, Mental Retardation Services, P.O. Box 1797, Richmond, VA, telephone (804) 786-1746 or SCATS 786-1746

Alzheimer's Disease and Related Disorders Commission

October 11, 1989 - 1 p.m. - Public Hearing
Roanoke County Community Center, 3738 Brambleton Avenue, Conference Room, Roanoke, Virginia

October 12, 1989 - 10 a.m. - Public Hearing
Virginia Highlands Community College, Abingdon, Virginia

October 18, 1989 - 10 a.m. - Public Hearing
McCoart Building, 1 Complex Court, Board Chambers for Prince William, Davis and Ford Roads, Prince William, Virginia

October 18, 1989 - 3 p.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room C, Richmond, Virginia. ☒

October 19, 1989 - 10 a.m. - Public Hearing
Royster Memorial Presbyterian Church, 6900 Newport Avenue, Norfolk, Virginia

Public hearings to provide an opportunity for families/caregivers, service providers and members of the general public to share their concerns regarding the provision of services or lack of services for persons with Alzheimer's Disease and related disorders.

Contact: Sandra Rollins, Director, Office of Geriatric Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-4837 or SCATS 786-4837

Virginia Interagency Coordinating Council

October 11, 1989 - 9 a.m. - Open Meeting
Lynchburg Hilton, 2900 Candler's Mountain Road, Lynchburg, Virginia. (Interpreter for deaf provided if requested)

A meeting of Virginia's Early Intervention Coordinating Council for Part H, P.L. 99-457 (VICC). The council is an advisory body assisting the Department of Mental Health, Mental Retardation and Substance Abuse Services, the lead agency, in the development and

implementation of a statewide interagency multidisciplinary system of early intervention services for infants and toddlers with disabilities, ages birth through two.

Contact: Michael FehI, Ed.D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710

Mental Health Advisory Council

October 27, 1989 - 10 a.m. - Open Meeting
James Madison Building, 109 Governor Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to provide input on mental health issues to the State Mental Health, Mental Retardation and Substance Abuse Services Board.

Contact: Leslie Tremaine, Director of Mental Health, James Madison Bldg., 12th Floor, Richmond, VA, telephone (804) 786-2991 or SCATS 786-2991

MONTGOMERY COUNTY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **October 11, 1989 - 7 p.m. - Public Hearing**
Montgomery County Courthouse, Montgomery County, Virginia

A public hearing to receive comments on the draft update of the Montgomery County/Blacksburg Hazardous Materials Emergency Response Plan.

Contact: Steve Via, New River Valley Planning District Commission, P.O. Box 3726, Radford, VA 24143, telephone (703) 639-9313

DEPARTMENT OF MOTOR VEHICLES

December 4, 1989 - 9:30 a.m. - Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Cafeteria, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Motor Vehicles intends to adopt regulations entitled: **VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** These regulations relate to (i) the violations of regulated advertising practices which could be considered unfair, deceptive or misleading acts or practices; (ii) the terms, conditions and disclaimers in all forms of advertising media; and (iii) the steps involved in the enforcement process (to include administrative and civil penalties, along with the judicial review process).

Statutory Authority: §§ 46.1-26, 46.1-520 and 46.1-550.5:41 of

the Code of Virginia.

Written comments may be submitted until November 24, 1989.

Contact: William A. Malanima, Manager, Dealer and Records Division, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-0455 or SCATS 367-0455

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

October 20, 1989 - 9 a.m. - Open Meeting
Miles Horton Research Center, Blacksburg, Virginia

The morning session will include reports from the executive, finance, development, education and exhibits, marketing, personnel, planning/facilities, and research and collections committees. The afternoon session will be allocated for long-range planning.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (703) 666-8600 or SCATS 857-6950 or 857-6951

BOARD OF NURSING

October 14, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to adopt and amend regulations entitled: **VR 495-91-1. Board of Nursing Regulations.** The purpose of the proposed action is to establish a registry for clinical nurse specialists, minimum standards for education of clinical nurse specialists and requirements for the practice of clinical nurse specialists.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until October 14, 1989.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or SCATS 662-9909

Special Conference Committee

† **October 27, 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)

Calendar of Events

A special conference committee comprised of three members of the Board of Nursing 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, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or SCATS 662-9909

BOARD OF NURSING HOME ADMINISTRATORS

† October 24, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

A meeting to draft proposed regulations for nursing home administrators.

December 6, 1989 - 8 a.m. - Open Meeting
December 7, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

National and state examinations will be given to applicants for licensure for nursing home administrators.

Board committee meetings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9111

BOARD FOR OPTICIANS

† November 1, 1989 - 10 a.m. - Open Meeting
Municipal Building, 118 West Davis Street, Council Chambers, Culpeper, Virginia

A meeting to conduct a formal hearing:

Board for Opticians v. William D. Papierniak.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23229, telephone (804) 367-8524

BOARD OF OPTOMETRY

† October 17, 1989 - 1 p.m. - Open Meeting
† October 18, 1989 - 9 a.m. - Open Meeting
Virginia Beach Resort Hotel and Conference Center, 2800 Shore Drive, Route 60, Virginia Beach, Virginia

A general board business meeting and a formal hearing.

Contact: Catherine Walker Green, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9910

PENINSULA ASAP POLICY BOARD

November 28, 1989 - 12:15 p.m. - Open Meeting
760 J. Clyde Morris Boulevard, Newport News, Virginia

A meeting to (i) review program statistical report; (ii) discuss countermeasure activities; and (iii) discuss concerns and issues of Peninsula ASAP.

Contact: T. L. Fitzgerald, Director, 760 J. Morris Blvd., Newport News, VA 23601, telephone (804) 595-3301

BOARD OF PHARMACY

November 29, 1989 - 9:30 a.m. - Public Hearing
Holiday Inn-West End, 6532 West Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Pharmacy intends to adopt regulations entitled: **VR 530-01-02. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The proposed regulation provides licensing and regulatory standards for practitioners of the healing arts to sell controlled substances.

Statutory Authority: §§ 54.1-2400(6), 54.1-2914 and 54.1-3302 of the Code of Virginia.

Written comments may be submitted until November 29, 1989.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9911

BOARD OF PROFESSIONAL COUNSELORS

October 12, 1989 - 1:30 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A formal administrative hearing to consider reinstatement of a license.

October 12, 1989 - 8 p.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia. ☒

An examination committee meeting to prepare the outline for the Board of Professional Counselors' oral examination workshop for oral examiners.

October 13, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

A general board business meeting to include (i) committee reports and response to correspondence and (ii) identification of the need for amendments to the existing Regulations Governing 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

† **October 18, 1989 - 8 a.m. - Open Meeting**
Jefferson Sheraton Hotel, Franklin and Adams Streets,
Monticello Room, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) review correspondence; and (iii) review applications for licensure, residency, and technical assistants.

Contact: Karen McCaffrey, Acting Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913

November 2, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

The board will hear testimony in a formal hearing regarding a candidate for licensure.

Contact: Stephanie A. Sivert, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9913

VIRGINIA RACING COMMISSION

† **October 18, 1989 - 9:30 a.m. - Open Meeting**
VSRS Building, 1204 East Main Street, Richmond, Virginia. ☒

A regular commission meeting.

Contact: William H. Anderson, Regulatory Coordinator, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363 or SCATS 371-7363

BOARD FOR RIGHTS OF THE DISABLED

† **October 19, 1989 - 11:30 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Rooms C and D, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A quarterly meeting of the board to review current ongoing and completed projects of the board and its six committees.

Education Committee

† **October 19, 1989 - 9 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Room B, Richmond, Virginia. (Interpreter for deaf provided if requested)

A quarterly meeting to review ongoing and completed projects.

Employment Committee

† **October 19, 1989 - 9:30 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 1st Floor,
Conference Room C, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A quarterly meeting to review ongoing and completed projects.

Health Committee

† **October 19, 1989 - 9:30 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 15th Floor,
Board Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A quarterly meeting to review ongoing and completed projects.

Housing Committee

† **October 19, 1989 - 9:30 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 17th Floor,
Fire Prevention Conference Room, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

A quarterly meeting to review ongoing and completed projects.

Transportation Committee

† **October 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 ongoing and completed projects.

Contact: Sarah A. Liddle, Board Administrator, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042, SCATS 225-2042 or toll-free 1-800-552-3962/TDD ☎

Calendar of Events

DEPARTMENT FOR RIGHTS OF THE DISABLED (BOARD FOR)

November 13, 1989 - 10 a.m. - Public Hearing
November 13, 1989 - 4 p.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference
Room B, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Rights of the Disabled intends to adopt regulations entitled: **VR 602-01-2. Nondiscrimination Under State Grants and Programs.** These regulations prohibit discrimination on the basis of disability by programs or activities receiving state funds.

Statutory Authority: §§ 51.5-33 and 51.5-40 of the Code of Virginia.

Written comments may be submitted until November 13, 1989.

Contact: Bryan K. Lacy, Systems Advocacy Attorney, Department for Rights of the Disabled, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042 or toll-free 1-800-552-3962

STATE BOARD OF SOCIAL SERVICES

† October 18, 1989 - 2 p.m. - Open Meeting
† October 19, 1989 - 9 a.m. - Open Meeting (If necessary)
Department of Social Services, 8007 Discovery Drive,
Richmond, Virginia. ☐

A work session and formal business meeting.

Contact: Phyllis Sisk, Administrative Staff Specialist, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9236 or SCATS 662-9236

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

October 13, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-43-3. Nonagency Placements for Adoption-Consent.** The regulations will enable local departments of social services and licensed child placing agencies to implement new legislation governing parental placements for adoption.

Statutory Authority: § 63.1-220.3 of the Code of Virginia.

Written comments may be submitted until October 13, 1989.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

* * * * *

October 13, 1989 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-43-10. Nonagency Placements for Adoption-Adoptive Home Study.** The regulations provide guidelines to child-placing agencies in conducting an adoptive home study when children are placed for adoption by their birth parents or legal guardian.

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

Written comments may be submitted until October 13, 1989.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217 or SCATS 662-9217

BOARD OF SOCIAL WORK

† November 1, 1989 - 9 a.m. - Open Meeting
† November 2, 1989 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☐

A meeting to (i) conduct general board business; (ii) review applications for licensure and supervision of trainees; (iii) review of regulations; and (iv) respond to correspondence.

Contact: Stephanie Sivert, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229, telephone (804) 662-9914

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† November 9, 1989 - 9:30 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☐

A meeting to (i) approve minutes of July 13, 1989; (ii) discuss examination; and (iii) review correspondence.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8595, toll-free 1-800-552-3016 or SCATS 367-8595

DEPARTMENT OF TAXATION

October 27, 1989 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Richmond,
Virginia ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-400.1. Corporation Income Tax: Telecommunications Companies.**

Statutory Authority: § 58.1-203 of the Code of Virginia

Written comments may be submitted until October 27, 1989.

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

* * * * *

† December 11, 1989 - 10 a.m. - Public Hearing
General Assembly Building, House Room C, Richmond,
Virginia ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **Virginia Tire Tax Regulations (VR 630-27-640. Definitions; VR 630-27-641. Imposition of the Tax; VR 360-27-642. Collection of the Tax, Exemptions, Deductions; VR 630-27-643. Disposition of Revenue; VR 630-27-644. Provision of Chapter 6 of Title 58.1 to apply Mutatis Matundis).** The regulations set forth the application of the Virginia Tire Tax to the retail sales of new tires.

STATEMENT

Basis: These regulations are issued under the authority granted by § 58.1-203 of the Code of Virginia.

The 1989 General Assembly enacted legislation (1989 Acts of Assembly, Chapter 630) requiring the Department of Waste Management to develop and implement a plan for the management and transportation of all waste tires in Virginia. Funding of such a plan is to come from the Waste Tire Trust Fund, a fund financed by the imposition of a \$.50 per tire tax collected by the Department of Taxation.

Purpose: These regulations set forth the application of the Virginia Tire Tax to the retail sales of new tires.

Issues: Regulatory provisions are required in order to carry out the intent of the General Assembly in providing for the administration and collection of the tire tax which will be used to fund the management and transportation plan developed by the Department of Waste Management for waste tires. The disposal of waste tires has been a

topic of much discussion and concern in recent years.

Substance: A tire tax of \$.50 per tire is applicable to sales of new tires by Virginia tire retailers, except for the purpose of resale. Although the tax is imposed upon tire retailers, it may be collected from their customers at the time of sale. Exempt from the tax are tires for devices moved exclusively by human power, used exclusively upon stationary rails or tracks, or used exclusively for farming purposes, except for farm trucks.

The tire tax will generally be subject to the provisions of the retail sales and use tax, except that all replacement truck tires will be subject to the tire tax. As compensation for collecting the tire tax, tire retailers may retain 5.0% of the tax collected, provided that the tax is not delinquent at the time of payment.

The tax is applicable to new tires sold on and after January 1, 1990, through December 31, 1994.

Statutory Authority: § 58.1-203 of the Code of Virginia

Written comments may be submitted until December 11, 1989.

Contact: Janie E. Bowen, Director, Tax Policy, Department of Taxation, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010 or SCATS 367-8010

TREASURY BOARD

October 18, 1989 - 9 a.m. - Open Meeting
November 15, 1989 - 9 a.m. - Open Meeting
December 20, 1989 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☐

A monthly meeting.

Contact: Betty A. Ball, Department of Treasury, 101 N. 14th St., James Monroe Bldg., 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142

BOARD OF VETERINARY MEDICINE

October 11, 1989 - 8:30 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☐ (Interpreter for deaf provided if requested)

A meeting to conduct (i) general board business; (ii) informal conferences; (iii) formal hearing; and (iv) regulatory review.

Contact: Terri H. Behr, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915

Calendar of Events

VIRGINIA RESOURCES AUTHORITY

† **October 10, 1989 - 10 a.m. - Open Meeting**
Mutual Building, 909 East Main Street, Suite 707,
Conference Room A, Richmond, Virginia

The board will meet to (i) approve minutes of the meeting of September 12, 1989; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the office of the authority one week prior to the date of the meeting.

Contact: Shockley D. Gardner, Jr., P.O. Box 1300,
Richmond, VA 23210, telephone (804) 644-3100

BOARD FOR THE VISUALLY HANDICAPPED

October 14, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia ☒ (Interpreter for deaf provided upon
request)

The board meets quarterly to review policy and procedures of the Virginia Department for the Visually Handicapped. The board also reviews and approves the department's budget.

Contact: Diane E. Allen, Administrative Assistant, 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 (BOARD FOR THE)

October 16, 1989 - Written comments may be submitted
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to adopt regulations entitled: **VR
670-02-1. Regulations to Govern the Operation of
Vending Facilities Established in Public Buildings
and Other Property.** These regulations set forth the
department's policies under which the Business
Enterprises for the Blind is operated.

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend the regulation entitled:
**VR 670-03-1. Regulations Governing Provision of
Services in Vocational Rehabilitation.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend regulations entitled: **VR
670-03-2. Regulations Governing Provision of Services
for the Infants, Children and Youth Program.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend regulations entitled: **VR
670-03-3. Provision of Services in Rehabilitation
Teaching.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Department for the
Visually Handicapped intends to amend regulations
entitled: **VR 670-03-4. Provision of Independent Living
Rehabilitation Services.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend regulations entitled: **VR
670-03-5. Supervision of Administrative Regulations
Governing Intake and Social Services.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend regulations entitled: **VR
670-03-6. Regulations Governing Deaf-Blind Services.**

* * * * *

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board for the Visually
Handicapped intends to amend regulations entitled: **VR
670-03-7. Regulations Governing Low Vision Services.**

Statutory Authority: § 63.1-78 of the Code of Virginia.

Written comments may be submitted until October 16,
1989.

Contact: Judy P. Divers, Director of Legislation and Media
Services, 397 Azalea Ave., Richmond, VA 23227, telephone
(804) 371-3140 or toll-free 1-800-622-2155

Advisory Committee on Services

October 14, 1989 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒ (Interpreter for deaf provided if
requested)

Committee meets quarterly to advise the Virginia

Calendar of Events

Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3055, toll-free 1-800-622-2155, SCATS 371-3055 or 371-3140/TDD ☎

VIRGINIA COUNCIL ON VOCATIONAL EDUCATION

† **November 1, 1989 - 1 p.m.** - Open Meeting
† **November 2, 1989 - 8:30 a.m.** - Open Meeting
Sheldon's, Route 360, Keysville, Virginia
John H. Daniel Campus, Southside Virginia Community College, Keysville, Virginia

November 1, 1989

1 p.m. - Committee meetings (State Plan and Private Sector Involvement, Evaluation and Access) (Sheldon's, Keysville)

4 p.m. - Executive committee meeting (Sheldon's, Keysville)

7:15 p.m. - Public meeting (Southside Virginia Community College, John H. Daniel Campus, Keysville)

November 2, 1989

8:30 a.m. - Business session: Reports will be received from council committees, Virginia Department of Education, Governor's Job Training Coordinating Council, Virginia Community College System, and Department of Correctional Education (Sheldon's, Keysville)

Contact: George S. Orr, Jr., Executive Director, Virginia Council on Vocational Education, 7420-A Whitepine Rd., Richmond, VA 23237, telephone (804) 275-6218

VIRGINIA VOLUNTARY FORMULARY BOARD

October 27, 1989 - 10 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

The board will hold a public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add drugs and drug products to the Formulary that became effective on November 15, 1988, and a supplement to the Formulary that became effective on September 25, 1989. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address

and received prior to 5 p.m. on October 27, 1989, will be made a part of the hearing record and considered by the board.

November 30, 1989 - 10:30 a.m. - Open Meeting
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

A meeting to review (i) public hearing comments; (ii) correspondence; and (iii) other information submitted by pharmaceutical manufacturers for products being considered for inclusion in or deletion from the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326 or SCATS 786-3596

DEPARTMENT OF WASTE MANAGEMENT

October 16, 1989 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-10-1. Virginia Hazardous Waste Management Regulations.** Amendment 10 updates the Virginia Hazardous Waste Management Regulations to retain the equivalency of the Virginia and federal programs.

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

Written comments may be submitted until November 20, 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 225-2975

STATE WATER CONTROL BOARD

October 17, 1989 - 2 p.m. - Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The proposed amendments would allow permittees an opportunity to conduct instream evaluations of the impact of the effluent on the receiving waters prior to entering into toxicity reduction evaluations and remove references to water quality criteria.

Calendar of Events

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until October 31, 1989.

Contact: Doneva Dalton, Hearing Reporter, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-0384 or SCATS 367-0384

VIRGINIA WINEGROWERS ADVISORY BOARD

October 20, 1989 - 10 a.m. - Open Meeting
Virginia Polytechnic Institute and State University,
Donaldson Brown Center, Blacksburg, Virginia

The board will review events since the July 10, 1989, meeting held in Richmond. The board will hear project status reports and conduct regular discussion of sponsored activities and events.

Contact: Annette C. Ringwood, Secretary to Virginia Winegrowers Advisory Board, 1100 Bank St., Room 802B, Richmond, VA 23219, telephone (804) 786-0481 or SCATS 786-0481

COUNCIL ON THE STATUS OF WOMEN

November 13, 1989 - 8 p.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway,
Richmond, Virginia

Meetings of the standing committees of the council.

November 14, 1989 - 9 a.m. - Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway,
Richmond, Virginia

A regular meeting of the council to conduct general business and to receive reports from the council standing committees.

Contact: Bonnie H. Robinson, Executive Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9200 or SCATS 662-9200

LEGISLATIVE

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)

† **October 24, 1989 - 11 a.m. - Open Meeting**
State Capitol, Capitol Square, House Room 4, Richmond,
Virginia. ☐

† **November 17, 1989 - 10 a.m. - Open Meeting**

General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A work session of the joint subcommittee. HJR 431

† **December 14, 1989 - 10 a.m. - Public Hearing**
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

A public hearing to allow the committee to hear the public's views on the AIDS problem. HJR 431

† **January 11, 1990 - 2 p.m. - Open Meeting**
Site to be determined

A tentative date for a working session.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

SPECIAL HOUSE GENERAL LAWS SUBCOMMITTEE STUDYING ALCOHOLIC BEVERAGE CONTROL SYSTEM

October 17, 1989 - 2 p.m. - Public Hearing
General Assembly Building, Capitol Square, House Room
D, Richmond, Virginia ☐

Public hearing regarding possible privatization of ABC retail sales. HB 1979

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, General Assembly Bldg., Capitol Square, Richmond, VA 23219, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S SYSTEM OF APPELLATE REVIEW OF CIVIL CASES

October 10, 1989 - 10 a.m. - Working Session
General Assembly Building, Sixth Floor Conference Room,
Capitol Square, Richmond, Virginia ☐

November 13, 1989 - 10 a.m. - Working Session
General Assembly Building, Sixth Floor Conference Room,
Capitol Square, Richmond, Virginia ☐

A public hearing and working sessions relating to HJR 329.

Contact: Oscar Brinson, Staff Attorney or Mary K. Geisen, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE EVALUATING STATEWIDE COURT APPOINTED SPECIAL ADVOCATE PROGRAMS

October 12, 1989 - 2 p.m. - Open Meeting

Calendar of Events

General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

This subcommittee will meet to consider statewide court appointed special advocate programs. HJR 261

Contact: John G. MacConnell, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208

VIRGINIA STATE CRIME COMMISSION

† **October 17, 1989 - 10 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

A meeting of the full commission to receive all study reports from the subcommittees:

(HJR 283) Handicapped Inmates
(HJR 367) Court Security and Plastic Firearms
(HJR 321) Shock Incarceration
Victim and Witnesses of Crime
Youthful Offender Act
Juvenile Transportation

Drug Task Force (Corrections Subcommittee)

† **October 18, 1989 - 1 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ☒

Purpose of the meeting will be for the drug task force to examine drug-related treatment efforts and assess the effectiveness of correctional programs pursuant to SJR 144.

Drug Task Force (Education Subcommittee)

† **October 17, 1989 - 8 a.m.** – Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. ☒

Purpose of the meeting will be for the drug task force to examine drug-awareness education efforts in the Commonwealth pursuant to SJR 144.

Drug Task Force (Law-Enforcement Subcommittee)

† **October 17, 1989 - 2 p.m.** – Open Meeting
General Assembly Building, Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ☒

Purpose of the meeting will be for the drug task force to examine drug-related law-enforcement issues brought before the subcommittee pursuant to SJR 144.

Contact: Robert E. Colvin, Executive Director, General Assembly Bldg., 9th Floor, Room 915, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 225-4534

JOINT SUBCOMMITTEE STUDYING TRAINING AND CERTIFICATION OF EMERGENCY MEDICAL SERVICES PERSONNEL

November 13, 1989 - 9 a.m. – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☒

A regular meeting. SJR 209, 1989 (continued).

Contact: Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838, or Norma Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE REGULATION OF ENGINEERS, ARCHITECTS, AND LAND SURVEYORS AND THE EXEMPTION FROM LICENSURE OF EMPLOYEES OF THE COMMONWEALTH AND ITS LOCALITIES

October 19, 1989 - 10 a.m. – Open Meeting
November 21, 1989 - 10 a.m. – Open Meeting
State Capitol, House Room 4, Capitol Square, Richmond, Virginia ☒

Regular meetings. HJR 408

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING ACTIVITIES OF FINANCIAL INSTITUTIONS AND REAL ESTATE BROKERS AND AGENTS

NOTE: CHANGE IN MEETING DATE

October 18, 1989 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, Capitol Square, Richmond, Virginia ☒

A regular meeting. SJR 218

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869, or Arlen Bolstad, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING THE FREEDOM OF INFORMATION ACT

November 20, 1989 - 10 a.m. – Public Hearing
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia ☒

Calendar of Events

A public hearing to receive comments relating to legislation proposed by the subcommittee and other matters pertaining to the Freedom of Information Act.

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

CREATION, MEMBERSHIP AND STANDARDS OF CONDUCT OF A NONPARTISAN FAIR CAMPAIGN PRACTICES COMMISSION

† December 4, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

A joint subcommittee meeting. HJR 416

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† October 25, 1989 - Time to be announced - Open Meeting
October 26, 1989 - Time to be announced - Open Meeting
NOTE: CHANGE OF MEETING LOCATION
Windmill Point Marine Resort, Windmill Point, Virginia

Two-day meeting of the commission. Originally scheduled for October 26 in Richmond. Format will be several meetings during the two-day period to be held in round table setting. Issues to be addressed will be items such as infrastructure, population growth, waste management, and natural resources.

November 30, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Sixth Floor Conference Room, Richmond, Virginia. ☒

Meetings to address matters relevant to the mission of the commission.

Contact: Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227

TAXATION OF PUBLIC AND PRIVATE RETIREMENT BENEFITS

October 12, 1989 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

A public hearing. HJR 6

Contact: Regina McNally, Staff Attorney, Division of

Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

EXEMPTING OF RETIREMENT BENEFITS

† October 30, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, 6th Floor Conference Room, Richmond, Virginia. ☒

A working session to study the exempting of retirement benefits from the claims of creditors. HJR 284

Contact: Jessica Bolecek, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING COMBINED SEWER OVERFLOWS IN THE COMMONWEALTH

† October 13, 1989 - 10 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia ☒

An open meeting. SJR 198

Contact: Martin G. Farber, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591, or Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838

COMMISSION TO STUDY ALTERNATIVE METHODS OF FINANCING CERTAIN FACILITIES AT STATE-SUPPORTED COLLEGES AND UNIVERSITIES

† October 24, 1989 - 2:30 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The second meeting of the commission will be a working session, including review of issues and development of alternatives. HJR 373

† November 20, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

The third commission meeting will involve final discussions and a review.

† December 14, 1989 - 2 p.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

The fourth meeting of the commission will be held in order to finalize its report.

Contact: Kathleen G. Harris, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

REGULATION OF SPORTS AGENTS

October 11, 1989 - 10 a.m. - Public Hearing
Dome Room of the Rotunda at the University of Virginia, Charlottesville, Virginia

A public hearing. HJR 407

Contact: Angela Bowser, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

JOINT SUBCOMMITTEE STUDYING SURROGATE MOTHERHOOD

October 10, 1989 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, Senate Room 4, Richmond, Virginia. ☒

A regular meeting. SJR 178 (continued)

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591 or Amy Wachter, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838

TOLL ROAD TRANSPORTATION AUTHORITIES

† **October 12, 1989 - 7:30 p.m. - Public Hearing**
County Administration Building, 18 North King Street, Leesburg Board of Supervisors Room, Leesburg, Virginia

A public hearing in the course of considering what, if any, changes should be made to the laws of Virginia's transportation program.

Contact: Alan B. Wambold, Research Associate, Division of Legislative Services, P.O. Box 3-AG, Richmond, VA 23208, telephone (804) 786-3591

CHRONOLOGICAL LIST

OPEN MEETINGS

October 10

Appellate Review of Civil Cases, Joint Subcommittee Studying Commonwealth's System of
† James River ASAP Board
Surrogate Motherhood, Joint Subcommittee Studying

† Virginia Resources Authority

October 11

Conservation and Recreation, Department of
- Outdoor Recreation Advisory Board
Corrections, Board of
† Eastern Shore ASAP Policy Board
Game and Inland Fisheries, Board of
- Planning Committee
† Long-Term Care Council, Virginia
† Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse Services, Department of
Veterinary Medicine, Board of

October 12

† Child Day-Care Council
Court Appointed Special Advocate Programs, Joint Subcommittee Evaluating Statewide
† Fairfax County, the City of Fairfax, and the Towns of Herndon and Vienna, Local Emergency Planning Committee for
† Marine Resources Commission
Medicine, Board of
- Chiropractic Examination Committee
Professional Counselors, Board of

October 13

Children, Coordinating Committee for Interdepartmental Licensure and Certification of Residential Facilities for
Professional Counselors, Board of
† Sewer Overflows in the Commonwealth, Joint Subcommittee Studying Combined

October 14

† Family and Children's Trust Fund of Virginia
Visually Handicapped, Board for the Visually Handicapped, Department for the
- Advisory Committee on Services

October 16

Financial Institutions and Real Estate Brokers and Agents, Joint Subcommittee Studying Activities of

October 17

† Aviation Board, Virginia
† Crime Commission, Virginia State
- Drug Task Force (Education Subcommittee)
- Drug Task Force (LWNF Subcommittee)
† Housing Development Authority, Virginia
Medical Assistance Services, Board of
† Medicine, Board of
- Informal Conference Committee
† Optometry, Board of

October 18

† Contractors, Board for
- Complaints Committee
† Crime Commission, Virginia State

Calendar of Events

- Drug Task Force (Corrections Subcommittee)
- † Information Management, Council on
- † Optometry, Board of
- Psychology, Board of
- † Racing Commission, Virginia
- † Social Services, State Board of
- Treasury Board

October 19

- † Boating Advisory Board, Virginia
- Engineers, Architects, and Land Surveyors and the Exemption from Licensure of Employees of the Commonwealth and Its Localities, Joint Subcommittee Studying the Regulation of
- † Fire Services Board, Virginia
 - Fire Prevention Committee
 - Fire Training/EMS Education Committee
 - Legislative Committee
- † Rights of the Disabled, Board for
 - Education Committee
 - Employment Committee
 - Health Committee
 - Housing Committee
 - Transportation Committee
- † Social Services, State Board of

October 20

- † Conservation and Recreation, Department of
 - Falls of the James Advisory Board
- † Coordinating Prevention, Virginia Council on
- † Fire Services Board, Virginia
- † Longwood College
 - Board of Visitors
- Lynchburg Local Emergency Planning Committee, City of

- † Medicine, Board of
 - Informal Conference Committee
- Natural History, Virginia Museum of
 - Board of Trustees
- Winegrowers Advisory Board, Virginia

October 24

- † Acquired Immunodeficiency Syndrome (AIDS) Education, Board of
- Health Services Cost Review Council
- † Nursing Home Administrators, Board of
- † State-Supported Colleges and Universities, Commission to Study Alternative Methods of Financing Certain

October 25

- Education, Board of
- Gloucester County Local Emergency Planning Committee
- † Lottery Board, State
- Mental Health, Mental Retardation and Substance Abuse Services Board, State
- † Population Growth and Development, Commission on

October 26

- Children, Department for
 - State-Level Runaway Youth Services Network
- DNA Test Data Exchange, Joint Subcommittee Studying
- † Game and Inland Fisheries, Board of
- † Medicine, Board of
 - Advisory Board of Occupational Therapy
 - Informal Conference Committee
- Population Growth and Development, Commission on

October 27

- † Building Code Technical Review Board, State
- † Medicine, Board of
 - Informal Conference Committee
- Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - Mental Health Advisory Council
- † Nursing, Board of
 - Special Conference Committee

October 30

- † Historic Resources Board and State Review Board of the Department of Historic Resources
- † Retirement Benefits, Exempting of
- Funeral Directors and Embalmers, Board of

October 31

- † Funeral Directors and Embalmers, Board of
- † Historic Resources, Department of
 - Board of Trustees of the Preservation Foundation
- Medicare and Medicaid, Governor's Advisory Board on

November 1

- Child Mental Health, Consortium on
- † Historic Resources, Department of
 - Board of Trustees of the Preservation Foundation
- † Opticians, Board for
- † Social Work, Board of
- † Vocational Education, Virginia Council on

November 2

- † Aging, Department for the
- † Chesterfield County, Local Emergency Planning Committee of
- Long-Term Care Council, Virginia
- Psychology, Board of
- † Social Work, Board of
- † Vocational Education, Virginia Council on

November 3

- † Aging, Department for the
- Long-Term Care Council, Virginia

November 9

- † Child Day-Care Council
- Children, Coordinating Committee for
- Interdepartmental Licensure and Certification of Residential Facilities for
- † Professional Soil Scientists, Board for

November 13

Appellate Review of Civil Cases, Joing Subcommittee Studying Commonwealth's System of Emergency Medical Services Personnel, Joint Subcommittee Studying Training and Certification of Women, Council on the Status of

November 14
Education, Board of
Women, Council on the Status of

November 15
† Corrections, Board of
Indians, Council on
Treasury Board

November 16
† Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee

November 17
† Acquired Immunodeficiency Syndrome (AIDS)

November 20
† State-Supported Colleges and Universities,
Commission to Study Alternative Methods of Financing
Certain Facilities at

November 21
Education Assistance Authority, State
- Board of Directors
Engineers, Architects, and Land Surveyors and the
Exemption from Licensure of Employees of the
Commonwealth and Its Localities, Joint Subcommittee
Studying the Regulations of

November 28
Peninsula ASAP Polciy Board

November 30
† Charles City County Emergency Planning Committee
Funeral Directors and Embalmers, Board of
Population Growth and Development, Commission on
Voluntary Formulary Board, Virginia

December 4
† Nonpartisan Fair Campaign Practices Commission,
Creation, Membership and Standards of Conduct of a

December 6
Child Mental Health, Consortium
Nursing Home Administrators, Board of

December 7
Emergency Planning Committee of Chesterfield County,
Local
Nursing Home Administrators, Board of

December 8
Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for

December 13
Health, Board of

December 14
† Child Day-Care Council
Health, Board of
† State-Supported Colleges and Universities,
Commission to Study Alternative Methods of Financing
Certain Facilities at

December 20
Treasury Board

January 11, 1990
† Acquired Immunodeficiency Syndrome (AIDS)

PUBLIC HEARINGS

October 10
Health, Department of

October 11
Corrections, Department of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Alzheimer's Disease and Related Disorders
Commission
† Montgomery County/Town of Blacksburg Local
Emergency Planning Committee
Sports Agents, Regulation of

October 12
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Alzheimer's Disease and Related Disorders
Commission
Public and Private Retirement Benefits, Taxation of
† Toll Road Transportation Authorities

October 16
Medicine, Board of
Waste Management, Department of

October 17
Alcoholic Beverage Control System, Special House
General Laws Subcommittee Studying
Water Control Board, State

October 18
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Alzheimer's Disease and Related Disorders
Commission

October 19
† Fire Services Board, Virginia
Mental Health, Mental Retardation and Substance
Abuse Services, Department of

Calendar of Events

- Alzheimer's Disease and Related Disorders Commission
- October 23**
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- October 24**
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- October 26**
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- October 27**
† Game and Inland Fisheries, Board of Taxation, Department of Voluntary Formulary Board, Virginia
- October 30**
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- November 1**
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- November 2**
† Local Government, Commission on
- November 3**
Medicine, Board of
- November 6**
Health, Department of
- November 13**
Health, Department of Rights of the Disabled, Department for
- November 14**
Corrections, Department of Health, Department of
- November 15**
Health, Department of Labor and Industry, Department of
- November 16**
Health, Department of
- November 20**
Freedom of Information Act, Joint Subcommittee Studying the
- November 21**
Health, Department of Lottery Department, State
- November 28**
- Health, Department of
- November 29**
Health, Department of Pharmacy, Board of
- December 4**
Motor Vehicles, Department of
- December 11**
† Taxation, Department of
- December 14**
† Acquired Immunodeficiency Syndrome (AIDS)