

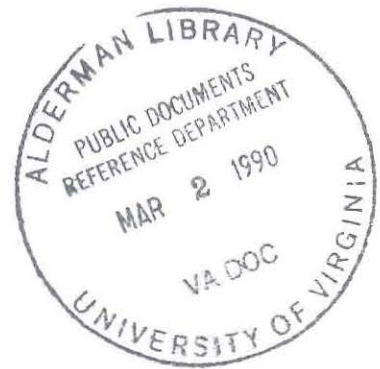
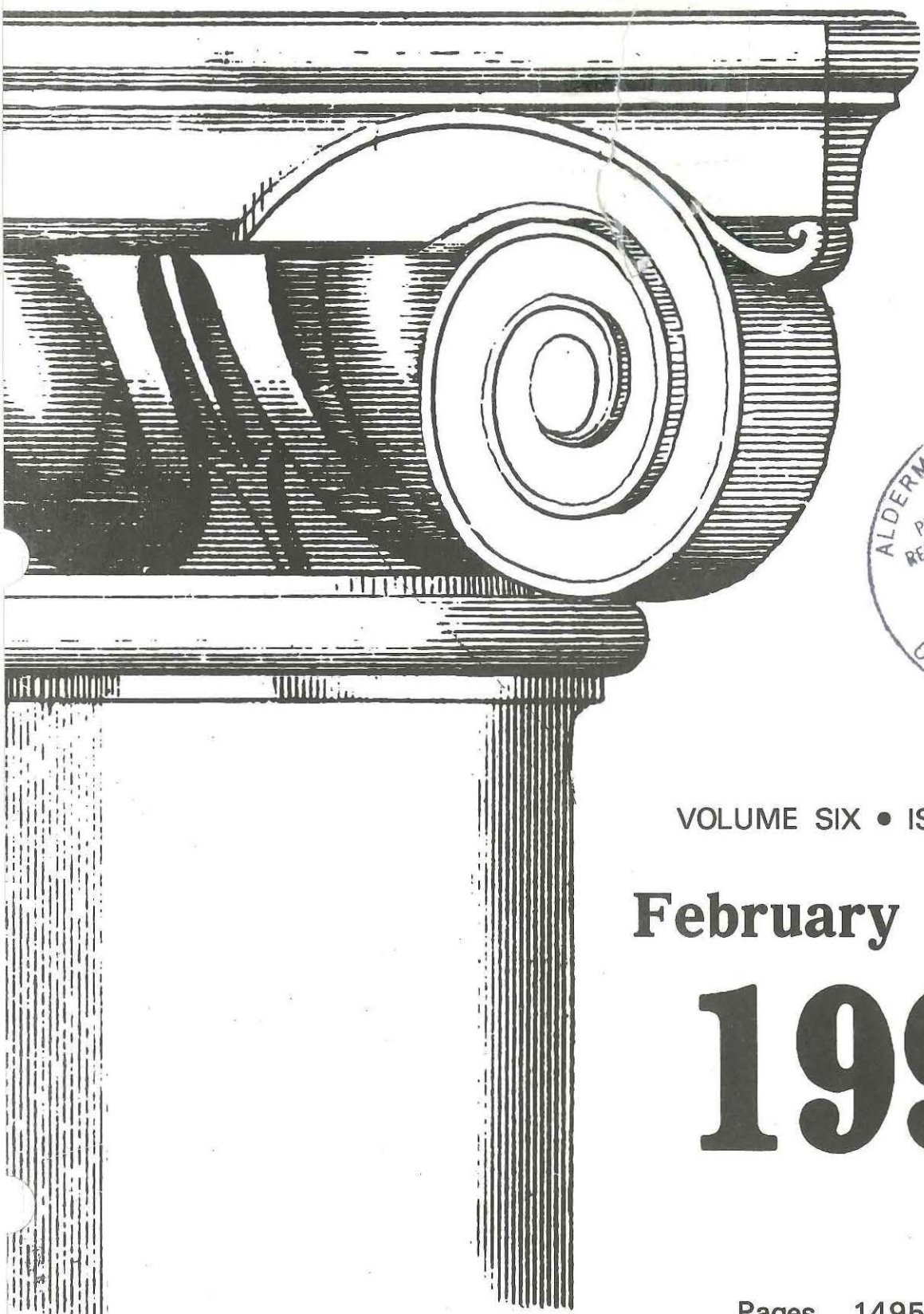
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THE VIRGINIA REGISTER

OF REGULATIONS

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February 26, 1990

1990

Pages 1495 Through 1730

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.

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PROPOSED REGULATIONS

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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.

BOARD FOR ACCOUNTANCY

Title of Regulation: VR 105-01-02. Board for Accountancy Regulations.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Public Hearing Date: May 7, 1990 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply directly to approximately 5,413 licensed CPAs, 3,782 certificate maintenance holders and 270 registered professional corporations. Regulations currently in effect are being repealed, and the proposed regulations are submitted as new, in order to accommodate format changes developed by the Department of Commerce. Substantive changes found in the proposed regulations include eliminating the reference to a four-year college or university in the definition of an "accredited institution," establishing a definition of "holding out," modifying the education requirements to sit for the CPA examination, providing the board broader authority to extend examination credit, requiring the professional staff of a CPA firm who are engaged in or holding themselves out to be engaged in the practice of public accounting to hold a license, defining the experience requirements more specifically, providing a 30-day grace period to renew, requiring a certification that one continues to meet the entry requirement for renewal and reinstatement, and clarifying what the board considers to be client records.

VR 105-01-02. Board for Accountancy Regulations.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Accredited institution" means any degree-granting college or university accredited at the time of the applicant's degree or attendance by any of the following: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central

Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges.

"Anniversary date" means September 30 of each even-numbered year.

"Certification" means the issuance of a certificate to a person who has met all the requirements of these regulations.

"Certify," "examine," "review," or "render or disclaim an opinion," when referenced to financial information or the practice of public accountancy, are terms which, when used in connection with the issuance of reports, state or imply assurance of conformity with generally accepted accounting principles, generally accepted auditing standards, and review standards. The terms include forms of language disclaiming an opinion concerning the reliability of the financial information referred to or relating to the expertise of the issuer.

"Client" means a person or entity that contracts with or retains a firm for performance of accounting services.

"Firm" means a sole proprietorship, partnership, professional corporation or any combination practicing public accountancy in Virginia.

"Holding out" means any representation that a regulant is a certified public accountant, made in connection with an offer to perform or the performance of services for the public. Any such representation is presumed to invite the public to rely upon the professional skills implied by the title "certified public accountant" in connection with the services offered to be performed by the regulant. For the purposes of this definition, a representation shall be deemed to include any oral or written communication conveying that the regulant is a certified public accountant, including without limitation the use of titles on letterheads, professional cards, office doors, advertisements and listings; but, it does not include the display of the original (but not a copy) of a currently valid certificate, nor any use of titles permitted to be used by regulants for identification as (i) a faculty member in an educational institution, for purposes of functioning as such a faculty member or (ii) the author of a book, article or other publication, provided that such publication does not offer the performance of services or the sale of products (other than a book, article or other publication) of any kind.

"Individual firm name" means a name different from the name in which the individual's license is issued.

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"Jurisdiction" means another state, territory, the District of Columbia, Puerto Rico, the U.S. Virgin Islands or Guam.

"Practice of accountancy" or "accounting practice" or "performance of accounting services" means the performance of services requiring the use of accounting and auditing skills, and includes the issuance of reports or financial statements, the preparation of tax returns, the furnishing of advice on accounting, auditing or tax matters, or the performance of operational or compliance audits.

"Principal" means a certified public accountant who is the sole proprietor of, or a partner or shareholder in, a firm.

"Professional corporation" means a firm organized in accordance with Chapter 7 (§ 13.1-542 et seq.) of Title 13 of the Code of Virginia.

"Professional services and engagements" means the association between a client and a firm wherein the firm performs, or offers to perform, accounting services for the client.

"Professional staff" means employees of a firm who make decisions and exercise judgment in their performance of accounting services, but excludes employees performing routine bookkeeping or clerical functions.

"Regulant" means any Virginia certificate holder, licensee, professional corporation or firm.

PART II. ENTRY.

§ 2.1. Qualifications for certification.

Any person applying for certification as a certified public accountant shall meet the requirements of good character and education and shall have passed both a basic and an ethics examination, as approved by the board.

A. Character.

The board may deny certification upon a finding supported by clear and convincing evidence of a lack of good character. An applicant's history of dishonest or felonious acts, lack of fiscal integrity or acts which would constitute violations of these regulations will be considered by the board in determining character. Evidence of the commission of a single act may be sufficient to show a lack of good character.

B. Education.

1. Each applicant shall have earned one of the following:

a. A baccalaureate or higher degree from a

four-year accredited institution. The applicant shall have completed the following courses or their equivalent at an accredited institution:

Courses	Semester Hours
Principles of Accounting (or introductory level Financial Accounting and Managerial Accounting)	6
Financial Accounting/Accounting Theory (above the introductory level)	9
Cost/Managerial Accounting (above the introductory level)	3
Auditing	3
Taxation	3
Business (Commercial) Law (exclusive of Legal Environment of Business)	3
Computer Information Systems	3
Principles of Economics	3
Principles of Management	3
Principles of Marketing	3
Business Finance	3
Total	42

b. Provided the applicant initially applies and sits for the examination by November 30, 1992, the education requirement will be satisfied if by July 31, 1988, the applicant had completed a baccalaureate or higher degree and had completed 27 semester hours in accounting subjects from an accredited institution. These courses must have included courses in accounting, auditing, cost accounting, and commercial law (but not more than six semester hours of commercial law); or

c. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed a baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution as defined in § 1.1; or

d. Provided the applicant initially applies and sits for the examination by November 30, 1993, the education requirement will be satisfied if the applicant has completed 120 semester hours of earned credit from an accredited institution of which at least 60 semester hours must be at the junior and senior level and must include the

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following business related courses, or their equivalent:

	Semester Hours
Principles of Accounting	6
Principles of Economics	3
Principles of Marketing	3
Principles of Management	3
Finance	3
Information Systems	3
Statistics	3
Business Policy	3
Financial Accounting and Accounting Theory	6
Cost/Managerial Accounting	3
Auditing	3
Taxation	3
Commercial Law (not to exceed six semester hours) ...	3
Business Electives	15
Total	60

e. Applicants whose degrees or diplomas were earned at colleges or universities outside the United States shall have their educational credentials evaluated by a foreign academic credentials service approved by the board to determine the extent to which such credentials are equivalent to the education requirements set forth above.

Such credentials may be accepted by the board as meeting its educational requirements fully, partially, or not at all.

2. Evidence of education. Each applicant shall submit evidence of having obtained the required education in the form of official transcripts transmitted directly from the accredited institution. In unusual circumstances other evidence of education may be accepted when deemed equivalent and conclusive.

3. Education prerequisite to examination. The education requirements shall be met prior to examination. An applicant may, however, be admitted to the May examination if he will have completed the education requirements by the succeeding June 30, and to the November examination if he will have completed the education requirements by the

succeeding December 31, and has filed evidence of enrollment in the required courses as specified by the board.

C. Examination.

1. Each applicant for an original CPA certificate in Virginia must pass a basic four-part, written national uniform examination in auditing, business law, theory of accounting, and accounting practice. Each part of the basic examination must be passed with a grade of 75. The board may use all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants to assist it in performing its duties.

The fee for examination shall be \$100. The fee for reexamination shall be \$100. The fee for out-of-state proctoring shall be \$75. Fees shall not be prorated and are nonrefundable except in accordance with § 2.1 C 7.

2. Examination credits. Credits will be given for basic examination parts passed through five successive offerings subsequent to the first occasion when credit is earned, provided that:

a. No credit will be allowed until accounting practice or two other parts are passed at a single sitting; and

b. The candidate sits for all parts for which credit has not previously been granted; and

c. The candidate receives a minimum grade of 50 in each part not passed, except if three parts are passed at a single examination no minimum grade shall be required on the fourth part.

3. Examination credits, exceptions. The board may, at its discretion, waive any of the above examination credit requirements for candidates who suffer documented serious personal illness or injury, or death in their immediate family, or who are prevented from meeting these requirements due to the obligation of military service or service in the Peace Corps, or for other good cause of similar magnitude approved by the board. Documentation of these circumstances must be received by the board no later than 12 months after the date of the examination missed or within 6 months of the completion of military or Peace Corps service.

4. Conduct in basic examination. Each applicant shall follow all regulations established by the board with regard to conduct at the basic examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the examination site on the date of the examination.

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5. *Loss of credit or eligibility.* Any applicant found to be in violation of the regulations governing conduct in the basic examination may lose established eligibility to be admitted or credit for examination parts passed.

6. *Application deadline.* Application to sit for the basic examination shall be made on a form provided by the board and shall be filed in accordance with the instructions on the application along with all required documents by the first Friday in March for the May examination and by the first Friday in September for the November examination.

7. *Failure to appear; excused examination.* An applicant who fails to appear for the basic examination or reexamination shall forfeit the fees charged for that examination or reexamination unless excused.

The board may, at its discretion, excuse an applicant for an examination until the next examination for military service when documented by orders or a letter from the commanding officer; or for serious injury, illness or physical impairment, any of which must be documented by a statement from the treating physician; or death in their immediate family, or for other good cause of similar magnitude approved by the board. The fee for the excused examination will be refunded.

§ 2.2. Original CPA certificate.

A. A CPA certificate will be granted to an applicant who has met all of the qualifications for certification outlined in § 2.1.

B. The fee for an original CPA certificate shall be \$25. All fees are nonrefundable and shall not be prorated.

§ 2.3. Certificate by endorsement.

A CPA certificate will be granted to an applicant who holds a like valid and unrevoked certificate issued under the law of any jurisdiction showing that applicant is in good standing in the jurisdiction; provided:

1. The applicant meets all current requirements in Virginia at the time application is made; or

2. At the time the applicant's certificate was issued in the other jurisdiction the applicant met all requirements then applicable in Virginia; or

3. The applicant has met all requirements applicable in Virginia except the education requirement, or has passed the examination under different credit or grade provisions, and either:

a. The applicant has five years of experience in the practice of accountancy within the 10 years prior to application, or

b. The applicant has five years of experience in the practice of accountancy, one year of which was immediately prior to application, within the 10 years prior to application and has completed 15 semester hours of accounting, auditing and related subjects at an accredited institution.

4. The fee for a certificate by endorsement shall be \$90. All fees are nonrefundable and shall not be prorated.

§ 2.4. License/certificate maintenance.

Any person holding a Virginia CPA certificate shall either maintain a Virginia license to practice public accounting or file biennially as a certificate holder not engaged in the practice of public accounting and pay the required maintenance fee.

§ 2.5. Licensure.

Each certified public accountant who is engaged in or holding himself out to be engaged in the practice of public accountancy in Virginia must hold a valid license. This provision applies to professional staff as well as to sole proprietors, partners and shareholders. Professional staff required to, but who do not, hold a license on the effective date of these regulations shall be deemed to be in compliance hereunder if an application for license is made no later than March 1, 1991, and is subsequently approved by the board.

1. To be eligible for licensure an individual shall meet the qualifications for certification outlined in § 2.1 and one of the experience requirements set forth in § 2.7.

2. The fee for an initial CPA license shall be \$75. All fees are nonrefundable and shall not be prorated.

§ 2.6. Requirement for licensure; exception.

Only a certified public accountant, holding a valid license, may engage in the practice of public accounting in Virginia. However, this does not prohibit any person from affixing his signature to any statement or report for his employer's internal or management use designating the position, title, or office of the person.

§ 2.7. Experience.

A. Each applicant for licensure shall have met one of the following:

1. Two years of experience in public accounting with the giving of assurances constituting not less than 800 hours of that experience with no more than 200 of such hours in compilation services, or

2. Two years of experience under the supervision of a certified public accountant in the performance of accounting services with at least 800 hours of that

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experience including the following:

a. Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in the accounting records; and

b. Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records; and

c. Experience in the planning of the program of audit work including the selection of the procedures to be followed; and

d. Experience in the preparation of written explanations and comments on the findings of the examinations and on the accounting records; and

e. Experience in the preparation and analysis of financial statements together with explanations and notes thereon; or

3. Three years of accounting experience which demonstrates intensive, diversified application of accounting principles, auditing standards or other technical standards pertaining to accounting and review services, tax services or management advisory services. For those with more than a four-year lapse between completion of the CPA examination and submission of the license application, continuing professional education will be required. Such education must include courses in auditing, accounting, review, tax, or management advisory services; or

4. Three years of teaching experience in upper level courses in accounting, auditing, and taxation at an accredited institution in conjunction with no less than five months experience with a public accounting firm with at least 800 hours of the work in the giving of assurances with no more than 200 of such hours in compilation services.

B. Education substituted for experience.

An applicant having a baccalaureate degree and courses as defined in § 2.1 B 1 and a master's degree from an accredited institution with 15 semester hours in graduate level accounting courses exclusive of those courses defined in § 2.1 B 1 will be credited with one year of required experience under this section.

§ 2.8. Registration of professional corporations.

All professional corporations practicing public accountancy in Virginia shall be registered by the board.

A. The fee for registration shall be \$50. All fees are nonrefundable and shall not be prorated.

B. All registered professional corporations shall meet the

standards set forth in § 54.1-2005 of the Code of Virginia and Part IV of these regulations.

PART III.

RENEWAL/REINSTATEMENT.

§ 3.1. Requirement for renewal.

Each license to practice public accounting, CPA certificate maintenance or registration certificate of a professional corporation shall be renewed biennially.

A. Each license or registration certificate of a professional corporation shall expire on September 30 of each even-numbered year. Maintenance fees for CPA certificates shall be due on the same date. The board will mail a renewal notice to the regulant at the last known address of record. Failure of the regulant to receive written notice of the expiration does not relieve him of the requirement to renew or pay the required fee.

B. Renewal fees are as follows:

1. The fee for renewal of a CPA license to practice public accounting shall be \$50.

2. The fee for renewal of the registration certificate of a professional corporation shall be \$50.

3. The CPA certificate maintenance fee shall be \$20.

4. All fees are nonrefundable and shall not be prorated.

C. If the required fee is not received by October 30 of each even-numbered year, an additional fee of \$10 for certificate maintenance, \$25 for license renewal and \$25 for professional corporation registration shall be required.

D. Applicants for renewal shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

E. The board, in its discretion, may deny renewal of a license, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held.

§ 3.2. Requirement for reinstatement.

A. If the regulant fails to renew his license or registration or pay his certificate maintenance fee within six months following the expiration, he will be required to present reasons for reinstatement and the board may, in its discretion, grant reinstatement or require a requalification or reexamination or both.

B. The fee for reinstatement of the license shall be \$150, the fee for reinstatement of the professional corporation registration shall be \$100 and the fee for reinstatement of the certificate maintenance shall be \$50.

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All fees are nonrefundable and shall not be prorated.

C. Applicants for reinstatement shall certify on a form provided by the board that they continue to meet the standards for entry as set forth in § 2.1 A.

D. The board, in its discretion, may deny reinstatement of a license, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Notification of change of address or name.

Every regulant shall notify the board in writing within 30 days of any change of address or name.

§ 4.2. Use of terms.

No firm with an office in Virginia shall use or assume the title or designation "certified public accountant," "public accountant," "CPA," or any other title, designation, phrase, acronym, abbreviation, sign, card, or device tending to indicate that it is engaged in or holding itself out to be engaged in Virginia in the practice of public accountancy unless all principals and professional staff of that firm who work in Virginia or who have substantial contact with work in Virginia and who meet the qualifications for licensure, currently hold a valid Virginia license.

§ 4.3. Regulant accountable for services rendered.

Whenever a regulant offers or performs any services in Virginia related to the practice of accountancy, regardless of the necessity to hold a license to perform that service, he shall be subject to the provisions of these regulations. A regulant shall be responsible for the acts or omissions of his staff.

§ 4.4. Sole proprietor name.

A sole proprietor shall use his own name as the firm name except that a proprietor surviving the death or withdrawal of all other partners may continue using the name of those partners for not more than two years after becoming a sole proprietor.

§ 4.5. Partnership name.

A licensee shall not practice in a partnership that includes a fictitious name, indicates fields of specialization, or includes the terms "company," "associates" or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed partner. The name of one or more past partners or shareholders of a predecessor corporation may be included in the partnership firm name of a successor partnership.

§ 4.6. Corporate name.

A licensee shall not practice in a corporate name that includes a fictitious name, which indicates fields of specialization, or includes the terms "company," "associates," or any similar terms or derivatives unless used to designate at least one unnamed, currently licensed shareholder. The names of one or more past shareholders or partners in a predecessor partnership may be included in the corporate firm name of a successor corporation. A shareholder surviving the death of all other shareholders may continue using the names of those shareholders, or partners in a predecessor partnership, for not more than two years after becoming a sole shareholder.

§ 4.7. Notification of changes in firm.

A licensee shall notify the board in writing within 30 days after occurrence of any of the following:

1. The formation of a firm and its name, location and names of partners or shareholders;
2. The admission of any new shareholder or partner;
3. The change in the name of any partnership or professional corporation;
4. The change in the supervisor of any branch office;
5. The change in the number or location of Virginia offices;
6. The opening of a new office in Virginia and the name of the supervisor; and
7. Any event which would cause the firm not to be in conformity with the provisions of these regulations.

§ 4.8. Sharing an office.

When sharing office facilities with any person who is not in the same firm, the licensee shall use practices and procedures which enable a reasonable person clearly to distinguish between the practice of the licensee and the operation of the other occupation or business.

§ 4.9. Resident manager in Virginia in charge of office.

Each branch office of a firm shall be managed by a certified public accountant licensed in Virginia. No licensed certified public accountant shall manage more than one office until such time as the licensee can provide, and the board approve, a management plan to provide supervision and quality control over the work product of all offices under the supervision of the licensee.

§ 4.10. Misleading name, letterhead, publication, etc.

Nothing shall be contained in a firm's name or in any firm letterhead, publication, form, card, etc., which states

or implies an ability, relationship, or condition that does not exist.

§ 4.11. Independence.

A regulant individual or a firm of which he is a partner or shareholder shall not express an opinion or conclusion on financial statements of an entity in such a manner as to imply that he or his firm are acting in an independent capacity when either the regulant or his firm during the period of a professional engagement or at time of expressing an opinion has any of the following interests in that entity:

1. Had or was committed to acquire any direct or material indirect financial interest in the entity; or
2. Held the position of trustee, executor, or administrator of any estate if such trust or estate is committed to acquire any direct or material indirect financial interest in the entity; or
3. Held ownership of any joint closely-held business investment with the entity or any officer, director, or principal stockholder thereof which was material in relation to the net worth of the licensee; or
4. Had a relationship with the entity as a promoter, underwriter, or voting trustee, director or officer, or in any capacity equivalent to that of a member of management or of an employee; or
5. Had any loan to or from the entity, or from any officer, director, or principal stockholder thereof except loans made by a financial institution under normal lending procedures, terms and requirements such as: loans obtained by the licensee or firm which are not material in relation to the net worth of the borrower; or home mortgages; or other secured loans, except those secured solely by a guarantee of the firm or its licensees.

§ 4.12. Integrity and objectivity.

A regulant shall not knowingly misrepresent facts or subordinate his judgement to others. In tax practice, a regulant may resolve doubt in favor of his client as long as there is reasonable support for his position.

§ 4.13. Commissions.

A regulant shall not pay a commission to obtain a client, nor shall he accept a commission for a referral to a client of products or services of others. Payments for the purchase of all, or part, of an accounting practice, retirement payments to persons formerly engaged in the practice of public accountancy, or payments to the heirs or estates of such persons are permitted.

§ 4.14. Contingent fees.

A regulant shall not perform or offer to perform professional services in connection with his practice of accounting for a fee which is contingent upon his findings or results of his services. This regulation does not apply either to services involving taxes in which the sole findings are those of the tax authorities or to professional services for which the fees are to be fixed by courts or other public authorities.

§ 4.15. Incompatible occupations.

A regulant shall not concurrently engage in any other business or occupation which impairs his independence or objectivity in the practice of public accounting.

§ 4.16. Competence.

A regulant shall not undertake performance of professional services which he cannot reasonably expect to complete with due professional competence, including compliance, when applicable, with these regulations.

§ 4.17. Auditing standards.

A regulant shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant unless he has complied with applicable generally accepted auditing standards in current use at the time his services were provided. Departures from compliance with generally accepted auditing standards must be justified.

§ 4.18. Accounting principles.

A regulant shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such statements contain any departure from generally accepted accounting principles in current use at the time the services were provided, which departure has a material effect on the statements taken as a whole. Any departure is permissible only if the regulant can demonstrate that, due to unusual circumstances, the financial statements would otherwise be misleading. In such cases, his report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principles would result in a misleading statement.

§ 4.19. Other technical standards.

A regulant shall comply with other technical standards pertaining to accounting and review services, tax services and management advisory services in current use at the time services were provided. Departure from compliance with other technical standards must be justified.

§ 4.20. Forecasts or projections.

No regulant shall vouch for the achievability for any forecast or projection.

Proposed Regulations

§ 4.21. Confidential client information.

A regulant shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of the practice of accounting, except in response to a subpoena or summons enforceable by order of a court, in response to any inquiry made by the board or its agents, by a government agency, or by a recognized organization of certified public accountants, or by the client himself or his heirs, successors or authorized representative, or in connection with a quality control review of the regulant's practice.

§ 4.22. Client's records.

A regulant shall furnish to his firm's client or former client, regardless of any payment due the firm, within a reasonable time upon request:

1. A copy of the client's tax return; or
2. A copy of any report, or other document, issued by the regulant or his firm to or for the client and not formally withdrawn by the regulant or his firm prior to the request; or
3. Any accounting or other record belonging to the client, or obtained from or on behalf of the client, which the regulant or another member of his firm removed from the client's premises or had received for the client's account; or
4. A copy of the regulant's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records not otherwise available to the client. Examples would include worksheets in lieu of books of original entry or general or subsidiary ledgers such as a list of accounts receivable or depreciation schedule. All journal entries and supporting details would also be considered client's records.

§ 4.23. Acting through others.

A regulant shall not permit others to carry out on his behalf, acts which, if carried out by the regulant would place him in violation of these regulations. A regulant shall not perform services for a client who is performing the same or similar services for another, if the regulant could not perform those services under these rules.

§ 4.24. Advertising.

A regulant shall not make any false, fraudulent, misleading, deceptive, or unfair statement or claim, including but not limited to:

1. A misrepresentation of fact; or
2. Failure to make full disclosure of any relevant fact; or

3. Representation of services of exceptional quality not supported by verifiable facts; or

4. A representation that might lead to unjustified expectation of higher level of performance or of favorable results.

§ 4.25. Solicitation.

A regulant shall not by any direct personal communication solicit an engagement to perform professional services if the communication is overreaching or contains use of coercion, duress, compulsion, intimidation, threats, or harassment.

§ 4.26. Response to board communication.

A regulant shall respond by registered or certified mail within 30 days of the mailing of any communication from the board when requested.

§ 4.27. Revocation, suspension, and fines.

The board may suspend, deny renewal, or revoke any certificate, license, or registration, or may fine the holder thereof, upon a finding of any conduct reflecting adversely upon the regulant's fitness to engage in the practice of accountancy or for violation of any of its rules and regulations.

§ 4.28. Practice inspection and continuing professional education.

In lieu of or in addition to any remedy provided in § 4.27 the board may require an inspection of a regulant's practice, require completion of specified continuing education, restrict regulant's area of practice, or impose such other sanctions as it deems appropriate.

§ 4.29. Petition for reinstatement or modification of a penalty.

No petition shall be considered while the petitioner is under sentence for a criminal offense related to the practice of accountancy, including any period during which the petitioner is on court imposed probation or parole for such offense. Otherwise, a person whose certificate or license has been revoked or suspended may petition the board for reinstatement or modification of any penalty, no sooner than one year from the effective date of that decision. The petition shall be accompanied by at least two verified recommendations from licensees who have had personal knowledge of the activities of the petitioner since the time the disciplinary penalty was imposed. The board may consider all activities of the petitioner dating from the time the disciplinary action was taken; the offense for which the petitioner was disciplined; the petitioner's rehabilitative efforts and restitution to damaged parties; and the petitioner's general reputation for truth and professional ability.

§ 4.30. *Ownership of records.*

All statements, records, schedules, working papers, and memoranda made by a regulant incident to rendering services to a client in the practice of accountancy, other than records specified in § 4.22, shall become the property of the regulant's firm absent an express agreement between the firm and the client to the contrary. No such statement, record, schedule, working paper or memorandum covered by this section or in § 4.22 shall be sold, transferred, or bequeathed, without the consent of the client to anyone other than a regulant.

§ 4.31. *Acts discreditable.*

A regulant shall not commit an act discreditable to the profession of accountancy.

§ 4.32. *Single act.*

Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

**VIRGINIA
REEXAMINATION APPLICATION FOR UNIFORM CPA EXAMINATION**

Read "Information for Applicants" which you received with the application before completing this form. Record the information requested in ink or typewriter. Where boxes are provided, print one letter or digit in each box; make a check mark where appropriate; leave a box empty between words; omit punctuation, abbreviate as necessary.

1. NAME

 FIRST MIDDLE LAST

 MAIDEN

2. RESIDENCE ADDRESS AND TELEPHONE: This should be the address and telephone number at which you can be reached until the examination grades are reported. Send any change in writing to CPA Examination Services together with your name and social security number.

 ADDRESS (Do not use post office box)

 CITY STATE ZIP AREA CODE-TELEPHONE NUMBER

3. BUSINESS ADDRESS AND TELEPHONE

 NAME OF ORGANIZATION

 ADDRESS

 CITY STATE ZIP AREA CODE-TELEPHONE NUMBER

4. Is this the first time you are applying for the Uniform CPA Examination in Virginia? YES NO
 Indicate the most recent date you took the examination: _____ month/year

5. Have you ever been denied permission to take the Uniform CPA Examination for a reason other than not meeting the educational requirements? (If yes, attach details, unless information is already on file.) YES NO

6. SUBJECTS TO BE TAKEN: Auditing Law Theory Practice
 Virginia rules require that applicants register for and take at pairs for which credit has not been received.

7. FEE: \$100. Make check or money order payable to CPA Examination Services. Fees will not be refunded or transferred to future examinations.

8. SOCIAL SECURITY NUMBER _____
 9. EXAMINATION LOCATION REQUEST
 Norfolk OO1 Richmond OO2 If you request "other state" you are
 Northern Virginia OO3 Roanoke OO4 responsible for meeting the deadline
 Other State OO9 _____ City/State and fee requirements for proctored in that state.

10. DATE OF EXAMINATION: May _____ year November _____ year

11. Have you ever been convicted of a misdemeanor? (If yes, attach detailed information.) YES NO

12. Have you ever been convicted of a felony? (If yes, attach detailed information.) YES NO

13. Under penalty of perjury, I certify to the truth and accuracy of all statements, answers and representations made in the foregoing application, including all supplementary statements. I agree that in the event my examination papers are lost, any claim I may have will be limited to the examination fee paid by me.

 Signature of applicant Date

Signed application must be mailed by the deadline. The envelope must bear a US Postal Service postmark dated no later than the 1st Friday in March for the May examination and the 1st Friday in September for the November examination.

Mail application, fee and photograph to:

CPA Examination Services, Virginia Coordinator, 545 Fifth Avenue, Suite 505, New York, NY 10017
 (800) CPA-EXAM (212) 687-5320

FOR OFFICE USE ONLY
 Fee - Transfer - O/S Other
 By _____ Date _____

1287

FEE: \$25.00
 (Make check payable to the Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 Department of Commerce
 Virginia State Board of Accountancy
 3600 West Broad Street
 Richmond, Virginia 23230-4917
 Telephone: (804) 367-8505

(MAIL ALL APPLICATIONS TO
 P. O. BOX 26792
 RICHMOND, VA 23261)

APPLICATION FOR ORIGINAL CERTIFICATION AS A CPA IN VIRGINIA

PLEASE TYPE OR PRINT

NAME _____
 (Use name as you wish it to appear on certificate)

Social Security Number _____

ADDRESS: _____

 _____ (Zip) Telephone Number _____

BUSINESS ADDRESS: _____
 (Please include firm name)

 _____ (Zip) Telephone Number _____

Date of completion of Uniform CPA Examination _____
 Give Month and Year

Date of completion of Ethics Examination _____
 (Attach copy of grade sheet or certificate) Month and Year

Have you every been convicted of an felony? Yes _____ No _____ or misdemeanor?
 Yes _____ No _____ If answer to either question is yes, attach full details.

I hereby declare that I am not now in the practice of public accountancy on my own and that I will not do so in Virginia without first making application for license to the Virginia State Board of Accountancy, completing the prescribed continuing professional education courses, if required, and paying the required fee.

Date _____ Signature _____

AFFIDAVIT:

State of _____

City/County of _____

This statement was signed and sworn to before me this _____ day of _____ 19____.

 Notary Public

My commission expires _____

FOR BOARD USE ONLY

Certificate Number _____ Staff approval _____ Board Approval _____

Date _____ Date _____ Date _____

VSBA CM-1

7/86

FEE: \$75.00
 (Make check payable
 to Treasurer of
 Virginia)

COMMONWEALTH OF VIRGINIA
 Department of Commerce
 Virginia State Board of Accountancy
 3600 West Broad Street
 Richmond, Virginia 23230-4917
 Telephone: (804) 367-8505

(MAIL ALL APPLICATIONS TO:
 P. O. BOX 26792
 RICHMOND, VA 23261)

RECORD OF EXPERIENCE

(Refer to Section 2.14 of the Rules and Regulations on Experience Requirements)

A. AUDIT EXPERIENCE

FIRM NAME _____ LOCATION _____ to _____
 EXACT DATES _____
 to _____

B. GENERAL ACCOUNTING EXPERIENCE

FIRM NAME _____ LOCATION _____ to _____
 EXACT DATES _____
 to _____

C. TEACHING EXPERIENCE

INSTITUTION _____ LOCATION _____ to _____
 EXACT DATES _____

D. Credit under Section 2.15 requested? Yes ___ No ___
 Document with authenticated transcript showing master's degree if not previously
 submitted.

All experience, including current experience, must be documented by your employer(s)
 using Form VSBA-6. If necessary, the information given on the form may be amplified
 by an accompanying letter on letterhead, signed by the employer, and notarized.

I hereby apply to the Virginia State Board of Accountancy for a license as a Virginia
 certified public accountant and certify under oath that I have read, and agree to
 abide by, the Virginia CPA Law and the Rules and Regulations of the Board, that all
 statements contained in this application and the statement(s) thereto are correct, to
 the best of my knowledge and belief, and that I have withheld no information which
 might reasonably be expected to cause the Board to deny this application.

DATE _____ SIGNATURE OF APPLICANT _____

AFFIDAVIT:

State of _____

City or County of _____

Subscribed and sworn to before me this ___ day of _____, 19___

My commission expires _____
 Notary Public _____

APPLICATION FOR LICENSE AS A CERTIFIED PUBLIC ACCOUNTANT IN VIRGINIA

MUST BE TYPED OR PRINTED

NAME _____
 Last First Middle Social Security Number
 HOME ADDRESS _____
 Street number and name Telephone Number
 City State Zip Code

EMPLOYER _____
 BUSINESS ADDRESS _____
 Street number and name Telephone Number
 City State Zip Code

Date CPA Examination Completed _____

AICPA Ethics Examination Completed _____

Have you ever been convicted of a felony? Yes ___ No ___;
 or misdemeanor? Yes ___ No ___

Former name if different when you were certified _____

FOR BOARD USE ONLY

Certificate Number _____ Board Approval _____ Conditions, if any: _____

Date _____ Date: _____

Reviewed for Completeness _____ Member: _____

By _____ on _____ Member: _____

By _____ on _____

VSBA-5
 7/86

ACCT7 Form 3

7. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes _____ No _____

8. What were the applicant's job titles while with your organization?

Title	Time Period
_____	_____
_____	_____
_____	_____

9. If applicant is no longer with your organization, is there any reason you would be unwilling to rehire him/her should a suitable opening become available?

Signature of Employer

Title

Firm or Agency Name

Address

Zip

()

Telephone Number

Affidavit:

State of _____

City/County of _____

This statement was signed and sworn before me this _____ day of _____, 19_____.

Notary Public

My Commission expires _____

TO: DEPARTMENT OF COMMERCE
VIRGINIA STATE BOARD OF ACCOUNTANCY
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

FROM: NAME OF FIRM _____

RE: APPLICANT FOR LICENSURE _____

1. Exact dates of employment: From _____ To _____

2. Reason for leaving, if applicable: _____

3. Was employment full-time? Yes _____ No _____

If part-time, please indicated total number of hours worked: _____

4. Did the applicant's experience include emphasis on the independent examination and/or review of financial statements involving the applicable performance of either the audit or review functions? Yes _____ No _____

How many hours of the applicant's time was so engaged? _____

Were generally accepted auditing standards or, were applicable, standards for accounting and review services applied? Yes _____ No _____

Was third party reliance on the financial statements involved? Yes _____ No _____

List the types of organizations audited: _____

Describe the types of work assigned to the applicant: _____

5. Please describe the supervision provided the applicant. (Was the supervisor a CPA?) Yes _____ No _____

6. Please evaluate the quality of the applicant's performance: _____

(OVER)

VSBA-6

If you are applying for certification by endorsement under Section 2.16(3), please complete the attached VSBA-6 form documenting your experience. All experience, including current experience must be documented by your employer(s) using form VSBA-6. If necessary, the information given on the form may be amplified by an accompanying letter on letterhead, signed by the employer, and notarized.

Employer _____
Address _____

()
Telephone No. _____

Exact Dates of Employment: From _____ To _____

Employer _____
Address _____

()
Telephone No. _____

Exact Dates of Employment: From _____ To _____

If you wish also to obtain a Virginia CPA license please complete form VSBA-5.

I hereby declare that I am not now in the practice of public accountancy either as a sole proprietor, partner or shareholder in Virginia and that I will not do so in Virginia without first securing a license.

Date _____ Signature _____
=====

I hereby apply to the Board for Accountancy for a Virginia certificate by endorsement and certify under oath that I have read, and agree to abide by, the Virginia CPA Law and the Rules and Regulations of the Board, that all statements contained in this application and the statement(s) thereto are correct to the best of my knowledge and belief, and that I have withheld no information which might reasonably be expected to cause the Board to deny this application.

AFFIDAVIT

State of _____
City/County of _____
Subscribed and sworn to before me this _____ day of _____ 19 ____

Notary Public

My commission expires _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Accountancy
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-8505

FEE: \$90.00
(Make check payable to the
Treasurer of Virginia)

APPLICATION FOR A VIRGINIA CPA CERTIFICATE BY ENDORSEMENT

MUST BE TYPED OR PRINTED

NAME _____ Social Security Number _____
(Use name as you wish it to appear on certificate)

Home Address _____ Telephone Number _____
Street Number and Name

City _____ State _____ Zip Code _____

Employer _____

Business Address _____ Telephone Number _____
Street Number and Name

City _____ State _____ Zip Code _____

Length of residence or employment in Virginia _____
Place of Birth _____

Have you ever been convicted of a felony? Yes No

Have you ever been convicted of a misdemeanor? Yes No

If your answer is "Yes," attach a statement providing all relevant details.

Date of Completion of CPA Examination _____ Month/Year _____
(Attach completed VSBA-7 Form)

Date of Completion of AICPA Ethics Examination _____ Month/Year _____
(Attach copy of grade sheet or certificate)

Original Certificate Number _____ issued by _____ on _____ Date _____
(Attach Completed Form R-2) Jurisdiction

Has your right to practice public accountancy in any jurisdiction ever been suspended or revoked? Yes No

(If answer is "yes," attach full details)

Please submit three (3) character references by completing form VSBA R-3

Please provide official transcripts to be submitted directly from the institution to the Board showing evidence of completion of the education requirement.

FOR BOARD USE ONLY

Certificate Number _____ Staff Approval _____ Board Approval _____

Date _____ Date _____ Date _____

VSBA R-1
Revised 6/5/89



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-4
TOLL FREE: 1 (800) 552-

TO: _____
Name of Board which issued applicant's original certificate

FROM: Roberta L. Banning, Assistant Director
Virginia State Board of Accountancy

The application for a Virginia CPA certificate submitted by _____
states that his or her original certificate
was issued by your Board.

We would very much appreciate it if you would provide us with the following
information.

1. Certification Number _____ was issued on _____,
19 ____.
2. The basis (or bases) for certification were those checked below:
 a written examination prepared by this Board.
 grades reported by the Advisory Grading Service for the Uniform
CPA Examination.
 Other

CERTIFICATION

I certify that the foregoing statements are correct to the best of my
knowledge and belief.

S E A L
O F
B O A R D

Signature of Authorized Person

Title

Date

VSBA 2-1
02-86



COMMONWEALTH of VIRGINIA

Department of Commerce

DAVID R. HATHCOCK
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230 - 4917

TELEPHONE: (804) 257-8500
TOLL FREE: 1 (800) 552-3018

TO: Roberta L. Banning, Assistant Director
Virginia State Board of Accountancy

FROM: _____
Name of Board transferring grades

I certify that _____ sat for the Uniform CPA
Examination under our jurisdiction on the dates listed below, with the
results noted:

DATE	I.D. NO.	AUDITING	LAW	THEORY	PRACTICE

These grades were furnished by the Advisory Grading Service of the AIPCA
and we recommend that they be accepted.

CERTIFICATION

I certify that the foregoing statements are correct to the best of my
knowledge and belief.

S E A L
O F
B O A R D

Signature of Authorized Person

Title

Date

VSBA-7
03-86

Proposed Regulations

TO: DEPARTMENT OF COMMERCE
 VIRGINIA STATE BOARD OF ACCOUNTANCY
 3600 WEST BROAD STREET
 RICHMOND, VIRGINIA 23220-4917

FROM: _____
 NAME OF FIRM _____

RE: APPLICANT FOR LICENSURE _____

1. Exact dates of employment: From _____ To _____

2. Reason for leaving, if applicable: _____

3. Was employment full-time? Yes _____ No _____

If part-time, please indicate total number of hours worked: _____

4. Did the applicant's experience include emphasis on the independent examination and/or review of financial statements involving the applicable performance of either the audit or review functions? Yes _____ No _____

How many hours of the applicant's time was so engaged? _____

Were generally accepted auditing standards or, where applicable, standards for accounting and review services applied? Yes _____ No _____

Was third party reliance on the financial statements involved? Yes _____ No _____

List the types of organizations audited: _____

Describe the types of work assigned to the applicant: _____

5. Please describe the supervision provided the applicant. (Was the supervisor a CPA?) Yes _____ No _____

6. Please evaluate the quality of the applicant's performance: _____

7. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes _____ No _____

8. What were the applicant's job titles while with your organization? _____

9. If applicant is no longer with your organization, is there any reason you would be unwilling to rehire him/her should a suitable opening become available? _____

Affiant:

State of _____

City/County of _____

This statement was signed and sworn before me this _____ day of _____, 19____.

Notary Public

My Commission Expires _____

VSBA-5

(CPFR)

VIRGINIA STATE BOARD OF ACCOUNTANCY

Department of Commerce
 3600 West Broad Street
 Richmond, Virginia 23230
 (804) 257-8505
 Toll Free: 1(800)552-3016

TO THE ENDORSER OF AN APPLICANT FOR A VIRGINIA CPA CERTIFICATE BY ENDORSEMENT

The applicant named below has applied for a Virginia CPA Certificate by Endorsement. You have been named as one of the applicant's endorsers, and the Virginia State Board of Accountancy would very much appreciate your frank answers to the following questions. Any other comments you care to make regarding this applicant would also be of value.

ENDORSEMENT

1. Applicant's name _____
2. What type of relationship have you had with applicant? (Business, professional or social?) _____
3. Number of years you have known applicant: _____
4. Is he/she of good moral character? _____
5. To the best of your knowledge, has he or she been employed as an accountant and, if so, for how long? _____
6. If the answer to Number 5 is in the affirmative, what is his or her professional reputation? _____
7. Are you aware of any facts which might negatively affect the Board's consideration of this application? If so, please specify. _____
8. Your comments or recommendations: _____

Continue on reverse side if necessary.

Signature _____
 Name (Printed) _____
 Address: _____
 Occupation: _____
 Date: _____

VSEA 7-1

FEE: \$50.00
 (Make check payable to the
 Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Board for Accountancy
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-8505

APPLICATION FOR REGISTRATION AS A PROFESSIONAL CORPORATION
 PRACTICING PUBLIC ACCOUNTANCY

=====

PLEASE PRINT OR TYPE

CORPORATE NAME _____

ADDRESS OF MAIN OFFICE _____
Number and Street City/Town State Zip Code

MAILING ADDRESS _____
(If different than above)

OFFICERS OF CORPORATION

Name	Title	Legal Residence Address in Full

BOARD OF DIRECTORS

Name of Each Director	Legal Residence Address in Full

THE FOLLOWING QUESTIONS MUST BE ANSWERED IN DETAIL:

1. Number of Shares of Stock Authorized to be Issued _____
2. Number of Shares of Stock Issued and Outstanding _____

LIST BELOW THE NAMES OF EACH OWNER OF CAPITAL STOCK IN CORPORATION:

Name of Each Owner	Legal Residence Address in Full	No. Shares Stock Owned	VA license No.

Revised 6/5/89

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Board for Accountancy
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-8505

FEES:
Reinstatement of:
License = \$150.00
Certificate = \$50.00
Registration = \$100.00

=====

APPLICATION FOR REINSTATEMENT OF LICENSE TO PRACTICE PUBLIC ACCOUNTANCY, MAINTENANCE OF CPA CERTIFICATE OR REGISTRATION OF PROFESSIONAL CORPORATION

Section 1.3 of the Board's Rules and Regulations state that if you fail to renew your license, maintain your certificate or renew your professional corporation's registration, you are required to apply for reinstatement and remit the appropriate fee.

PLEASE ANSWER THE FOLLOWING QUESTIONS:

- (1) Name: _____
- (2) Address: _____

- (3) I hold license/certificate/registration numbered _____ which expires _____
(please Circle one)
- (4) Please provide explanation for failure to renew: _____

- (5) Have you accepted a fee for a professional service in Virginia since the license/certificate/registration expired? Yes ___ No ___ (If Yes, provide details)
- (6) Have you ever been convicted of a felony? Yes ___ No ___
- (7) Have you ever been convicted of a misdemeanor? Yes ___ No ___ If the answer is "Yes," to any of the above questions, please explain on a separate sheet.
- (8) If you are applying for reinstatement and your license has expired more than four years, please provide the Board with documentation of 40 hours CPE.

=====

I hereby apply to the Board for Accountancy to reinstate an expired license to practice public accountancy, maintenance of CPA certificate or registration as a professional corporation in Virginia and certify under oath that I have read, and agree to abide by, the Virginia CPA law and rules and regulations of the Board, that all statements contained in this application and the statement(s) attached thereto are correct, to the best of my knowledge and belief, and that I have withheld no information which might reasonably be expected to cause the Board to deny this application.

Date _____ Signature _____

AFFIDAVIT

State of _____
City/County of _____

This statement was signed and sworn to before me this ____ day of _____ 19__

Notary Public

My Commission expires _____

=====

FOR OFFICE USE ONLY
Staff Approval _____ Date _____

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

Title of Regulation: VR 115-04-03. Rules and Regulations for Enforcement of the Virginia Pesticide Law.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Public Hearing Dates:

May 2, 1990 - 9:30 a.m.

May 7, 1990 - 10:30 a.m.

(See Calendar of Events section for additional information)

Summary:

The 1989 Virginia Pesticide Control Act authorizes the Pesticide Control Board to adopt regulations to accomplish the Act's purpose. To this end, the board has proposed, among others, VR 115-04-22, Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of Virginia Pesticide Control Act. Parts of this proposed regulation are intended to supersede § 23, "Records," and § 26, "Evidence of Financial Responsibility," of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law, the provisions of which are to remain in force and effect, according to the Act, "until repealed by the Pesticide Control Board."

VR 115-04-03. Rules and Regulations for Enforcement of the Virginia Pesticide Law.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise. Words used in singular form in these regulations include the plural, and vice versa, as appropriate.

"Active ingredient" means an ingredient which:

1. Is independently capable of:
 - a. Preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, nematodes, or other pests; or
 - b. Altering through physiological action the behavior of ornamental or crop plants or their produce; or
 - c. Causing leaves or foliage to drop from a plant; or
 - d. Artificially accelerating the drying of plant tissue.
2. Is present in the product in an amount sufficient to be effective; and

3. Is not antagonistic to the activity of the principal active ingredients. The commissioner may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the pesticide to warrant such action.

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

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, including any algae or other aquatic weed.

"Law" means Articles 1, 2, 3 and 4 (§ 3.1-189 et seq.) of Chapter 14 of Title 3.1 of the Code of Virginia, known as the Virginia Pesticide Law.

"Rodent" means any animal of the order Rodentia including, but not limited to, rats, mice, rabbits, gophers, prairie dogs, and squirrels.

§ 2. Language to be used.

All statements, words, and other information required by the law or by these regulations to appear on the label or labeling of any pesticide shall be in the English language. However, in the case of articles intended solely for distribution to points outside the United States, the appropriate foreign language may be used.

§ 3. Label.

A. The name and address of the manufacturer shall appear on the label. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the pesticide was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for", "Distributed by", or "Sold by", to show that the name is not that of the manufacturer.

B. The name, brand, or trademark of the pesticide appearing on the label shall be that under which the pesticide is registered.

C. The net content declaration shall comply with the Weights and Measures Act of Virginia Chapter 35 (§ 3.1-919 et seq.) of Title 3.1 of the Code of Virginia and its regulations.

D. Directions for use are required for the protection of the public. The public includes not only users of pesticides, but also those who handle them or may be affected by their use, handling, or storage. Pesticides restricted by these regulations shall be registered only for their permitted uses, and the label shall have a prominent statement to the effect that the product is to be used only as directed. Directions for use are considered necessary in the case of most retail containers, with the following exceptions.

Proposed Regulations

Directions may be omitted:

1. If the pesticide is to be used by manufacturers in their regular manufacturing processes, provided that the label clearly shows that the product is intended for use only in manufacturing processes, and bears an ingredient statement giving the name and percentage of each of the active ingredients.

2. If the pesticide is sold to distributors for dilution or mixing with carriers to prepare pesticides for sale to the public, provided that the label bears an ingredient statement giving the name and percentage of each of the active ingredients; and the pesticide is a well-known substance or mixture of substances; and there is readily available general knowledge of the composition, methods of use, and effectiveness of the product for pesticide purposes.

§ 4. Ingredient statement.

A. Location of ingredient statement.

The ingredient statement shall appear on that part of the label displayed under customary conditions of purchase; except in cases where the commissioner determines that, due to the size or form of the container, a statement on that portion of the label is impractical, and permits the statement to appear on another side or panel of the label. When so permitted, the ingredient statement shall be in larger type and more prominent than would otherwise be required. The ingredient statement shall run parallel with other printed matter on the panel of the label on which it appears, and shall be on a clear contrasting background.

B. Names of ingredients.

The well-known common name of the ingredient shall be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the commissioner may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the commissioner may prescribe the terms under which it may be used. A trademark or trade name may not be used as the name of an ingredient, except when it has become a common name.

C. Percentages of ingredients.

Percentages of ingredients shall be determined by weight, and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

D. Designation of ingredients.

Active ingredients and inert ingredients shall be so designated, and the term "inert ingredient" shall appear in

the same size type and be as prominent as the term "active ingredient".

§ 5. Pesticides highly toxic to humans.

A. Pesticides which fall within any of the following categories when tested on laboratory animals as specified in paragraphs 1, 2, or 3 of this subsection are highly toxic to humans or contain substances or quantities of substances highly toxic to humans within the meaning of the law. Such pesticides shall be referred to as pesticides highly toxic to humans. Upon application and after an opportunity for a hearing, the commissioner may exempt any pesticide from these requirements which is not highly toxic to humans:

1. Oral toxicity. A pesticide which has single dose LD50 of 50 milligrams or less per kilogram of body weight, when administered orally to both male and female rats which have been fasted for a period of 24 hours (or to other rodent or nonrodent species specified by the commissioner); or

2. Toxicity on inhalation. A pesticide which has an LC50 of 2,000 micrograms or less of dust or mist per liter of air or 200 parts per million or less by volume of a gas or vapor, when administered by continuous inhalation for one hour to both male and female rodent or nonrodent species specified by the commissioner, if he finds that it is reasonably foreseeable that such concentration will be encountered by humans; or

3. Toxicity by skin absorption. A pesticide which has an LD50 of 200 milligrams or less per kilogram of body weight, when administered by continuous contact for 24 hours with the bare skin of rabbits (or other rodent or nonrodent species specified by the commissioner).

B. Test on other species.

Tests on other specified rodent or nonrodent species may be required by the commissioner whenever he finds that tests on other species are necessary to determine whether a pesticide is highly toxic to humans.

C. Terms LD50 and LC50.

An LD50 as used in connection with oral toxicity and skin absorption toxicity tests is the dose, and LC50 as used in connection with inhalation tests is the concentration, which is expected to cause death within 14 days in 50% of the test animals so treated.

D. Toxicity based on human experience.

If the commissioner finds, after an opportunity for hearing, that available data on human experience with any pesticide indicates a greater toxicity than found in the tests on animals, the human data shall take precedence;

and if he finds that the protection of the public so requires, the commissioner shall declare such a pesticide to be highly toxic to humans for the purposes of this law and its regulations.

§ 6. Warning or caution statement.

A. Warning or caution statements which are necessary and, adequate to prevent injury to humans, useful vertebrate, and invertebrate animals, and useful vegetation, must appear on the label in a place sufficiently prominent to warn the user. They shall state clearly and in nontechnical language the particular hazard involved in the use of the pesticide (e.g., ingestion, skin absorption, inhalation, flammability, or explosion), and the precautions to be taken to avoid accident, injury, or damage.

B. The label of every pesticide shall bear warnings or cautions which are necessary for the protection of the public, including the statement, "Keep out of reach of children", and a signal word such as "DANGER", "WARNING", or "CAUTION", which the commissioner may prescribe, on the front panel or that part of the label displayed under customary conditions of purchase. However, the commissioner may permit reasonable variations in the placement of that part of the required warnings and cautions other than the statement "Keep out of reach of children" and the required signal word, if in his opinion such variations would not be injurious to the public. If a pesticide is marketed in channels of trade where the likelihood of contact with children is extremely remote, or if the nature of the product is such that it is likely to be used on infants or small children without causing injury under any reasonably foreseeable conditions, the commissioner may waive the requirements of the statement "Keep out of reach of children". The commissioner may permit a statement such as "Keep away from infants and small children" instead of the statement "Keep out of reach of children", if he determines that such a variation would not be injurious to the public.

C. The label of every pesticide which is highly toxic to humans shall bear the words "DANGER" and "POISON" in red on a contrasting background next to the skull and crossbones, and an antidote statement including directions to call a physician immediately, on the front panel or that part of the label displayed under customary conditions of purchase. However, the commissioner may permit reasonable variations in the placement of the antidote statement if some reference such as "See antidote statement on back panel" appears on the front panel near the word "POISON" and the skull and crossbones.

D. Warning or caution statements which comply with the requirements of the regulations for the enforcement of the Federal Insecticide, Fungicide and Rodenticide Act shall be considered in compliance with the requirements of these regulations.

§ 7. Registration.

A. Eligibility.

Any manufacturer, packer, seller, distributor, or shipper of a pesticide is eligible as a registrant and may register the pesticide.

B. Procedure for registration.

Application for registration should be made on the form provided. Application forms will be furnished upon request to the Virginia Department of Agriculture and Consumer Services, Office of Pesticide Regulation, Post Office Box 1163, Richmond, Virginia 23209. Application should be submitted as far in advance as possible, before the time registration is desired to take effect.

C. Effective date of registration.

Registration of a pesticide shall become effective on the date the certificate of registration is issued.

D. Responsibility of a registrant.

The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of a pesticide.

E. Changes in labeling or formula.

1. Changes in the labeling, or formula of a registered pesticide, shall be submitted in advance to the Office of Pesticide Regulation. The registrant shall describe the exact changes desired and the proposed effective date; and upon request, shall submit a description of tests which justify such changes.

2. After the effective date of a change in labeling or formula, the product shall be marketed only under the new label or formula, except that a reasonable time may be permitted by the commissioner to dispose of properly labeled stocks of old products.

F. Claims shall conform to registration.

Claims made for a pesticide shall not differ in substance from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

§ 8. Coloration and discoloration.

A. Unless exempted by § 13 of these regulations, the white pesticides hereinafter named shall be colored or discolored in compliance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, Baltimore, Maryland.

B. Coloring agent.

Proposed Regulations

The coloring agent shall produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in these regulations during ordinary conditions of marketing or storage. They must not cause the product to become ineffective, or cause damage when used as directed.

C. Arsenicals and barium fluosilicate.

Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue except the yellow-reds and yellows, having a value of not more than eight and a chroma of not less than four, or shall be discolored to a neutral lightness value not over seven.

D. Sodium fluoride and sodium fluosilicate.

Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than eight and a chroma of not less than four, or shall be discolored to a neutral lightness value not over seven.

E. Exceptions.

The commissioner, after the opportunity for a hearing, may permit other hues to be used for any particular purpose, if the prescribed hues are not feasible for the purpose, and if this action will not be injurious to the public.

§ 9. Misbranding.

A. False or misleading statements.

Among representations in the labeling of a pesticide which render it misbranded are the following:

1. A false or misleading statement concerning the composition of the product.
2. A false or misleading statement concerning the effectiveness of the product as a pesticide or device.
3. A false or misleading statement about the value of the product for purposes other than as a pesticide or device.
4. A false or misleading comparison with other pesticides or devices.
5. A false or misleading representation as to the safety of the pesticide or of its ingredients, including a statement such as "nonpoisonous," "noninjurious," or "nonhazardous," unless the product is in fact safe from all conditions.
6. Any statement directly or indirectly implying that the pesticide or device is recommended or endorsed by any agency of this Commonwealth.

7. The name of a pesticide which contains two or more active ingredients, if it suggests the name of one or more but not all such ingredients, even though the names of the other ingredients are stated elsewhere in the labeling.

8. A true statement used in a way which would give a false or misleading impression to the purchaser.

§ 10. Enforcement.

A. Collection of samples.

Samples of pesticides and devices shall be collected by a designated agent. An official representative sample shall be one which is taken by the commissioner or his duly authorized agent. An unbroken original package shall be taken as the official sample where the pesticide is packed in small bottles or small packages. Where the pesticide is packed in large containers, the official sample shall be a portion taken from one original package in a lot.

B. Examination of samples.

Methods of sample examination shall be those adopted and published by the Association of Official Analytical Chemists, where applicable, and any other methods necessary to determine if the product complies with the law.

C. Notice of apparent violation.

1. If from an examination or analysis, a pesticide or device appears to be in violation of the law, a written notice shall be sent to the person against whom criminal proceedings are contemplated, giving him an opportunity to offer a written explanation. The notice shall state the manner in which the sample fails to meet the requirements of the law and the regulations.

2. In addition to his reply to the notice, any person may file, within 20 days of receipt of the notice, a written request for an opportunity to present an oral defense.

3. No notice or hearing shall be required prior to the seizure of any pesticide or device.

§ 11. Notice of judgment.

Publication of court judgments in cases heard under the criminal or seizure provision of the law shall be in the form of notices, circulars, or bulletins as directed by the commissioner.

§ 12. Products for experimental use.

A. Articles for which no permit is required.

1. A substance or mixture of substances being tested only to determine its value as a pesticide, or to

determine its toxicity or other properties, and is not considered a pesticide within the meaning of § 3.1-198.1 of the Code of Virginia.

2. A pesticide shipped or delivered for experimental use by or under the supervision of any federal or state agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the law and these regulations.

B. Articles for which permit is required.

1. A pesticide shipped or delivered for experimental use by other qualified persons shall be exempt from the provisions of the law and of these regulations if a permit is obtained beforehand. Permits may be either, specific or general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to different persons.

2. If a pesticide is to be tested for a use which is likely to leave residue on or in food or feed, a permit for shipment or delivery will be issued only when:

a. The food or feed product will only be used as food or feed for laboratory or experimental animals, or

b. Convincing evidence is submitted by the applicant that the proposed use will not produce an amount of residue which would be hazardous to humans or animals.

3. All applications for permits covering shipments for experimental use shall include:

a. Name and address of the shipper and places from which the shipment will be made.

b. Proposed date of shipment or proposed shipping period, not to exceed one year.

c. A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

d. A statement of the approximate quantity to be shipped.

e. A statement of the nature of the proposed experimental program, including the type of pests or organisms to be experimented with, the crops or animals for which the pesticide is to be used, the areas where the program will be conducted, and the results of previous tests, where necessary, to justify the quantity requested.

f. The percentage of the total quantity specified

under subparagraph d of this paragraph which will be supplied without charge to the user.

g. A statement that the pesticide is intended for experimental use only.

h. Proposed labeling which must bear:

(1) The prominent statement "For experimental use only" on the container label and any accompanying circular or other labeling,

(2) A warning or caution statement which may be necessary and if complied with, adequate for the protection of those who may handle or be exposed to the experimental substance,

(3) The name and address of the applicant for the permit,

(4) The name or designation of the substance, and

(5) If the pesticide is to be sold, a statement of the names and percentages of the principal active ingredients in the product.

(6) If the shipper submits a copy of the valid experimental permit and accepted labeling issued under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, the commissioner may exempt the shipper from submitting the data and information specified in subparagraphs (e) through (h).

4. The commissioner may limit the quantity of a pesticide covered by a permit if the available information on effectiveness, toxicity, or other hazards is not sufficient to justify the scope of the proposed experiment and he may impose other limitations in the permit for the protection of the public.

C. Cancellation of permits.

Any permit for shipment for experimental use may be cancelled at any time for any violation of its terms.

§ 13. Exemption.

Any pesticide specified in § 8 of these regulations which is intended solely for use by a textile manufacturer or commercial laundry, cleaner, or dyer as a mothproofing agent, or used in the manufacture or processing of rubber, glue or leather goods, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric and will not be present in these finished goods in sufficient quantities to cause injury to any person, shall be exempt from the requirements of § 3.1-233(4) of the Code of Virginia, and § 8 of these regulations.

§ 14. Declaration of pests.

Proposed Regulations

In addition to those pests defined in Article 1 of the law, the commissioner hereby declares as pests the following forms of plant and animal life and viruses:

1. Mammals, including but not limited to dogs, cats, moles, bats, wild carnivores, armadillos, and deer;
2. Birds, including but not limited to starlings, English sparrows, crows, and blackbirds;
3. Fishes, including but not limited to the jawless fishes such as the sea lamprey, the cartilaginous fishes such as the sharks, and the bony fishes such as the carp;
4. Amphibians and reptiles, including but not limited to poisonous snakes;
5. Aquatic and terrestrial invertebrates, including but not limited to slugs, snails, and crayfish;
6. Roots and other plant parts growing where not wanted;
7. Viruses, other than those on or in humans or animals.

§ 15. Handling and storage.

No person shall handle, transport, store, display, or distribute pesticides in a manner which may endanger humans and the environment, or food, feed, or any other products that may be transported, stored, displayed, or distributed with the pesticides.

§ 16. Disposal.

No person shall dispose of, discard, or store any pesticides or pesticide containers in a manner which may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects, or pollute any water supply or waterway.

§ 17. Application and equipment.

A. No person shall apply, dispense, or use any pesticide in or through any equipment or application apparatus unless the equipment or apparatus is in sound mechanical condition and capable of satisfactory operation. All pesticide application equipment shall be properly equipped to dispense the proper amount of material. All pesticide mixing, storage, or holding tanks, whether on application equipment or not, shall be leakproof. All spray distribution systems shall be leakproof, and any pumps which these systems may have shall be capable of operating at sufficient pressure to assure a uniform and adequate rate of discharge.

B. All pesticide application equipment shall be equipped with cut-off valves and discharge orifices to enable the operator to pass over nontarget areas without

contaminating them. All hoses, pumps, or other equipment used to fill pesticide handling, storage, or application equipment shall be fitted with an effective valve or device to prevent backflow into water supply systems, streams, lakes, other sources of water, or other materials. However, these backflow devices or valves are not required for separate water storage tanks used to fill agricultural pesticide application equipment by gravity systems when the fill spout, tube, or pipe is not allowed to contact or fall below the water level of the application equipment being filled, and no other possible means of establishing a backsiphon or backflow exists.

§ 18. Cancellation authority.

All pesticides which have been cancelled or suspended by the United States Government are subject to cancellation in Virginia. No registration shall be revoked or refused until the registrant has been given an opportunity for a hearing by the commissioner. Any appeal of cancellation at the federal level shall not affect cancellation proceedings with this Commonwealth.

§ 19. Restricted pesticides.

Unless otherwise specified, federally permitted uses of pesticides will be permitted in Virginia.

§ 20. Additional requirements for highly hazardous pesticides.

When the commissioner has evidence that the use of any highly hazardous pesticide will significantly affect the quality of the environment or the health and safety of individual users, nontarget species, or a geographic area, he shall, with the approval of the board, control the distribution, sale and use of the substance by employing one or more of the following regulatory procedures:

1. Registration of sellers and users;
2. Records and reports on quantities sold and used;
3. Sales and use permits;
4. Certification of compliance to approved label precautions; and
5. Approved supervision of use.

§ 21. Categories for commercial applicators.

Certified commercial applicators of pesticides classified for restricted use shall be licensed in one or more of the following categories:

1. Agricultural pest control.

A. Plant.

This category includes commercial applicators using,

or supervising the use of, restricted-use pesticides in production of agricultural crops (including but not limited to: tobacco, peanuts, cotton, food and feed grains, soybeans and forage vegetables, small fruits, tree fruits, nuts and Christmas trees), grasslands and noncrop agricultural lands.

B. Animal.

This category includes commercial applicators using or supervising the use of restricted-use pesticides on agriculturally related animals including, but not limited to: beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock; and to places on or in which such animals are confined for control of pests directly affecting such animals.

Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicizing themselves as pesticide applicators, or engaged in large-scale use of pesticides, are included in this category.

2. Forest pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in forests, forest nurseries, and forest seed-producing areas.

3. Ornamental and turf pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in the maintenance and production of ornamental trees, shrubs, flowers, and turf, including, but not limited to, golf courses, parks, cemeteries, etc.

4. Seed treatment.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides on seeds.

5. Aquatic pest control.

This category includes commercial applicators using, or supervising the use of, any restricted use pesticide in or on standing or running water, for the expressed purpose of controlling pests. (This excludes applicators engaged in public health related activities included in category 8 below.)

6. Right-of-way pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in the maintenance of public rights-of-way for roads, electric power lines, telephone lines, pipelines, railways, and other similar areas.

7. Industrial, institutional, structural and health-related pest control.

This category includes commercial applicators using, or supervising the use of, restricted-use pesticides in, on, or around food-handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments including warehouses and grain elevators, and other structures and adjacent or related areas, public or private; for the protection of the structures or controlling nuisance pests or for the protection of stored, processed, or manufactured products. This category does not include commercial applicators using, or supervising the use of, restricted-use pesticides specific to other categories covered by this regulation (i.e. forest pest control, ornamental and turf pest control, right-of-way pest control, etc.)

8. Public health pest control.

This category includes state, federal, or other governmental employees using, or supervising the use of, restricted-use pesticides in public health programs for the management and control of pests having medical and public health significance.

9. Regulatory pest control.

This category includes state, federal, or other governmental employees who use, or supervise the use of, restricted-use pesticides in the control of regulated and nuisance pests.

10. Demonstration and research pest control.

This category includes:

1. Individuals who demonstrate, by actual use or application, the proper use and techniques of application of restricted-use pesticides, or who supervise such demonstration, including such persons as extension specialists, county agents, commercial representatives, or others; and

2. Persons conducting field research with pesticides, including such persons as state, federal, commercial, and other persons conducting field research on or using restricted-use pesticides.

§ 22. Standards of certification of commercial applicators.

A. Determination of competency.

Competence in the use and handling of pesticides to prevent unreasonable adverse effect on the environment shall be determined on the basis of written examinations administered by the commissioner or his authorized agent and, as appropriate, performance testing based upon standards set forth below. This examination and testing shall include the general standards applicable to all categories, and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be certified.

Proposed Regulations

All commercial applicators engaged in aerial application of pesticides in any category shall furnish evidence of:

1. Compliance with Title 14, Code of Federal Regulations; Chapter 1, Sub-Chapter G, Part 137, (Agricultural Aircraft Operations).

2. Compliance with § 10, rules and regulations under the Aviation Law of Virginia as issued by the Virginia Department of Aviation, as adopted February, 1981.

B. General standards for all categories of certified commercial applicators:

1. All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems in situations appropriate to the particular category or subcategory of the applicator's certification, and the following areas of competency.

For purposes of these regulations, practical knowledge is the possession of pertinent facts and comprehension, with the ability to use them in dealing with specific problems and situations.

The examination may cover factors such as:

a. Label and labeling comprehension:

(1) The general purpose, format, and terminology of pesticide labels and labeling;

(2) The understanding of directions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;

(3) The classification of the product, whether general or restricted; and

(4) The need for use consistent with the label.

b. Safety - factors including:

(1) Pesticide toxicity and hazard to humans and common exposure routes;

(2) Common types and causes of pesticide accidents;

(3) Precautions, including reentry or preharvest intervals where appropriate, necessary to guard against injury to applicators and other individuals in or near treated areas;

(4) Need for and use of required protective clothing and equipment;

(5) Common symptoms of pesticide poisoning;

(6) First aid and other procedures to be followed in

case of a pesticide accident; and

(7) Proper identification, storage, transporting, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from gaining access to pesticides and pesticide containers.

c. Environment.

The environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

(1) Weather and other climatic conditions;

(2) Types of terrain, soil, or other substrate;

(3) Presence of fish, wildlife, and other nontarget organisms and potential accumulation in the food chain;

(4) Drainage patterns.

d. Pest identification:

(1) Common features of pests and the characteristics of the damage they cause;

(2) Recognition of relevant pests; and

(3) Pest development and biology as it may be relevant to identification and methods of control.

e. Pesticide products:

(1) Types of pesticides;

(2) Types of formulations;

(3) Compatibility, synergism, persistence and animal and plant toxicity of the products;

(4) Hazards and residues associated with use;

(5) Factors which influence effectiveness or lead to problems like resistance to pesticides; and

(6) Dilution procedures.

f. Equipment operation:

(1) Types of equipment and advantages and limitations of each type; and

(2) Uses, maintenance, and calibration.

g. Application techniques.

(1) Procedure used to calculate and apply various

formulations of pesticides, solutions, and gases, and a knowledge of which technique to use in a given situation;

(2) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(3) Prevention of drift and pesticide loss into the environment.

h. Laws and regulations - General knowledge of:

(1) Applicable state and federal laws and regulations, including responsibilities associated with the supervision of noncertified applicators.

C. Specific standards of competency for each applicable category of commercial applicators.

Commercial applicators in each category described in § 21 shall be particularly qualified with respect to the practical knowledge of standards listed below:

1. Agricultural pest control

a. Plant.

Applicators must demonstrate practical knowledge of the crops grown in their operational areas, and the specific pests of those crops on which they may be using restricted-use pesticides. This competency is important because of the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, and potential for environmental contamination, nontarget injury and community problems caused by the use of restricted-use pesticides in agricultural areas.

b. Animal.

Applicators applying pesticides directly to animals, or to places on or in which animals are confined, must demonstrate practical knowledge of such animals and their associated pests. Practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must demonstrate practical knowledge of the relative hazards associated with formulation, application techniques, age of animals, stress, and extent of treatment.

2. Forest pest control.

Applicators shall demonstrate practical knowledge of the types of forests, forest nurseries, and forest seed production in the Commonwealth and the pests to be

controlled. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. Practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large, frequently include natural aquatic habitats, and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must, therefore, demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Applicators must demonstrate practical knowledge of proper use of specialized equipment including problems or meteorological factors and adjacent land use.

3. Ornamental and turf pest control.

Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including practical knowledge of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of methods which will minimize or prevent hazards to humans, pets, and other domestic animals.

4. Seed treatment.

Applicators shall demonstrate practical knowledge of types of seeds commonly used in his operating area that require chemical protection against pests, and factors such as required seed coloration and special labeling, carriers, and surface active agents which influence pesticide binding and may affect germination. They shall demonstrate practical knowledge of hazards associated with handling, sorting, mixing, and misuse of treated seed, including the introduction of treated seed into food and feed channels, and proper disposal of unused treated seeds.

5. Aquatic pest control.

Applicators shall demonstrate practical knowledge of the secondary effects of improper application rates, incorrect formulations, and faulty application of restricted use pesticides. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must demonstrate practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects, and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited-area application.

6. Right-of-way pest control.

Proposed Regulations

Applicators shall demonstrate practical knowledge of a wide variety of environments, since right-of-ways can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problem: of runoff, drift, and excessive foliage destruction, and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides in the right-of-way area, and the impact of their application activities in adjacent areas and communities.

7. Industrial, institutional, structural and health related pest control.

Applicators shall demonstrate a practical knowledge of the variety of pests controlled by applicators licensed in this category, including their life cycles, formulations appropriate for their control, and methods of application that avoid contamination of food, damage, and contamination of habitat, and exposure of people and pets. Since human exposure (including babies, children, pregnant women, and elderly people), is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which will lead to a hazardous condition, including continuous exposure in the various situations cited in this category. Because health-related pest control may involve outdoor applications, applicators shall also demonstrate practical knowledge of environmental conditions particularly related to this activity.

In order to provide the opportunity for specialization, and, to minimize the need to demonstrate competence in areas of work outside the applicator's particular interest and need, this category is divided into subcategories as elaborated below:

a. General pest control.

Applicator uses or supervises the use of restricted-use pesticides in or around households, churches, offices, warehouses, schools, factories, etc. for the protection of people, clothing, fabrics, paper, pets, and stored foods in private residences, including apartments.

b. Wood-infesting organisms.

Applicator uses or supervises the use of restricted-use pesticides in the prevention and control of wood-infesting organisms including termites, wood-destroying beetles and ants, and fungi for the preservation and protection of fences, materials, utility poles, buildings, and other structures.

c. Food processing pest control.

Applicator uses or supervises the use of

restricted-use pesticides in food manufacturing and processing plants and warehouses, food handling establishments, canneries, mills, dairies, restaurants, grain elevators, bakeries, ships, vehicles, meat packing plants, cafeterias, rest homes, and hospital food preparation areas, etc.

d. Fumigation.

Applicator uses or supervises the use of restricted-use pesticides as fumigants in any of the above areas as a pest control practice or as a fruit or tobacco ripening technique. Such products containing methyl bromide, chloropicrin, sulfuryl fluoride, carbon tetrachloride, ethylene dibromide, etc., are considered fumigants.

Applicators may become certified and licensed in one or all established subcategories.

8. Public health pest control.

Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and use of such nonchemical control methods as sanitation, waste disposal, and drainage.

9. Regulatory pest control.

Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate practical knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their practical knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas of the Commonwealth where emergency measures are invoked to control regulated pests, and where individual judgements must be made in new situations.

10. Demonstration and research pest control.

a. Persons demonstrating, by actual use or application, the safe and effective use of pesticides to other applicators and the public, shall be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration; and practical knowledge of problems, pests, and

population levels occurring in each demonstration situation is required. Further, they shall demonstrate a practical knowledge of pesticide organism interactions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in § 22 A. In addition, they shall meet the specific standards required for categories 1 through 7 of the section as may pertain to their particular activity.

b. Persons conducting field research or method improvement work with restricted-use pesticides shall be expected to know the general standards detailed in subsection A of § 22. In addition, they shall be expected to know the specific standards required for categories 1 through 9 of this section, applicable to their particular activity; or alternatively, to meet the more inclusive requirements listed under "Demonstration".

§ 23. Records:

A. All commercial applicators, or their employers, shall maintain for a period of two years records of all applications of pesticides classified for restricted use. Such records shall be maintained separately or distinguishable from the customary sales invoices given to customers and shall provide:

1. Name and address of customer and address of site of application, if different.
2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application.
3. Date of application: (month, day, year)
4. Type of plants, crop, animals, or sites treated and principal pests to be controlled.
5. Acreage, area, or number of plants or animals treated, or other appropriate description.
6. Pesticide applied, including label name (brand name); type of formulation and company name appearing on the label.
7. Total amount (pounds, gallons, etc.) of pesticide mixture applied.
8. Type of equipment used: (including required personal protective equipment when applicable).
9. Disposal method of unused pesticides or empty containers.

B. All required records shall be made available upon written request for inspection or copying by the

commissioner or his authorized agent.

C. While not required, all private applicators are encouraged to keep records of all applications of pesticides classified for restricted use.

[Repealed.]

§ 24. Standards for certification of private applicators.

A. Competence in the use and handling of pesticides by a private applicator will be determined by procedures set forth below.

B. As a minimum requirement for certification, a private applicator must demonstrate practical knowledge of the pest problems and pest control practices associated with his agricultural operations; proper storage, use, handling, and disposal of the pesticides and containers; supervision of noncertified applicators; and other related legal responsibility necessary to prevent unreasonable adverse effects on the environment. This practical knowledge includes the ability to:

1. Recognize common pests to be controlled, and damage caused by them.
2. Read and understand the label and labeling information - including the common name of the pesticide; pests to be controlled; timing and methods of application; safety precautions; pre-harvest or reentry restrictions; and any specific disposal procedures.
3. Apply pesticides according to label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances, taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
4. Recognize local environmental situations that must be considered during application to avoid contamination.
5. Recognize common poisoning symptoms and procedures to follow in case of a pesticide accident.

C. The competence of each private applicator shall be verified by the commissioner through the administration of certification system which ensures that the private applicator is qualified to use the restricted-use pesticides under limitations of applicable state and federal laws and regulations. A certification system shall employ a written or oral testing procedure, or such other equivalent system adopted by the commissioner, subject to the approval of the United States Environmental Protection Agency.

1. In any case where a person is unable to read a label at the time of testing for certification, the

Proposed Regulations

commissioner may use a testing procedure previously approved by the United States Environmental Protection Agency which can adequately measure the person's competence. Certification must be related and limited to the use and handling of each individual pesticide for which he desires certification at any time. Therefore, the applicator will be authorized to use only the pesticide(s) for which he has demonstrated competence. A specific procedure is required relating to label comprehension, testing, or demonstration designed to assure his practical knowledge of the following:

a. Understanding the label and labeling information, including those items indicated in § 24 subsection A-B paragraph 2 above.

b. Sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

D. Certification options available to private applicators are:

1. General certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide which he would normally expect to use in his particular agricultural operations. Competency determination shall reflect all aspects of the private applicator standards, and shall be broad enough to test the private applicator's ability to apply general principles to specific problems.

2. Pesticide class certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide in the same class or family. This includes all different pesticide products and all different formulations of a pesticide used for the same purpose. Examples include, but are not limited to: pre-emergency herbicides for vegetable crops, foliar insecticides on corn, rodenticides in fruit orchards, nematicides in fields prior to planting, ground application of fungicides on vegetables, seed treatments for plant diseases, desiccants and defoliant on cotton, and livestock dips for insect control. Competency determination shall reflect the full range of the private applicator standards, but with special emphasis placed on the particular characteristics of the pesticide class, as well as the nature of the application or use.

3. Commodity/crop/site certification.

This option certifies the private applicator as competent to apply any restricted-use pesticide needed for specific crops or sites. This includes any pesticide products (different pesticide classes, active ingredients,

and formulations) used on a specific line or class designation. Examples include: single crop, such as cotton, corn, peanuts, apples, tobacco, or wheat; single site class, such as poultry houses or dairy barns; single livestock line, such as beef cattle, swine, or turkeys; crop class, such as forage crops or small fruits; site class, such as barns or greenhouses; and livestock class, such as poultry.

Competency determination shall reflect the full range of the private applicator standards, with emphasis placed on the particular characteristics of the specific crop or site, or crop/site class, and the pests involved.

A private applicator may wish to be certified for a specific site or crop (such as cotton, corn, or beef cattle) or for a site or crop class (such as forage crops, livestock, small grain crops).

4. Single product certification.

This option certifies the private applicator as competent for one or more uses of a single product or related products with the same active ingredient and with a similar formulation and uses. Competency determination shall reflect all appropriate uses of these products for the agricultural area where he will be expected to apply the pesticide.

5. Single products/single use authorization (emergency program).

This option authorizes the private applicator to make single use applications of a restricted-use product, or other products of the same formulation.

This option may be used only as an emergency provision to accommodate situations, such as an unexpected pest problem, that requires immediate certification of a previously uncertified private applicator, or of one whose particular type of certification does not cover the product needed to deal with the problem.

E. Methods of determining competency.

Private applicators desiring certification may elect any of the following methods except as provided in paragraphs 4 and 5 above.

1. Written examination following lecture-type training.

2. Written examination following independent study.

3. Written examination without prior training.

4. Oral examination and simulated or actual demonstration following independent study. Examination to cover only the independent study materials made available, and will be equivalent in scope to the written examination. To be made

available to persons unable to demonstrate the required competence by means of paragraphs 1 through 3 above.

5. Fact finding interview. This method of competency demonstration is available only for emergency certification as provided in subsection C paragraph 5 above.

All determinations of competency shall be made by the commissioner or his authorized agent.

§ 25. Standards for application of pesticides classified for restricted use by noncertified applicators.

A. Application of pesticides classified for restricted use may be made by noncertified applicators, provided that the applicator is a competent person acting under the direct supervision (as defined in § 3.1-212.1 of the Code of Virginia) of a certified applicator whose certification permits such application. The certified supervisor shall be available to the noncertified applicator if he is needed. It shall be the certified applicator's responsibility to keep the noncertified person fully aware of all directions for use and cautions necessary for safe application of any restricted-use pesticide.

B. In addition, all noncertified applicators using any pesticide classified for restricted use, shall have available at the application site and at the loading and mixing site, if different from the application site:

1. Detailed written or printed directions for applying the restricted-use pesticide. Pesticide product label may suffice.
2. Detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator or other persons, or unreasonable adverse effects on the environment. Pesticide product label may suffice.
3. Detailed instructions for contacting the certified applicator under whose supervision the noncertified applicator is working (i.e. name, location, telephone number, radio contact, etc.). Such instructions, when followed, shall produce direct communication with the certified applicator.

C. For the purpose of this regulation, "under the direct supervision of" shall include the receipt by the noncertified applicator of verifiable specific and individual job or work assignments and instructions from his certified supervisor.

D. In other situations, as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

§ 26. Evidence of financial responsibility.

A. As provided in § 3-1-249.9 of the Code of Virginia, each applicant for a commercial applicator's license, or his employer, shall provide evidence to the commissioner of financial responsibility before the license is issued.

B. This financial responsibility shall consist of liability insurance or surety bond, issued by an insurance or surety company authorized to do business in this Commonwealth, conditioned to liability caused by the handling, storage, application, use or misuse, or disposal of any restricted-use pesticide.

C. The minimum coverage for liability insurance shall be:

1. In the amount of \$50,000 coverage for bodily injury or death to each person, and \$100,000 for each occurrence.
2. In the amount of \$100,000 of property coverage for each occurrence of property damage.

D. Instead of insurance coverage, a surety bond to the commissioner conditioned for payment in the same amounts and under the same circumstances as required in bodily injury and property damage liability insurance, as required in subsections A and B above, is acceptable.

E. This financial responsibility shall be maintained at the minimum required coverage at all times during the license period. The commissioner shall be notified at least 10 days prior to any reduction or cancellation of the liability insurance or surety bond.

F. Certification of financial responsibility shall be provided by the surety or insurance company on appropriate forms.

[Repealed.]

§ 27. Service container labeling.

A. Containers other than the original registrant's or manufacturer's containers (Article 3, § 3.1-233(2) of the Code of Virginia, notwithstanding) used for the temporary storage or transportation of pesticide concentrates or end-use dilutions, shall bear abbreviated labeling as elaborated below:

PESTICIDE CONCENTRATE

A. If the pesticide to be temporarily stored or transported is a concentrate to be further diluted, the container shall bear a securely attached label with the following information:

1. Product name (brand names from product label);
2. EPA registration number (from product label);
3. Name and percentage of active ingredient(s) from

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the product label; and

4. Appropriate signal word; i.e., Poison, Danger, Warning, Caution (from product label).

B. The above labeling is required for concentrate service containers, regardless of container type, size, or capacity.

PESTICIDE END-USE DILUTIONS OR END-USE CONCENTRATES

A. If the pesticide to be temporarily stored or transported is to be applied without further dilution, the container shall bear a securely attached label with the following information:

1. Product name (brand name from product label) preceded by the word "Diluted" or "End-Use Concentrate";

2. EPA registration number from concentrate product label;

3. Name of active ingredient(s) and percentage(s) of end-use dilution; and

4. Appropriate signal word: i.e., Poison, Danger, Warning, Caution (from product label).

B. Abbreviated labeling is not required for the following:

1. End-use dilution containers not exceeding three gallons liquid or three pounds dry capacity, when such containers are used as application devices; i.e., hand-held sprayers, dusters, puffers, etc.

2. Containers used by farm supply dealers for the temporary storage or transportation of pesticide concentrate or end-use dilutions, provided that sales invoices or delivery tickets adequately identifying the pesticide(s) accompany each shipment or delivery.

3. On farm concentrate or end-use dilution containers or application equipment used for the temporary storage or transportation of such pesticides for agricultural use.

4. Aircraft-mounted containers used for temporary storage or transportation of concentrate or end-use dilution pesticides, provided that aircraft logs or other documents adequately identifying the pesticide(s) accompany the aircraft.

§ 28. Mixtures.

A. General sale. Regardless of type container mixtures of pesticides with fertilizers or with other pesticides, when offered for general sale to the public shall be registered prior to sale, distribution, or use. In addition, any pesticide/fertilizer mixture shall be registered or labeled

as required by the Virginia Fertilizer Law. All bulk containers shall bear the registered pesticide product label and a copy of the label shall accompany each shipment or delivery.

B. Custom mixtures. Pesticides may be mixed with fertilizers or with other pesticides without label registration when the pesticide product is duly registered, and when such mixtures are not prohibited by the registered pesticide label.

C. When these mixtures are intended for the production of agricultural commodities, the person making the mixtures shall provide the following written or printed information to the applicator or customer:

1. Brand name(s) and EPA registration no.(s) of pesticide product(s);

2. Percentage(s) by weight of active ingredient(s);

3. Directions for application, use, harvest limitations and cropping restrictions; and

4. Precautionary and warning statements sufficient to ensure proper, safe use, and disposal of the mixture.

D. The registered pesticide product label(s) will suffice. All such labeling shall be subject to approval by the commissioner.

* * * * *

Pesticide Control Board

Title of Regulation: VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.

Statutory Authority: §§ 3.1-249.30, 3.1-249.46, 3.1-249.47, and 3.1-249.55 of the Code of Virginia.

Public Hearing Dates:

May 2, 1990 - 9 a.m.

May 7, 1990 - 10 a.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulation will establish fees to be collected by the Virginia Department of Agriculture and Consumer Services for Pesticide Product Registration, Certified Commercial Applicator Certificates, and Registered Technician Certificates as well as for licensing pesticide businesses. This regulation is essential to provide user fees to fund the management of pesticide programs fully in Virginia as recommended by the Council on the Environment in a report entitled Special Report: Pesticide Management

in Virginia (January, 1989), which gave impetus to legislation that became the 1989 Pesticide Control Act.

VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise. An asterisk following a definition denotes that the definition has been taken from Chapter 14.1, Article 1, of the Virginia Pesticide Control Act:

"Board" means the Pesticide Control Board.*

"COB" means close-of-business.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.*

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

"Limited quantities" means purchases for resale of less than \$50,000 annually per outlet in products containing a pesticide active ingredient.

"Registered technician" means an individual who renders services similar to those of a certified commercial applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial applicator, and is limited to application of general use pesticides. However, if he applies restricted use pesticides he shall do so only under the direct supervision of a certified commercial applicator.*

§ 2. Fees.

A. Pesticide product registration fee.

The registrant of any brand or grade of pesticide to be registered with the commissioner shall pay to the department an annual registration fee of \$125 for each brand or grade which is manufactured, distributed, sold, or offered for sale, used or offered for use within the Commonwealth. All registrations shall expire on December 31 of each year, unless cancelled or otherwise terminated for cause. A registration not cancelled or otherwise terminated for cause will be renewed upon receipt of the annual registration fee.

B. Commercial applicator certificate fee.

Any person applying for a certificate as a commercial applicator shall pay to the department an initial certificate fee of \$35 and an annual renewal fee of \$35 thereafter.

All certificates shall expire at midnight on June 30 of each year unless suspended or revoked for cause. All certificates not suspended or revoked for cause will be renewed upon receipt of the annual renewal fee. If the applicator does not file an application for renewal of his certificate prior to COB April 30, the commissioner shall assess a penalty of 20% which shall be added to the renewal fee. The applicant shall pay the total fee prior to the commissioner's issuance of the renewal. Such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the application in Virginia of pesticides classified for restricted use subsequent to the expiration of his certificate. However, if the certificate is not renewed within 60 days following the expiration of the certificate, then such certificate holder shall be required to take another examination. The fee for this reexamination or for any commercial applicator reexamination pursuant to subsection C of § 3.1-249.52 of the Act shall be \$35.

C. Registered technician certificate fee.

Any person applying for a certificate as a registered technician shall pay to the department an initial certificate fee of \$15 and an annual renewal fee of \$15 thereafter. All certificates shall expire at midnight on June 30 of each year unless suspended or revoked for cause. A certificate not suspended or revoked for cause will be renewed upon receipt of the annual renewal fee. If the application for renewal of any certificate is not filed prior to COB April 30, a penalty of 20% shall be assessed and added to the renewal fee and shall be paid by the applicant before the renewal shall be issued. Such penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the application in Virginia of pesticides classified for restricted use subsequent to the expiration of his certificate. However, if the certificate is not renewed within 60 days following the expiration of the certificate, then the commissioner shall require such certificate holder to receive as a condition of renewal of his certificate reinstruction in the required course of training.

D. Business license fee.

Any person or business that distributes, stores, sells, recommends for use, mixes, or applies pesticides shall pay a nonrefundable annual pesticide business licensing fee of \$50 for each location or outlet that he or it operates. All business licenses will expire at midnight on March 31 of each year unless suspended or revoked for cause. If a business license is not suspended or revoked for cause, it will be renewed upon payment of the annual fee. If a person or business fails to apply for renewal of a pesticide business license at least 60 days prior to expiration, the applicant, as a condition of renewal, shall pay a late license fee of 20% of the licensing fee in addition to that fee. Retailers of limited quantities of nonrestricted use pesticides including grocery stores, convenience stores, drug stores, veterinarians and other businesses who sell pesticides primarily for limited household use shall be

Proposed Regulations

exempt from the business license requirement.



VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
 P. O. BOX 526
 RICHMOND, VIRGINIA 23204-0526



APPLICATION FOR PESTICIDE REGISTRATION

In accordance with Sections 3.1-249.35 and 3.1-249.40 of the Virginia Pesticide Control Act, application is hereby made for registration of the pesticide products, brands or grades listed below for the period ending December 31, 19___. Attached are one (1) label specimen and one (1) material safety data sheet per product, brand or grade. The applicant, by submission of this form, agrees that upon request he will forward one unbroken, labeled, retail-sized package of each and every product, brand or grade (no less than one pound or one pint if sold in bulk) under this application.

Remit registration fee (\$125.00 per product, brand or grade annually) payable to the TREASURER OF VIRGINIA and return with application form to the above address.

Number of products, brands or grades X \$125.00 registration fee = _____
 (Total Remittance)

NAME AND ADDRESS APPEARING ON LABEL: _____ SUBMITTED BY: _____
 Name: _____ Firm Name: _____
 Street & No.: _____ Attention: _____ Title: _____
 City & State: _____ Zip: _____ Street & No.: _____
 City & State: _____ Zip: _____
 Telephone No.: _____
 Signature: _____ Date: _____

VDACS ACCOUNT
 858-02-02631

EPA REG. NO.	PRODUCT NAME AS APPEARS ON LABEL (Representative label must be attached)	RESTRICTED USE (Type R if Restricted)

INSTRUCTIONS
(For New Product Registration Only)

PLEASE TYPE OR PRINT CLEARLY IN INK

A. APPLICATION FOR PESTICIDE REGISTRATION. Submit one (1) completed copy of this application form. You may include as many products, brands, or grades on one application form as space permits. When additional space is required, please complete an additional form. Complete the information requested, including registration period, number of products, brands or grades and total amount remitted.

B. NAME AND ADDRESS APPEARING ON THE LABEL. The firm name and address which appears on the label must be registered when a manufacturer sells under more than one company name. A separate registration is required for each such name. If a product is manufactured for a company and sold under its name, either the manufacturer or the company for whom the product is manufactured may register.

C. PRODUCT NAMES. List the product name (alphabetically), the EPA Registration Number, and R if the product is a restricted-use pesticide (see example below).

EPA REG. NO.	PRODUCT NAME AS APPEARS ON LABEL	RESTRICTED-USE (if applicable)
1383-85	John Doe's A-1 Fly Bait	
1383-85-1606	John Doe's Weed Killer	R

D. MATERIAL SAFETY DATA SHEET. Please submit one (1) copy for each product to be registered, attaching it to the respective product label.

E. LABELING. Each container must bear a label showing the following information:

- (1) Name and address of the manufacturer, registrant or person for whom manufactured.
- (2) Name brand or trademark under which the article is sold.
- (3) Net weight or measure of the contents.
- (4) An ingredient statement:
 - (a) The name and percentage amount of each active ingredient, together with total percentage of inert ingredients.
 - (b) If the pesticide contains arsenic in any form, the ingredient statement must also include a statement of total and water soluble arsenic, each calculated as elemental arsenic.
- (5) Adequate warning or caution statement including the statement "Keep Out of Reach of Children" and appropriate signal word such as "DANGER", "WARNING", or "CAUTION."
- (6) In the case of pesticides highly toxic to man, the first form of ingredient statement must be used and the label must contain in addition:
 - (a) The skull and crossbones
 - (b) The word "Poison" prominently in red on a background of distinctly contrasting color and;
 - (c) An antidote statement.
- (7) Adequate directions for use.
- (8) Restricted-Use Statement (if product has been classified Restricted-Use by EPA.)

Office of Pesticide Management
804/786-3798 or 3162

Revised: 10/89
VDACS 07109



VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Division of Product and Industry Regulation
Office of Pesticide Management
P. O. Box 1163, Richmond, VA 23209

APPLICATION FOR COMMERCIAL PESTICIDE APPLICATOR CERTIFICATE

In accordance with Section 3.1-249.52 of the Virginia Pesticide Control Act, application is hereby made for certification as a Commercial Pesticide Applicator for the period ending December 31, 19____. The applicant, by submission of this form, agrees to abide by all applicable sections of the Virginia Pesticide Control Act and Regulations.

(Applicant's Signature) (Date)

Commercial applicators must remit certification fee of \$35.00 for first certificate; annual renewal required thereafter. GOVERNMENT EMPLOYEES ARE EXEMPT FROM FEE. Make remittance payable to: TREASURER OF VIRGINIA.

AMOUNT REMITTED _____ FEE EXEMPT STATUS _____

APPLICANT CERTIFIED IN COMMERCIAL CATEGORY #: _____

CATEGORY TITLE(S) _____

PLEASE COMPLETE THE FOLLOWING INFORMATION ACCURATELY TO INSURE PROMPT PROCESSING OF YOUR APPLICATION. (PRINT CLEARLY OR TYPE)

SOCIAL SECURITY NUMBER: _____

APPLICANT'S FULL NAME: _____
(Last) (First) (M.I.)

MAILING ADDRESS _____
FOR CERTIFICATE: (P. O. Box or Street Number and Name)

(City) (State) (Zip)

ADDITIONAL INFORMATION REQUIRED OF ALL COMMERCIAL APPLICANTS

<u>Applicant's Business or Agency Name & Address</u>	<u>Name and Address of Designated Resident Agent as named on Power of Attorney forms (For Out-Of-State Applicants Only)</u>
_____	_____
_____	_____
<u>Telephone #</u>	_____
_____	_____
<u>Name of Principal Business Officers or Supervisor:</u>	<u>Type of Financial Responsibility Submitted: (Attach Copy to Application)</u>
_____	_____
_____	<u>Liability Insurance Certificate</u> _____
_____	<u>Surety Bond</u> _____ <u>Other</u> _____
<u>Type of pesticide application you will do</u> _____	

Virginia Department of
Agriculture and Consumer Services
Division of Product & Industry Regulation
P.O. Box 1163, Room 403
Richmond, Virginia 23209

DATE	SOC. SEC. NO.
------	---------------

NOTICE
IF NOT RENEWED BEFORE
MARCH 1, REEXAMINATION WILL
BE REQUIRED.

RETURN THIS COPY IN ENVELOPE PROVIDED

RENEWAL APPLICATION FOR COMMERCIAL PESTICIDE APPLICATOR PERMIT

FOR THE FEE OF _____ THE NAMED INDIVIDUAL HEREBY MAKE APPLICATION FOR PERMIT RENEWAL AND IN DOING SO AGREES
TO COMPLY WITH ALL APPLICABLE PROVISIONS OF THE VIRGINIA PESTICIDE LAW AND REGULATIONS INCLUDING MAINTENANCE OF ANY REQUIRED FINANCIAL RESPONSIBILITY
THEREUNDER. A PENALTY OF 20% (\$7.00) ADDITIONAL WILL BE ASSESSED IF APPLICATION IS NOT FILED BEFORE **APRIL 30**
MAKE CHECKS PAYABLE TO: TREASURER OF VIRGINIA

SIGN APPLICATION AND MAIL TO ADDRESS SHOWN ON ENCLOSED ENVELOPE.

NOTE: IF AN ASTERISK (*) APPEARS BESIDE ANY OR ALL PERMIT NUMBERS REFER TO THE BACKSIDE.

<p><input checked="" type="checkbox"/> SIGNATURE OF APPLICANT PLEASE INDICATE CHANGES IN NAME AND ADDRESS</p>	<p>PERMIT NO.</p>	<p>CATEGORY</p>	<p>CERTIFICATION EXPIRES</p>

THE ASTERISK (*) APPEARING BESIDE ANY OR ALL OF YOUR PERMIT NUMBERS
MEANS THAT THOSE PERMITS ARE NOT ELIGIBLE FOR RENEWAL BECAUSE YOUR
RESPECTIVE CERTIFICATION WILL BE EXPIRING THIS YEAR. IN ORDER FOR YOUR
PERMITS TO BE RENEWED IT WILL BE NECESSARY FOR YOU TO FURNISH EVIDENCE
OF ATTENDANCE AND PARTICIPATION IN AN APPROVED TRAINING PROGRAM FOR
RE-CERTIFICATION TO THIS OFFICE OR BE REEXAMINED IN THE RESPECTIVE
CATEGORIES. FOR ADDITIONAL INFORMATION AND ASSISTANCE CONTACT THE VDACS
BY MAIL OR PHONE 804-786-3796.

DISREGARD THIS STATEMENT IF NO ASTERISK (*) APPEAR BESIDE A PERMIT
NUMBER.

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
 Division of Product and Industry Regulation
 Office of Pesticide Management
 P. O. Box 1163, Richmond, VA 23209
 Telephone: (804) 786-3798

APPLICATION FOR PESTICIDE BUSINESS LICENSE

Application for a license to sell, distribute, store, apply or recommend for use under the Virginia Pesticide Control Act.

FOR DEPARTMENTAL USE ONLY
 Dealer License No.: _____
 Expiration Date: _____
 Date Mailed: _____

I hereby apply for a license to sell, distribute, store, apply or recommend for use pesticides in accordance with regulations adopted under Section 3.1-249.46 of the Virginia Pesticide Control Act.

This business will engage in the following practices:

Sell Apply Distribute Store
 Bulk Storage Recommend for Use

(Please Print)

NAME OF CONTACT PERSON: _____ TITLE: _____
 BUSINESS NAME: _____ TELEPHONE NO: _____
 STREET/RFD: _____ CITY: _____
 COUNTY: _____ STATE: _____ ZIP CODE: _____

I certify that I understand my legal responsibilities for the sale, application, distribution or storage of pesticides and that I will sell restricted use pesticides only to individuals who possess a valid pesticide applicators certificate, or their representative.

Please make check payable to: The Treasurer of Virginia in the amount of \$50.00 (yearly licensing fee).

SIGNATURE: _____ DATE: _____

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
 Division of Product and Industry Regulation
 Office of Pesticide Management
 P. O. Box 1163, Richmond, VA 23209
 Telephone: (804) 786-3798

APPLICATION FOR COMMERCIAL PESTICIDE REGISTERED TECHNICIAN CERTIFICATE

In accordance with Section 3.1-249.52 of the Virginia Pesticide Control Act, application is hereby made for a certificate as a Commercial Pesticide Registered Technician for the period ending December 31, 19___. The applicant, by submission of this form, agrees to abide by all applicable sections of the Virginia Pesticide Control Act and related regulations.

Applicant's Signature _____ Date _____

Registered Technicians must remit certificate fee of \$15.00 for first certificate year; annual renewal required thereafter. GOVERNMENT EMPLOYEES ARE EXEMPT FROM FEE. Make remittance payable to: The Treasurer of Virginia.

AMOUNT REMITTED: _____ FEE EXEMPT STATUS: _____

APPLICANT REGISTERED IN THE FOLLOWING COMMERCIAL CATEGORIES): _____
 CATEGORY TITLES: _____

Applicant's Business or Agency
 Name: _____
 Address: _____
 City, State, Zip: _____
 Bus. Phone: _____
 Pesticide Bus. Lic. No.: _____
 Supervisor or Branch Mgr.: _____

Applicant: (Please Print or Type)
 Name: _____
 Address: _____
 City, State, Zip: _____
 Social Security No.: _____
 Date of Employment: _____

I, the supervisor of the above named applicant, certify that he has received at least the minimum training as a Commercial Registered Pesticide Technician as specified under Section 3.1-249.52 of the Code of Virginia and as prescribed by the Pesticide Control Board.

I certify that I have received training as specified under Section 3.1-249.52 of the Code of Virginia and as prescribed by the Pesticide Control Board.

Signature of Supervisor _____ Date _____ Signature of Applicant _____ Date _____

Type of Financial Responsibility Submitted: (Attach copy to Application)

Certificate of Insurance: _____ Surety Bond: _____

Other: _____

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* * * * *

Pesticide Control Board

Title of Regulation: VR 115-04-21. Public Participation Guidelines of the Pesticide Control Board.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Public Hearing Dates:

May 2, 1990 - 10 a.m.

May 7, 1990 - 11 a.m.

(See Calendar of Events section for additional information)

Summary:

The regulation proposed by the Pesticide Control Board, VR 115-04-21, Public Participation Guidelines, will establish public participation guidelines, pursuant to § 9-6.14:7.1 of the Code of Virginia for use by the Pesticide Control Board. This regulation will assure that the public is fully involved in the board's development of regulations.

The Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) requires that agencies develop, adopt, and utilize public participation guidelines "for soliciting the input of interested parties in the formation and development of its regulations." These public participation guidelines are being developed pursuant to this legislative mandate.

VR 115-04-21. Public Participation Guidelines of the Pesticide Control Board.

§ 1. Purpose.

These public participation guidelines set out methods for the identification and notification of parties, persons, and groups interested in the development of regulations of the Pesticide Control Board (hereinafter "board"). The board and the staff of the Department of Agriculture and Consumer Services shall observe the requirements the present guidelines contain during the formation, drafting, promulgation, and final adoption of any and all regulations of the Pesticide Control Board:

1. Except as provided in § 11 or otherwise authorized by statute; and

2. Except for regulations for which Notice of Intended Regulatory Action has been filed with the Registrar of Regulations pursuant to Guidelines for Public Participation in Regulation Development and Promulgation of the Virginia Department of Agriculture and Consumer Services, if such Notice of Intended Regulatory Action was filed prior to the effective date of the present regulation.

§ 2. Establishment and maintenance of mailing lists.

A. The staff of the Division of Product and Industry Regulation shall establish and maintain mailing lists of those who are or may be interested in a regulation to be developed. In partial or complete fulfillment of this requirement, the staff may utilize mailing lists already maintained by the Department of Agriculture and Consumer Services.

B. The staff of the Division of Product and Industry Regulation may develop additional mailing lists by appropriate announcement in news releases and in agency publications of the development of mailing lists.

C. The staff of the Division of Product and Industry Regulation shall include on its mailing lists individuals and groups who request to be on the lists.

§ 3. Public meetings.

A. The board or any representative designated for such purpose by the board may hold a public meeting on any new regulation under consideration and may hold a public meeting relating to amendment of any existing regulation.

B. In notifying the public of any such meeting, the staff of the Division of Product and Industry Regulation shall prepare and the Office of Policy Analysis and Development shall review and file a "Notice of Meeting" (Form RR06) and a "Notice of Intended Regulatory Action" (Form RR01) with the Virginia Register of Regulations. The date set for the meeting in the notice shall be at least 30 days after the date of publication of the Notice of Meeting and the Notice of Intended Regulatory Action in the Virginia Register of Regulations.

C. The staff of the Division of Product and Industry Regulation shall mail notice of the meeting and the Notice of Intended Regulatory Action to those on mailing lists corresponding to the subject of the regulation under consideration.

D. The staff of the Division of Product and Industry Regulation may also through the Communication Office issue press releases on the upcoming public meeting and publish notice of the public meeting in agency publications.

§ 4. Advisory committee.

The board may appoint an advisory committee to make recommendations on the content of a regulation under consideration. The membership of the committee shall be formed so as to give a balanced representation of interested parties and views.

§ 5. Drafting the regulation.

In consultation with any advisory committee appointed, the staff of the Division of Product and Industry Regulation shall draft the regulation. The staff shall consider each public comment and be prepared to respond

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in writing as to why a comment was or was not incorporated into the draft regulation.

§ 6. Board review and endorsement of draft regulation.

The board shall meet and review the staff draft. If the draft is satisfactory to the board as a proposal, it shall so indicate by vote, and authorize its formal publication as a proposed regulation.

§ 7. Proposed regulation.

A. The staff of the Division of Product and Industry Regulation shall prepare required documents (including notice of opportunity for oral or written submittals, accomplished by "Notice of Comment Period" (Form RR02)) and submit them with the proposed regulation to the Office of Policy Analysis and Development for review and for publication in the Virginia Register of Regulations. The register publication and the newspaper publication required by § 8 B shall be made at least 60 days in advance of the last date prescribed in the notice for such submittals.

B. At the same time, the Office of Policy Analysis and Development shall also submit the proposed regulation along with required documents to the Office of the Governor and the Department of Planning and Budget for review.

§ 8. Informational proceeding and notice thereof.

A. Informational proceeding.

The board may hold an informational proceeding pursuant to § 9-6.14:7.1 of the Code of Virginia on every regulation it proposes and on every proposed amendment to each regulation, notice for which shall comply with the provisions of this section of this regulation.

B. Notice of informational proceeding.

1. In addition to the required notice of opportunity for oral or written submittals published in the Virginia Register of Regulations pursuant to § 7, and in a newspaper of general circulation published in the capital city, the staff of the Division of Product and Industry Regulation shall, at the board's direction, publish notice of the board's proposed regulation and informational proceeding thereon in:

a. Other newspapers with substantial readership in Virginia, which notice shall meet the same requirements for notice to the public of the opportunity for oral or written submittals as the notice published in the newspaper of general circulation published at the capital city;

b. Press releases;

c. Mailings to those on its mailing lists; and

d. Other means as directed by the Commissioner or the board.

2. The staff of the Division of Product and Industry Regulation is directed to mail a copy of the proposed regulation and notice of the informational proceeding thereon to everyone who has participated in public discussion of the regulation pursuant to the current regulation making.

§ 9. Adoption of regulation.

The board may adopt the proposed regulation after the last day prescribed for submittals of public comment. After the board has adopted the regulation, the staff of the Division of Product and Industry Regulation shall prepare and the Office of Policy Analysis and Development shall review and submit a copy of the adopted regulation and the required documentation to the Virginia Register of Regulations, the Office of the Governor, and the Department of Planning and Budget.

§ 10. Adoption of summary; of statement as to basis; and of description of public comment.

The summary; statement as to basis, purpose, substance, issues, and impact of the regulation; and the summary description of the nature of the oral and written data, views, and arguments presented during the public proceedings and the board's comments thereon required by § 9-6.14:9 D of the Code of Virginia, shall be made a part of the board's minutes and included as a part of the board's regulation file.

§ 11. Emergency regulations.

The provisions of these public participation guidelines shall not apply to the making of regulations which the Pesticide Control Board finds are necessitated by an emergency situation.

* * * * *

Pesticide Control Board

Title of Regulation: VR 115-04-22. Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act.

Statutory Authority: §§ 3.1-249.30, 3.1-249.46, 3.1-249.48, 3.1-249.49, 3.1-249.50, and 3.1-249.76 of the Code of Virginia.

Public Hearing Dates:

May 2, 1990 - 9:30 a.m.

May 7, 1990 - 10:30 a.m.

(See Calendar of Events section for additional information)

Summary:

The proposed regulation will require an annual

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business license of persons who sell, recommend for use, store, or apply pesticides in Virginia. (Businesses that sell pesticides in limited quantities primarily for limited household use are exempt from the requirements of this regulation.) By so doing, it provides a direct, effective, and equitable means of ensuring the safe and proper application of pesticides, as well as their safe storage. The regulation also requires those subject to its provisions to establish and maintain sufficient general liability coverage, and to keep adequate records involving pesticides.

Because this regulation contains provisions inconsistent with two sections of current regulation, VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law, the Pesticide Control Board has proposed the repeal of those two sections as a part of the current regulation making.

VR 115-04-22. Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act.

PART I DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise. An asterisk following a definition denotes that the definition has been taken from the Virginia Pesticide Control Act, Article 1, Chapter 14.1 of Title 3.1, of the Code of Virginia.

"Act" means the Virginia Pesticide Control Act.

"Appurtenances" means valves, pumps, fittings, pipes, hoses, plumbing or metering devices that are connected to a bulk pesticide container or used for transferring a bulk pesticide between containers.

"Board" means the Pesticide Control Board.*

"Bond" means a written instrument issued or executed by a bonding, surety, or insurance company licensed to do business in the Commonwealth, or otherwise approved by the board, guaranteeing the fulfillment of the agreement between the licensee and the customer.*

"Bulk pesticide" means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or 100 pounds net dry weight. For purposes of this regulation, bulk pesticide shall not include material contained in containers approved for transportation in interstate commerce by the United States Department of Transportation.

"Bulk pesticide storage facility" means any facility or site where bulk pesticides are being stored for more than

30 consecutive days per year in quantities of greater than 300 U.S. gallons liquid or 100 pounds net dry weight for purposes of repackaging.

"Bulk pesticide storage facility registry" means the annual listing of all bulk pesticide storage facilities in the Commonwealth as derived from written notification of the facility location by the facility's owner or operator.

"Bulk repackaging" means the transfer of bulk quantities of a registered pesticide from one bulk container to another bulk container in an unaltered state in preparation for sale to another person.

"Certification" or "certified" means the recognition granted by the Pesticide Control Board to an applicator upon satisfactory completion of board approved requirements.*

"COB" means close-of-business.

"Commercial applicator" means any applicator who has completed the requirements as determined by the board, including appropriate training and time in service, to apply for a certification, and who uses or supervises the use of any pesticide for any purpose or on any property other than as provided in the definition of private applicator.*

"Commissioner" means the Commissioner of Agriculture and Consumer Services.*

"Dedicated pesticide container" means a pesticide container effectively designed and constructed to hold a specific pesticide and to be reused, repackaged, or refilled. Such containers shall clearly and permanently identify the pesticide to which it is dedicated, and shall include a clearly visible tamper indicator which reveals that the integrity of the container has been either maintained or disrupted. In cases where the tamper indicator is not intact, indicating that the contents may be adulterated or altered, the container shall not qualify as a dedicated container and shall not be eligible for reuse, repackaging, or refilling until such time as it has been cleaned, inspected, and resealed by the registrant or his agent.

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

"Discharge" means any spill, leak, deposit, dumping, or emptying, either accidental or otherwise, that results in a release of a pesticide into a secondary containment, operational area containment, or other area at a bulk pesticide storage facility. Discharge does not include lawful transfer, loading, unloading, repackaging, refilling, distribution, use, disposal, or application of a pesticide.

"Emergency and discharge response plan" means a plan describing procedures to be employed in the event of an emergency such as a fire, flood, or discharge at a bulk pesticide storage facility, and which is designed to result in the notification of appropriate state and municipal

authorities, mitigation of the emergency, stoppage of the discharge, recovery of the discharge, and clean up of the affected area.

"FIFRA" means The Federal Insecticide, Fungicide, and Rodenticide Act as amended, and herein incorporated by reference.

"Licensed" or "licensee" means those businesses which, upon meeting the requirements established by the Pesticide Control Board, are issued a license to engage in the sale, storage, distribution, recommend the use, or application of pesticides in Virginia in exchange for compensation.*

"Limited quantities" means purchases for resale of less than \$50,000 annually per outlet in products containing a pesticide active ingredient.

"Nonbulk quantity repackaging" means the authorized transfer in nonbulk quantities of a specific bulk pesticide to a bulk container designed to hold the specific bulk pesticide. Nonbulk quantity repackaging may only be carried out at a bulk pesticide storage facility under a specific written authorization and agreement between the facility and the registrant of the bulk pesticide. However, nothing in this definition shall preclude the lawful filling and labeling of either single use dedicated containers or other containers, such as the registrant's original unbroken container, carried out under a written contractual agreement between a contract repackager and the registrant.

"Operational area" means an area or areas at a bulk pesticide storage facility where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled, or where pesticides are cleaned or washed from containers or from application, handling, storage, or transportation equipment.

"Operational area containment" means any structure or system effectively designed and constructed to intercept and contain discharges, including container or equipment wash water and rainwater, and to prevent escape, runoff, and leaching from the operational area of a bulk pesticide storage facility.

"Pest management consultant" means any person, who may or may not apply pesticides himself, who has obtained a business license in accordance with the requirements listed below, and who is authorized by these regulations to provide technical advice, supervision or aid, or recommendations for restricted use pesticide application commercially in Virginia.

"Pesticide" means (i) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest, (ii) any substance or mixture of substances intended for use as a plant

regulator, defoliant, or desiccant, and (iii) any substance which is intended to become an active ingredient thereof.*

"Pesticide business" means any person engaged in the business of distributing, applying, or recommending the use of a product, storing, selling, or offering for sale pesticides for distribution directly to the user. The term "pesticide business" does not include wood treaters not for hire or businesses exempted by regulations adopted by the board.*

"Pesticide dealer" means any person or business which sells, distributes, or stores pesticides in Virginia, except that retailers of limited quantities of nonrestricted use pesticides including grocery stores, convenience stores, drug stores, veterinarians, and other businesses who sell pesticides primarily for limited household use are not included in this definition.

"Primary containment" means the storage of bulk pesticide in either its original container or other suitable container, including dedicated containers, effectively designed and constructed to contain the pesticide stored therein.

"Restricted use pesticide" or "pesticide classified for restricted use" means any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency.*

"Secondary containment" means any structure effectively designed and constructed to contain discharges and to prevent escapes, runoff, and leaching of pesticides from bulk pesticide storage facilities and operational areas.

"Unreasonable adverse effects to man or the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

PART II. PROCEDURES FOR OBTAINING A BUSINESS LICENSE.

§ 2.1. General requirements for all business licensees.

A. Any business located in Virginia, or with retail outlets located in Virginia, which sells, stores, recommends for use, mixes, or applies pesticides shall obtain a valid pesticide business license pursuant to these regulations.

B. An applicant for a pesticide business license shall apply for the license on a form to be obtained from the department, and shall include with his application the annual licensing fee of \$50. All requested information shall be included on the form prior to issuance of the license.

C. Each applicant, or the applicant's designee, for a pesticide business license shall demonstrate to the commissioner his knowledge of (i) pesticide laws and regulations; (ii) potential hazards of pesticides to man and

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the environment; and (iii) safe distribution, use, and disposal of pesticides by passing a written examination prior to his being issued a business license. If the applicant is already certified as a commercial applicator, he shall be exempt from the initial examination requirement.

D. All pesticide business licenses shall expire at midnight on March 31 of each year. Licensees shall renew their licenses annually by application to the department and payment of the annual fee on or before COB January 31. The department shall charge a 20% penalty in addition to the regular fee for renewal applications filed after January 31.

§ 2.2. Pesticide dealer business licensing requirements.

A. Any pesticide business which sells, distributes, or stores any pesticide in Virginia shall obtain a valid pesticide business license pursuant to these regulations.

B. A pesticide dealer shall obtain a valid business license for each location or outlet in Virginia from which pesticides are sold or distributed.

C. No pesticide dealer shall allow any location or outlet from which restricted use pesticides are sold or distributed to operate without a certified commercial applicator present who shall bear immediate responsibility for the correct and safe operation of his location or outlet. Each dealer shall notify the department of the name of the commercial applicator designee for each location or outlet under his control, and shall also notify the department promptly of any change in the applicator designee during the licensing period.

D. Any pesticide dealer who stores, repackages and distributes bulk pesticides shall, in addition to meeting the relevant requirements of Parts II, IV, and V of these regulations, satisfy all the requirements of Part III.

E. Retailers of limited quantities of nonrestricted use pesticides including grocery stores, convenience stores, drug stores, veterinarians and other businesses which sell pesticides primarily for limited household use are exempt from the business licensing provisions (§ 3.1-249.46, Article 2, Chapter 14.1, Virginia Pesticide Control Act). This provision shall not apply to retailers of pesticides sold for commercial use.

§ 2.3. Commercial applicators' business licensing requirements.

Any person or business which mixes and applies any pesticide commercially in Virginia shall obtain a valid pesticide business license issued pursuant to these regulations. The business license and fees shall not be considered a substitute for the commercial applicator's certification and fees. Possession of a business license does not authorize the licensee to apply restricted use pesticides, nor does it allow a reduction of the fee

necessary for an applicator's certification.

§ 2.4. Pest management consultants' business licensing requirements.

A. Any person or business which recommends any pesticide for use commercially in Virginia shall obtain a valid business license issued pursuant to these regulations. This provision shall exclude company sales representatives certified in Category 10 - Demonstration and Research, and retail sales personnel of any business which has obtained a pesticide business license.

B. If the pest management consultant is not a certified applicator, he shall meet the requirements of § 2.1 C above prior to being issued a business license.

C. The specialty categories for a pest management consultant shall conform to the commercial applicator categories established pursuant to the Act. The pest management consultant shall meet the requirements of the specific category or subcategory in which he is making recommendations for pesticide use prior to being issued a business license.

PART III. REQUIREMENTS FOR PESTICIDE DEALERS WHO STORE, REPACKAGE, AND DISTRIBUTE BULK PESTICIDES.

§ 3.1. Repackaging and distribution of bulk pesticides.

A. Bulk repackaging of pesticides for sale or distribution may be done provided:

1. The establishment conducting the transfer, sale, or delivery is in compliance with FIFRA, § 7 (Registration of Pesticide Producing Establishments) including an appropriate written authorization from the registrant allowing such repackaging;

2. A representative of the receiving establishment is present both when the product is received and when it is repackaged for sale and distribution;

3. The container into which the bulk pesticide is repackaged is effectively designed and constructed to hold bulk volumes of the pesticide being repackaged, is in a good state of repair, and otherwise meets the approval of the seller; and

4. There is no change in the:

a. Pesticide formulation;

b. Product labeling, except for the addition of the assigned EPA establishment number of the repackaging site and net contents statement; and

c. Identity of the party accountable for the integrity of the product, i.e., the manufacturer or registrant

as evidenced by the assigned EPA product registration number.

B. Repackaging for sale or distribution of bulk pesticides in nonbulk containers shall be prohibited unless the following conditions are met:

1. The repackaging in nonbulk quantities is expressly allowed in the written authorization specified in subdivision A 1 above, including authorization providing for split-shipment or partial delivery of the pesticide insofar as the sum total of the full shipment or completed deliveries falls within the definition of a bulk pesticide;

2. The container is effectively designed and constructed to hold bulk volumes of the pesticide being repackaged, is in a good state of repair and cleanliness, and otherwise meets the approval of the seller;

3. The sale or distribution is to the end-user of the pesticide;

4. The sale or distribution is otherwise in compliance with applicable labeling, product quality, weights and measures, and shipping requirements of these regulations, the Commonwealth, and the federal government; and

5. Notwithstanding the requirements of subdivision B 1 through B 3, repackaging or refilling of containers for sale or distribution in nonbulk quantities in nonbulk containers may occur at a bulk pesticide storage facility provided the respective containers are dedicated containers within the scope and definition of these regulations and the repackaging or refilling is carried out under a written contractual agreement between the repackager and the registrant. The requirements of subdivision B 4 shall be applicable.

C. Pesticides may be repackaged for sale or distribution using only containers which conform to these regulations, maintain the integrity of the product, protect the environment, and meet the approval of the seller of the pesticide.

D. Scales and meters used for sale from bulk delivery systems shall meet the specifications, tolerances, and other technical requirements for weighing and measuring devices as specified by the department.

E. Appropriate measures shall be taken to prevent adulteration of product when either meters or manifold systems are used to dispense pesticides.

§ 3.2. Bulk pesticide storage facility registry.

A. There is hereby established in the department a bulk pesticide storage facility registry for purposes of program administration and communication with the facilities

operating in the Commonwealth. Information supplied by product manufacturers and registrants under subsection B below shall comprise the data base of the registry.

B. Each product manufacturer or registrant who wishes to make a bulk shipment to any establishment within Virginia shall make notification to the department on an annual basis of his intent. Such notification shall include the name and address of each establishment receiving such delivery and an indication whether or not the establishment has been authorized by the registrant to repackage in bulk or nonbulk quantities or dedicated containers. Information with respect to the supplier of the bulk pesticide to the facility obtained by the department pursuant to the foregoing shall be deemed confidential and not available to the public, unless the pertinent manufacturer or registrant authorizes disclosure in writing.

§ 3.3. Bulk pesticide storage facility operation.

A. Storage.

1. Location. Siting of a bulk pesticide storage facility shall comply with applicable local, Commonwealth, and federal regulations. Appropriate engineering safeguards shall be employed when such facilities are located on a flood plain, in a groundwater recharge area, or near wells or surface water. Under no circumstances shall bulk pesticides be stored underground.

2. Primary containment. Containers and appurtenances used as the primary containment in the storage and handling of bulk pesticides shall be constructed, installed, and maintained to prevent a discharge, and shall be of materials and construction compatible with the pesticides stored and the conditions of storage, including any specifications that may appear on the pesticide labeling.

3. Secondary containment. All bulk pesticide storage facilities shall be constructed with a means of secondary containment to prevent discharges and facilitate the recovery of pesticides should a discharge occur. Secondary containment shall meet the following criteria:

a. Secondary containment shall be constructed of sufficient thickness, density, and composition so as to contain any discharged material.

b. Secondary containment for outside storage shall be maintained to contain a minimum of 110% of the capacity of the largest single container in addition to the displacement of tanks, appurtenances, and other authorized items within the containment area. Suitable measures shall be used for containment of tanks stored under roof with a minimum containment of 100% of the capacity of the largest single tank in addition to the displacement of tanks, appurtenances, and other

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authorized items within the containment area.

c. The minimum containment capacities shall be maintained at all times. Rainwater or other liquids shall not be allowed to accumulate in the containment area to the point where minimum containment capacity is not maintained.

d. Sloped floor designs or other acceptable means are encouraged to facilitate removal of rainwater or other accumulated liquids in the secondary containment. Liquid-tight sumps may be used for the temporary collection of liquids from the secondary containment area. Minimum capacities of such sumps shall be determined by good engineering standards. Only manually operated pumps shall be used to remove liquids from secondary containment areas or sumps unless the sumps or auxiliary tanks are located within the secondary containment. Tanks used to store these liquids shall be within the secondary containment area unless the tank contains only water. Water from the secondary containment area and sumps may be used for dilution of pesticides or for other purposes if it is reasonably free from pesticide residues. Recovered liquids from the secondary containment area or sump may be used according to label directions when appropriate or disposed of according to applicable Commonwealth and federal requirements.

e. Floor or in-wall drains or valves, siphon tubes, underground appurtenances or automatic sump pumps shall be prohibited within the secondary containment area unless approved by the commissioner. Floor drains or valves to a liquid-tight sump and manually operated pumps may be used provided the integrity of the secondary containment is maintained.

f. In cases where a discharge has occurred, the operator shall contact the department for guidance to determine if such discharge is a reportable quantity (RQ). If such discharge is a RQ, the operator shall also notify the National Response Center at 1-800-424-8802. In no way does this notification release the operator from notifying other state agencies if such a discharge is a reportable quantity.

B. Operations.

1. Bulk pesticides shall be stored, handled, transported, loaded, and unloaded in a manner to prevent discharge that may result in unreasonable adverse effects on man or the environment. All applicable hazards of the pesticide shall be considered in the handling and loading practices to ensure proper protection of facility personnel and the environment.

2. Effective two years following adoption of these regulations, the operational areas at all bulk pesticide

storage facilities shall be designed and constructed to prevent discharges that may reasonably be expected to result in unreasonable adverse effects to man or the environment. All operational area activities shall be carried out within the facility's operational area containment.

3. Prior to repackaging or refilling, bulk containers shall be thoroughly cleaned and inspected, except when a sealed, dedicated reusable bulk container is to be refilled with the same pesticide product bearing the same label as the preceding product and the seal or tamper indicator is otherwise intact.

4. Discharges and rainwater which accumulate in any secondary containment or operational area containment shall be disposed of as provided by the product's original labeling when feasible. If such discharge materials are contaminated or are otherwise unfit for use, reuse, or disposal according to label directions, the facility operator shall contact the department for guidance. Rainwater recovered from containment areas may be used for pesticide dilution or other appropriate use provided it is free of pesticide residue.

5. Upon delivery of the pesticide, the registered product label shall be affixed on the bulk storage container in the proximity of the outlet valve.

6. Locking devices shall be required on bulk pesticide storage containers, and other appropriate measures, such as installation of lighting or security fencing, may also be required in order to discourage ready access by unauthorized personnel to the bulk container storage area when unattended.

7. All pesticides used for custom mixing, tank mixing, or repackaging in the Commonwealth shall be registered and labeled in compliance with both FIFRA and the Act.

C. Inspection and maintenance.

1. The operator of a bulk pesticide storage facility shall inspect and maintain storage containers, appurtenances, operational containment areas, and secondary containment areas to minimize the risk of a pesticide discharge. A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance and kept at the facility or at the nearest local office from which the facility is administered. A written record of all pesticide discharges onto the operational area or into the secondary containment area shall be maintained for at least three years. The record shall include date, time, type of pesticide, volume, cause (if known), actions to contain, and management of the discharge.

2. The following inspection schedule for a bulk pesticide storage facility shall be required:

a. For bulk pesticide storage containers and appurtenances, at least weekly during the use-season;

b. For secondary containment areas, at least monthly while the bulk pesticide is in storage; and

c. For operational containment areas, at least monthly during the use-season.

3. Inspection records shall contain the name of the person making the inspection, the date of each inspection, conditions noted, and maintenance performed, if needed.

4. Maintenance of the bulk pesticide storage facility shall be performed as necessary in order to ensure that the integrity of the bulk pesticide containers, secondary containment areas, and operational containment areas is maintained.

§ 3.4. Emergency and discharge response plan.

A. The operator of a bulk pesticide storage facility shall prepare a written emergency and discharge response plan for the storage facility. The operator shall keep the plan current at all times. A copy of the plan shall be posted at a prominent location at the storage facility and, if applicable, at the nearest local office from which the storage facility is administered. The operator shall make the plan available for employee review and for inspection by the commissioner or his designee. The operator shall also provide a current copy of the plan to the local fire and police departments.

B. The plan shall include, but is not limited to:

1. The identity and telephone numbers of the persons who are to be contacted in the event of an emergency or discharge;

2. A complete copy of the storage container label registered in Virginia for every bulk pesticide stored at the facility;

3. A complete copy of the Material Safety Data Sheet for every bulk pesticide stored at the facility;

4. The procedures and equipment to be used in controlling and recovering or otherwise responding to an emergency or a discharge;

5. An identification, by location, of every fixed bulk pesticide storage container located at the facility, and the type of bulk pesticide stored therein. The plan need not include the specific location of each pesticide storage container of less than a 300 gallon capacity, provided that the plan includes the general location within the facility at which storage of such containers occurs.

C. Bulk pesticide storage facilities shall have on the

premises equipment needed to mitigate and recover pesticide discharges. The equipment shall reasonably include, but is not limited to, pumps, recovery containers, personal protective equipment, absorbent materials, and other materials used to control and recover pesticide discharges. A checklist of discharge response equipment and its location shall be posted in an area frequented by employees along with the plan.

D. The owner or operator of the bulk pesticide storage facility shall conduct emergency and discharge response training for all new and existing employees of the facility annually before the beginning of the pesticide use-season. New employees shall receive such training within 30 days of employment. The owner, operator, and employees shall be responsible for following the firm's emergency and discharge response plan procedures.

PART IV. RECORD KEEPING.

§ 4.1. General record keeping requirements.

A. All records covered in §§ 4.2 through 4.4 shall, upon written request, be available for inspection by the commissioner or his designee, or shall be submitted to the commissioner within 72 hours if so requested in writing.

B. All persons possessing records covered in this part shall fully comply with the requirements contained in § 8 of FIFRA and regulations pursuant thereto.

§ 4.2. Record keeping by licensed pesticide dealers.

A. As a condition of obtaining or renewing a business license, each pesticide dealer shall maintain such records as required in these regulations.

B. A dealer shall maintain for a period of two years records of each restricted use pesticide sold.

C. A dealer shall preserve the following information in his records:

1. The name, address, and certified applicator number or dealer license number of the person to whom the restricted use pesticide was sold or delivered;

2. The date of sale;

3. The brand or common product name, EPA registration number; and

4. The quantity of pesticide sold or delivered. The record keeping requirements imposed on licensed pesticide dealers may be satisfied by invoices, if such invoices are kept separate from the licensee's other sales records and contain the above information.

§ 4.3. Record keeping by operators of bulk pesticide storage facilities.

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A. The operator of a bulk pesticide storage facility shall keep on hand the following records:

1. The beginning and end amounts in each fixed storage container calculated and recorded at the time of each filling of the container or dispensing from the container. Weighing, metering, or direct measurement are acceptable methods for calculating storage amounts;

2. The amounts of bulk pesticide delivered, sold, or used; and

3. The names of persons preparing the information in subdivisions 1 and 2 above, and the dates on which the information was prepared.

§ 4.4. Record keeping by commercial applicators and pest management consultants.

A. As a condition of obtaining or renewing a license, each commercial applicator or pest management consultant shall maintain such records as required in this regulation.

B. A licensed commercial applicator shall maintain for a period of two years records of each restricted use pesticide used. A pest management consultant shall also maintain for a period of two years records of each restricted use pesticide he has recommended for use.

C. A commercial applicator shall preserve the following information in his records:

1. Name, address, and telephone number of customer and address of site of application, if different;

2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application;

3. Day, month and year of application;

4. Type of plants, crop, animals, or sites treated and principal pests to be controlled;

5. Acreage, area, or number of plants or animals treated;

6. Brand name or common product name and EPA registration number;

7. Amounts (pounds, gallons, etc.) of pesticide concentrate or diluent used in mixture applied; and

8. Type of application equipment used.

D. A pest management consultant shall preserve the following information in his records:

1. Name, address, and phone number of customer and address of site of application, if different;

2. Type of plants, crop, animals, or sites treated and principal pests to be controlled;

3. Pesticide to be applied, including common name (brand name), type of formulation and company name appearing on the label;

4. Dosage or rate of the pesticide recommended for application;

5. Disposal method, if any, recommended for unused pesticides, pesticide waste, and empty containers; and

6. Date on which each recommendation was made.

PART V. EVIDENCE OF FINANCIAL RESPONSIBILITY.

§ 5.1. Evidence of financial responsibility required of licensed pesticide business.

A. Prior to being issued a pesticide business license, a business shall furnish evidence of financial responsibility, consisting either of: (i) a surety bond to the benefit of the board from a person authorized to do business in Virginia; (ii) a liability insurance policy from a person authorized to do business in Virginia, or a certification thereof, protecting persons who may suffer legal damages as a result of the use of any pesticide by the applicant; or (iii) a plan of self-insurance which meets the requirements set forth below and is approved by the board.

B. If the evidence of financial responsibility consists of a surety bond, the bond shall be in an amount specified in subsection E of this section, and shall cover liability arising out of handling, storage, application, use or misuse, or disposal of any pesticide; it shall also cover liability relating to completed operations.

C. If the evidence of financial responsibility consists of a liability insurance policy, the following conditions shall be met:

1. The certificate of insurance shall include the name of the insurance company, policy number, insurance amount, type of coverage afforded, any exclusions relating to damage arising from the use of pesticides, and expiration date of the policy. The policy shall cover liability arising out of the handling, storage, application, use or misuse, or disposal of any pesticide; it shall also cover liability relating to completed operations;

2. The policy shall be in an amount specified in subsection E; and

3. The licensee shall forward a current certificate of insurance to the board at each insurance renewal date which sets forth the same information called for above.

D. If the evidence of financial responsibility consists of a plan of self-insurance, the following conditions shall be met:

1. The self-insurer shall submit a written proposal of self-insurance to the board for approval. The proposal shall include a master self-insurance and security agreement and a balance sheet and income statement which reflects the actual financial condition of the business as of the last complete calendar or fiscal year preceding the date of the proposal. These documents shall be certified by a certified public accountant.

2. The self-insurer shall post collateral with the board in the amount of at least \$400,000. The collateral shall consist of the following: (i) negotiable instruments of the United States Government; (ii) escrow deposits established for the sole purpose of providing security for self-insurance purposes; (iii) irrevocable letters of credit; or (iv) other security approved upon petition to the board.

3. If the self-insurer is unable to discharge his obligations under the Act, he may petition the board to release the collateral posted. If such a withdrawal is necessary, the self-insurer shall replace the security within 72 hours from the time of withdrawal in order to retain his certificate as a self-insurer.

4. A certificate of self-insurance, to be issued by the board, shall be renewed annually following appropriate review by the board. If his financial responsibility furnished no longer complies with this section, the self-insurer shall immediately provide other evidence of financial responsibility.

E. The amount of financial responsibility as provided for in this section shall be either (i) at minimum \$200,000 for property damage, subject to a \$1,000 deductible provision in the case of licensees holding liability insurance policies, and \$200,000 for personal injury; or (ii) a combined single limit of \$400,000 with a \$1,000 deductible. The board may require the provision of additional evidence of financial responsibility based upon annual gross revenue of the applicant or his employer's business and an assessment of the risks of the applicant or his employer's business to persons, property, and the environment. Whatever the evidence of financial responsibility decided upon, it shall be maintained at not less than such amount at all times during the licensing period. The licensee shall notify the board 10 days prior to any reduction at his request of the evidence of financial responsibility, or 10 days prior to cancellation of such financial responsibility by the surety or insurer. If the deductible of an applicant for a business license is greater than \$1,000, evidence of financial responsibility shall be furnished to the board to satisfy the difference between the applicant's deductible and the \$1,000 deductible. This evidence may consist of a financial statement or a personal bond.

PART VI. REVOCATION, SUSPENSION OR DENIAL OF BUSINESS LICENSES.

§ 6.1. Revocation of a business license.

A. In addition to the violative acts listed under § 3.1-249.63 B of the Act, the following are grounds for revocation by the board of a business license:

1. Failure of a pesticide dealer, commercial applicator, or pest management consultant to (i) submit records to the commissioner upon the latter's written request; or (ii) to permit any person designated by the commissioner to have access to, and to copy such records of business transactions as may be essential to carrying out the purposes of the Act.

2. Failure of a pesticide dealer to operate a location or outlet without a certified commercial applicator normally assigned to the location or outlet.

3. Failure of a self-insurer to provide immediately other evidence of financial responsibility if the financial responsibility which he has previously furnished no longer complies with the requirements in this section of the regulation.

4. Opposition to or interference in any way of a licensee with the commissioner or his duly authorized agents in carrying out the duties imposed by Chapter 14.1 of the Act.

5. Conduct by a licensee, as determined during the course of a hearing, which has or might have resulted at any time in substantial danger to, or in unreasonable adverse effects on, the public health, safety, or the environment.

6. Failure of a licensee to notify the department of any change in financial responsibility as specified in subsection E of § 5.1 of these regulations.

7. Multiple violations of the Act or regulations pursuant thereto within a three-year period.

§ 6.2. Summary suspension by commissioner.

A. The commissioner may suspend the license of any person licensed without a hearing, simultaneously with the institution of proceedings for a hearing, if he finds there is a substantial danger to the public health, safety, or the environment which warrants this action. Institution of proceedings for a hearing shall be provided simultaneously with the summary suspension. The hearing shall be scheduled within a reasonable time of the date of the summary suspension.

B. Following the hearing provided for in subsection A above, the commissioner may either: (i) lift the suspension of the license; (ii) continue the suspension of the license

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on a contingency basis with a specific time frame provided within which the licensee shall meet certain requirements, failing which the commissioner shall recommend revocation of the license to the board; (iii) modify the license; or (iv) recommend to the board revocation of the license.

C. The commissioner may suspend the license of any pesticide dealer if he finds that any licensed dealer outlet for which that dealer bears responsibility is operating without a certified commercial applicator on site. The same provisions for a hearing as in subsection A above shall apply.

D. The commissioner may suspend the license of any licensee if the latter refuses, upon a request in writing from the commissioner specifying the nature or kind of pesticide or device to which such request relates, to furnish to the commissioner or permit any person designated by the commissioner to have access to and to copy such records of business transactions as may be essential in carrying out the purposes of Chapter 14.1 of the Act. The same provisions for a hearing as in subsection A above shall apply.

E. Any licensee whose license has been suspended shall not engage in the activity for which he has been licensed pending the hearing.

§ 6.3. Denial of license by the commissioner.

A. The commissioner shall deny a business license to any applicant who does not submit all the information required on the license application form, or who does not fully comply with all the relevant requirements for licensing listed above.

B. The commissioner may, after notice to an applicant for a license and after opportunity for hearing, deny such license to the applicant if his license has been denied, suspended, nullified, withdrawn, revoked, or otherwise terminated by another state or other competent authority.

C. Any applicant for a license shall not engage in the activity for which he is requesting a license until it shall have been issued by the commissioner.

PART VII. EFFECT ON OTHER REGULATIONS.

§ 7.1. The provisions of this regulation supersede § 23, "Records," and § 26, "Evidence of Financial Responsibility," of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law, which are hereby repealed.

VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Division of Product and Industry Regulation
Office of Pesticide Management
P. O. Box 1163, Richmond, VA 23209
Telephone: (804) 786-3799

APPLICATION FOR PESTICIDE BUSINESS LICENSE

Application for a license to sell, distribute, store, apply or recommend for use under the Virginia Pesticide Control Act.

FOR DEPARTMENTAL USE ONLY
Dealer License No.: _____
Expiration Date: _____
Date Mailed: _____

I hereby apply for a license to sell, distribute, store, apply or recommend for use pesticides in accordance with regulations adopted under Section 3.1-249.46 of the Virginia Pesticide Control Act.

This business will engage in the following practices:

Sell Apply Distribute Store
 Bulk Storage Recommend for Use

(Please Print)

NAME OF CONTACT PERSON: _____ TITLE: _____
BUSINESS NAME: _____ TELEPHONE NO: _____
STREET/RFD: _____ CITY: _____
COUNTY: _____ STATE: _____ ZIP CODE: _____

I certify that I understand my legal responsibilities for the sale, application, distribution or storage of pesticides and that I will sell restricted use pesticides only to individuals who possess a valid pesticide applicators certificate, or their representative.

Please make check payable to: The Treasurer of Virginia in the amount of \$50.00 (yearly licensing fee).

SIGNATURE: _____ DATE: _____

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice: Due to its length the Virginia Statewide Fire Prevention Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Title of Regulation: VR 394-01-06. Virginia Statewide Fire Prevention Code/1987.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Public Hearing Date: April 26, 1990 - 10 a.m. (See Calendar of Events section for additional information)

Summary:

The 1987 edition of the Virginia Statewide Fire Prevention Code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Technical requirements of the Statewide Fire Prevention Code are based on the BOCA National Fire Prevention Code, a companion document to the BOCA National Building Code which is the Uniform Statewide Building Code. The Fire Prevention Code supercedes all fire prevention regulations heretofore adopted by local government or other political subdivisions. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair or use of a building or structure. Local enforcement of this code is optional. The State Fire Marshal shall have authority to enforce the Fire Prevention Code in those jurisdictions in which the local governments do not enforce the code. An administrative appeals system is established for resolution of disagreements between the enforcing agency and the aggrieved party.

The Board of Housing and Community Development proposes to amend those portions of the Virginia Statewide Fire Prevention Code regulations pertaining to: Application to pre-USBC and Post-USBC buildings necessary to permit the amendments to Volume II requiring all existing hospitals, nursing homes and homes for adults to be retrofitted with automatic sprinkler systems and fire detection systems to be enforced by the local fire official or the State Fire Marshal.

Notice: Due to its length the 1987 Edition of the Virginia Uniform Statewide Building Code, Volume I - New Construction Code filed by the Board of Housing and Community Development is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the Department of Housing and Community Development.

Title of Regulation: VR 394-01-21. Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1987.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Public Hearing Date: April 26, 1990 - 10 a.m. (See Calendar of Events section for additional information)

Summary:

Volume I - New Construction Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide uniform regulation which must be complied with in all buildings or additions hereafter constructed, altered, enlarged, repaired, or converted to another use group. Its purpose is to protect the health, safety and welfare of building users, and to provide for energy conservation, water conservation and accessibility for the physically handicapped and aged. Technical requirements of the New Construction Code are based on the BOCA Model Building Code. The New Construction Code specifies the enforcement procedures to be used by local government. Enforcement by local governments is mandatory. Provision is made for modifications by the building official when alternative means will provide equivalent health and safety. An administrative appeals system is established for resolution of disagreements between the building owner and the building official.

The Board of Housing and Community Development proposes to amend the regulations governing new construction so that all new hospitals, nursing homes and homes for adults will be required to install automatic sprinkler systems and smoke detection systems in accordance with the standards developed by the NFPA and proposed for BOCA adoption.

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Public Hearing Date: April 26, 1990 - 10 a.m.

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(See Calendar of Events section for additional information)

Summary:

Volume II - Building Maintenance Code of the 1987 Edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Technical requirements of the Building Maintenance Code are based on the BOCA National Existing Structures Code, a companion document to the BOCA National Building Code which serves as the basis for Volume I of the USBC, the New Construction Code. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies. Local enforcement of the Code is optional. An administrative appeals system is established for resolution of disagreements between the building owners and the code official.

The Board of Housing and Community Development proposes to amend those portions of the Virginia Uniform Statewide Building Code - Volume II, Building Maintenance Code/1987 Edition pertaining to: Application to Pre-USBC and Post-USBC buildings to require all existing hospitals, nursing homes and homes for adults to be retrofitted with automatic sprinkler systems and fire detection systems within four years of the effective date of these regulations.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987.

Article 1.

Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code. Except as otherwise indicated, Building Maintenance Code or Code, shall mean Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code.

Note: See Volume I - New Construction Code for regulations applicable to new construction.

100.2. Authority: The Building Maintenance Code is adopted according to regulatory authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, Title 36, Code of Virginia.

100.3. Adoption: The Building Maintenance Code was adopted by order of the Board of Housing and Community Development on December 14, 1987. This order was

prepared according to the requirements of the Administrative Process Act. The order is maintained as part of the records of the Department of Housing and Community Development, and is available for public inspection.

100.4. Effective date: The Building Maintenance Code shall become effective on March 1, 1988.

100.5. Effect on other codes: The Building Maintenance Code shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6, Title 36 of the Code of Virginia. The Building Maintenance Code supersedes all building maintenance codes and regulations of the counties, municipalities political subdivisions and state agencies that have been or may be enacted or adopted, except as modified by § 100.5.1, below.

Note: This will not prevent adoption in accordance with Chapter 1, Title 15 of the Code of Virginia or other special or general legislation, of other requirements by local governments which do not affect the manner of construction or materials to be used in the erection, alteration, repair, maintenance or use of a building or structure.

100.5.1. Application to pre-USBC buildings: Buildings or portions thereof constructed, altered, converted or repaired before the effective date of the initial edition of the Virginia Uniform Statewide Building Code (USBC) shall be maintained in compliance with the Building Maintenance Code; provided, however, that the code official shall exempt from the provisions of the Uniform Statewide Building Code, Volume II, Building Maintenance Code, alterations of building uses, designs and equipment existing under a current certificate of occupancy unless an unsafe or unhealthy condition exists.

~~Exception~~ Exceptions :

1. Existing ~~buildings of~~ hotels or motels which would be classified as Use Group R-1 shall comply with the provisions of § ~~100.5.3~~ 100.6 .

2. Existing hospitals, nursing homes and homes for adults which would be classified as Use Group I-1 or I-2 by the USBC as amended on August 1, 1990, shall comply with the provisions of §§ 100.6 through 100.10.

100.5.2. Application to post-USBC buildings: Buildings or portions thereof that were subject to the Uniform Statewide Building Code when constructed, altered, converted or repaired shall be maintained in compliance with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

~~Exception~~ Exceptions :

1. Existing ~~buildings of~~ hotels or motels which would be classified as Use Group R-1 shall comply with the

provisions of § ~~100.5.3~~ 100.6 .

2. Existing hospitals, nursing homes and homes for adults which would be classified as Use Group I-1 or I-2 by the USBC as amended on August 1, 1990, shall comply with the provisions of §§ 100.6 through 100.10.

100.5.3. Fire protection systems for existing buildings: Existing buildings and structures of Use Group R-1 shall comply with provisions of Sections 100.5.3.1 and 100.5.3.2.

100.5.3.1. Automatic Sprinkler Systems: An automatic sprinkler system shall be installed in all Use Group R-1 buildings which are four or more stories in height, in accordance with the 1987 Uniform Statewide Building Code, Volume I, by either March 1, 1997, or within 7 years of the date upon which an adequate public water supply is made available to meet the needs of the suppression system, whichever is later.

100.5.3.2. Smoke detectors: Single and multiple station smoke detectors shall be installed in accordance with § 1019.1 through 1019.3 of the 1987 Uniform Statewide Building Code, Volume I, by March 1, 1993.

100.6. Automatic sprinkler systems: An automatic sprinkler system shall be installed in accordance with the 1987 Uniform Statewide Building Code, Volume I, as indicated in §§ 100.6.1 and 100.6.2.

Exception: Existing buildings equipped throughout with an automatic sprinkler system.

100.6.1. Use Group R-1: Throughout all buildings or structures of Use Group R-1 by either March 1, 1997, or within seven years of the date upon which an adequate water supply is made available to meet the needs of the suppression system, whichever is later.

Exception: Use Group R-1 buildings which are three stories or less in height.

100.6.2. Use Group I-1 and I-2: Throughout all buildings of Use Groups I-1 or I-2 by August 1, 1994.

100.7. Fire protection signaling system: A fire protective signaling system shall be installed in all Use Group I-1 and I-2 buildings in accordance with the 1987 Uniform Statewide Building Code, Volume I, by August 1, 1994.

Exception: Existing buildings which are equipped with a fire protective signaling system.

100.8. Automatic fire detection system: An automatic fire detection system shall be installed in all Use Group I-1 and I-2 buildings in accordance with the 1987 Uniform Statewide Building Code, Volume I, by August 1, 1994.

Exception: Existing buildings which are equipped throughout with an automatic fire detection system.

100.9. Single and multiple station smoke detectors: Single and multiple station smoke detectors shall be installed in accordance with the 1987 Uniform Statewide Building Code, Volume I, as indicated in §§ 100.9.1 and 100.9.2.

Exception: Existing buildings which are equipped with single and multiple station smoke detectors.

100.9.1. Use Group I-1: Throughout all buildings of Use Group I-1 by August 1, 1994.

100.9.2. Use Group R-1: Throughout all buildings of Use Group R-1 by March 1, 1993.

100.10. Exceptions provided for: The exceptions permitted by the 1987 USBC for buildings equipped throughout with automatic sprinkler systems shall be permitted when buildings of Use Groups I-1, I-2 and R-1 meet the provisions of §§ 100.6 through 100.9. Such exceptions include but are not limited to the following:

1. Section 502.3 (Area Increase)
2. Section 503.1 (Height Increase)
3. Section 610 (Use Group I-2 Areas)
4. Section 807 (Types and Location of Means of Egress)
5. Section 808 (Capacity of Egress Components)
6. Section 809 (Number of Exits)
7. Section 810 (Exit Access Passageways and Corridors)
8. Section 921 (Firestopping and Draftstopping)

100.6. 100.11. Exemptions for certain equipment: The provisions of the Building Maintenance Code shall not apply to distribution equipment installed by a provider of publicly regulated utility services, or to electrical equipment used for radio and television transmission. However, the buildings, including their service equipment, housing such utility services shall be subject to this Code. The exempt equipment shall be under the exclusive control of the public service agency and located on property by established rights.

100.7. 100.12. Exemptions for farm structures: Farm structures not used for residential purposes shall be exempt from the provisions of the Building Maintenance Code. However, such structures lying within a flood plain or in a mudslide-prone area shall be subject to the applicable floodproofing regulations or mudslide regulations.

100.8. 100.13. Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and

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continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility. Proper building maintenance shall be deemed to include the maintenance and inspection of building equipment defined by § 36-97(13) of the Code of Virginia.

~~100.9.~~ 100.14. Workmanship: All repairs, maintenance work, alterations or installations which are required for compliance with this code shall be executed and installed in a workmanlike and acceptable manner so as to secure the results intended by this code.

SECTION 101.0. REQUIREMENTS.

101.1. Adoption of model code: The following model code, as amended by §§ 101.2 and 101.3, is hereby adopted and incorporated in the Building Maintenance Code.

° THE BOCA NATIONAL EXISTING STRUCTURES CODE/ 1987 EDITION

Published by:

Building Officials and Code Administrators International, Inc.
4051 West Flossmoor Road
County Club Hills, Illinois 60478-5795

101.2. Administrative and enforcement amendments to the referenced model code: All requirements of the referenced model code and of standards referenced therein that relate to administrative and enforcement matters are deleted and replaced by Article 1 of the Building Maintenance Code.

101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National Existing Structures Code/ 1987 edition for use as part of this Code.

101.4. Limitation of application of model code: No provision of the model code may be used to require alterations to the design or equipment of any portion of a building that was subject to the USBC when constructed, altered or converted as to use group, and which is occupied in accordance with the certificate of occupancy issued under the applicable edition of the USBC. In the application of the model code to other buildings, no requirement of the current edition of the USBC shall be exceeded.

Note: Efforts have been made to remove conflicts between Volume I - New Construction Code and Volume II - Building Maintenance Code. However, although the two codes are compatible, they may not always be comparable. The purpose of this section is to resolve any unforeseen conflicts with Volume I.

SECTION 102.0. LOCAL ENFORCING AGENCY.

102.1. Enforcement by local governments: Any local government may, after official action, enforce the Building Maintenance Code, or any portion of the Code. The local governing body may assign responsibility for enforcement of the Building Maintenance Code, or any portion thereof, to a local agency or agencies of its choice. The terms "enforcing agency" and "code official" are intended to apply to the agency or agencies to which responsibility for enforcement has been assigned. However, the terms "building official" or "building department" apply only to the local building official or building department.

102.2. Right of inspection: The local governing body may inspect existing buildings to enforce the Building Maintenance Code, as authorized by § 36-105 of the Code of Virginia.

102.3. Interagency coordination: Where enforcement of any portion of the Building Maintenance Code is assigned to an agency other than the building department, such as the fire prevention bureau, such agency shall coordinate its reports of inspection with the building department. All required alterations, repairs, installations or constructions shall be subject to the building permit and certificate of use and occupancy provisions of the Uniform Statewide Building Code, Volume I, New Construction Code.

102.4. Code official: Each local enforcing agency shall have an executive official in charge, hereinafter referred to as the code official.

102.4.1. Appointment: The code official shall be appointed by the local government.

102.5. Qualifications of local enforcing agency personnel: The local government shall establish qualifications for the code official and technical assistants adequate to ensure proper administration and enforcement of the Building Maintenance Code.

Note: Detailed requirements for the qualifications of the building official and technical assistants are provided in Volume I - New Construction Code of the Uniform Statewide Building Code. However, if a person from another agency is appointed as the code official to enforce the Building Maintenance Code, the requirements of Volume I - New Construction Code would not apply. In such cases, it is recommended that the code official have at least five years of related experience. Consideration should be given to the use of certification programs approved by the Department of Housing and Community Development and of the Fire Inspection Certification Program of the State Department of Fire Programs in the selection and training of enforcing agency personnel.

102.6. Relief from personal responsibility: The local enforcing agency personnel shall not be personally liable for any damages sustained by any person in excess of the policy limits of errors and omissions insurance, or other equivalent insurance obtained by the locality to insure against any action that may occur to persons or property

as a result of any act required or permitted in the discharge of official duties while assigned to the department as employees. The code official or the code official's subordinates shall not be personally liable for costs in any action, suit or proceedings that may be instituted in pursuance of the provisions of the USBC as a result of any act required or permitted in the discharge of official duties while assigned to the enforcing agency as employees, whether or not said costs are covered by insurance. Any suit instituted against any officer or employee because of an act performed by such officer or employee in the discharge of official duties and under the provisions of the Building Maintenance Code may be defended by the enforcing agency's legal representative.

102.7. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the Virginia Comprehensive Conflict of Interest Act.

102.8. Assistance by state: Upon notification of appointment of a code official, the Office of State Building Code shall advise the official of all services offered and will keep the official continually informed of developments affecting the Code and its interpretation and administration.

SECTION 103.0. DUTIES AND POWERS OF THE CODE OFFICIAL.

103.1. General: The code official shall enforce the provisions of the Building Maintenance Code as provided herein and as interpreted by the State Building Code Technical Review Board in accordance with § 36-118 of the Code of Virginia.

Note: Section 36-105 of the Code of Virginia provides that fees may be levied by the local governing body in order to defray the cost of enforcement and appeals.

103.2. Notices and orders: The code official shall issue all necessary notices or orders to ensure compliance with the requirements of this Code for the health, safety and general welfare of the public.

103.3. Delegation of duties and powers: The code official may delegate duties and powers subject to any limitations imposed by the local government, but shall be responsible that any powers and duties delegated are carried out in accordance with the Code.

103.4. Maintenance inspections: When the local government has acted under § 36-105 of the Code of Virginia to enforce the requirements of this Code, the code official may inspect buildings to which it applies to assure continued compliance.

103.5. Unsafe conditions not related to maintenance: When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a building which was constructed, altered, converted, or repaired before the

effective date of the initial edition of the Uniform Statewide Building Code, and when such condition was not caused by faulty maintenance, or by failure to comply with the applicable state and local regulations that were in effect at the time, the official may order the minimum changes needed to remedy the hazardous condition. Such order shall be in writing and shall be made a part of the permanent records of the code official relating to the building affected.

Note: The Building Maintenance Code does not generally provide for retrofitting existing buildings. However, conditions may exist in older buildings, because of faulty design or equipment, that constitute such serious and dangerous hazards that correction is necessary to protect life and health. It is not the intent of this section that such changes comply fully with the requirements of the current edition of the Uniform Statewide Building Code. Only those changes that are needed to remedy the serious and dangerous hazards to life or health may be required by the code official. Reference is also made to section 103.2 of the administrative provisions of the Uniform Statewide Building Code - Volume I, which provides authority for modifications to be issued for alternate means to be used that provide the same level of safety.

103.6. Annual report: At least annually, the code official shall submit to the authority designated by the local government a written statement of operations in the form and content prescribed by such local government. A copy shall be forwarded to the Office of Professional Services for use in studies to improve the Virginia Uniform Statewide Building Code system.

103.7. Enforcing agency records: The code official shall keep records of reports of inspections, notices and orders issued and such other matters as directed by the local government. Records may be disposed of in accordance with the provisions of the Virginia Public Records Act and, (i) after retention for one year in the case of buildings under 1,000 square feet in area and one and two family dwellings of any area, and (ii) after retention for three years in the case of all other buildings.

SECTION 104.0. APPLICATIONS AND PERMITS.

104.1. Procedures: Applications for permits for construction or alterations necessary to comply with this code shall be made to the building official under the procedures prescribed in Volume I - New Construction Code of the Uniform Statewide Building Code.

SECTION 105.0. MODIFICATIONS.

105.1. Modifications: When there are practical difficulties involved in carrying out any provision of the Code, the owner or the owner's agent, or the code official, may apply to the building official for a modification under the procedures of Volume I - New Construction Code of the Uniform Statewide Building Code when the proposed modification involves alterations or construction for which

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a building permit would be required. When the proposed modification does not involve any alterations or construction for which a building permit would be required, the code official may issue the modification.

105.2. Records: A copy of the application for modification and a copy of the final decision of the official to whom the application was made shall be kept in the permanent records of the enforcing agency.

SECTION 106.0. VIOLATIONS.

106.1. Code violations prohibited: No person, firm or corporation shall maintain or use any building or equipment in conflict with or in violation of any of the provisions of this Code.

106.2. Notice of violation: The code official shall serve a notice of violation on the person responsible for maintenance or use of a building in violation of the provisions of this Code. Such order shall direct the discontinuance and abatement of the violation.

106.3. Prosecution of violation: If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation; or to require the removal or termination of the use of the building in violation of the provisions of this Code.

106.4. Violation penalties: Violations of this Code are a misdemeanor in accordance with § 36-106 of the Code of Virginia, and upon conviction, may be punished by a fine of not more than \$1,000.

106.5. Abatement of violation: Conviction of a violation of this Code shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of this Code relating to maintenance and use of the building or premises.

SECTION 107.0. UNSAFE BUILDINGS.

107.1. General: This section shall apply to buildings and their equipment that fail to comply with the Building Maintenance Code through damage, deterioration, infestation, improper maintenance, or for other reasons, and thereby become unsafe, unsanitary, or deficient in adequate exit facilities, and which constitute a hazard, or are otherwise dangerous to human life, health or safety, or the public welfare. All such buildings shall be declared by the code official to be a public nuisance and unfit for human habitation and shall be made safe through compliance with this code or shall be vacated, and either secured against public entry, or taken down and removed as directed by the code official. A vacant building, unsecured or open at door or window, may be deemed a fire hazard and unsafe within the meaning of this section.

107.2. Inspection of unsafe buildings: The code official

shall examine every such building reported as unsafe, and shall prepare a report to be filed in the records of the enforcing agency. In addition to a description of unsafe conditions found, the report shall include the use of the building, and nature and extent of damages, if any, caused by a collapse or failure.

107.3. Notice of unsafe buildings: If a building is found to be unsafe, the code official shall serve a notice to the owner, the owner's agent or person in control of the unsafe building. The notice shall specify the required repairs or improvements to be made to the building, or require the unsafe building, or portion of the building to be taken down and removed within a stipulated time. Such notice shall require the person notified to declare to the designated official without delay acceptance or rejection of the terms of the notice.

Note: Whenever possible, the notice of unsafe building should also be given to the tenants of the unsafe building.

107.4. Posting of unsafe building notice: If the person named in the notice of unsafe building cannot be found after diligent search, such notice shall be sent by registered or certified mail to the last known address of such person. A copy of the notice shall be posted in a conspicuous place on the premises. Such procedure shall be deemed the equivalent of personal notice.

107.5. Disregard of notice: Upon refusal or neglect of the person served with a notice of unsafe building to comply with requirements of the notice to abate the unsafe condition, the code official may revoke the certificate of occupancy. In the case of a vacant building, including one vacated through revocation of the certificate of occupancy, the code official may cause the building to be closed through any available means.

107.6. Authority to vacate building: When in the opinion of the code official, there is actual and immediate danger of failure or collapse of a building or any part of a building which would endanger life; or when any building or part of a building has fallen and life is endangered by occupancy of the building; or when any other hazardous condition poses an immediate and serious threat to life; or when a building is declared a public nuisance, and unfit for human habitation, the code official may order the occupants to vacate the building. The code official shall post a notice at each entrance to such building that reads: "THIS STRUCTURE IS UNSAFE OR UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." Upon the posting of the notice, no person shall enter such a building except upon authorization of the code official for one of the following purposes: (i) to make the required repairs; (ii) to take the building down and remove it; or (iii) to make inspections.

107.7. Temporary safeguards and emergency repairs: When, in the opinion of the code official, there is immediate danger of collapse or failure of a building or

any part of a building which would endanger life, or when a violation of this code results in a hazard that creates an immediate, serious and imminent threat to the life and safety of the occupants, the code official shall have the necessary work done to the extent permitted by the local government to make such building or part of the building temporarily safe, whether or not legal action to force compliance has begun.

SECTION 108.0. APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

108.1. Grounds for appeal: The owner of a building or the owner's agent may appeal from a decision of the code official to the local Building Code Board of Appeals established under Volume I - New Construction Code of the Uniform Statewide Building Code within 20 days after the day the notice was served when it is claimed that:

1. The code official has refused to grant a modification of the provisions of the code;
2. The true intent of this code has been incorrectly interpreted;
3. The provisions of this code do not fully apply;
4. The use of a form of compliance that is equal to or better than that specified in this code has been denied.

108.2. Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

108.3. Notice of meeting: The board shall meet upon notice of the chairman or at stated periodic meetings if warranted by the volume of work. The board shall meet within 20 working days of the filing of an appeal.

108.4. Hearing open to public: All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's representative, the code official of the jurisdiction and any other person whose interest may be affected by the matter on appeal, shall be given an opportunity to be heard.

108.5. Postponement of hearing: A quorum shall be more than 50% of the board. When a quorum of the board, as represented by members or alternates, is not present to consider a specific appeal, either the appellant, the building official or their representatives may, prior to the start of the hearing, request a single postponement of the hearing of up to 10 working days. A vote equivalent to a majority of the quorum of the board is required to reverse or modify the decision of the building official.

108.6. Form of decision, notification: Every action of the board on an appeal shall be by resolution. Certified copies shall be furnished to the appellant, to the building official, and to the code official.

108.7. Enforcement of decision: The code official shall take immediate action in accordance with the decision of the board.

SECTION 109.0. APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

109.1. Appeal to the State Building Code Technical Review Board: Any person aggrieved by a decision of the local Board of Building Code Appeals, who was a party to the appeal, may appeal to the State Building Code Technical Review Board. Application for review shall be made to the State Building Code Technical Review Board within 15 days of receipt of the decision of the local appeals board by the aggrieved party.

109.2. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the code official shall take immediate action in accordance with the decision.

109.3. Court review: Decisions of the State Building Code Technical Review Board shall be final if no appeal is made. An appeal from the decision of the State Building Code Technical Review Board shall be to the circuit court of original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4 of Chapter 1.1:1 of Title 9 of the Code of Virginia.

SECTION 110.0. DEMOLITION OF BUILDINGS.

110.1. Procedures for demolition: Whenever a building is to be demolished pursuant to any provision of this Code, the work shall be carried out in compliance with the requirements of Volume I - New Construction Code of the Uniform Statewide Building Code.

ADDENDA.

ADDENDUM 1.

AMENDMENTS TO THE BOCA NATIONAL EXISTING STRUCTURES CODE/1987 EDITION.

As provided in section 101.3 of Volume II - Building Maintenance Code of the 1987 edition of the Virginia Uniform Statewide Building Code, the amendments noted in this Addendum shall be made to the BOCA National Existing Structures Code/1987 edition for use as part of the Building Maintenance Code.

ARTICLE 1.

ADMINISTRATION AND ENFORCEMENT.

1. Article 1, Administration and Enforcement, is deleted in its entirety and replaced with Article 1 of the Building Maintenance Code.

ARTICLE 3.

ENVIRONMENTAL REQUIREMENTS.

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1. Delete Section ES-301.1.
2. Delete Section ES-301.1.1.
3. Delete Section ES-301.3.
4. Delete Section ES-301.4.
5. Delete Section ES-301.6.
6. Delete Section ES-301.7.

Note: The above sections of this code have been deleted because the agency's Attorney General representative advises that they cannot be interpreted as building regulations under the current language of § 36-99(7) of the Code of Virginia.

7. Delete Section ES-301.10.
8. Delete Section ES-301.10.1.
9. Delete Section ES-301.10.2.

ARTICLE 4.

LIGHT, VENTILATION AND SPACE REQUIREMENTS.

Change Section ES-401.2 to read:

ES-401.2. Habitable spaces: Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every habitable space shall be 4.0% of the floor area of such room, except in kitchens when artificial light may be provided in accordance with the provisions of the building code. Whenever walls or other portions of a structure face a window of any other room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

ARTICLE 5.

PLUMBING FACILITIES AND FIXTURE REQUIREMENTS.

Change section ES-503.5 to read:

ES-503.5. Water conservation: Plumbing fixtures which are replaced shall be of water saving construction and use as required by the energy and plumbing codes listed in the Virginia Uniform Statewide Building Code, Volume I, New Construction.

ARTICLE 6.

1. Delete section ES-601.5 Boiler inspections:

Note: See § 36-97(13) of the Code of Virginia for equipment definition.

ARTICLE 7.

Add new section ES-704.2.1

ES-704.2.1. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFPA 72G shall be provided in occupancies housing the hard of hearing as required by § 36-99.5 of the Code of Virginia; however, all visual alarms shall provide a minimum intensity of 100 candela. Portable alarms meeting these requirements shall be accepted.

ARTICLE 8.

1. Delete Section ES-801.2
2. Delete Section ES-801.3

ARTICLE 9.

Delete Article 9.

APPENDIX A.

Change Appendix A as follows:

1. Delete standard reference number NECC-87 National Energy Conservation Code.
2. Delete standard reference number NFPC-87 National Fire Prevention Code and substitute the Uniform Statewide Fire Prevention Code as adopted by the Virginia Department of Housing and Community Development.

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.

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

Summary:

The proposed amendments will modify the authority's current method for allocating federal low-income housing tax credits to conform with the requirements

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of the Revenue Reconciliation Act of 1989 and will establish the method for allocating state tax credits authorized by § 36-55.63 of the Code of Virginia.

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:

"Applicant" means an applicant for federal credits or state credits or both under these rules and regulations and, upon and subsequent to an allocation of such credits, also means the owner of the development to whom the federal credits or state credits or both are allocated.

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

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision 11 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision 11 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per bedroom to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision 10 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per unit to any development in the state (or if the executive director shall so determine, in each pool or subpool) composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision 10 of § 6, the highest amount of federal credits and 50% of state credits estimated by the executive director to be allocated per unit to any development in the state (or, if the executive director shall so determine, in each pool or subpool) composed solely of rehabilitation units.

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

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

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

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

"State code" means Chapter 1.4 of Title 36 of the Code of Virginia.

"State credits" means the low-income housing tax credits as described in the state code.

"Virginia taxpayer" means any individual, estate, trust or corporation which, in the determination of the authority, is subject to the payment of Virginia income taxes and will be able to claim in full against such taxes the amount of state credits reserved or allocated to such individual, estate, trust or corporation under these rules and regulations.

§ 2. Purpose and applicability.

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

Notwithstanding anything to the contrary herein, acting at the request or with the consent of the applicant for federal credits or state credits or both, 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 IRC and the state 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 federal credits and state 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.

Any determination made by the authority pursuant to these rules and regulations as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the authority as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC and the state code must be complied with and satisfied.

§ 3. General description.

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The Code IRC provides for federal 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 federal credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual ~~low-income credit authority limitation~~ *state housing credit ceiling* for such year under the Code IRC . An amount equal to 10% of such ~~limitation ceiling~~ *ceiling* is set-aside for developments in which certain qualified nonprofit organizations *materially participate in the development and operation thereof* . ~~Credit~~ *Federal credit* allocations (other than credits for developments financed with certain tax-exempt bonds as provided in the IRC are counted against the Commonwealth's annual ~~credit authority limitation~~ *state housing credit ceiling* for the calendar year in which the federal credits are allocated. The Code IRC provides for the allocation of the Commonwealth's ~~credit authority limitation~~ *state housing credit ceiling* 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 IRC and, in such capacity, shall allocate for each calendar year federal credits to qualified low-income buildings or developments in accordance herewith.

~~Credits~~ *Federal credits* may be allocated to each qualified low-income building in a development separately or to the development as a whole .

Federal credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42 (h)(1)(E) of the Code IRC , during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of federal credits as described hereinbelow and shall make such reservations of federal 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 development or (ii) the satisfaction of the requirements of § 42 (h)(1)(E) of the Code IRC with respect to such buildings or the development , the federal credits shall be allocated to such buildings or the development as a whole in the calendar year for which such federal credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, these rules and regulations shall not apply to federal credits for any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder.

The authority is authorized by the state code to establish the amount, if any, of state credits to be allocated to any buildings or development qualified for and claiming federal credits. The amount of state credits is calculated as a percentage of federal credits. Such percentage is established by the authority as provided herein. The state code provides for a maximum allocation of \$3,500,000 state credits in any calendar year. The state credits will be available for buildings or developments for which federal credits shall be allocated in 1990 and subsequent years or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal tax credits hereunder, for which such bonds shall be issued in 1990 and subsequent years. In the event that legislation is adopted by the General Assembly to defer the date set forth in §§ 36-55.63 A, 58.1-336 A or 58.1-435 A of the state code, then the year 1990 in the preceding sentence shall likewise be deferred and the provisions of these rules and regulations relating to state credits shall not become effective until the date set forth in such legislation.

The authority shall charge to each applicant who applies for credits an administrative fee fees 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 IRC . Such fee fees shall be payable at such time or times as the executive director shall require.

§ 4. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of these rules and regulations in the qualified allocation plan.

The executive director may from time to time take such action he may deem necessary or proper in order to solicit applications for federal credits and state 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 *federal credits or state credits or both* 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 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; in order to comply with the IRC and the state code and to make the reservation and allocation of the federal credits and state credits in accordance with these rules and regulations. The application shall include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain where and what costs will be incurred and what will comprise the total financing package, including the various subsidies and the anticipated syndication or

placement proceeds that will be raised. The following cost information must be included in the application: site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, and syndication and legal fees and other costs.

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, by one or more persons having ownership interests in the applicants or by one or more entities within the exclusive control of the applicant or the above described persons, (ii) lease of such site by the applicant or by the above described persons or entities for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire such site pursuant to a valid and binding option between the applicant or the above described persons or entities and the fee simple owner of such site. No application shall be considered for a reservation or allocation of federal credits or state credits unless such evidence is submitted with the application and the authority determines that the applicant or the above described persons or entities own, lease or have the right to acquire the site of the proposed development as described in the preceding sentence.

The application shall include *pro forma* financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to compliance of the proposed development with the Code, IRC 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 federal credits requested by the application and certifying that under the existing facts and circumstances the applicant will be eligible for the amount of federal credits requested.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application; and any such criteria and assumptions shall be indicated on the application form or instructions.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of federal credits and state credits for any calendar year as

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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.

After receipt of the applications, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such individuals a reasonable opportunity to comment on the developments.

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 federal credits and state credits to buildings in any or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

§ 6. Review and selection of application applications; reservation of federal credits .

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

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- 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.
 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 easements) 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,

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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.

The executive director may divide the amount of federal credits into separate pools and may further subdivide those pools into subpools. The division of such pools and subpools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, or occupants; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual credit authority limitation state housing credit ceiling, shall be available for reservation and allocation to buildings or developments in which "qualified nonprofit organizations" materially participate in the development and operation thereof, as described in the Code IRC. In no event shall more than 90% of the Commonwealth's annual credit authority limitation state housing credit ceiling be available for developments other than those described in the preceding sentence. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of federal credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the developments therein and reserve federal credits (and, if applicable, state credits) to such developments before ranking developments and reserving federal credits (and, if applicable, state credits) in other pools and subpools, and any such developments in such nonprofit pools or subpools not receiving any such reservation of federal credits (and, if applicable, state credits) shall be assigned to such other pool or subpool as shall be appropriate.

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 authority staff shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Either (i) sole fee simple ownership of the site of the proposed development by the applicant, by one or more persons having ownership interests in the applicant, or by one or more entities within the exclusive control of the applicant or the above described persons or (ii) lease of such site by the applicant or by the above described persons or entities for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons and families (50 points);

2. Issuance of building permit for the construction or rehabilitation of all of the units in the proposed development (150 points);

3. If the issuance of the building permit described in subdivision 2 above has not occurred, approval by

local authorities of the site plan for the proposed development (25 points), proper zoning for such site (25 points), availability of all requisite public utilities for such site (25 points), and completion of plans and specifications or, in the case of rehabilitation for which plans and specifications will not be used, work write-up for such rehabilitation (50 points multiplied by the percentage of completion of such plans and specifications or such work write-up);

4. Issuance of a loan commitment or commitments to provide the financing for the proposed development without any conditions within the discretion or control of the lender (in the case of a commitment or commitments to provide permanent fixed rate financing for a term of 15 years or more, 100 points or, in the case of any other commitment or commitments, 50 points) or any other written evidence of the intent of the lender or lenders to provide such financing (25 points);

5. Issuance of a commitment or commitments to provide equity funding for the proposed development from a financially sound syndicator or investor without any conditions within the discretion or control of the syndicator or investor (25 points) or any other written evidence of the intent of such syndicator or investor to provide such equity funding (10 points);

6. The members of the development team for the proposed development have the demonstrated experience, qualifications and ability to perform their respective functions (the development team shall be ranked by the executive director on a scale from 0 to 10, and the application shall be assigned points equal to 5 multiplied by the number of such ranking);

7. New construction of units in the proposed development (50 points multiplied by the percentage of new construction units in the proposed development);

8. The number of units in the proposed development divided by the total acreage of the site for the proposed development (20 points multiplied by the number of acres per 10 units - maximum 20 points);

9. Average size of the low-income housing units (i.e., total square footage of all low-income housing units divided by the number of low-income housing units) in the proposed development (20 points multiplied by a fraction the numerator of which is the average size of the low-income housing units in the proposed development and the denominator of which is 1200 - maximum 20 points);

10. The percentage by which the total of the amount of federal credits and 50% of the amount of state credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the weighted average of the estimated highest

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per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitations units in the proposed development (if the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

11. The percentage by which the total of the amount of federal credits and 50% of the amount of state credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development (if the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and the proposed development receives one point for each percentage point);

12. Letter addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, either or both of the following:

"The (name of locality) supports the allocation of federal low-income housing tax credits requested by (name of applicant) for (name of development)." (20 points)

"The construction or rehabilitation of (name of development) and the allocation of federal low-income housing tax credits for that development will help meet the housing needs and priorities of (name of locality)." (20 points)

13. Participation in the development, construction or rehabilitation, ownership, operation or management of the proposed development by any organization exempt from federal taxation (5 points);

14. Commitment by the applicant to give first leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located (5 points); and

15. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: persons 62 years or older; homeless persons or families; or physically or mentally disabled persons (20 points).

For the purpose of calculating the points to be assigned pursuant to subdivisions 10 and 11 above, the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding the use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of federal credits as provided in the IRC.

After points have been assigned in the manner described above, bonus points shall be assigned as follows:

1. The percentage determined by dividing (i) the amount of investment proceeds (net of the cost of intermediaries) expected by the authority to be generated with respect to the development and to be used for the cost of land and for costs includable in the eligible basis of the proposed development by (ii) the total amount of federal credits for the proposed development during the credit period (300 points multiplied by the percentage as so determined);

2. Commitment by the applicant to use income limits below those required by the IRC in order for the development to be a qualified low-income development (the product of (i) 200 points multiplied by the percentage of low-income housing units subject to such commitment and (ii) a fraction the numerator of which is the difference between 60% and the percentage of area median gross income to be used as the income limits for such units and the denominator of which is 60%; and

3. Commitment by the applicant to maintain the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building (10 points for each full year in such commitment beyond such compliance period - maximum 200 points).

In the event of a tie in the number of points assigned to

two or more applicants within the same pool or subpool, or, if none, within the state, the authority shall select one or more of them by lot, if necessary in order to fully utilize the amount of credits available for reservation within such pool or subpool or, if none, within the Commonwealth.

The executive director may exclude and disregard any application which he determines is not submitted in good faith.

In no event shall any federal credits be reserved or allocated to any applicant who receives fewer than 150 points.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools or subpools shall have been established, each applicant shall be assigned to a pool or subpool and shall be ranked within such pool or subpool. These applications awarded more points shall be ranked higher than those applications awarded fewer points.

For each application which may receive a reservation of federal credits, the executive director shall determine the amount, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, and the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development (which proceeds or receipts shall in no event be less than the amount used above in the calculation of bonus points for the ranking of the proposed development) and shall examine the development's costs, including developer's fees, for reasonableness. (If the applicant requests any state credits, the amount of state credits to be reserved to the applicant shall be determined pursuant to § 7 prior to the foregoing determination, and any funds to be derived from such state credits shall be included in the above described sources and uses of funds.) The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received, increases in the market value of the development, and increases in operating expenses, rental income and, in the case of variable rate financing, debt service on the proposed mortgage loan.

Under the IRC, the foregoing determination shall also be required for any buildings or development to be financed

by certain tax-exempt bonds of the authority in an amount so as not to require under the IRC an allocation of federal credits hereunder. For the purpose of such determination, the owner of the proposed buildings or development shall submit to the authority, as and when required by the executive director, such of the above described information and documents as the executive director may require.

The executive director shall reserve federal credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all federal credits therein are reserved or all applicants therein have received reservations. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of federal credits so reserved exceed the maximum amount permissible under the IRC. Any amounts in any pools or subpools not reserved to applicants shall be reallocated among the other pools or subpools in which applicants shall not have received reservations in the full amount permissible under these rules and regulations. Such reallocation shall be made pro rata based on the amount originally allocated to each such pools or subpools with excess applicants divided by the total amount originally allocated to all such pools or subpools with excess applicants. Such reallocations shall continue to be made until either all of the federal credits are reserved or all applicants have received reservations.

The executive director shall notify each applicant of the amount, if any, of federal credits reserved to such applicant.

The board shall review and consider the analysis and recommendation of the executive director for the reservation of federal credits (and, if applicable, state credits), and, if it concurs with such recommendation, it shall by resolution approve the application and authorize ratify the reservation by the executive director to reserve of the federal credits (and, if applicable, state credits) to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the Code IRC (and, in the case of state credits, the state code) and these rules and regulations. If the board determines not to approve an application for ratify a reservation of federal credits (and, if applicable, state credits) or to establish any such terms and conditions, 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

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requirements under the Code IRC (and, in the case of state credits, the state code) and these rules and regulations for allocation of the federal credits (and, if applicable, state credits). Upon allocation of the federal credits (and, if applicable, state credits), such deposit (or a pro rata portion thereof based upon the portion of federal credits (and, if applicable, state 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 executive director, the owner thereof applicant is otherwise then entitled to an allocation of the federal credits under the Code IRC, the executive director may at that time allocate the federal credits (and, if applicable, state credits) to such qualified low-income buildings or development without first providing a reservation of such federal credits (and, if applicable, state credits). Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom federal credits (and, if applicable, state 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 IRC (and, in the case of state credits, the state code) or will not otherwise qualify for such federal credits (and, if applicable, state credits), then the executive director may terminate the reservation of such federal credits (and, if applicable, state credits).

The executive director may establish such deadlines for determining the ability of the applicant to qualify for the federal credits (and, if applicable, state credits) as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such federal credits (and, if applicable, state credits) to other eligible applicants.

Any material changes to the development, as proposed in the application, occurring subsequent to the reservation of submission of the application for the federal credits (and, if applicable, state 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 or reduce the reservation of such federal credits (and, if applicable, state credits) or impose additional terms and conditions with respect thereto.

In the event that any reservation of federal credits are is terminated or reduced by the executive director under this section, he may reserve or allocate, as applicable, such federal 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 such manner as he shall determine consistent with the requirements of the IRC.

§ 7. Reservation of state credits.

Each applicant may also request a reservation of state credits in his application for a reservation of federal credits. State credits may be reserved only for those applicants (i) to whom federal credits have been reserved or (ii) who will be the owner of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder. In the case of (ii) above, the applicant for state credits shall submit an application for federal credits (as well as for state credits), and such application shall be submitted, reviewed, and ranked in accordance with these rules and regulations; provided, however, that a reservation shall be made for the state credits only and not for any federal credits.

In order to be eligible for a reservation and allocation of state credits, the development must be owned by one of the following: (i) an individual who is a Virginia taxpayer, (ii) a corporation (other than an S corporation) which is a Virginia taxpayer, (iii) a partnership of an S corporation in which at least 75% of the state credits received by such partnership or S corporation will be allocated to partners or shareholders who are Virginia taxpayers, or (iv) any other legal entity which is a Virginia taxpayer or, in the case of an entity that is taxed on a pass-through basis with respect to tax credits, in which at least 75% of the state credits received by such entity will be allocated to Virginia taxpayers. If more than one of the foregoing shall be joint owners of the development, then the joint tenancy shall be treated as a partnership for purposes of applying the foregoing ownership test. In the case of tiered partnerships, S corporations, and other entities that are taxed on a pass-through basis with respect to tax credits, the ownership test will be applied by looking through such pass-through entities to the underlying owners. The application shall include such information as the executive director may require in order to determine the owner or owners of the development and the status of such owner

or owners or those owning interests therein as Virginia taxpayers. The prior written approval of the authority shall be required for any change in the ownership of the development prior to the end of the calendar year in which all of the buildings in such development shall be placed in service, unless the transferee certifies that it is a Virginia taxpayer or, in the case of a pass-through entity, that 100% of its owners of such entity are Virginia taxpayers.

State credits may be reserved by the executive director to an applicant only if the maximum amount of credits (determined by the use of the full applicable percentage as defined in the IRC, regardless of the amount requested by the applicant) which could be claimed for any development is determined by the executive director not to be sufficient for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. The amount of state credits which may be reserved shall be equal to the lessor of (i) the amount requested by the applicant or (ii) the amount which is necessary for such financial feasibility and viability as so determined by the executive director. Such determination shall be made by the executive director in the same manner and based upon the same factors and assumptions as the determination described in § 6 with respect to reservation of federal credits. In addition, the executive director may establish assumptions as to the amount of additional net syndication proceeds to be generated by reason of the state credits. The amount of state credits which may be so reserved shall be based upon a percentage of the federal credits as the executive director shall determine to produce such amount of state credits.

The executive director may divide the amount of state credits into pools and may further divide those pools into subpools based upon the factors set forth in § 6 with respect to the federal credits; however, the state credits need not be so divided in the same manner or proportions as the federal credits. Applicants for state credits shall be assigned points and ranked in the same manner as described in § 6. The executive director shall reserve state credits to applications in descending order of ranking within each pool or subpool, if applicable, until either all state credits therein are reserved or all applicants therein eligible for state credits hereunder have received reservations for state credits. Any amounts in any pools or subpools not reserved to applicants shall be reallocated among the pools or subpools in which applicants eligible for state credits hereunder shall have not received reservations of state credits in the full amount permissible under these rules and regulations. Such allocation shall be made pro rata based on the amount originally allocated to each such pool or subpool with such excess applicants divided by the total amount originally allocated to all such pools or subpools with such excess applicants. Such reallocations shall continue to be made until either all of the state credits are reserved or all applicants for state credits have received reservations.

Section 6 hereof contains certain provisions relating to ratification by the board of reservations of state credits, requirements for good faith deposits, allocation of state credits without any reservation thereof, deadlines for determining the ability of the applicant to qualify for state credits, and reduction and termination of state credits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder. In the event that any reservation of state credits is reduced or terminated, the executive director may reserve or allocate, as applicable, such state credits to other eligible applicants in such manner as he shall determine consistent with the requirements of the state code.

§ 8. Allocation of federal credits.

At such time as one or more of an applicant's buildings which have has received a reservation of federal credits become qualified low-income buildings is placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC, the applicant shall so advise the authority, shall request the allocation of all of the federal credits so reserved or such portion thereof to which the applicant's buildings are or development is then entitled under the Code IRC, and shall submit such certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings are or development is entitled to such federal credits under the Code IRC and these rules and regulations. The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of federal credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of federal credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds (including, without limitation, any fund to be derived from the state credits), the available federal, state and local subsidies committed to the development, and the total financing planned for the developments as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development (which proceeds or receipts shall in no event be less than the amount used in § 6 in the calculation of bonus points for the ranking of the proposed development) and shall examine the development's costs, including developer's fees, for reasonableness. The executive director shall review the applicant's projected rental income, operating expenses and debt services for the credit period. The

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executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to § 6) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received, increases in the market value of the development, and increases in operating expenses, rental income and, in the case of variable rate financing, debt service on the proposed mortgage loan. The amount of federal credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director.

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority in such amount so as not to require under the IRC and allocation of federal credits hereunder, the executive director shall make the foregoing determination as of the date the buildings or the development is placed in service, and for the purpose of such determination, the owner of the buildings or development shall submit to the authority such of the above described information and documents as the executive director may require.

Prior to allocating the federal credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment. The amount of federal credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building (such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of

any existing tenant of any low-income housing unit other than for good cause or any increase in the gross rents with respect to such low-income housing units). Such commitment shall also contain such other terms and conditions as the executive director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC (and, in the case of an allocation of state credits, the state code) and these rules and regulations. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC. Such commitment shall also be required with respect to any development financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate federal credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or after the calendar year for which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that such the buildings are or development is so entitled to the federal credits, he shall allocate the federal credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low income buildings or to the applicant's development in accordance with the requirements of the Code IRC. If the executive director shall determine that the applicant's buildings are or development is not so entitled to the federal credits, he shall not allocate the federal credits and shall so notify the applicant. In the event that any such applicant shall not request an allocation of all of its reserved federal credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved federal credits, the executive director may reserve or allocate, as applicable, such unallocated federal credits to the buildings or developments 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 in such manner as he shall determine consistent with the requirements of the IRC.

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of federal credits (and, if applicable, state 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, and (ii) such deadlines for satisfaction of all requirements of the IRC (and, in the case of state credits, the state code) as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any federal credits for which such requirements are not satisfied.

The executive director may also require the applicant, in the case of any buildings or development to be placed in service in any future year, to make a good faith deposit with respect to the federal credits (and, if applicable, the state credits) to assure that the buildings or the development will be placed in service in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

The executive director may make the allocation of federal credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and these rules and regulations.

In the event that any development for which an allocation of federal credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation, the executive director may terminate the allocation. An allocation of federal credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any federal credits, the executive director may reserve or allocate, as applicable, such federal credits to other qualified applicants in such manner as he shall determine consistent with the requirements of the IRC.

§ 9. Allocation of state credits.

Upon the allocation of federal credits to an applicant who received a reservation of state credits under § 7, the executive director shall allocate state credits to the applicant in an amount equal to the amount of federal credits so allocated times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the applicant under § 7. If the amount of state credits so allocated to the applicant under this § 9 is less than the amount of state credits reserved to the applicant under § 7, then the executive director may reserve or allocate, as applicable, such unallocated state credits to other applicants in such manner as he shall determine consistent with the requirements of the state code.

In the case of any building or development to be financed by certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of federal credits hereunder, the executive director shall, prior to the

last day of the calendar year in which such building or development is placed in service, allocate state credits to the applicant in an amount equal to the amount of federal credits to be claimed annually by the applicant times such percentage of federal credits as shall have been determined by the executive director under § 7 but in no event shall such amount of state credits exceed the amount reserved to the applicant under § 7.

Prior to any allocation of state credits, the executive director may require the applicant to confirm the status of the owner or owners as Virginia taxpayers who are eligible for an allocation of state credits under § 7.

The executive director may make the allocation of state credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments, and information in the application and comply with the requirements of the IRC, the state code, and these rules and regulations.

The state credits allocated may be claimed for the first five taxable years in which the federal credits shall be claimed. The amount of state credits claimed in each such year shall be such percentage of the federal credits so claimed as shall have been established by the executive director pursuant to § 7; provided, however, that the amount of state credits which may be claimed by the applicant in the initial taxable year shall be calculated for the entire development on the basis of a twelve-month period during such initial taxable year, notwithstanding that the federal credits may be calculated on the basis of some (but not all) of the buildings in such development or on the basis of a period of less than twelve months or both; provided, further, that in no event shall the amount of state credits claimed in any year exceed the amount allocated under this § 9.

In the event that any federal credits claimed by the applicant for any taxable year in which the applicant also claimed state credits shall be recaptured pursuant to the IRC, the state credits for such taxable year shall be recaptured in an amount equal to the amount of federal credits recaptured for such taxable year times such percentage as shall have been established by the executive director pursuant to § 7. The applicants receiving state credits shall provide the authority with such information as the executive director may from time to time request regarding any recapture of the federal credits.

On or before such date each year as the executive director may require, each applicant shall apply to the authority to determine the amount of state credits which such applicant may claim for the applicable taxable year. Each such applicant shall submit such documents, certifications and information as the executive director may require. The authority shall certify to the Department of Taxation on forms prepared by the authority that the applicant qualified for the state credits in the amount set forth therein and shall provide such certification to the

Proposed Regulations

applicant. Such certification is required to be attached to the applicant's state income tax return to be filed with the Department of Taxation.

Section 8 hereof contains certain provisions relating to (i) the establishment of deadlines for submission of requests for allocation of state credits and for satisfaction of requirements of the IRC and state code and (ii) requirements for good faith deposits. Such provisions shall be applicable to all applicants for state credits, notwithstanding the fact that the developments or buildings may be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder.

In the event that any allocation of federal credits shall be terminated or cancelled pursuant to § 8 (or, in the case of any development or buildings to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, in the event that the development shall not become a qualified low-income housing project as defined in the IRC within the time period required by the IRC or by the terms of the allocation of state credits), the executive director may also terminate or cancel the state credits and, if permitted by the state code, may reserve or allocate, as applicable, such state credits to other qualified applicants in such manner as he shall determine consistent with the requirements of the state code.

§ 10. Reservation and allocation of additional federal credits and state credits.

Prior to the initial determination of the "qualified basis" (as defined in the Code IRC) of the qualified low-income buildings of a development pursuant to the Code IRC, an applicant to whose buildings federal credits or state credits or both have been reserved may request submit an application for a reservation of additional federal credits or state credits or both. Subsequent to such initial determination of the qualified basis, the applicant may request submit an application for an additional allocation of federal credits or state credits or both 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 application for an additional allocation of federal credits or state credits or both shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional federal credits or state credits or both under the Code IRC, the state code and these rules and regulations and . The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of §§ 6 and 7 hereof, and any allocation of federal credits or state credits or both shall be made in accordance with §§ 8 and 9 hereof. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial

feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of federal credits or state credits, or both, previously reserved or allocated to the applicant (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of federal credits hereunder, the amount of federal credits which may be claimed by the applicant) shall be included with the amount of such federal credits or state credits or both so requested.

§ 11. Notification to the Internal Revenue Service of noncompliance with IRC.

In the event that the executive director shall become aware of noncompliance by any applicant with any of the provisions of § 42 of the IRC, the executive director shall, within 90 days, notify the Internal Revenue Service of such noncompliance. Such notification shall identify the applicant and the buildings and shall describe the noncompliance.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: VR 460-05-1000.0000. State/Local Hospitalization Program.

Statutory Authority: §§ 32.1-344 and 32.1-346 of the Code of Virginia.

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

Summary:

The 1989 General Assembly mandated the State/Local Hospitalization (SLH) Program's administration by the Department of Medical Assistance Services (DMAS). DMAS is currently operating the program under the authority of emergency regulations. These proposed regulations, developed with the guidance of an ad hoc committee of affected groups, when adopted as final, will govern DMAS' administration of SLH. These proposed regulations provide for eligibility criteria, definitions of services covered and provider reimbursement.

VR 460-05-1000.0000. State/Local Hospitalization Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"Allocation process" means the process described in §

32.1-345 B of the Code, which is used annually to allocate funds appropriated by the General Assembly for this program to counties and cities of the Commonwealth.

"Board of Medical Assistance Services or BMAS" means that board established by the Code § 32.1-324 et seq.

"Bona fide resident" means an individual who has been determined by the local department of social services to be residing in the city or county where making application at the time of or immediately prior to medical treatment with the intent of remaining permanently in that locality and who did not establish residency for the purposes of obtaining benefits.

"Code" means the Code of Virginia.

"Covered ambulatory surgical center services" means those services as provided by any distinct licensed and certified entity, established by 42 CFR 416.2, that operate exclusively for the purpose of providing surgical services to patients not requiring hospitalization, do not exceed in amount, duration, and scope those available to recipients of medical assistance services as provided in the State Plan for Medical Assistance established by Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code and that are rendered by providers who have signed agreements to participate in the SLH program and who are enrolled providers in the MAP.

"Covered inpatient services" means inpatient services that do not exceed in amount, duration, and scope those available to recipients of medical assistance services as provided in the State Plan for Medical Assistance established by Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code and that are rendered by providers who have signed agreements to participate in the SLH program and who are enrolled providers in the MAP.

"Covered local public health services" means services provided by local health departments that do not exceed in amount, duration and scope those available to recipients of medical assistance services as provided in the State Plan for Medical Assistance established by Chapter 10 of Title 32.1 of the Code and that are rendered by providers who have signed agreements to participate in the SLH program and who are enrolled providers in the MAP.

"Covered outpatient services" means outpatient services, as performed in outpatient hospital setting, that do not exceed in amount, duration and scope those available to recipients of medical assistance services as provided in the State Plan for Medical Assistance established by Chapter 10 of Title 32.1 of the Code and that are rendered by providers who have signed agreements to participate in the SLH program and who are enrolled providers in the MAP.

"Current population" means the most recent population of a city or county as shown by the last preceding United States census or as estimated by the Center for Public

Service of the University of Virginia, whichever is more current.

"Claim" means a request for payment for services rendered.

"Department or DMAS" means the Department of Medical Assistance Services established by § 32.1-323 of the Code.

"Director" means the Director of the Department of Medical Assistance Services established by § 32.1-323 of the Code.

"Enrolled provider or providers" means inpatient/outpatient hospitals, free-standing ambulatory surgical centers and local public health departments which have signed agreements to participate in the SLH Program and are enrolled providers in the MAP.

"Locality" means any city or county which is required by law to participate in the SLH Program.

"MAP or Medicaid" means the Medical Assistance Program as administered by the Department of Medical Assistance Services.

"Medical emergency" means that a delay in obtaining treatment may cause death or serious impairment of the health of the patient. See 42 CFR 440.170(e).

"Net countable income" means the value of income as calculated by the methodology described in the Medicaid Eligibility Manual of the Virginia Department of Social Services used to determine eligibility for the SLH Program.

"Net countable resources" means the countable value of an applicant's resources as determined by the methodology described in the Medicaid Eligibility Manual of the Virginia Department of Social Services used to determine eligibility for the SLH Program.

"Indigent person" means a person, established by the Code § 32.1-343, who is a bona fide resident of the county or city, whether gainfully employed or not and who, either by himself or by those upon whom he is dependent, is unable to pay for required hospitalization or treatment. Residence shall not be established for the purpose of obtaining the benefits of this program. Aliens illegally living in the U.S. and migrant workers shall not be considered bona fide residents of the county or city for purposes of the SLH Program.

"SLH Program" means the State/Local Hospitalization Program.

"State Plan" means the State Plan for Medical Assistance for the Commonwealth.

PART II.

Proposed Regulations

SLH PROGRAM ESTABLISHED.

§ 2.1. The State/Local Hospitalization Program is hereby established, within the Department of Medical Assistance Services (DMAS), for indigent persons. The Director of the Department shall administer this program and expend state and local funds in accordance with the provisions of Chapter 12 (§ 32.1-323 et seq.) of Title 32.1 of the Code.

PART III. SERVICES COVERED.

§ 3.1. Amount, duration, and scope of services covered.

The amount, duration, and scope of services covered by the SLH Program shall be equal to the amount, duration, and scope of the same services covered by the MAP established by the State Plan. SLH services shall be limited to inpatient and outpatient hospital services; services rendered in free-standing ambulatory surgical centers and local public health departments.

§ 3.2. Changes in amount, duration, and scope of services covered.

Changes in the amount, duration, and scope of services covered by the MAP shall, unless modified by the BMAS, automatically change the amount, duration, and scope of services covered by the SLH Program.

§ 3.3. Inpatient hospital reimbursement rate.

The daily inpatient hospital reimbursement rate shall be the same as that per diem rate established and in effect on June 30 of each year by DMAS for the specific hospital established by § 32.1-346 B 2 of the Code. Inpatient hospital reimbursement rates for SLH services are not subject to readjustment through the year-end cost reporting process.

§ 3.4. Local health department and outpatient hospital clinics reimbursement.

Reimbursement to local health departments and outpatient hospital clinics shall be an all inclusive fee per visit and at the rate established by § 32.1-346 B 1 of the Code. Outpatient hospital clinics reimbursement rates shall not be subject to readjustment through the year-end cost reporting process.

§ 3.5. Emergency services reimbursement.

Reimbursement for hospital emergency room services shall be an all inclusive fee per visit and shall be reimbursed at the rate established by § 32.1-346 B 4 of the Code. Emergency room services reimbursement rates are not subject to readjustment through the year-end cost reporting process.

PART IV. ELIGIBILITY.

§ 4.1. Eligibility criteria.

An individual is eligible to receive SLH Program services if he:

1. Has filed an application with the locality where he resides within 30 days of discharge, in the case of inpatient services, or within 30 days of the date of service, in the case of outpatient services;

2. Is a bona fide resident of the locality to which he has applied;

3. Has a net countable income, using the current budget methodology of the Virginia Aid to Dependent Children Program, equal to or less than 100% of the federal poverty income guidelines as published for the then current year in the United States Code of Federal Regulations (CFR), except that localities which in fiscal year 1989 used a higher income level may continue to use the 1989 income level in subsequent years; and

4. Has net countable resources, using the current budget methodology of the Virginia Aid to Dependent Children Program, equal to or less than the then current resource standards of the federal Supplemental Security Income Program (SSI).

§ 4.2. Length of effective period of application.

An eligibility decision favorable to the applicant shall remain in effect for a period of 90 days. If the recipient requires further medical treatment during the eligibility period, no new application is required. If the eligibility period has expired a new application shall be required.

§ 4.3. Persons eligible for Title XIX services.

Persons who have been determined eligible for services as defined by and contained in the Social Security Act Title XIX shall not be eligible for SLH Program benefits established by § 32.1-346 B 3 of the Code.

§ 4.4. SLH payments applicable to Medicaid spend-downs.

Payments for services covered in the SLH Program may be accumulated by recipients to meet the spend-down requirements of the MAP.

PART V. LIABILITY FOR EXCESS PAYMENTS.

§ 5.1. Determination of liability for excess payments.

The department shall be empowered to recover excess SLH payments. Such disputes shall be heard in accordance with the Administrative Process Act. Potential fraud cases shall be referred to the appropriate law-enforcement agency.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

STATE AND LOCAL HOSPITALIZATION CLIENT NOTIFICATION

Dear _____
First _____ MI _____ Last _____
Address: _____

City _____ State _____ Zip _____

Your application for State and Local Hospitalization (SLH) was:
 Approved.
 Denied. Reason: _____
 Action was not taken on your application for SLH within 30 days after application was made. Reason _____
 You will be notified of the action on your application at a future date.

FOR ADDITIONAL INFORMATION ABOUT YOUR RIGHTS UNDER THE STATE AND LOCAL HOSPITALIZATION PROGRAM, TURN THIS FORM OVER AND READ THE INFORMATION ON THE BACK OF THIS PAGE.

Eligibility Worker Signature Date

FOR LOCAL AGENCY USE ONLY					
ID Number: _____		City/County: _____		Case Work: _____ SSN: _____	
Race: _____		Sex: _____		Birth: _____	
COVERAGE DATES			APPLICATION DATE: _____		
BEGIN	END	PD	CANCEL RSN/DT		
_____	_____	_____	_____		
MEDICAL RESOURCES: Type		Insur.	Policy Number	Begin Date	End Date
_____		_____	_____	_____	_____
_____		_____	_____	_____	_____
_____		_____	_____	_____	_____
Treatment Needed: (check applicable services)					
___ Inpatient Hospital, Name: _____		No. of days: _____			
___ Outpatient Hospital, Name: _____		No. of visits: _____			
___ Ambulatory Surgical Services, Name: _____		No. of visits: _____			
___ Public Health Clinic, Name: _____		No. of visits: _____			

032-03-811
WHITE - CLIENT • CANARY - DEPT OF MEDICAL ASSISTANCE SERVICES • PINK - MEDICAL SERVICE PROVIDER • GOLDENROD - FILE/CASE RECORD

PRACTITIONER INVOICE

VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

ADJUSTMENT	VOID	RECIPIENT'S LAST NAME	FIRST NAME
052	054	_____	_____
PATIENT ACCOUNT NO. (10 MAXIMUM)	PROVIDER I.D. NUMBER (7)	REFERENCE NUMBER (7)	REASON
_____	_____	_____	_____
CODE FOR BLOCK 15 PRIMARY CARRIER INFORMATION			2 NO OTHER CARRIER 3 BILLED AND PAID 5 BILLED, NO COVERAGE
FROM	SERVICE PERIOD	DIAGNOSIS	PLACE OF TREAT
NO. (1)	TYPE (1) YEAR (2) MO (2) DAY (2) TEAM (2)	(1)	(1)
0			

THIS FORM IS FOR CHANGING OR VOIDING A PAID ITEM. THE CORRECT REFERENCE NUMBER AS SHOWN ON THE REMITTANCE VOUCHER IS ALWAYS REQUIRED.

REMARKS:

DATE OF REMITTANCE VOUCHER CLAIM WAS APPROVED

REASONS FOR ADJUSTMENT:

- ___ CORRECTING DATES OF SERVICE
- ___ CORRECTING PROCEDURE CODE
- ___ CORRECTING VISITS/UNIT/STUDIES
- ___ CORRECTING CHARGE
- ___ PRIMARY CARRIER PAID PART
- ___ IC-RECONSIDERATION OF ALLOWANCE FOR PROCEDURE REQUESTED. SUPPORTING DOCUMENTS ATTACHED
- ___ OTHER: _____

REASONS FOR VOID:

- ___ USED INCORRECT RECIPIENT I.D. NUMBER
- ___ DUPLICATE PAYMENT
- ___ OTHER: _____

THIS IS TO CERTIFY THAT THE FOREGOING INFORMATION IS TRUE, ACCURATE AND COMPLETE. I UNDERSTAND THAT PAYMENT AND SATISFACTION OF THIS CLAIM WILL BE FROM FEDERAL AND STATE FUNDS AND THAT NO FALSE CLAIMS, STATEMENTS OR DOCUMENTS OR CO-MISFEASUREMENT OF A MATERIAL FACT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL OR STATE LAWS.



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

BRUCE U. KOZLOWSKI
DIRECTOR

PATRICIA C. WATT
DEPUTY DIRECTOR -
ADMINISTRATION

JOSEPH M. TEEFEY
DEPUTY DIRECTOR -
OPERATIONS

S L R

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/795-7933
804/225-4512 (Fax)
800/343-0634 (TDD)

DATE: _____

TO: _____ Reference #: _____

The Virginia Medical Assistance Program cannot process the enclosed SLE invoice (s) because of the following reason (s):

- _____ Documentation not attached to the invoice. Resubmit with OP notes, progress notes, sterilization/hysterectomy form, etc.
- _____ Client had Medicaid coverage on date of service - Bill Medicaid
- _____ Bill each outpatient department service on a separate UB-82 invoice. Use code 510.
- _____ Bill each emergency room service on a separate UB-82 invoice. Use code 450.
- _____ Failure to use revenue code 790 with allowable M-codes in locator 84 (See chapter IV, page 19).
- _____ Invalid/Missing data in locator 76.
- _____ Other _____

0450

10:

RUN DATE:
RUN TIME:
PAGE NUM:

THE INFORMATION BELOW REFLECTS PAYMENTS MADE ON BEHALF OF CLIENTS FROM YOUR LOCALITY FROM THE STATE/LOCAL HOSPITALIZATION (SLH) PROGRAM FOR THE MONTH OF . IT ALSO REFLECTS THE ENDING AVAILABLE STATE AND LOCAL SLH FUNDING BALANCES.

ACTIVITY:		DATE OF	SLH PAYMENTS			
CLIENT NAME	CLIENT ID#	ADMISSION	PROVIDER NAME	STATE PAYMENT	LOCAL PAYMENT	TOTAL PAYMENT



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/796-7833
804/225-4512 (Fax)
800/343-0634 (TDD)

BRUCE U. KOZLOWSKI
DIRECTOR

PATRICIA C. WATT
DEPUTY DIRECTOR -
ADMINISTRATION

JOSEPH M. TEEFEY
DEPUTY DIRECTOR -
OPERATIONS

Date:

DATE

STATE AND LOCAL HOSPITALIZATION (SLH) PROGRAM

CITY/COUNTY ADMINISTRATOR NOTIFICATION

SLH

Claim Reference No.:
Recipient's Name :
Recipient's ID # :
Patient's Account #:
Admission Date :
Discharge Date :
Total Days :
:

TO:

FOR THE MONTH OF _____, \$_____ WAS PAID TO PROVIDERS FOR SERVICES RENDERED TO CLIENTS FROM YOUR LOCALITY WHO WERE ELIGIBLE FOR THE STATE/LOCAL HOSPITALIZATION (SLH) PROGRAM. OF THIS AMOUNT, \$_____ WAS PAID FROM STATE FUNDS, AND \$_____ WAS PAID FROM YOUR LOCALITY CONTRIBUTION. AS OF _____, YOUR LOCALITY HAS \$_____ REMAINING IN THE SLH FUND, OF WHICH \$_____ ARE STATE FUNDS AND \$_____ ARE LOCAL FUNDS.

IF YOU HAVE ANY QUESTIONS REGARDING THE SLH PROGRAM, PLEASE CALL 1-800-371-8422.

0455

Dear Supervisor:

The invoice and case summary for the above patient has been reviewed by this Division, and the invoice has been rejected. Consideration was given to the medical necessity and the medical justification for the _____ days length of stay in your hospital.

It is the opinion of the SLH UR Analyst and Medical Consultants, based on the submitted medical documentation, that this patient did not require inpatient hospital care after _____. Hospitalization was excessive to the extent of _____ days.*

Please submit a new invoice for the _____ approved days, _____ through _____, plus the charges appropriate for these days. Please note on the invoice that this is a resubmission for approved days. Attach a copy of this letter to the invoice so we may document our records and validate your invoice for payment.

If you plan to request a reconsideration for the denied days, send the request with additional supporting documentation to Director, Hospital Utilization Review Unit, SLH, 600 East Broad St., Suite 1300, Richmond, VA 23219. These requests must be received by this office within twenty one (21) days of the date of this letter. The patient may not be billed due to denial of payment for this claim.

We regret the necessity for this decision, and we appreciate your cooperation in the resolution of this claim.

Sincerely,

(Mrs.) Carolyn M. Gill, RN, Supervisor
Hospital Utilization Review

CMG/ses

*See enclosed invoice copy.



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

BRUCE U. KOZLOWSKI
DIRECTOR

PATRICIA C. WATT
DEPUTY DIRECTOR -
ADMINISTRATION

JOSEPH M. TEEFEY
DEPUTY DIRECTOR -
OPERATIONS

SLH CLAIM

DATE

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
804/225-4512 (Fax)
800/343-0634 (TDD)

Recipient's Name:
Recipient's ID # :
Patient's Acct. #:
Admission Date :

Additional information is needed to resolve a SLH pended claim for the above recipient. Please return by _____. Send items checked (X) to.:

Director, Hospital Utilization Review Unit (SLH)
Department of Medical Assistance Services
Suite 1300, 600 East Broad Street
Richmond, VA 23219.

- | | |
|------------------------------|----------------------------|
| _____ DISCHARGE SUMMARY | _____ ABORTION FORM |
| _____ HISTORY AND PHYSICAL | _____ MEDICATION SHEETS |
| _____ NURSE'S PROGRESS NOTES | _____ GRAPHIC SHEETS |
| _____ LAB REPORTS/PATHOLOGY | _____ PHYS. ORDERS |
| _____ EMERGENCY ROOM REPORT | _____ PHYS. PROGRESS NOTES |
| _____ STERILIZATION FORM | _____ OPERATIVE SUMMARY |
| _____ HYSTERECTOMY FORM | |

0288/0377



COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

BRUCE U. KOZLOWSKI
DIRECTOR

PATRICIA C. WATT
DEPUTY DIRECTOR -
ADMINISTRATION

JOSEPH M. TEEFEY
DEPUTY DIRECTOR -
OPERATIONS

SLH CLAIM

DATE

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
804/225-4512 (Fax)
800/343-0634 (TDD)

Attention: Claims Processing Unit

Dear Sir:

The attached claim(s) are being returned to you. This recipient has other resources. Please bill these resources before resubmitting these claim(s).

We regret the inconvenience of this decision, and we appreciate your cooperation in the resolution of these claim(s).

Sincerely,

(Mrs.) Carolyn M. Gill, RN
Supervisor
Hospital Utilization Review

CMG/ses

Attachment:
Invoice

Recipient Name:
Recipient I.D.#:
Admission Date:
Other Resource:

0282

Commonwealth of Virginia
Department of Social Services
Supplement E
State-Local Hospitalization

(To be completed by the patient or the patient's parents if patient is a minor).

1. Give full name of individual that was or will be hospitalized:

2. Complete the following information about each hospital stay:

Name of hospital: _____ Name of hospital: _____
Date admitted: _____ Date admitted: _____
Date discharged: _____ Date discharged: _____
Diagnosis: _____ Diagnosis: _____
Name and address of attending physician: _____

3. Check any of the following services for which you have recently applied or intend to apply: _____ Medicaid; _____ SSI; _____ Vocational Rehabilitation; _____ Maternal and Child Health Care; _____ Aid to Dependent Children
Date of application: _____

4. If you were hospitalized as the result of an accident, you must answer the following questions:

(a) Describe the type of accident, including where and how it occurred:

(b) Who was at fault? _____
Name

Address

(c) What insurance companies are involved in settling a claim? _____
Name: _____ Address: _____

(d) Is a liability suit planned or in progress? _____ Yes _____ No

If so, provide the name and address of the attorney that is or will be representing you.

Name

Address

I wish to apply for services under the State and Local Hospitalization Program. I certify that all information is true and complete to the best of my knowledge.

Signed: _____

Date: _____

032-03-160E

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-05-01. Asbestos Licensing Regulations.

Statutory Authority: Chapter 5 (§§ 54.1-500 through 54.1-517) of Title 54.1 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

Pursuant to revisions to §§ 54.1-500 through 54.1-507, 54.1-509, 54.1-511, 54.1-512, 54.1-514, 54.1-516 and 54.1-517 of the Code of Virginia, regulations governing licensure of RFS contractors and training of RFS workers and supervisors are added as amendments to the Virginia Asbestos Licensing Regulations. Amendments also include revised qualifications for inspector and management planner licensure, asbestos contractor notification requirements, and revisions to the license application procedures.

Final revisions to the regulations outline contractor notification procedures and expand the licensure requirements of inspector and management planners to include experience and education criteria. The sections providing for interim licensure have been deleted. In addition to these substantive changes, many of the regulations contain minor language revisions.

VR 190-05-01. Asbestos Licensing Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

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

"ACM" means asbestos containing material.

["AHERA" means Asbestos Hazard Emergency Response Act (40 CFR 763).]

"Asbestos" means any material containing more than 1.0% asbestos by weight, which is friable or which has a reasonable probability of becoming friable in the course of ordinary or anticipated building use.

"Asbestos abatement" means any activity involving job set-up, removal, encapsulation, enclosure, renovation,

repair, demolition, construction, alteration, or maintenance of asbestos-containing material.

"Asbestos contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts for a project to remove or encapsulate asbestos.

"Asbestos containing material (ACM)" means any material or product which contains more than 1.0% asbestos.

"Asbestos inspector" means any person performing on-site investigations to identify, classify, record, sample, test and prioritize by exposure potential, all friable and nonfriable asbestos containing materials located within a structure.

"Asbestos inspector's license" means an authorization issued by the Department of Commerce permitting a person to perform the duties of an asbestos inspector.

"Asbestos management planner's license" means an authorization issued by the department permitting a person to develop and implement an asbestos management plan.

"Asbestos project" means an activity involving the inspection for removal or encapsulation of asbestos or involving the installation, removal or encapsulation of asbestos-containing roofing, flooring or siding materials.

"Asbestos project designer's license" means an authorization issued by the department permitting a person to design an asbestos abatement project.

"Asbestos [RFS roofing, flooring, siding (RFS)] contractor's license" means an authorization issued by the Department of Commerce permitting a person to enter into contracts to install, remove or encapsulate asbestos-containing roofing, flooring and siding materials.

"Asbestos supervisor's license" means an authorization issued by the Department of Commerce permitting an individual to supervise and work on an asbestos project.

"Asbestos worker" means any person who engages in an asbestos abatement activity.

"Asbestos worker's license" means an authorization issued by the Department of Commerce permitting an individual to work on an asbestos project.

"Department" means the Department of Commerce.

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"Director" means the Director of the Department of Commerce.

"Encapsulation" means the treatment of ACM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means the construction or installation over or around the ACM of any solid or flexible coverings, which will not deteriorate or decompose for an extended period of time, so as to conceal the ACM, contain ACM fibers, and render the ACM inaccessible.

"EPA" means Environmental Protection Agency.

"Friable" means material which is capable of being crumbled, pulverized or reduced to powder by hand pressure or which under normal use or maintenance emits or can be expected to emit fibers into the air.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"Removal" means the physical removal of ACM from a building and disposal thereof in accordance with all applicable regulations.

"Renovation" means altering in any way, one or more facility components.

"Repair" means returning damaged ACM to an undamaged condition or to an intact state so as to contain fiber release.

"Supervisor" means any asbestos abatement worker who has been licensed by the Department of Commerce under these regulations as a supervisor. A licensed supervisor must be present at each jobsite.

Necessity for license: These regulations are promulgated to carry out the provisions of Title 54.1, Chapter 5, § 54.1-500. Effective July 1, 1988, any person or entity must fulfill the requirements and obtain the necessary license as an asbestos contractor, RFS contractor, supervisor, inspector, management planner or project designer prior to contracting with another person for compensation to perform an asbestos project or develop a management plan. Effective July 1, 1988, an asbestos worker's license must be obtained by an individual prior to working on an asbestos project.

PART II.

ASBESTOS WORKERS LICENSING REQUIREMENTS.

§ 2.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed

to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos [~~workers~~ worker] training course and examination approved by the Department of Commerce [~~or the United States Environmental Protection Agency (EPA)~~]. Department of Commerce approval includes those courses granted EPA approval] .

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

E. All applications [~~should~~ shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [~~will not be refunded~~ are not refundable] .

[F. Upon approval of an application for licensure a license will be mailed to the address indicated on the application.]

§ 2.2. Qualifications for licensure.

Each individual applying to the Department of Commerce for licensing as an asbestos worker shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations [~~within 12 months~~] preceding the date of the receipt of the application by the Department of Commerce.

2.3. Fees.

A. The fee for an asbestos workers license shall be \$35. The fee [~~amounts are amount is~~] based on the administrative costs of the asbestos licensing program.

B. A completed application (as defined in Part II, § 2.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees [~~will be nonrefundable are not refundable~~].

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 2.4. Expiration.

Asbestos workers licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 2.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

B. Only [~~Virginia approved~~] asbestos refresher training courses [~~approved by the Department of Commerce~~] will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a [~~Virginia Department of Commerce~~] approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of eight [~~four eight~~] hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany [~~the~~] renewal [~~notice application~~].

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee of \$35 shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current educational and examination requirements as specified in Part II, § 2.1 of this regulation.

§ 2.6. Change of address.

[~~The Department of Commerce shall be notified The licensee shall notify the Department of Commerce~~] immediately of any change [~~in of~~] address [~~by the licensee~~].

§ 2.7. Interim licensure.

Individuals who have successfully completed an EPA approved three-day (24 hours) asbestos worker's training course and have passed an EPA approved asbestos worker's examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos worker's refresher training course must be successfully completed and the individual must apply for a Virginia asbestos worker's license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos worker's license must have successfully completed a Virginia approved asbestos worker's training course.

A. All requests for interim license applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information shall be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed

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in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos worker's license, an interim license will be mailed to the address indicated on the application.

§ 2.8. Fees.

A. The fee for an interim asbestos workers license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part II, § 2.7 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

PART III. ASBESTOS CONTRACTOR LICENSING REQUIREMENTS.

§ 3.1. Contractor responsibilities.

Licensed asbestos contractors are required to comply fully with all requirements, procedures, standards and regulations [covering any part of an asbestos project] established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, the Virginia Air Pollution Control Board, and the Virginia Department of Waste Management [; covering any part of an asbestos project (§ 54.1-517)].

[Licensed asbestos contractors may also be required to comply with the requirements found in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia

governing the regulation of contractors.]

The [licensed] asbestos contractor [shall may] designate a [licensed] supervisor to serve as his agent for the purpose of meeting the training requirements. [In this event the asbestos contractor himself will not have to fulfill the training requirements.]

[A licensed asbestos contractor shall use only licensed asbestos supervisors and workers to perform work on any asbestos project.]

A licensed asbestos supervisor must be present at each job site while an asbestos project is in progress.

A licensed asbestos contractor shall notify the Department of Labor and Industry at least 20 days prior to the commencement of each asbestos project performed.

The 20-day notification form is [designed to comply with the reporting requirements of the U.S. Environmental Protection Agency's NESHAPS regulations (40CFR61.146) available from the Department of Labor and Industry].

The Department of Labor and Industry will not accept any incomplete forms and the 20-day notification period will not begin until a complete notification form is received by the Department of Labor and Industry.

[As stated in § 54.1-507 of the Code of Virginia, a notification shall be sent certified mail or hand delivered to the Department of Labor and Industry. The notification mechanism has been expanded to include facsimile transmission of the notification form. If the facsimile mechanism is used, the submission of a hard copy by mail is not necessary.] The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

[Any project cancellation Asbestos project cancellations] shall be reported [to the Department of Labor and Industry]. A copy of the notification form marked ["] cancelled ["] must be received by the Department of Labor and Industry no later than the set-up date listed on the [original] notification form.

[Any project postponement Asbestos project postponements] shall be reported [to the Department of Labor and Industry]. The amended notification process can be used if the new [removal dates are asbestos project date is] known. If the new [dates are asbestos project date is] not known then the project notification shall be cancelled.

Amended notifications, notification inquiries and requests for waivers are subject to approval by the Department of Labor and Industry and [should shall] be addressed to the Asbestos Control Clerk, Department of Labor and Industry, 205 N. 4th Street, Room 1006, Richmond, Virginia 23219.

Any asbestos project not being performed during the reported time frame and any [asbestos] project where quantities of asbestos greater than [the] reported quantities are [being] removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each [of the above violations violation] shall be referred to the Department of Commerce for enforcement action [and will be reported to the Department of Commerce] by the Department of Labor and Industry.

[A licensed asbestos contractor shall use only licensed asbestos supervisors and workers to work on any asbestos project.]

§ 3.2. Maintenance of licensing records at [the] asbestos job site.

It shall be the responsibility of the [asbestos] contractor to maintain at each job site [;] a list of the licensed asbestos workers and supervisors that includes the current license numbers and the license expiration dates of those workers and supervisors. Records maintained at the job site shall be available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect an asbestos job site.

§ 3.3. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. The director may refuse to issue a license to any asbestos contractor who is shown to have a substantial identity of interest with an asbestos contractor whose license has been revoked or not renewed. A substantial identity of interest is defined to include but is not limited to (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) substantially identical principals or officers.

D. The transfer of an asbestos contractor license is prohibited. Whenever there is any change in the [

ownership controlling interest] of the legal entity licensed, whether in a proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

E. In the event enforcement action has been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction [or any,] state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

F. All applications [should shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [will not be refunded are not refundable].

[G. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.]

§ 3.4. Qualifications for licensure.

Each individual or business applying to the Department of Commerce for licensing as an asbestos contractor/supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall have all [occupational or professional] licenses necessary and required by state statute or local ordinance to transact the business of an asbestos contractor in addition to those requirements as set forth in these regulations.

§ 3.5. Fees.

A. The fee for an asbestos contractor license shall be \$500. The fee [amounts are amount is] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part III, § 3.5 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

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C. All fees [~~will be nonrefundable~~ are not refundable].

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 3.6. Expiration.

Asbestos contractors licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 3.7. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$500 renewal fee. Should the licensee fail to receive a renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

B. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee of \$500 shall be required in addition to the renewal fee.

C. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part III, § 3.4 of these regulations.

§ 3.8. License certificate.

A copy of a current asbestos contractors license certificate shall be available at all times for review by the Department of Labor and Industry, and the Department of Commerce, at each asbestos jobsite.

§ 3.9. Change of address.

[The Department of Commerce shall be notified The licensee shall notify the Department of Commerce] immediately of any change [~~in~~ of] address [~~by the licensee~~].

PART IV. ASBESTOS RFS CONTRACTOR LICENSING REQUIREMENTS.

Effective July 1, 1989, all individual workers and supervisors on RFS projects must have fulfilled the training requirements specified in this section.

§ 4.1. [RFS] Contractor responsibilities.

Licensed RFS contractors are required to comply fully with all requirements, procedures, standards and regulations [covering any part of an asbestos project] established by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, the Virginia Department of Labor and Industry, the Virginia Air Pollution Control Board, and the Virginia Department of Waste Management [; covering any part of an asbestos project (§ 54.1-517)].

[Licensed asbestos RFS contractors may also be required to comply with requirements found in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia governing the regulation of contractors.]

A licensed RFS contractor shall notify the Department of Labor and Industry at least 20 days prior to the commencement of each asbestos project performed.

The 20-day notification form is [designed to comply with the reporting requirements of the U.S. Environmental Protection Agency's NESHAPS regulations (40CFR61.146) available from the Department of Labor and Industry].

The Department of Labor and Industry will not accept any incomplete forms and the 20-day notification period will not begin until a complete notification form is received by the Department of Labor and Industry.

[As stated in § 54.1-507 of the Code of Virginia, a notification shall be sent certified mail or hand delivered to the Department of Labor and Industry. The notification mechanism has been expanded to include facsimile transmission of the notification form. If the facsimile mechanism is used, the submission of a hard copy by mail is not necessary.] The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

[Any project cancellation Asbestos RFS project cancellations] shall be reported [to the Department of Labor and Industry]. A copy of the notification form marked ["] cancelled ["] must be received by the Department of Labor and Industry no later than the set-up date listed on the [original] notification form.

[Any project postponement Asbestos RFS project postponements] shall be reported [to the Department of Labor and Industry]. The amended notification process can be used if the new [removal dates are asbestos RFS project date is] known. If the new [dates are asbestos RFS project date is] not known then the project notification shall be cancelled.

Amended notifications, notification inquiries and requests for waivers are subject to approval by the Department of Labor and Industry and [should shall] be addressed to the Asbestos Control Clerk, Department of Labor and Industry, 205 N. 4th Street, Room 1006, Richmond, Virginia

23219.

Any asbestos [RFS] project not being performed during the reported time frame and any [asbestos RFS] project where quantities of asbestos greater than [the] reported quantities are [being] removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each [of the above violations violation] shall be referred to the Department of Commerce for enforcement action [and will be reported to the Department of Commerce] by the Department of Labor and Industry.

§ 4.2. Maintenance of licensing records at [the] asbestos job site.

It shall be the responsibility of the RFS contractor to maintain at each job site [;] a list of the trained RFS asbestos workers and supervisors [that which] includes the date of their RFS training. [This information shall be maintained at the job site Records maintained at the job site shall be] available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect an asbestos job site.

§ 4.3. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. The director may refuse to issue a license to any asbestos RFS contractor who is shown to have a substantial identity of interest with an asbestos contractor whose license has been revoked or not renewed. A substantial identity of interest is defined to include but is not limited to (i) a controlling financial interest by the individual or corporate principals of the asbestos contractor whose license has been revoked or not renewed or (ii) substantially identical principals or officers.

D. The transfer of an RFS contractor license is prohibited. Whenever there is any change in the [ownership controlling interest] of the legal entity licensed, whether in a proprietorship or change of partner in partnership or the creation of a corporation, a new license

is required.

E. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction [or any ,] state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

F. All applicants [should shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [will not be refunded are not refundable] .

[G. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.]

§ 4.4. Qualifications for licensure.

Each individual or business applying to the Department of Commerce for licensing as an RFS contractor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall have all [occupational or professional] licenses necessary and required by state statute or local ordinance to transact the business of an asbestos [RFS] contractor in addition to those requirements as set forth in these regulations.

§ 4.5. Fees.

A. The fee for an RFS contractor license shall be \$500. The fee [amounts are amount is] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part IV, § 4.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the appropriate fee.

C. All fees [will be nonrefundable are not refundable] .

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D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 4.6. Expiration.

RFS contractors licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 4.7. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$500 renewal fee. Should the licensee fail to receive a renewal notice, a copy of [the a current] license may be submitted with the required fee.

B. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license [,] a late renewal fee of \$500 shall be required in addition to the renewal fee.

C. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part IV, § 4.4 of these regulations.

D. Each worker and supervisor employed by a licensed RFS contractor must attend an annual [four-hour] refresher training course. The RFS contractor [will be required to shall] maintain records verifying the dates of the refresher training completed by each worker and supervisor. This information shall be maintained at the job site [available for review by the Department of Labor and Industry, the Department of Commerce, and all other agencies having authorization to inspect an asbestos RFS job site] .

§ 4.8. License certification.

A copy of a current RFS contractors license certificate shall be available at all times for review [by the Department of Labor and Industry, and the Department of Commerce at each asbestos job site at each asbestos RFS job site] .

§ 4.9. Change of address.

[The Department of Commerce shall be notified The licensee shall notify the Department of Commerce] immediately of any change [in of] address [by the

licensee] .

PART IV- PART V. ASBESTOS SUPERVISOR LICENSING REQUIREMENTS.

§ 4.1. § 5.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos supervisor training course and examination approved by the Department of Commerce [or the United States Environmental Protection Agency (EPA) . Department of Commerce approval includes those courses granted EPA approval] .

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant, by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications [should shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [will not be refunded are not refundable] .

[F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.]

§ 4.2. § 5.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos supervisor shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations [~~within 12 months~~] preceding the date of the receipt of the application by the Department of Commerce.

§ 4.3. § 5.3. Fees.

A. The fee for an asbestos supervisor license shall be \$35. The fee [~~amounts are amount is~~] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part IV, § 4-1 V, § 5.1. of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees [~~will be nonrefundable are not refundable~~].

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 4.4. § 5.4. Expiration.

Asbestos supervisors licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 4.5. § 5.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and the renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive a renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

B. Only [*Virginia approved*] asbestos refresher training courses [*approved by the Department of Commerce*] will

meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a [*Virginia Department of Commerce*] approved asbestos refresher training course. Applicant shall forward proof that the annual retraining requirement of eight hours has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany the renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license [,] a late renewal fee of \$35 shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements as specified in Part IV, § 4-1 V, § 5.1. of these regulations.

§ 4.6. [§ 5.6. License certificate.

A copy of a current asbestos supervisor license certificate shall be available at all times for review by the Department of Labor and Industry, and the Department of Commerce at each asbestos job site.]

§ 4.7. [§ 5.7. § 5.6.] Change of address.

[The Department of Commerce shall be notified The licensee shall notify the Department of Commerce] immediately of any change [~~in of~~] address [~~by the licensee~~].

§ 4.8. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos supervisor training course and have passed an EPA approved asbestos supervisor examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12-month interim license period, a Virginia approved asbestos supervisor refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos supervisor license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos supervisor license must have successfully completed a Virginia approved asbestos supervisor training course.

A. All requests for interim license applications should be directed to:

Assistant Director
Asbestos Licensing Program

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Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare:

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos supervisor licensure, an interim license will be mailed to the address indicated on the application.

§ 4.9. Fees.

A. The fee for an interim asbestos supervisors license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part IV, § 4.8 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

PART V. PART VI. ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

§ 5.1. § 6.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos inspector training course and examination approved by the Department of Commerce [*or the United States Environmental Protection Agency (EPA) . Department of Commerce approval includes those courses granted EPA approval*].

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

E. All applications [~~should~~ *shall*] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [~~will not be refunded~~ *are not refundable*].

[F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.]

§ 5-2: § 6.2. Qualifications for licensure.

A. Each individual or business applying to the Department of Commerce for licensing as an asbestos inspector shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. *The applicant must have successfully completed an asbestos inspector course and examination approved by the Department of Commerce or an EPA accredited AHERA Inspector training course and examination. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.*

3. *[Experience is required of the applicant The applicant shall be required to provide proof of experience] in performing the field work portion of asbestos inspections in buildings or industrial facilities or both, including collecting bulk samples, categorizing ACM, assessing ACM and preparing inspection reports.*

[a.] Experience may be gained acting as an inspector, being in responsible charge of inspectors or being under the responsible charge of an inspector [: as follows:]

[b. Experience gained since December 17, 1987, must meet one of the following standards:]

- (1) a. Acting as an inspector accredited (after December 17, 1987) according to AHERA or the Virginia Asbestos Licensing Program;
 - (2) b. Being in responsible charge of persons accredited as inspectors according to AHERA or the Virginia Asbestos Licensing Program;
 - (3) c. Being under the responsible charge of an inspector accredited according to AHERA or the Virginia Asbestos Licensing Program.
4. *An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above.*
 5. *An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 12 months experience as described above.*
 6. *An applicant with a high school degree must have at least 24 months experience as described above.*

§ 5-3: § 6.3. Fees.

A. The fee for an asbestos inspector shall be \$35. The [

amounts are amount is] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part V, § 5-1 VI, 6.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees [~~will be nonrefundable~~ are not refundable].

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 5-4: § 6.4. Expiration.

Asbestos inspector licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 5-5: § 6.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

B. *Only [Virginia approved] asbestos refresher training courses [approved by the Department of Commerce] will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a [Virginia Department of Commerce] approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of four hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany [the] renewal [notice application].*

C. *After January 1, 1991, each licensee who was licensed as an asbestos inspector prior to April 1990 will be required to meet the qualifications set forth in these regulations for license renewal.*

D. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license, a late renewal fee of \$35 shall be required in addition to the renewal fee.

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D. E. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part V VI of these regulations.

§ 5.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos inspector training and have passed an EPA approved asbestos inspector examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos inspector refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos inspector license as required in these regulations.

"NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989." After July 1, 1989, all applicants for an asbestos inspector's license must have successfully completed a Virginia approved asbestos inspector's training course.

A. All requests for interim license applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to perform building inspections for asbestos containing materials has not been suspended or revoked by any jurisdiction, and that no enforcement actions by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos inspection might not be performed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos inspection activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos inspector's license, an interim license will be mailed to the address indicated on the application.

§ 5.8. Fees.

A. The fee for an interim asbestos inspectors license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program. ★

B. A completed application (as required in Part IV, § 5.7 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 5.6. [§ 6.7. § 6.6.] Change of address.

[The Department of Commerce shall be notified *The licensee shall notify the Department of Commerce*] immediately of any change [*in* of] address [*by* the licensee].

PART VI. ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 6.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
† (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos project designer training course and examination approved by the Department of Commerce.

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare:

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
3. A copy of any reports compiled by an enforcement agency.

E. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.

§ 6.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos project designer shall have the following qualifications:

1. Applicants shall be at least 18 years of age.
2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.

§ 6.3. Fees.

A. The fee for an asbestos project designer license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VI, § 6.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will

be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 6.4. Expiration.

Asbestos project designer licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 6.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of the license may be submitted with the required fee.

B. Applicants shall forward proof that the annual retraining requirement of eight hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany renewal notice.

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee of \$35 shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part VIII of these regulations.

§ 6.6. Change of address.

The Department of Commerce shall be notified immediately of any change in address by the licensee.

§ 6.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos project designer training course and have passed an EPA approved asbestos project designer examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12

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month interim license period, a Virginia approved asbestos project designer refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos project designer license as required in these regulations.

NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989. After July 1, 1989, all applicants for an asbestos project designer license must have successfully completed a Virginia approved asbestos project designer training course.

A. All requests for interim license applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny any applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for an interim asbestos project designer license, an interim license will be mailed to the address indicated on the application.

§ 6.8. Fees.

A. The fee for an interim asbestos project designer license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VI, § 6.7 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees shall be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

PART VII. ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

§ 7.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230
1 (800) 552-3016

B. Applicants will be required to provide proof of successful completion of an asbestos management planner training course and examination approved by the Department of Commerce [or the United States Environmental Protection Agency (EPA) . Department of Commerce approval includes those courses granted EPA approval].

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to develop and implement an asbestos management plan has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by

any jurisdiction or any state or federal court.

2. A description of any asbestos management planner activities conducted by the applicant that were terminated prior to completion, including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications [~~should~~ shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [~~will not be refunded~~ are not refundable].

[~~F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.~~]

§ 7.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos management planner shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. *The applicant must have successfully completed an Asbestos Management Planner training course and examination approved by the Department of Commerce or an EPA accredited AHERA Management Planner training course and examination. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations within 12 months preceding the date of the receipt of the application by the Department of Commerce.*

3. *The applicant must meet all of the qualifications to be licensed as an asbestos inspector, whether or not the asbestos inspector license is held.*

4. [~~The applicant is required to have experience in:~~ *The applicant shall be required to provide proof of experience] evaluating inspection reports, selecting response actions, analyzing [the] cost of response actions, ranking response actions, preparing operations and maintenance plans and preparing management plans.*

[~~a.~~] *Experience may be gained acting as a management planner, being in responsible charge of management planners or being under the responsible charge of a management planner [; as follows:]*

[~~b. a.~~] *Any experience gained after December 17, 1987, must be gained acting as a management planner accredited according to AHERA, being in responsible charge or persons accredited as management planners according to AHERA or being under the responsible charge of a management*

planner accredited according to AHERA; or

[~~e. b.~~] *Experience gained as an inspector [and as] outlined in Part VI, § 6.2 of these regulations can be substituted rather than experience as a management planner to meet the management planner experience requirements.*

5. *The applicant must have a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field and must have at least six months experience as described above.*

6. *An applicant with a two-year associate's degree in engineering, architecture, industrial hygiene, science or a related field must have at least six months experience as described above.*

7. *An applicant with a high school degree must have at least 24 months experience as described above.*

§ 7.3. Fees.

A. The fee for an asbestos management planner license shall be \$35. The fee [~~amounts are~~ amount is] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VII, § 7.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees [~~will be nonrefundable~~ are not refundable].

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 7.4. Expiration.

Asbestos management planner licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 7.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

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B. Only [*Virginia approved*] asbestos refresher training courses [*approved by the Department of Commerce*] will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a Virginia approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of eight four hours of instruction and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany [*the*] renewal [*notice application*].

C. After January 1, 1991, each licensee who was licensed as an asbestos inspector prior to April 1990 will be required to meet the qualifications set forth in these regulations for license renewal.

D. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee of \$35 shall be required in addition to the renewal fee.

E. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part VII of these regulations.

§ 7.6. Change of address.

[The Department of Commerce shall be notified *The licensee shall notify the Department of Commerce*] immediately of any change [*in of*] address [*by the licensee*].

§ 7.7. Interim licensure.

Individuals who have successfully completed an EPA approved asbestos management planner training course and have passed an EPA approved asbestos management planner examination since January 1, 1985, may apply for an interim license for a period of 12 months. During the 12 month interim license period, a Virginia approved asbestos management planner refresher training course must be successfully completed and the individual must apply for renewal of his Virginia asbestos management planner license as required in these regulations.

NO INTERIM LICENSES WILL BE GRANTED AFTER JULY 1, 1989. After July 1, 1989, all applicants for an asbestos management planner's license must have successfully completed a Virginia approved asbestos management planner's training course.

A. All requests for interim license applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce

3600 West Broad Street
5th Floor
Richmond, Virginia 23230
1 (800) 552-3016

B. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization as an asbestos management planner has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos management plan might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

D. All applications should be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received will not be refunded.

E. Upon approval of an application for interim asbestos management planner's license, an interim license will be mailed to the address indicated on the application.

§ 7.8. Fees.

A. The fee for an interim asbestos management planner license shall be \$35. The fee amounts are based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VII, § 7.7 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees will be nonrefundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

PART VIII.

ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 8.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230

B. Applicants will be required to provide proof of successful completion of [~~an~~ a Virginia approved] asbestos project designer training course and examination [approved by the Department of Commerce or the United States Environmental Protection Agency (EPA)] .

C. Each application shall be signed by the applicant and shall include a certification by the applicant that within the past three years prior to the application date, his license or other authorization to design asbestos abatement projects has not been suspended or revoked by any jurisdiction, and that no enforcement action by any jurisdiction is pending against the applicant.

D. In the event enforcement actions have been taken against the applicant, the following information will be required as the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos project designer's plans might not be developed in a manner that would protect the public health, safety and welfare.

1. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.

2. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications [~~should~~ shall] be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received [~~will not be refunded~~ are not refundable] .

[F. Upon approval of an application for licensure, a license will be mailed to the address indicated on the application.]

§ 8.2. Qualifications for licensure.

A. Each individual applying to the Department of Commerce for licensing as an asbestos project designer shall have the following qualifications:

1. Applicants shall be at least 18 years of age.

2. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations [~~within 12 months~~] preceding the date of the receipt of the application by the Department of Commerce.

§ 8.3. Fees.

A. The fee for an asbestos project designer license shall be \$35. The fee [~~amounts are~~ amount is] based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VIII, § 8.1 of these regulations) shall be accompanied by the required fee. All checks or money orders shall be made payable to the Treasurer of Virginia. No application will be processed if it is not accompanied by the required fee.

C. All fees [~~will be nonrefundable~~ are not refundable] .

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 8.4. Expiration.

Asbestos project designer licenses issued under these regulations shall expire one year from the last day of the month in which they were issued as indicated on the license.

§ 8.5. Renewal application.

The Department of Commerce will mail a renewal notice to the licensee at the last known address. The notice shall outline the procedures for renewal and renewal fee amount. Failure to receive the notice shall not relieve the licensee of the obligation to renew.

A. Prior to the expiration date shown on the license, each licensee desiring to renew his license shall return to the Department of Commerce the renewal notice and the \$35 renewal fee. Should the licensee fail to receive the renewal notice, a copy of [~~the a current~~] license may be submitted with the required fee.

B. Only [~~Virginia approved~~] asbestos refresher training courses [approved by the Department of Commerce] will meet the retraining requirement for license renewal. Asbestos refresher courses approved by the EPA under the AHERA Regulations will not fulfill the renewal requirements unless the course is also a [~~Virginia Department of Commerce~~] approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of eight hours of instruction

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and an examination has been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany [the] renewal [notice application] .

C. If the renewal fee is not received by the Department of Commerce within 30 days after the expiration date noted on the license a late renewal fee of \$35 shall be required in addition to the renewal fee.

D. Licensees failing to renew their licenses within six months of the expiration date noted on the license shall not be permitted to renew their licenses and shall apply as new applicants meeting all current education and examination requirements in Part VIII of these regulations.

§ 8.6. Change of address.

[The Department of Commerce shall be notified The licensee shall notify the Department of Commerce] immediately of any change [in of] address [by the licensee] .

PART VIII. PART IX. TRAINING COURSE REQUIREMENTS.

IN ALL OF THE FOLLOWING TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

§ 8.1. § 9.1. Worker training.

Asbestos abatement workers shall complete at least a three day (24 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination. The training shall address the following topics:

1. Physical characteristics of asbestos:
 - a. Identification of asbestos.
 - b. Aerodynamic characteristics.
 - c. Typical uses and physical appearance.
 - d. A summary of abatement control options.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos related diseases.
 - b. Routes of exposure, dose response relationships and the lack of a safe exposure level.
 - c. Synergism between cigarette smoking and asbestos exposure.

- d. Latency period for disease.
3. Employee personal protective equipment:
 - a. Classes and characteristics of respirator types.
 - b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
 - c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
 - d. Qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.
 - f. Factors that alter respirator fit (e.g., facial hair).
 - g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing; use, storage, and handling of nondisposable clothing.
 - i. Regulations covering personal protective equipment.
4. State-of-the-art work practices:
 - a. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
 - b. Positioning of warning signs.
 - c. Electrical and ventilation system lock-out.
 - d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
 - e. Proper clean-up and disposal procedures.
 - f. Work practices for removal, encapsulation, enclosure, and repair.
 - g. Emergency procedures for sudden releases.
 - h. Potential exposure situations, and transport and disposal procedures.
 - i. Recommended and prohibited work practices.
5. Personal hygiene:
 - a. Entry and exit procedures for the work area, use of showers, avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area.

b. Potential exposures, such as family exposure.

EIGHT HOURS.

6. Additional safety hazards:

§ 8.3: § 9.3. Refresher training course.

a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

Refresher courses shall be one day (8 hours) in length for asbestos abatement workers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course as set forth in Part VIII, § 8.1 IX, § 9.1 of these regulations. A written closed book examination of 50 multiple choice questions will be administered covering the topics included in the refresher course. A passing refresher examination score will be 70% correct. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

b. Scaffold and ladder hazards.

c. Slips, trips and falls.

d. Confined spaces.

§ 8.4: § 9.4. Supervisor training.

7. Medical monitoring:

a. OSHA requirements for a pulmonary function test.

Asbestos abatement supervisors shall complete a four day (32 hours) training course as outlined below. All training courses shall be approved by the Virginia Department of Commerce. The training course shall include lecture, demonstrations, individual respirator fit testing, course review, examination, and at least six hours of hands-on training which allows supervisors the experience of performing actual tasks associated with asbestos abatement.

b. Chest x-rays and a medical history for each employee.

8. Air monitoring:

a. Procedures to determine airborne concentrations of asbestos fibers.

b. Focusing on how personal air sampling is performed and the reasons for it.

For purposes of approval, asbestos abatement supervisors include those persons who provide supervision and direction to workers engaged in asbestos removal, encapsulation, enclosure, and repair. The contractor must designate a supervisor to serve as his agent for the purposes of meeting the training requirements for approval.

9. Relevant federal, state and local regulatory requirements, procedures and standards, with particular attention directed at relevant EPA, OSHA, and state regulations concerning asbestos abatement workers.

10. Establishment of respiratory protection programs.

The supervisor's training course shall adequately address the following topics:

11. Course review. A review of key aspects of the training course.

§ 8.2: § 9.2. Examinations.

1. The physical characteristics of asbestos and asbestos-containing materials:

Upon completion of an approved initial training course a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certificate indicating successful completion of the course. The following are the requirements for examination:

a. Identification of asbestos.

b. Aerodynamic characteristics.

c. Typical uses, physical appearance.

d. A review of hazard assessment considerations.

e. A summary of abatement control options.

Asbestos abatement workers:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

2. Potential health effects related to asbestos exposure:

a. The nature of asbestos-related diseases.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. Synergism between cigarette smoking and asbestos

IN ALL REFRESHER TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO

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- exposure.
- d. Latency period for disease.
3. Employee personal protective equipment:
- a. Classes and characteristics of respirator types.
- b. Limitations of respirators and their proper selection, inspection, donning, use, maintenance and storage procedures.
- c. Methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests).
- d. Qualitative and quantitative fit testing procedures.
- e. Variability between field and laboratory protection factors.
- f. Factors that alter respirator fit (e.g., facial hair).
- g. The components of a proper respiratory protection program.
- h. Selection and use of personal protective clothing; use, storage and handling of nondisposable clothing.
- i. Regulations covering personal protective equipment.
4. State-of-the-art work practices:
- a. Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems.
- b. Positioning of warning signs.
- c. Electrical and ventilation system lock-out.
- d. Proper working techniques for minimizing fiber release, use of wet methods, use of negative pressure ventilation equipment, use of high efficiency particulate air (HEPA) vacuums.
- e. Proper clean-up and disposal procedures.
- f. Work practices for removal, encapsulation, enclosure and repair.
- g. Emergency procedures for sudden releases.
- h. Potential exposure situations.
- i. Transport and disposal procedures.
- j. Recommended and prohibited work practices.
- k. Discussion of new abatement-related techniques and methodologies.
5. Personal hygiene:
- a. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing, (gum or tobacco) in the work area.
- b. Potential exposures, such as family exposure, shall also be included.
6. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants, other than asbestos, fire and explosion hazards.
- b. Scaffold and ladder hazards.
- c. Slips, trips and falls.
- d. Confined spaces.
7. Medical monitoring. OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.
8. Air monitoring:
- a. Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, sampling equipment and methods.
- b. Reasons for air monitoring.
- c. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
9. Relevant federal, state, and local regulatory requirements, procedures and standards including:
- a. Requirements of TSCA Title II.
- b. 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
- c. OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
- d. OSHA Asbestos Construction Standard (29 CFR 1926.58).
- e. EPA Worker Protection Rule, 40 CFR Part 763,

Subpart G.

[*f. Section 8.1 of the Solid Waste Management Regulations (VR 672-20-10).*]

10. Respiratory protection programs and medical surveillance programs.
11. Insurance and liability issues:
 - a. Contractor issues, worker's compensation coverage, and exclusions.
 - b. Third-party liabilities and defenses.
 - c. Insurance coverage and exclusions.
12. Recordkeeping for asbestos abatement projects:
 - a. Records required by federal, state, and local regulations.
 - b. Records recommended for legal and insurance purposes.
13. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.
14. Contract specifications. Discussions of key elements that are included in contract specifications.
15. Course review. A review of key aspects of the training course.

§ 8-5. § 9.5. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive some form of a written certificate indicating successful completion of the course. The following are the requirements for examination:

Asbestos abatement supervisors:

1. 100 multiple choice questions.
2. Passing score: 70% correct.

§ 8-6. § 9.6. Refresher training course.

Refresher courses shall be one day (8 hours) in length for supervisors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part VIII, § 8-4 IX, §

9.4 of these regulations. A written closed book examination will be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 8-7. § 9.7. Inspector training.

Asbestos inspectors shall complete a three day (24 hour) training course as outlined below. The course shall include lectures, demonstrations, four hours of hands-on training, individual respirator fit testing, course review and a written examination.

The inspector training course shall adequately address the following topics:

1. Background information on asbestos:
 - a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.
 - b. Physical appearance of asbestos.
2. Potential health effects related to asbestos exposure:
 - a. The nature of asbestos-related diseases.
 - b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.
 - c. The synergistic effect between cigarette smoking and asbestos exposure.
 - d. Latency period for asbestos-related diseases, a discussion of the relationship of asbestos exposure to asbestosis, lung cancer, mesothelioma and cancer of other organs.
3. Functions/qualifications and role of inspectors:
 - a. Discussions of prior experience and qualifications for inspectors and management planners.
 - b. Discussions of the functions of an accredited inspector as compared to those of an accredited management planner.
 - c. Discussion of inspection process including inventory of ACM and physical assessment.
4. Legal liabilities and defenses:
 - a. Responsibilities of the inspector, a discussion of comprehensive general liability policies, claims made and occurrence policies, environment and pollution liability policy clauses; state liability insurance requirements.
 - b. Bonding and relationship of insurance availability to bond availability.

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5. Understanding building systems:
 - a. The interrelationship between building systems, including: an overview of common building physical plan layout; heat, ventilation and air conditioning (HVAC) system types; physical organization; and where asbestos is found on HVAC components.
 - b. Building mechanical systems, their types and organization and where to look for asbestos on such systems.
 - c. Inspecting electrical systems, including appropriate safety precautions.
 - d. Reading building plans and as-built drawings.
6. Public/employee/building occupant relations:
 - a. Notifying employee organizations about the inspection.
 - b. Signs to warn building occupants.
 - c. Tact in dealing with occupants and the press.
 - d. Scheduling of inspections to minimize disruption.
 - e. Education of building occupants about actions being taken.
7. Preinspection planning and review of previous inspection records:
 - a. Scheduling the inspection and obtaining access.
 - b. Building record review; identification of probable homogeneous areas from building plans or as-built drawings.
 - c. Consultation with maintenance or building personnel.
 - d. Review of previous inspection, sampling, and abatement records of a building.
 - e. The role of the inspector in exclusions for previously performed inspections.
8. Inspection for friable and nonfriable asbestos-containing material (ACM) and assessment of the condition of friable ACM:
 - a. Procedures to follow in conducting visual inspections for friable and nonfriable ACM.
 - b. Types of building materials that may contain asbestos.
 - c. Touching materials to determine friability.
 - d. Open return air plenums and their importance in HVAC systems.
 - e. Assessing damage, significant damage, potential damage, and potential significant damage.
 - f. Amount of suspected ACM, both in total quantity and as a percentage of the total area.
 - g. Type of damage.
 - h. Accessibility.
 - i. Material's potential for disturbance.
 - j. Known or suspected causes of damage or significant damage, and deterioration as assessment factors.
9. Bulk sampling/documentation of asbestos in schools:
 - a. Detailed discussion of the "Simplified Sampling Scheme for Friable Surfacing Materials" (EPA 560/5-85-030a October 1985).
 - b. Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing materials.
 - c. Techniques for bulk sampling.
 - d. Sampling equipment the inspector should use.
 - e. Patching or repair of damage done in sampling; and inspector's repair kit.
 - f. Discussion of polarized light microscopy.
 - g. Choosing an accredited laboratory to analyze bulk samples.
 - h. Quality control and quality assurance procedures.
10. Inspector respiratory protection and equipment:
 - a. Classes and characteristics of respirator types.
 - b. Limitations of respirators.
 - c. Proper selection, inspection, donning, use maintenance, and storage procedures for respirators.
 - d. Methods for field testing of the facepiece-to-mouth seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors.
 - f. Factors that alter respirator fit (e.g., facial hair).

- g. The components of a proper respiratory protection program.
 - h. Selection and use of personal protective clothing.
 - i. Use, storage, and handling of nondisposable clothing.
11. Recordkeeping and writing the inspection report:
- a. Labeling of samples and keying sample identification to sampling location.
 - b. Recommendations on sample labeling.
 - c. Detailing of ACM inventory.
 - d. Photographs of selected sampling areas and examples of ACM condition.
 - e. Information required for inclusion in the management plan by TSCA Title II § 203 (i)(1).
12. Regulatory review:
- a. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G.
 - b. TSCA Title II.
 - c. OSHA Asbestos Construction Standard 29 CFR 1926.58.
 - d. OSHA respirator requirements found at 29 CFR 1910.134.
 - e. The friable ACM in Schools Rule found at 40 CFR Part 763 Subpart F.
- (The above materials are incorporated by reference).
- f. Applicable state and local regulations.
 - g. Differences in federal/state requirements where they apply and the effects, if any, on public and nonpublic schools.
13. Field trip:
- a. To include a field exercise including a walk-through inspection.
 - b. On-site discussion on information gathering and determination of sampling locations.
 - c. On-site practice in physical assessment.
 - d. Classroom discussion of field exercise.
14. Course review. A review of key aspects of the

training course.

§ 8.8. § 9.8. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos inspectors:

1. 50 multiple choice questions.
2. Passing score: 70% correct.

§ 8.9. § 9.9. Refresher training course.

Refresher courses shall be one-half day (4 hours) in length for inspectors. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course as set forth in Part VIII, § 8.7 IX, § 9.7 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector refresher training course. Persons who pass the refresher course examination will receive some form of written certification indicating successful completion of the course.

§ 8.10. Asbestos project designers.

Asbestos project designers shall complete either a three-day abatement project designer training course as outlined below or the four-day asbestos abatement contractor and supervisor's training course as outlined in § 8.4. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day abatement project designer training course shall adequately address the following topics:

1. Background information on asbestos:

- a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.

- b. Physical appearance of asbestos.

2. Potential health effects related to asbestos exposure:

- a. Nature of asbestos-related diseases.

- b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

- c. The synergistic effect between cigarette smoking and asbestos exposure.

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- d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.
3. Overview of abatement construction projects:
- a. Abatement as a portion of a renovation project.
 - b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).
4. Safety system design specifications:
- a. Construction and maintenance of containment barriers and decontamination enclosure systems.
 - b. Positioning of warning signs.
 - c. Electrical and ventilation system lock-out.
 - d. Proper working techniques for minimizing fiber release.
 - e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag use.
5. Field trip:
- a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.
 - b. Building walk-through inspection, and discussion following the walk-through.
6. Employee personal protective equipment:
- a. To include the classes and characteristics of respirator types.
 - b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.
 - c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).
 - d. Qualitative and quantitative fit testing procedures.
 - e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).
- f. Components of a proper respiratory protection program.
 - g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.
 - h. Regulations covering personal protective equipment.
7. Additional safety hazards:
- a. Hazards encountered during abatement activities and how to deal with them.
 - b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.
8. Fiber aerodynamics and control:
- a. Aerodynamic characteristics of asbestos fibers.
 - b. Importance of proper containment barriers.
 - c. Settling time for asbestos fibers.
 - d. Wet methods in abatement.
 - e. Aggressive air monitoring following abatement.
 - f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.
9. Designing abatement solutions:
- a. Discussions of removal, enclosure, and encapsulation methods.
 - b. Asbestos waste disposal.
10. Budgeting/cost estimation:
- a. Development of cost estimates.
 - b. Present costs of abatement versus future operations and maintenance costs.
 - c. Setting priorities for abatement jobs to reduce cost.
11. Writing abatement specifications:
- a. Means and methods specifications versus performance specifications.
 - b. Design of abatement in occupied buildings.
 - c. Modification of guide specifications to a particular building.

- d. Worker and building occupant health/medical considerations.
 - e. Replacement of ACM with nonasbestos substitutes.
 - f. Clearance of work area after abatement.
 - g. Air monitoring for clearance.
12. Preparing abatement drawings:
- a. Use of as-built drawings.
 - b. Use of inspection photographs and on-site reports.
 - c. Particular problems in abatement drawings.
13. Contract preparation and administration.
14. Legal/liabilities/defenses:
- a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.
 - b. Claims-made versus occurrence policies.
15. Replacement of asbestos with asbestos-free substitutes.
16. Role of other consultants:
- a. Development of technical specification sections by industrial hygienists or engineers.
 - b. The multidisciplinary team approach to abatement design.
17. Occupied buildings:
- a. Special design procedures required in occupied buildings.
 - b. Education of occupants.
 - c. Extra monitoring recommendations.
 - d. Staging of work to minimize occupant exposure.
 - e. Scheduling of renovation to minimize exposure.
18. Relevant federal, state and local regulatory requirements. Procedures and standards including:
- a. Requirements of TSCA Title II.
 - b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for

Asbestos).

e. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).

d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

e. OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

19. A review of key aspects of the training course.

§ 8.11. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos Project Designers:

1. 100 multiple choice questions.

2. Passing score: 70% correct.

§ 8.12. Refresher training course.

Refresher courses shall be one day (eight hours) in length for project designers. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part V of these regulations. A written closed book examination shall be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 8.13. § 9.10. Asbestos management planner training.

Asbestos management planners seeking accreditation must complete an inspection training course as outlined above and a two day management planning training course. The two day training program shall include lectures, demonstrations, course review, and a written examination. The management planner training course shall adequately address the following topics:

1. Course overview:

a. The role of the management planner.

b. Operations and maintenance programs.

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- c. Setting work priorities; protection of building occupants.
2. Evaluation/interpretation of survey results:
 - a. Review of TSCA Title II requirements for inspection and management plans as given in § 203(i)(1) of TSCA Title II.
 - b. Summarized field data and laboratory results; comparison between field inspector's data sheet with laboratory results and site survey.
3. Hazard assessment:
 - a. Amplification of the difference between physical assessment and hazard assessment.
 - b. The role of the management planner in hazard assessment.
 - c. Explanation of significant damage, damage, potential damage, and potential significant damage and use of a description (or decision tree) code for assessment of ACM; assessment of friable ACM.
 - d. Relationship of accessibility, vibration sources, use of adjoining space, and air plenums and other factors to hazard assessment.
4. Legal implications:
 - a. Liability; insurance issues specific to planners.
 - b. Liabilities associated with interim control measures, in-house maintenance, repair, and removal.
 - c. Use of results from previously performed inspections.
5. Evaluation and selection of control options:
 - a. Overview of encapsulation, enclosure, interim operations and maintenance, and removal; advantages and disadvantages of each method.
 - b. Response actions described via a decision tree or other appropriate method; work practices for each response action.
 - c. Staging and prioritizing of work in both vacant and occupied buildings.
 - d. The need for containment barriers and decontamination in response actions.
6. Role of other professionals:
 - a. Use of industrial hygienists, engineers and architects in developing technical specifications for response actions.
- b. Any requirements that may exist for architect sign-off of plans.
- c. Team approach to design of high-quality job specifications.
7. Developing an operations and maintenance (O&M) plan:
 - a. Purpose of the plan.
 - b. Discussion of applicable EPA guidance documents.
 - c. What actions should be taken by custodial staff: proper cleaning procedures; steam cleaning and high efficiency particulate aerosol (HEPA) vacuuming.
 - d. Reducing disturbance of ACM.
 - e. Scheduling O&M for off-hours; rescheduling or canceling renovation in areas with ACM.
 - f. Boiler room maintenance.
 - g. Disposal of ACM.
 - h. In-house procedures for ACM: bridging and penetrating encapsulants, pipe fittings, metal sleeves, polyvinyl chloride (PVC), canvas, and wet wraps; muslin with straps; fiber mesh cloth; mineral wool, and insulating cement.
 - i. Discussion of employee protection programs and staff training.
 - j. Case study in developing an O&M plan (development, implementation process, and problems that have been experienced).
8. Regulatory review:
 - a. Focusing on the OSHA Asbestos Construction Standard found at 29 CFR 1926.58.
 - b. The National Emission Standard for Hazardous Air Pollutants (NESHAPS) found at 40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
 - c. EPA Worker Protection Rule found at 40 CFR Part 763, Subpart G; TSCA Title II.
 - d. Applicable state regulations.
9. Recordkeeping for the management planner:
 - a. Use of field inspector's data sheet along with laboratory results.

b. On-going recordkeeping as a means to track asbestos disturbance.

c. Procedures for recordkeeping.

10. Assembling and submitting the management plan:

a. Plan requirements in TSCA Title II § 203(i)(1).

b. The management plan as a planning tool.

11. Financing abatement actions:

a. Economic analysis and cost estimates.

b. Development of cost estimates.

c. Present costs of abatement versus future operations and maintenance costs.

d. Asbestos School Hazard Abatement Act grants and loans.

12. A review of key aspects of the training course.

~~§ 8-14.~~ § 9.11. Examinations.

Upon completion of an approved management planner training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the management planner training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the management planner training course. The following are the requirements for examination:

Asbestos Management Planners:

1. 50 multiple choice questions.

2. Passing score: 70% correct.

~~§ 8-15.~~ § 9.12. Refresher training course.

Management planners shall attend the inspector refresher course of one-half day (four hours) in length plus an additional half-day (four hours) on management planning. The course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the inspector and management planner training courses as set forth in Part V and VII IX, §§ 9.10 and 9.12 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos inspector and management planner refresher courses. Persons who pass the asbestos inspector and management planner refresher course examinations will receive some form of written certification indicating successful completion of the course.

§ 9.13. Asbestos project designers.

Asbestos project designers shall complete either a three-day abatement project designer training course as outlined below or the four-day asbestos abatement contractor and supervisor's training course as outlined in § 9.4. The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The three-day abatement project designer training course shall adequately address the following topics:

1. Background information on asbestos:

a. Identification of asbestos; examples and discussion of the uses and locations of asbestos in buildings.

b. Physical appearance of asbestos.

2. Potential health effects related to asbestos exposure:

a. Nature of asbestos-related diseases.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. The synergistic effect between cigarette smoking and asbestos exposure.

d. The latency period of asbestos-related diseases; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of other organs.

3. Overview of abatement construction projects:

a. Abatement as a portion of a renovation project.

b. OSHA requirements for notification of other contractors on a multi-employer site (29 CFR 1926.58).

4. Safety system design specifications:

a. Construction and maintenance of containment barriers and decontamination enclosure systems.

b. Positioning of warning signs.

c. Electrical and ventilation system lock-out.

d. Proper working techniques for minimizing fiber release.

e. Entry and exit procedures for the work area, use of wet methods, use of negative pressure exhaust ventilation equipment, use of high efficiency particulate aerosol (HEPA) vacuums, proper clean-up and disposal of asbestos, work practices as they apply to encapsulation, enclosure, and repair, use of glove bags and a demonstration of glove bag

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use.

5. Field trip:

a. Visit an abatement site or other suitable building site, including on-site discussions of abatement design.

b. Building walk-through inspection, and discussion following the walk-through.

6. Employee personal protective equipment:

a. To include the classes and characteristics of respirator types.

b. Limitations of respirators, proper selection, inspection, donning, use, maintenance, and storage procedures.

c. Methods for field testing of the facepiece-to-facepiece seal (positive and negative pressure fitting tests).

d. Qualitative and quantitative fit testing procedures.

e. Variability between field and laboratory protection factors, factors that alter respirator fit (e.g., facial hair).

f. Components of a proper respiratory protection program.

g. Selection and use of personal protective clothing, use, storage and handling of nondisposable clothing.

h. Regulations covering personal protective equipment.

7. Additional safety hazards:

a. Hazards encountered during abatement activities and how to deal with them.

b. Electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards.

8. Fiber aerodynamics and control:

a. Aerodynamic characteristics of asbestos fibers.

b. Importance of proper containment barriers.

c. Settling time for asbestos fibers.

d. Wet methods in abatement.

e. Aggressive air monitoring following abatement.

f. Aggressive air movement and negative pressure exhaust ventilation as a clean-up method.

9. Designing abatement solutions.

a. Discussions of removal, enclosure, and encapsulation methods.

b. Asbestos waste disposal.

10. Budgeting/cost estimation.

a. Development of cost estimates.

b. Present costs of abatement versus future operations and maintenance costs.

c. Setting priorities for abatement jobs to reduce cost.

11. Writing abatement specifications.

a. Means and methods specifications versus performance specifications.

b. Design of abatement in occupied buildings.

c. Modification of guide specifications to a particular building.

d. Worker and building occupant health/medical considerations.

e. Replacement of ACM with nonasbestos substitutes.

f. Clearance of work area after abatement.

g. Air monitoring for clearance.

12. Preparing abatement drawings:

a. Use of as-built drawings.

b. Use of inspection photographs and on-site reports.

c. Particular problems in abatement drawings.

13. Contract preparation and administration.

14. Legal/liabilities/defenses.

a. Insurance considerations, bonding, hold harmless clauses, use of abatement contractor's liability insurance.

b. Claims-made versus occurrence policies.

15. Replacement of asbestos with asbestos-free substitutes.

16. Role of other consultants:

a. Development of technical specification sections by industrial hygienists or engineers.

b. The multidisciplinary team approach to abatement design.

17. Occupied buildings.

a. Special design procedures required in occupied buildings.

b. Education of occupants.

c. Extra monitoring recommendations.

d. Staging of work to minimize occupant exposure.

e. Scheduling of renovation to minimize exposure.

18. Relevant federal, state and local regulatory requirements. Procedures and standards including:

a. Requirements of TSCA Title II.

b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).

d. EPA Worker Protection Rule, found at 40 CFR Part 763, Subpart G.

e. OSHA Asbestos Construction Standard found at 29 CFR 1926.58.

19. A review of key aspects of the training course.

§ 9.14. Examinations.

Upon completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as part of the examination. Each examination shall adequately cover the topics included in the training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the course. The following are the requirements for examination:

Asbestos Project Designers:

1. 100 multiple choice questions.

2. Passing score: 70% correct.

§ 9.15. Refresher training course.

Refresher courses shall be one day (8 hours) in length for project designers. The course shall review and discuss changes in federal and state regulations, developments in

state-of-the-art procedures and review of key aspects of the initial training course as set forth in Part IX, 9.10 of these regulations. A written closed book examination shall be included in the refresher course. Persons who pass the refresher course examination will receive a written certificate indicating successful completion of the course.

§ 9.16. RFS training course modules.

EACH MODULE SHALL CONSIST OF A MINIMUM OF FOUR HOURS OF ACTUAL INSTRUCTION. This training does not replace the training requirements of OSHA in 29 CFR 1926.58.

A. Module I.

Basic training information required for all supervisors and workers.

1. Physical characteristics.

a. Identification of asbestos.

b. Aerodynamic characteristics.

c. Typical uses and physical appearance.

d. Summary of RFS hazard control options.

2. Health effects related to asbestos exposure.

a. Nature of asbestos related disease.

b. Routes of exposure, dose-response relationships and the lack of a safe exposure level.

c. Cigarette smoking and asbestos exposure.

d. Latency period for disease.

e. Need and importance of following all safety instructions.

3. Laws and regulations.

a. Licensing requirements.

b. Relevant federal, state, and local regulatory requirements, procedures and standards.

4. Personal protection equipment.

a. Classes and characteristics of respirator types, limitations, proper selection, inspection, donning, use, maintenance, and storage procedures.

b. Fit testing procedures.

c. Components of a proper respiratory protection program.

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d. Selection and use of personal protection clothing; use, storage, and handling of nondisposable clothing, hard hats, safety glasses, nonslip shoes.

5. Air monitoring.

a. Procedures to determine airborne concentrations of asbestos fibers.

b. Discussion of how personal air sampling is performed and the reasons for it.

6. Personal hygiene.

a. Entry and exit procedures for the work area.

b. Avoidance of eating, drinking, smoking and chewing (gum or tobacco) in the work area.

c. Potential exposures, such as family exposure.

B. Floorcovering specialty module.

1. Floorcovering materials and adhesives which may contain asbestos.

a. Floorcovering materials.

b. Adhesives - asbestos containing and nonasbestos containing.

c. Dates of production of asbestos containing resilient floorcoverings.

d. Alternatives to removal of existing floor and proper methods.

2. Recommended work practices.

a. Proper work techniques for minimizing fiber releases; wetting, steaming, dry ice, hand tools, HEPA vacuumed tools, use of sealants, no grinding, no crushing, no breakage, use of mastic removers.

b. Instruction as to proper techniques for:

(1) Removal of tile.

(2) Removal of sheet goods.

(3) Removal of residual adhesives.

c. Proper clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges, HEPA vacuuming, wet wiping.

d. Safety practices and hazard prevention during removal of floorcoverings.

(1) Discussion of hazards posed by wet working

conditions, electrical hazards, slips, trips and falls.

e. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys, and all opening.

f. Positioning of warning signs, critical barriers and designation of regulated areas.

g. Emergency procedures.

3. Course review.

4. Examination.

C. Roofing specialty module.

1. Identification of roofing materials which may contain asbestos.

a. Typical uses and physical appearance of asbestos roofing materials.

2. Recommended work practices.

a. Proper work techniques for minimizing fiber releases, wet methods, use of HEPA vacuums, procedures for removal of asbestos cement products versus built up roof products. Discussion of prohibited work practices.

b. Work practices for removal - wetting, hand tools, HEPA vacuumed tools, use of sealants.

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Proper clean up and disposal techniques, construction of leak tight chutes, sealing of friable ACM edges of wetting of edges.

e. Discussion of additional safety hazards:

(1) Scaffold and ladder hazards.

(2) Slips, trips and falls.

f. Positioning of warning signs, critical barriers and designation of regulated areas.

g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing roofing materials.

4. Course review.

5. Examination.

D. Siding specialty module.

1. Identification and discussion of siding materials which may contain asbestos.

a. Typical uses and physical appearance of asbestos roofing materials.

2. Recommended work practices.

a. Proper work techniques for minimizing fiber releases; wetting, procedures for removal of asbestos cement products. Discussion of prohibited work practices.

b. Work practices for removal, wetting, hand tools, HEPA vacuumed tools, use of sealants.

c. Ventilation system lock-out, sealing of intake and exhaust vents, windows, doors, chimneys and all openings.

d. Positioning of warning signs and designation of regulated areas.

e. Proper clean up and disposal techniques, construction of leak tight containers, sealing of friable ACM edges or wetting of edges.

f. Safety practices and hazard prevention during removal of siding.

(1) Scaffold and ladder hazards.

(2) Slips, trips, and falls.

g. Emergency procedures.

3. Recommended safe work practices for installation of asbestos containing siding materials.

4. Course review.

5. Examination.

E. RFS supervisor module.

1. Prework activities and considerations.

(1) Methods of identification.

(2) Inspection report.

b. Air monitoring, specific methods and documentation procedures.

c. Inspection of the nature of the asbestos containing materials.

2. Assessment of the work area.

a. Check for difficulty of isolating the work area.

b. Necessary considerations if areas adjacent to the activity will be occupied.

c. Check for items requiring special protection.

3. Site consideration and preparations.

a. Regulated area, barricade set-up, warning signs, etc.

4. Supervisory techniques, worker training, cleanliness of the job site.

5. Record keeping, disposal of asbestos containing waste, review of laws, regulations, and standards.

6. Course review.

7. Examination.

F. Each RFS worker training course shall consist of at least 8 hours (the basic module and one specialty module) of instruction.

G. Each RFS supervisor training course shall consist of at least 12 hours (the basic module, one specialty module and the supervisor module) of instruction.

~~PART IX.~~ PART X. TRAINING COURSE APPROVAL.

§ ~~9.1.~~ § 10.1. Training course approval requirements.

The Virginia accreditation program has been granted full accreditation approval by the United States Environmental Protection Agency under the provisions found in 40CFR763 Subpart F. All training courses approved by the Department of Commerce will concurrently be granted EPA approval.

All approved training courses shall meet the minimum requirements as outlined in Part IX of these regulations. Individuals, businesses, agencies, or institutions wishing to sponsor training courses to prepare applicants for licensure requirements shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Sponsor's name, address and phone number.

2. The course curriculum.

3. A narrative explanation that clearly indicates how the course meets the requirements for approval in the following areas:

a. Length of training in hours.

b. Amount and type of hands-on training.

c. Examinations (length, format and passing score).

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d. Topics covered in the course.

e. Assurances as to test security and how exams are administered.

4. A copy of all course materials (student manuals, instructor notebooks, handouts, etc.).

5. A detailed statement about the development of the examination used in the course.

6. Names, qualifications (include education or experience, or both), and subject areas that each instructor will teach.

7. Teacher-student ratio.

8. Description and an example of numbered certificates that will be issued to students who successfully complete the course.

§ 9-2. § 10.2. Examination.

[~~In order for All~~] courses [~~to be~~] approved by the Department of Commerce, [~~they~~] are required to have a monitored, final written examination which shall include a practical component to test skill in asbestos abatement techniques. Students must obtain a minimum exam grade of 70% correct. A record of each student's grades [~~will~~ *shall*] be retained by each institution for a period of three years.

§ 9-3. § 10.3. Certificate of course approval.

Certificates of course approval shall be displayed in each approved school facility in a conspicuous place readily accessible to the public. An approved school shall maintain lists of students trained and the dates training occurred. These records shall be made available for Department of Commerce and Department of Labor and Industry review, and shall be maintained for three years.

§ 9-4. § 10.4. Refresher course approval.

Refresher courses shall be one day (8 hours) in length for supervisors and workers, and one-half day (4 hours) in length for inspectors. The refresher course shall review and discuss changes in federal and state regulations, developments in state-of-the-art procedures and a review of key aspects of the initial training course. Individuals, businesses, agencies, or institutions wishing to sponsor refresher training courses shall submit the following information for review to the Department of Commerce at least 45 days prior to the commencement of the training course:

1. Length of training.

2. Topics covered in the course.

3. A copy of all course materials.

4. Names and qualifications of course instructors.

5. An example of certificates issued to students who complete the refresher course.

6. Location and dates the training course is to be held.

7. A detailed statement about the development of the examination and assurances as to test security and how exams are administered.

8. Description and an example of numbered certificates issued to students who successfully complete the course.

§ 9-5. § 10.5. Changes to an approved training course.

Once a training course has been approved, any change in topics covered, course materials, and instructors shall be submitted for approval by the Department of Commerce.

§ 9-6. § 10.6. Suspension or revocation of approval of a training course.

The director may withdraw approval of any approved training program for the following reasons:

1. The school, instructors, or courses no longer meet the standards established by the director, and found in ~~Part IX~~ § 9-1 ~~Part X~~, § 10.1 of these regulations.

2. Field inspectors indicate an approved individual, business, agency, institution or sponsor is not conducting the training that meets the requirements as set forth in these regulations. Training course sponsors shall permit Department of Commerce and Department of Labor and Industry representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives [~~may or~~] may not be given.

3. If the approval of a training course is revoked or suspended, the Department of Commerce will promptly notify the individual business, agency, institution, or sponsor in writing of the reason for the suspension or revocation. In the case of a suspension, the necessary steps that shall be taken to comply with the requirements as set forth in ~~Part XI~~ *Part X* of the regulations will be specified. [*Decisions regarding revocation or suspension of approval may be appealed under the Virginia Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).*]

~~PART X.~~ PART XI. EXEMPTIONS.

§ 10-1. § 11.1. Emergency exemption from licensing.

An exemption from the licensing requirements, as set

forth in these regulations may be granted by the director, pursuant to § 54.1-512 of the Code of Virginia, [based on a situation in the event an emergency situation occurs] that requires immediate removal, repair or encapsulation of asbestos containing materials and [a] licensed [contractor/supervisor supervisors] and workers are not available to perform the abatement work. [The emergency exemption is limited to a single occurrence and cannot be extended beyond that occurrence.] Notification shall be immediate and followed by:

1. A written description of the emergency situation.
2. A description of the planned abatement project to include the abatement techniques, safety precautions, provisions for worker safety and protection, and safety equipment to be used in the abatement project.

The project shall not commence until the exemption [has been is] approved by the director.

~~§ 10.2.~~ § 11.2. "BUSINESS NECESSITY" WILL NOT QUALIFY FOR EMERGENCY EXEMPTION FROM LICENSING REQUIREMENTS.

~~§ 10.3.~~ § 11.3. Exemption from licensure (not an emergency exemption).

The director may exempt from licensure any employer and any employees of such employer, but only with respect to an asbestos project on premises owned or leased by such employer and only after the director has determined that the training course implemented by the employer for his employees meets all of the standards as set forth in ~~Part VIII~~ Part X of these regulations. However, the requirement that the premises be owned or leased by the employer shall not apply if the asbestos project is located on a ship or other vessel designed for operation on or underneath, and intended to be operated on or underneath, the water. All exemptions from licensure will [be reviewed on at least an annual basis expire after 12 months from the date of issuance and reapplication for the exemption to continue is required]. To aid the director in making a determination of exemption, the employer shall submit to the director the following information regarding the asbestos safety and training program of the employer:

1. Employer's name, address, phone number, and contact person.
2. A narrative explanation that clearly indicates how the course or training program is structured to meet the training course requirements as set forth in ~~Part IX~~ Part X of these regulations.

Upon the approval by the director of the request for exemption from licensing requirements, the employer will be notified in writing by the Department of Commerce.

3. A complete list of all prior enforcement actions including any sanctions imposed on the employer by any jurisdiction [or any ,] state or federal court. A copy of any reports compiled by an enforcement agency.

Employers shall permit the Department of Commerce or Department of Labor and Industry representatives to attend, evaluate, and monitor any training course. Prior notice of attendance by agency representatives [may or] may not be given.

~~§ 10.4.~~ § 11.4. Fees.

The fee for the evaluation of an employer's training program for exemption from licensure shall be \$2,100. The required fee must be submitted with the information listed in ~~§ 10.3.~~ § 11.3.

~~§ 10.5.~~ § 11.5. Annual reevaluation of exemption status.

The fee for reevaluation of exemption status shall be \$500.

APPENDIX A FEE SCHEDULE

Type of Application	Fee Amount
Asbestos Contractor License	\$ 500
Renewal	\$ 500
Asbestos RFS Contractor License	\$ 500
Renewal	\$ 500
Asbestos Worker License	\$ 35
Renewal	\$ 35
Asbestos Supervisor License	\$ 35
Renewal	\$ 35
Asbestos Inspector License	\$ 35
Renewal	\$ 35
Asbestos Management Planner License	\$ 35
Renewal	\$ 35
Asbestos Project Designer License	\$ 35
Renewal	\$ 35
Asbestos Worker Training Course	\$2100
(24 hours)	

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Refresher Course (8 hours)	\$ 700
Asbestos Supervisor Training Course	\$2800
(32 hours)	
Refresher Course (8 hours)	\$ 700
<i>RFS Worker Basic Module</i>	\$ 350
<i>RFS Specialty Module</i>	\$ 350
<i>RFS Supervisor Module</i>	\$ 350
Asbestos Inspector Training Course	\$2100
(24 hours)	
Refresher Course (4 hours)	\$ 700
Asbestos Management Planner Training Course	\$1400
(16 hours)	
Refresher Course (8 hours)	\$ 700
Asbestos Project Designer Training Course	\$2800
(32 hours)	
Refresher Course (8 hours)	\$ 700
<i>RFS Worker Basic Module</i>	\$ 350
<i>RFS Specialty Module</i>	\$ 350
<i>RFS Supervisor Module</i>	\$ 350

COMMONWEALTH OF VIRGINIA
ASBESTOS PROJECT 20 DAY NOTIFICATION
DEPARTMENT OF LABOR AND INDUSTRY
ATTN: ASBESTOS CONTROL CLERK
205 N. 4TH STREET, ROOM 1006
RICHMOND, VA 23219

FAX NUMBER (804) 371-7634

(MUST BE DELIVERED 20 DAYS BEFORE COMMENCING WORK)

1. Name & Address of Contractor _____

 Telephone No. () - _____
 VA license # _____
2. Name & Address of owner/operator _____

 Telephone No. () - _____
3. Type: Amended ___ *Emergency ___ Renovation ___ **Demolition ___

*A BRIEF DESCRIPTION OF THE SITUATION IS REQUIRED FOR ALL EMERGENCY NOTIFICATION

Description for Emergency Project: _____

4. Description of facility, structure, etc.
- a. Present Use _____
- b. Site Address _____
- c. City and State _____
- d. Prior Use _____ Age _____
5. Estimate of the amount of friable asbestos* and estimation method.
- a. Linear feet pipe _____ b. Square feet surface _____
- Estimation method _____
- Type material and estimated volume _____
6. Set-up date / / Removal date / / Finish date / /
- Removal Times: Weekdays (Monday-Friday) _____
- Weekends (Saturday-Sunday) _____
- Work Shift Hours _____

Lic# _____
 Date _____
 Code _____



COMMONWEALTH OF VIRGINIA
Department of Commerce
Application for Asbestos Licensing

PLEASE PRINT Date _____ '9__

1. Name _____ Phone No. () _____
 Mailing _____
 Address _____

City _____ State _____ Zip Code _____

2. Date of Birth _____ 3. Social Security Number _____

4. IMPORTANT: Please Attach A Copy Of The Certificate Obtained After Successful Completion Of An Approved Asbestos Training Course and Examination.

Date of Training _____ Location _____ State _____

5. TYPE OF LICENSE REQUESTED: (only one type of license per application)

Worker (Reg. 2.3)	Fee: \$35. _____	Inspector (Reg. 5.3)	Fee: \$35. _____
Supervisor (Reg. 5.3)	Fee: \$35. _____	Management Planner (Reg. 7.3)	Fee: \$35. _____
Project Designer (Reg. 8.3)	Fee: \$35. _____		

APPLICANTS FOR INSPECTOR AND MANAGEMENT PLANNER MUST ALSO COMPLETE FORM A (ENCLOSED)

ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA

6. License or authorization to perform Asbestos Work currently or previously held: (Please include licenses held in other states)

Type _____ License No. _____ Issued by _____

7. Applicant's signature below indicates that within the past 36 months license or authorization to perform Asbestos Abatement Work has not been suspended or revoked by any other state, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature _____

The reverse side of this application must be completed before license will be issued.

COMMONWEALTH OF VIRGINIA
ASBESTOS LICENSING PROGRAM
APPLICATION FOR LICENSURE AS A
VIRGINIA ASBESTOS INSPECTOR AND/OR MANAGER PLANNER

INSTRUCTIONS

B. In the event an enforcement action has been taken against the applicant, the following information will be required as the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the abatement work might not be performed in a manner that would protect the public health, safety and welfare.

- A. A complete list of all prior enforcement actions, including any sanctions imposed on the applicant by any jurisdiction or any state or federal court.
- B. A description of any asbestos abatement activities conducted by the applicant that were terminated prior to completion including the circumstances of termination.
- C. A copy of any reports compiled by an enforcement agency.

AFFIDAVIT

9. THIS PORTION MUST BE COMPLETED BY APPLICANT.

I hereby certify that the above information is correct to the best of my knowledge and belief and that no information has been suppressed that might affect this application.

Typewritten or Printed Name _____

Signature _____ Date _____

THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

STATE OF _____

City/County of _____

Subscribed and sworn to before me, the undersigned Notary Public in and for the City or County aforesaid this _____ day of _____ 19_____.

My commission expires the _____ day of _____ 19_____.

Notary Public

(2041)

1. Forms shall be typewritten or printed legibly in their entirety except for signatures. The applicant shall assume full responsibility for filing all required documentation, references, and verifications.
2. EDUCATION: Your degree(s) must be verified by each school attended on Form A and submitted directly from the school.
3. TRAINING AND EXPERIENCE RECORD: Under Item C (Form A) record all training and experience. USE SEPARATE SHEETS IF NECESSARY. Make concise and explicit statements giving a description of your tasks, duties and nature of work performed for each period of employment. List your experience in chronological order with the most recent engagement first. Each period of employment must be verified by a signature in Column F. This includes periods of self-employment, which may be verified by an associate or client. This may be done by copying the completed Form and submitting that copy with the required signature. All verifications must accompany the initial application form.
4. FEES: Each application must be accompanied by an application fee. Checks must be made payable to the Treasurer of Virginia and returned in the enclosed envelope. All fees are not refundable.

APPLICATIONS NOT COMPLETED IN ACCORDANCE WITH THESE INSTRUCTIONS
WILL BE PROMPTLY RETURNED TO THE APPLICANT

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 POST OFFICE BOX 11066
 RICHMOND, VIRGINIA 23230-1066

For Official Use Only
 Lic. Number _____

FORM A

APPLICATION FOR CERTIFICATION AS A
 LICENSED ASBESTOS INSPECTOR/MANAGEMENT PLANNER
 Date _____
 Code _____

A. GENERAL INFORMATION

NAME IN FULL: _____ SSN: _____

FIRM NAME: _____

BUSINESS STREET: _____
 ADDRESS: _____

CITY _____ STATE: _____ ZIP: _____

PHONE NUMBER: _____

STREET: _____

RESIDENCE CITY: _____ STATE: _____ ZIP: _____
 ADDRESS: _____

PHONE NUMBER: _____

ADDRESS FOR CORRESPONDENCE RESIDENCE _____ BUSINESS _____

BIRTHDATE: _____

B. EDUCATION: (List in chronological order the name and location of institution, beyond high school, time attended, year of graduation.)

NAME OF INSTITUTION	YEARS ATTENDED	DEGREE RECEIVED	GRADUATION YEAR COMPLETED	MARKER

NOTE: Applicant must use this form, a resume cannot be substituted.

C. TRAINING AND EXPERIENCE: Record your professional practice in sequence, starting with your most recent position. Attach an additional sheet if needed.

(1) NAME AND ADDRESS OF EMPLOYER, POSITION TITLE & BRIEF JOB DESCRIPTION	(2) DATE MONTH/YEAR		(3) TIME SPENT YEARS AND MONTHS			(4) SIGNATURE OF THE PERSON OR SUPERVISOR. INCLUDE TYPEWRITTEN NAME, ADDRESS, PHONE NUMBER.
	FROM	TO				



THIS IS TO CERTIFY THAT

(Student Name)

330 _____ Social Security # _____
(Virginia Asbestos License Number)

has successfully completed and passed the examination for the Virginia approved
ASBESTOS REFRESHER COURSE

(Course Title)

Conducted by

(Training Provider)

on _____, 19__

at _____

Certificate Number

FORM A

THE VIRGINIA ASBESTOS LICENSING PROGRAM
LICENSE APPLICATION FOR ASBESTOS INSPECTOR OR MANAGEMENT PLANNER

VERIFICATION OF DEGREE GRANTED

(Applicant shall complete the upper portion of this form.)

Name in full _____

Residence Address _____

Business Address _____

Birth Date _____ Social Security Number _____

College or University Attended _____

Applicant's Signature _____

After completion of above, applicant shall send this form to the college or university from which he/she obtained a degree. Please request that the following certificate be completed and that this form be returned directly to the Virginia Asbestos Licensing Program:

CERTIFICATE

I hereby certify that the above named applicant has been graduated from this institution with a degree of:

_____ Major _____

on _____

Signature _____

Official Position _____

Institution _____

Date _____

(College Seal)

APPLICANT: Enclose a stamped, addressed envelope for return directly to the Virginia Asbestos Licensing Program.



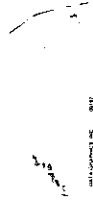
THIS IS TO CERTIFY THAT

(Student Name) _____
310 _____ Social Security # _____
(Virginia Asbestos License Number)

has successfully completed and passed the examination for the Virginia approved
ASBESTOS REFRESHER COURSE

(Course Title) _____
Conducted by _____
(Training Provider) _____
On _____, 19____
at _____
Certificate Number _____

STUDENT



THIS IS TO CERTIFY THAT

(Student Name) _____
310 _____ Social Security # _____
(Virginia Asbestos License Number)

has successfully completed and passed the examination for the Virginia approved
ASBESTOS REFRESHER COURSE

(Course Title) _____
Conducted by _____
(Training Provider) _____
on _____, 19____
at _____
Certificate Number _____

STUDENT

Final Regulations

DEPARTMENT OF EDUCATION (STATE BOARD OF)

REGISTRAR'S NOTICE: Due to its length, the Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia filed by the State Board of Education is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Education.

Title of Regulation: VR 270-02-0007. Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.

Statutory Authority: § 22.1-16 of the Code of Virginia; 20 USC §§ 1412 and 1413.

Effective Date: July 1, 1990

Summary:

The amended regulations establish procedures for ensuring that all handicapped persons from two to 21, inclusive, residing in the Commonwealth of Virginia are identified, evaluated, and have available a free and appropriate public education. The provisions set forth in these regulations apply to all public and private schools and agencies in the Commonwealth which provide special education and related services to handicapped children and youth. Additionally, the regulations establish procedures for the Virginia Department of Education to use when monitoring compliance with these regulations. Amendments were made to the regulations in order to ensure consistency with federal law. Other changes were made as a result of the public comments.

Substantial changes made to the regulations since they were published in their proposed form are (i) an amendment that expands the definition of "occupational therapy" to include services provided under the direction of a qualified occupational therapist; (ii) an amendment that expands the definition of "physical therapy" to include the services provided under the direction of a qualified physical therapist; (iii) an amendment that deletes the language in the definition of "specific learning disability" which required that the disorder must adversely affect educational performance; (iv) an amendment that expands the process for determining whether a child has a learning disability; (v) an amendment that changes the process for termination of services to distinguish between a partial termination of services and a complete termination of services; (vi) an amendment that requires parental notification before conducting a triennial evaluation; (vii) an amendment that deletes from the definition of "long-term suspensions" suspensions of 10 or more cumulative days; (viii) an amendment deleting the six-month time

period for filing for a due process hearing; (ix) an amendment adding actions which require parental consent; (x) an amendment that provides for a time limit for parents to give parental consent; (xi) an amendment that deletes the listing of disputes that could not be appealed through the impartial hearing process; and (xii) an amendment that provides for a method for ensuring compliance with Section 504 of the Rehabilitation Act of 1973, as amended. These changes did not significantly alter the intent or content of the regulations as submitted and published in its proposed form.

* * * * *

REGISTRAR'S NOTICE: Due to its length, the Teacher Certification Regulations filed by the State Board of Education is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Education.

Title of Regulation: VR 270-02-0000. Teacher Certification Regulations.

Statutory Authority: §§ 22.1-298 and 22.1-299 of the Code of Virginia.

Effective Date: July 1, 1990, except amendments to §§ 5.3 and 5.4 will become effective July 1, 1992.

Summary:

The requirements for recertification of educational personnel (§ 2.4) is amended to require that each holder of a renewable teaching certificate in Virginia shall accrue a total of 180 points earned by completing professional growth activities in one or more of 10 option areas during the five-year period of the certificate. Specific requirements are noted within the regulation for certificate holders who do not have a master's degree and for holders of the Vocational Educational Certificate who do not have a baccalaureate degree.

The requirements for certification of speech-language pathologists (§§ 5.3 and 5.4) specify the following standards: (i) maintain the standard of the master's degree in speech-language pathology for new personnel, effective July 1, 1992; (ii) remove the requirement regarding passage of the NTE for both new personnel and for personnel currently employed and endorsed in speech-language impairments; (iii) maintain the requirements to complete 15 hours of graduate course work for persons currently endorsed without a master's degree, but extend the deadline for completion of course work to September 1, 1994; (iv) retain the certification in Special Education, rather than moving to Pupil Personnel Services, to ensure

full funding of these special education positions.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: [~~VR 355-28-01.02.~~ VR 355-28-01.]
Regulations for Disease Reporting and Control.

Statutory Authority: §§ 32.1-12 and 32.1-35 through 32.1-38
of the Code of Virginia.

Public Hearing Date: March 28, 1990

Summary:

In response to an amendment to § 32.1-39 of the Code of Virginia, the Board of Health has added a definition and description of the means of accomplishing contact tracing to the regulations. This will empower local health departments to perform contact tracing for the purpose of protecting the public health and require contact tracing for syphilis and human immunodeficiency virus (HIV) infection.

HIV infection has been added to the list of diseases to be reported by directors of laboratories. The health department often learns of reportable diseases from laboratory reports. This addition should expedite the agency's ability to perform contact tracing.

The amendment also adds a requirement for physicians to examine and test high risk pregnant women for syphilis a second time during pregnancy, at the beginning of the third trimester. Women at higher risk for syphilis include those who have had multiple sexual partners during the previous year and those with any prior history of a sexually transmitted disease. The basis for this is the reported increase in congenital and early syphilis in Virginia. This additional test will increase the chances of detecting and treating syphilis in pregnant women, thereby preventing congenital syphilis.

*The regulations now include reference to the Code of Virginia with respect to the confidentiality of disease reports and the existence of a registry to which health care providers may report cases of memory loss disorder. *C. pylori* is excluded from the requirement to report *Campylobacter* infections because it is associated with a condition, peptic ulcer disease, which does not require public health attention.*

[~~VR 355-28-01.02.~~ VR 355-28-01.] Regulations for Disease Reporting and Control.

PART I DEFINITIONS.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the

context clearly indicates otherwise:

"Board" means the State Board of Health.

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

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

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

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

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

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Department" means the State Department of Health.

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

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

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

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

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow

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examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

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

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

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

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

"Memory loss disorder" means any progressive dementia caused by AIDS, alcohol abuse, probable Alzheimer's disease, cerebral vascular disease, Creutzfeldt-Jakob disease, depression, head trauma, normal pressure hydrocephalus, Parkinson's disease, space-occupying lesion, toxic or metabolic disorder, or other known cause.

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

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

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

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

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

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

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

2. Modified quarantine. A selective, partial limitation of freedom of movement of persons or domestic animals, determined on the basis of differences in susceptibility, or danger of disease transmission. Modified quarantine is designed to meet particular situations and includes but is not limited to, the exclusion of children from school and the prohibition or restriction of those exposed to or suffering from a communicable disease from engaging in a particular occupation. The means of modified quarantine shall be the least restrictive means appropriate under the facts and circumstances, pursuant to § 3.1 E of these regulations or as determined by the commissioner.

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

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

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

1. Morbidity and mortality reports.
2. Special reports of field investigations of epidemics and individual cases.
3. Isolation and identification of infectious agents by laboratories.
4. Data concerning the availability, use, and untoward side effects of the substances used in disease control.
5. Information regarding immunity levels in segments of the population.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation

conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

PART II. GENERAL INFORMATION.

§ 2.1. Authority.

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

§ 2.2. Purpose.

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

§ 2.3. Administration.

A. State Board of Health.

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

B. State Health Commissioner.

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

C. Local health director.

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

quarantine or isolation as required by the commissioner.

D. Office of Epidemiology.

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

E. Confidentiality.

All persons responsible for the administration of these regulations shall ensure that the anonymity of patients and practitioners is preserved, according to the provisions of §§ 32.1-38, 32.1-41, 32.1-71, and 32.1-71.4 of the Code of Virginia.

§ 2.4. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 2.5. Effective date of original regulations.

August 1, 1980.

Effective date of amendment No. 1:

August 21, 1984.

Effective date of emergency amendment of § 3.1:

January 4, 1988.

Effective date of amendment No. 2:

February 15, 1989.

~~Proposed~~ Effective date of amendment No. 3.

September 14, 1989.

[~~Proposed~~] Effective date of amendment No. 4.

March [~~30 28~~], 1990.

§ 2.6. Application of the Administrative Process Act.

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

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regulations shall be conducted in accordance with § 9-6.14.7 § 9-6.14.7.1 .

§ 2.7. Powers and procedures of regulations not exclusive.

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

PART III. REPORTING OF DISEASE.

§ 3.1. Reportable Disease List.

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

A. List of reportable diseases:

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

B. Reportable diseases requiring rapid communication.

Certain of the diseases in the list of reportable diseases,

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

Anthrax	Plague
Botulism	Poliomyelitis
Cholera	Psittacosis
Diphtheria	Rabies in man
Foodborne outbreaks	Smallpox
Haemophilus influenzae infections, invasive	Syphilis, primary and secondary
Hepatitis A	Tuberculosis
Measles (Rubeola)	Yellow Fever
Meningococcal infections	

C. Diseases to be reported by number of cases.

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

Influenza (by type, if available)

D. Human immunodeficiency virus (HIV) infection.

Every physician practicing in this Commonwealth shall report to the local health department any patient of his who has tested positive for exposure to human immunodeficiency virus (HIV). Every person in charge of a medical care facility shall report the occurrence in or admission to the facility of a patient with HIV infection unless there is evidence that the occurrence has been reported by a physician. When such a report is made, it shall include the information required in § 3.2 A. Only individuals who have positive blood tests for HIV antibodies as demonstrated by at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and a supplemental test such as the western blot are considered to have HIV infection.

E. Toxic substances related diseases or illnesses.

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

Occupational Lung Diseases	Occupationally-Related Cancers
silicosis	mesothelioma
asbestosis	
byssinosis	

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

If such disease or illness is verified, or suspected, and

presents an emergency, or a serious threat to public health or safety, the report of such disease or illness shall be by rapid communication as in § 3.1 B.

F. Unusual or ill-defined diseases, illnesses, or outbreaks.

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

G. Contact tracing.

When notified about a disease specified in § 3.1 A of the regulations, the local health department shall perform contact tracing for infectious syphilis and HIV infection, and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for individual face-to-face disclosure of the test results and appropriate counseling. In no case shall names of informants be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

§ 3.2. Those required to report.

A. Physicians.

Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease, or who is suspected of being a carrier of a reportable disease shall report that person's name, address, age, sex, race, name of disease diagnosed or suspected, and the date of onset of illness except that influenza should be reported by number of cases only (and type of influenza, if available). Reports are to be made to the local health department serving the jurisdiction where the physician practices. Any physician making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

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

B. Directors of laboratories.

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

indicated, of a disease listed below:

Anthrax - by culture

Campylobacter infections (*excluding C. pylori*) - by culture

Chlamydia trachomatis infections - by culture or antigen detection methods

Cholera - by culture

Diphtheria - by culture

Gonococcal infections - by culture or microscopic examination

Haemophilus influenzae infections - by culture or antigen detection assay of blood or cerebrospinal fluid

Hepatitis A - by serology specific for IGM antibodies

Human immunodeficiency virus (HIV) infection - by positive blood tests for HIV antibodies as demonstrated by at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and a supplemental test such as the western blot.

Influenza - by culture or serology

Legionellosis - by culture or serology

Listeriosis - by culture

Malaria - by microscopic examination

Meningococcal infections - by culture of blood or cerebrospinal fluid

Mycobacterial diseases - by culture

Pertussis - by culture or direct fluorescent antibody test

Plague - by culture or direct fluorescent antibody test

Poliomyelitis - by culture or serology

Rabies in animals - by microscopic or immunologic examination

Salmonella infections - by culture

Shigella infections - by culture

Syphilis - by serology or dark field examination

Trichinosis - by microscopic examination of a muscle biopsy

Each report shall give the name and address of the person from whom the specimen was obtained and, when available, the person's age, race and sex. The name and address of the physician or medical facility for whom the

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examination was made shall also be provided. When the influenza virus is isolated, the type should be reported, if available. Reports shall be made within seven days to the local health department serving the jurisdiction in which the laboratory is located and shall be made on Form CD-24.3 or on the laboratory's own form if it includes the required information. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

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

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

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

C. Person in charge of a medical care facility.

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

(Note: See § 3.2 B "Exceptions")

D. Person in charge of a school.

Any person in charge of a school shall report immediately to the local health department the presence or suspected presence in his school of children who have common symptoms suggesting an epidemic or outbreak situation. Any person so reporting shall be immune from

liability as provided by § 32.1-38 of the Code of Virginia.

E. Local health directors.

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

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

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

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

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

following infectious diseases:

Creutzfeldt-Jakob disease

Human immunodeficiency virus infection

Hepatitis B

Hepatitis Non A, Non B

Rabies

Infectious syphilis

PART IV. CONTROL OF DISEASE.

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

PART V. IMMUNIZATION.

§ 5.1. Dosage and age requirements for immunizations.

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

1. Diphtheria, Tetanus, and Pertussis (Whooping cough) Vaccine - three doses by age one year of toxoids of diphtheria and tetanus, combined with pertussis vaccine.
2. Poliomyelitis Vaccine, trivalent type - three doses by age 18 months of attenuated (live) trivalent oral polio virus vaccine or inactivated poliomyelitis vaccine.
3. Measles (Rubeola) Vaccine - one dose at 15 months of age, or by age two years, of further attenuated (live) measles virus vaccine (Schwartz or Moraten).
4. Rubella (German measles) Vaccine - one dose at 15 months of age or by age two years of attenuated (live) rubella virus vaccine.
5. Mumps Vaccine - one dose at 15 months of age or by age two years of mumps virus vaccine (live).

§ 5.2. Obtaining immunization.

The required immunizations may be obtained from a

physician licensed to practice medicine or from the local health department.

PART VI. VENEREAL DISEASE.

§ 6.1. Prenatal testing.

Every physician attending a pregnant woman during gestation shall examine and test such woman for syphilis within 15 days after beginning such attendance [*and again at the beginning of the third trimester (28 weeks). If the patient first seeks care during the third trimester, only one test shall be required*]. [*A second prenatal test for syphilis shall be conducted at the beginning of the third trimester (28 weeks) for women who are at higher risk for syphilis. Persons at higher risk for syphilis include those who have had multiple sexual partners within the previous year and those with any prior history of a sexually transmitted disease. If the patient first seeks care during the third trimester, only one test shall be required.*] Every physician should [*also*] examine and test a pregnant woman for [*other venereal diseases any sexually transmitted disease*] as clinically indicated.

PART VII. PREVENTION OF BLINDNESS FROM OPHTHALMIA NEONATORUM.

§ 7.1. Procedure for preventing ophthalmia neonatorum.

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

PART VIII. CANCER REPORTING.

§ 8.1. Authority.

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

§ 8.2. Reportable cancers.

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

§ 8.3. Those required to report.

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

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such report shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

§ 8.4. Data which must be reported.

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

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

§ 8.5. Additional data which may be reported.

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

PART IX.

§ 9.1. Reporting and control of diseases.

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

PART X.

MEMORY LOSS DISORDER REPORTING.

§ 10.1. Authority.

Article 9.1 (§ 32.1-71.1 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia authorizes the establishment of a statewide Alzheimer's Disease and related disorders registry.

§ 10.2. Provisions.

Each hospital, clinic, individual practitioner or other health care provider may report to the registry, on forms provided by the registry, information regarding persons in his care who have been diagnosed as having a memory loss disorder, as defined in Part I. Any person making such report shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

(CD-24) **VIRGINIA DEPARTMENT OF HEALTH
CONFIDENTIAL MORBIDITY REPORT**
(Send to Local Health Dept.)

I. Communicable Disease Reports

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

**II. OCCUPATIONAL DISEASE OR TOXIC SUBSTANCE
EXPOSURE REPORT**

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

VIRGINIA CONFIDENTIAL MORBIDITY REPORT FOR MEDICAL CARE FACILITIES

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

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

NAME OF MEDICAL CARE FACILITY _____

ADDRESS _____

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

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

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

- | | | | |
|---|---|---------------------------------|-----------------------------------|
| Acquired Immunodeficiency Syndrome | Giardiasis | Lymphogranuloma Venereum* | Rocky Mountain Spotted Fever |
| Amoebiasis | Goiter* | Malaria | Rubella (German Measles) |
| *Anthrax | Granuloma Inguinale* | *Measles (Rubeola) | Salt Metabolism |
| Arboviral Infections | *Haemophilus influenzae Infections, Invasive | *Neisseriacoccal Infections | Shigellosis |
| Aseptic Meningitis | Hepatitis, Viral | Scabies | *Sinusitis |
| Bacterial Meningitis (specify etiology) | "A" | Nonaccidental Outbreaks* | Syphilis, All Stages* |
| *Botulism | "B" | Occupational Infections | * (Primary and Secondary) |
| Brucellosis | Non A, Non B | Ophthalmia Neonatorum | Tetanus |
| Campylobacter Infections | Unspecified | Peritussis (Whooping Cough) | Toxic Shock Syndrome |
| Chancroid* | Histoplasmosis | Pharyngitis (PKU) | Toxic Substance Related Illnesses |
| Chickenshit | Human Immunodeficiency Virus (HIV) Infection | *Plague | Trichinosis |
| Chlamydia Trachomatis Infections* | *Tuberculosis (number of cases and type only) | *Poliomyelitis | *Tuberculosis |
| *Cholera | Kawasaki Syndrome | *Poliomyelitis | Typhoid Fever |
| Congenital Rubella Syndrome | Legionellosis | *Poliomyelitis | Typhoid Fever |
| *Diphtheria | Leptospirosis | Rabies in Animals | Typhoid Fever |
| Encephalitis | Listeriosis | *Rabies in Man | Viral Infections |
| Primary (specify etiology) | Lyme Disease | Rabies Treatment, Post-Exposure | Waterborne Outbreaks |
| Post-infectious | | Reye Syndrome | *Yellow Fever |
| *Foodborne Outbreaks | | | |

ANY OTHER DISEASE OR OUTBREAK OF PUBLIC HEALTH IMPORTANCE

*Venereal disease cases should be reported on form VD-35C available through the State STD/AIDS Program or the local health department.

*An outbreak will be considered to be present when there is an increase in incidence of any infectious disease or infection above the usual incidence. Please complete form CD-24.2 to report outbreaks.

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

Final Regulations

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

Last Name		First	Middle	Age	Race	Sex	Date Specimen Submitted
Address		City		Zip	County		
Attending Physician				Address or Hospital			
City		County	Zip	Phone			
Type of Specimen							
Blood <input type="checkbox"/>	CSF <input type="checkbox"/>	Stool <input type="checkbox"/>	Pharyngeal Swab <input type="checkbox"/>	Spulum <input type="checkbox"/>	Discharge <input type="checkbox"/>	Other <input type="checkbox"/>	
Washing <input type="checkbox"/>		Other <input type="checkbox"/>					
Test							
Culture: Bacterial <input type="checkbox"/>	Parasitic <input type="checkbox"/>	Immunological (SPECIFY) _____				Microscopic <input type="checkbox"/>	
Viral <input type="checkbox"/>	Serological (SPECIFY) _____				Histologic <input type="checkbox"/>		
Results							
Date of Report		Name and Address of Lab			Director		
Mail Copies (1) and (2) to Your Local Health Department							

CD-243

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH - DIVISION OF EPIDEMIOLOGY
NOSOCOMIAL OUTBREAK REPORT**

Hospital Name _____ Date of Report _____

Address _____

Reported By _____ Name _____ Title _____ Phone Number _____

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

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

Etiology _____

Description of Outbreak _____

Control Measures Instituted _____

Comments _____

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

CD-42

VIRGINIA TUMOR REGISTRY
CANCER REPORTING - INCIDENCE ONLY

VTR use only

Medical Facility Reporting:				
Patient Name: (Last)		(First)	(Middle)	(Spouse)
Street Address				
City		County	State	Zip
Date of Birth	Age	Sex	Race	Marital Status
SSN#:	Usual Occupation/Industry:			
Date of diagnosis:				
Primary site of cancer:				
Basis of diagnosis: <input type="checkbox"/> Hist. <input type="checkbox"/> Ex. Cytol. <input type="checkbox"/> Micro Confirm NOS <input type="checkbox"/> Surgical Evid., NMC <input type="checkbox"/> Clinical Only <input type="checkbox"/> Unknown				
Histology:				
History of service in Vietnam War:				
Exposure to dioxin-containing compounds: <input type="checkbox"/> yes <input type="checkbox"/> no				
Specify:				
Completed By:				

Mailing address: Virginia Tumor Registry
Room 715
Madison Bldg.
109 Governor Street
Richmond, VA 23219

VTR form #2

SUBSEQUENT TREATMENT	SURGERY & RADIATION - SPECIFY DATES		CHEMOTHERAPY & HORMONAL THERAPY	
	<input type="checkbox"/> SURGERY _____		<input type="checkbox"/> CHEMO _____	
	<input type="checkbox"/> BEAM RADIATION _____		<input type="checkbox"/> HORMONES _____	
	<input type="checkbox"/> OTHER RADIATION _____		<input type="checkbox"/> OTHER _____	
	<input type="checkbox"/> IMMUNOTHERAPY _____		<input type="checkbox"/> NONE OF THE ABOVE (AND WHY) _____	

DATE	SOURCE OF CONTACT*	STATUS OF PATIENT				STATUS OF DISEASE				QUALITY OF SURVIVAL**	SUBSEQUENT TREATMENT AND REMARKS		
		ALIVE	DEAD	NO EVIDENCE OF CANCER	EVIDENCE OF CANCER	EVIDENCE OF CANCER UNKNOWN	RESIDUAL	RECURRENT	METASTATIC			UNKNOWN	NO EVIDENCE OF CANCER

- * SOURCE OF CONTACT:
- HOSPITAL READMISSION
 - CLINIC VISIT WITHOUT PHYSICAL EXAM
 - CLINIC VISIT WITH PHYSICAL EXAM
 - DOCTOR'S OFFICE WITH PHYSICAL EXAM
 - DOCTOR'S OFFICE WITHOUT PHYSICAL EXAM
 - PUBLIC HEALTH NURSE
 - DIRECT PATIENT CONTACT
 - OTHER; SPECIFY IN REMARKS COLUMN

- ** QUALITY OF SURVIVAL:
- NORMAL ACTIVITY
 - SYMPTOMATIC & AMBULATORY
 - AMBULATORY MORE THAN 50% OCCASIONALLY NEEDS ASSISTANCE
 - AMBULATORY LESS THAN 50% NURSING CARE NEEDED
 - BEDRIDDEN, MAY REQUIRE HOSPITALIZATION
 - UNKNOWN/UNSPECIFIED

THIS SIDE TO BE FILLED OUT BY FAMILY OR CAREGIVER

VIRGINIA DEPARTMENT OF HEALTH
MEMORY LOSS DISORDERS QUESTIONNAIRE

GENERAL INSTRUCTIONS: This form should be filled out as fully as possible for any adult in the State of Virginia who has MEMORY LOSS. Please mail completed forms to:
Virginia Department of Health, ADRD Registry
109 Governor Street, Room 701
Richmond, Virginia 23219 Date of Report: _____

Patient's Last Name: _____ First: _____ M.I.: _____
Street Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Date of Birth: _____ Age: _____ Date of Death: _____ Social Security Number: _____

SEX: <input type="checkbox"/> Male <input type="checkbox"/> Female	RACE: <input type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> American Indian <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Other (Specify) _____	PATIENT'S PRESENT LIVING ARRANGEMENTS: (If in a hospital, check the expected living arrangement upon discharge) <input type="checkbox"/> Living Alone <input type="checkbox"/> Living with Someone Else <input type="checkbox"/> Nursing Home or Other Facility	SERVICES CURRENTLY USED: <input type="checkbox"/> None <input type="checkbox"/> Adult Day Care <input type="checkbox"/> Home for Adults <input type="checkbox"/> In Home Care by Relative <input type="checkbox"/> In Home Care by Paid Attendant <input type="checkbox"/> Respite Care (relief for caregiver) <input type="checkbox"/> Support Group <input type="checkbox"/> Other _____ Services Needed: _____
MARITAL STATUS: <input type="checkbox"/> Never Married <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced <input type="checkbox"/> Other _____	SOURCE(S) OF HEALTH CARE PAYMENT: <input type="checkbox"/> Medicare/Federal Insurance <input type="checkbox"/> Medicaid <input type="checkbox"/> Private Insurance <input type="checkbox"/> None		

CHANGES IN EVERYDAY ACTIVITIES BECAUSE OF MEMORY LOSS

THE PERSON:	Independently	Needs Assistance	Totally Dependent
1. Performs Simple Tasks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Handles Small Sums of Money?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Remembers Short Lists of Items?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Recognizes Familiar Objects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Recalls Events?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Responds to Own Name?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What year did the signs or symptoms of memory loss begin? 19 _____

DOES THIS PERSON HAVE A:

1. Hearing impairment?	<input type="checkbox"/> No	<input type="checkbox"/> Slight	<input type="checkbox"/> Severe
2. History of Alcohol Abuse?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. History of Head Injury?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4. History of a Stroke?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5. Family History of Dementia? Relationship: _____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
6. Family History of Down's Syndrome? Relationship: _____	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
7. What was the Person's Primary Occupation? _____			

NAME OF RELATIVE OR PERSON RESPONSIBLE FOR THE PATIENT'S AFFAIRS:
Last Name: _____ First: _____ M.I.: _____
Street Address: _____
City: _____ County: _____ State: _____ Zip Code: _____
Relationship to Patient: Spouse Guardian Son/Daughter Other Relative Friend Paid Helper Other _____

MAY WE CONTACT THE DOCTOR THAT EXAMINED THE PATIENT FOR MEMORY PROBLEMS? Yes No
Dr. _____
Street Address: _____
City: _____ County: _____ State: _____ Zip Code: _____

INFORMATION REQUEST:
I would like to receive information regarding services available to dementia patients and their families: Yes No
I am willing to release my name to service organizations for this purpose: Yes No
I am interested in a state-funded autopsy for my loved one if it is available when he or she dies: Yes No

Name of Person Completing This Side of Form: _____
NOTE: The primary purpose of this report is to collect information on persons with Memory Loss in Virginia. All information shall be kept confidential. Patient and physician identities will be released only for research studies approved by the Commissioner of Health and will not be included in any publications or reports resulting from such research.

ADR1 (7/89)

THIS SIDE TO BE COMPLETED BY PHYSICIAN OR HEALTH CARE PROVIDER

VIRGINIA DEPARTMENT OF HEALTH
MEMORY LOSS DISORDERS QUESTIONNAIRE

GENERAL INSTRUCTIONS: This form should be filled out as fully as possible for any adult in the State of Virginia who has progressive memory loss, as provided in the Code of Virginia, Title 32.1, Article 9.1. Please mail completed forms to:
Virginia Department of Health, ADRD Registry
109 Governor Street, Room 701
Richmond, Virginia 23219 Date of Report: _____

PATIENT'S FULL NAME: _____ **DATE OF BIRTH:** _____
Provider's Name: _____ Specialty: _____
Name of Facility: _____ Type of Facility: _____
Street Address: _____ Telephone Number: (____) _____
City: _____ County: _____ State: _____ Zip Code: _____

May we contact this patient's guardian for additional information pertaining to memory loss?
 Yes No (If yes, provide name and address on reverse side.)

TEST	NORMAL	ABNORMAL	NOT DONE	YEAR DONE
B12				
Folate				
Thyroid Function Test				
Syphilis Serology				
CT Scan of Head				
EEG				
Lumbar Puncture				
Brain Biopsy				
Autopsy (specify laboratory)				
Other (specify)				

CAUSES OF CHRONIC DEMENTIA	PRESENT AND RELATED	PRESENT AND UNRELATED	PRESENT AND MAY OR MAY NOT BE RELATED
AIDS			
Alcohol Abuse			
Probable Alzheimer's Disease			
Cerebral Vascular Disease			
Creutzfeldt-Jakob Disease			
Depression			
Head Trauma			
Normal Pressure Hydrocephalus			
Parkinson's Disease			
Space-Occupying Lesion			
Toxic or Metabolic Disorder			
Other (specify)			

Has cognitive impairment been identified by neuropsychological testing? Yes No
What year was the dementia diagnosis made? 19 _____

Name of Person Completing This Side of Form: _____
NOTE: The primary purpose of this report is to collect information on persons with Memory Loss in Virginia. All information shall be kept confidential. Patient and physician identities will be released only for research studies approved by the Commissioner of Health and will not be included in any publications or reports resulting from such research.

ADR1 (7/89)

Final Regulations

LIBRARY BOARD

Title of Regulation: VR 440-01-149.2. Certification of Librarians.

Statutory Authority: § 42.1-15.1 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These regulations set forth the required qualifications for the certification of professional librarians in certain public libraries. The certificates shall be issued by the State Library Board to any individual who has met the educational requirements for certification. They require that such librarians qualify for certification by one of three methods: (i) endorsement, (ii) education or (iii) provisional certification. The fee for permanent certification shall be \$50. Librarians employed by the State Law Library or law libraries of counties or cities, libraries of colleges and universities, libraries of institutions, and school libraries are exempt.

Preamble:

The State Library Board has been given the responsibility and authority by the General Assembly, pursuant to § 42.1-15.1 of the Code of Virginia, for the establishment of qualifications of professional librarians in certain public libraries. The State Library Board hereby enacts the following regulations to implement and interpret its authority over public librarian qualifications. These regulations supersede all previous regulations on this subject enacted by this board.

VR 440-01-149.2. Certification of Librarians.

PART I. GENERAL INFORMATION.

§ 1.1. Issuing authority, individuals covered and exempt from regulations.

Professional Librarian's Certificates shall be issued by the State Library Board to any individual who has met the educational requirements for certification as set forth in these regulations. Librarians employed by the State Law Library or law libraries of counties or cities, libraries of colleges and universities, libraries of institutions, and school libraries are exempt.

PART II. CERTIFICATION PROCESS.

§ 2.1. Certification by endorsement.

A certificate shall be issued to an applicant who holds a current, valid certificate granted by another jurisdiction,

providing that the standards for granting this certificate are comparable to those required for certification in the Commonwealth of Virginia.

§ 2.2. Certification by education.

A certificate shall be issued to an applicant who has earned a master's degree from a school of library or information science that had a program accredited by the American Library Association at the time the degree was awarded. A certificate shall be issued to an applicant who has earned a doctoral degree in library or information science from an accredited institution.

§ 2.3. Provisional certification.

A provisional letter of certification shall be issued to an applicant who has satisfactorily completed the required credits for a master's degree from a school of library and information science accredited by the American Library Association. The provisional letter of certification grants the applicant a one-year period to submit proof of the receipt of an MLS degree.

§ 2.4. Certification fee.

All applications shall be made on forms to be secured from the Human Resource Officer of the Virginia State Library and Archives. The fee required by this article shall be submitted with the application.

The fee for permanent certification, established by the State Library Board, shall be \$50.

A provisional letter of certification shall be \$50. If proof of the MLS degree is submitted within a one-year period, no additional fees will be assessed for permanent certification.

The fee for a duplicate certificate shall be \$10.

DEPARTMENT OF MOTOR VEHICLES

Title of Regulation: VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.

Statutory Authority: §§ 46.2-203, 46.2-1506 and 46.2-1582 of the Code of Virginia.

Effective Date: March 29, 1990

Summary:

The Virginia Motor Vehicle Dealer Advertising Practices and Enforcement Regulations establish certain rules and standards which will govern advertising of motor vehicle dealers by the Department of Motor Vehicles.

Part I includes the purpose and definition sections of the regulations.

Part II of the regulations sets forth the violations of regulated advertising practices which could be considered unfair, deceptive or misleading acts or practices. The motor vehicle dealer has a strict definition of the vehicle's purchase status based upon definitions in Part I. Finance charges or interest rates advertisements have a narrowly defined use. Terms, conditions and disclaimers in all forms of advertising media must always be stated clearly and conspicuously. In addition, they must meet the Federal Trade Commission's Truth in Lending Act Requirements (Regulation Z), or the Federal Trade Commission's Truth in Leasing Act Requirements, as applicable. Advertisements which set out a policy matching or bettering competitor's price shall not be used unless the terms of the offer are specific, verifiable, and reasonable. If a specific vehicle is advertised, the seller shall be in possession of a reasonable supply of said vehicles and they shall be available at the advertised price. If a lease payment is advertised, the fact that it is a lease payment shall be disclosed. Advertisers must maintain the original or a clear facsimile copy of all ads in a manner that permits systematic retrieval for a period of 60 days subsequent to the expiration date of the advertised sale.

Part III of the regulations sets forth the steps involved in the enforcement process. These include administrative and civil penalties, along with the judicial review process.

These regulations shall be in addition to and not a substitute for the powers and authority granted pursuant to the provisions of the Virginia Consumer Protection Act or any other provision of the Code of Virginia.

The proposed regulations made reference to the repealed section of the state code. The new section for Motor Vehicle Dealer Advertising has been recodified as Article 9, §§ 46.2-1580 through 46.2-1582.

The permanent regulations address the deferred payment on credit sales where accrued finance charges are charged to the consumer during the deferred period in § 2.1 H 1.

Compliance with the Federal Trade Commission Truth In Leasing Act Requirements has been added to the Terms, Conditions, and Disclaimers, § 2.1 D 1.

Language which precludes advertisement of low finance charges/other interest rates when there is a cost to buy-down said charge or rate is addressed in § 2.1 C 1.

All other changes were either typographical errors or

minor changes to wording. These changes did not significantly alter the meaning or intent of the Motor Vehicles Dealer Advertising Practices and Enforcement Regulations.

VR 485-60-8901. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.

PART I. GENERAL PROVISIONS.

§ 1.1. Intent.

In the 1989 Acts of the Virginia General Assembly it was found that it is in the interest of the consuming public and legitimate motor vehicle dealers to insure that the advertising of motor vehicles is honest, fair, and clear and that deceptive or misleading advertising of the retail sales of motor vehicles as described in Motor Vehicle Dealer Advertising, [Article 7, (~~§ 46-1-550.5-39 et seq.~~) Article 9 (§ 46.2-1589 et seq.) of Chapter 15 of Title 46.2 should be prohibited. Therefore, the following regulations are promulgated to administer the administrative and civil penalties necessary for enforcement of prohibited advertising practices.

§ 1.2. Definitions.

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

"Act" means Chapter [7 (~~§ 46-1-515 et seq.~~) 15 (§ 46.2-1500 et seq.)] of Title [~~46-1~~ 46.2] of the Code of Virginia.

"Administrative penalties" means the denial, suspension or revocation of a license as allowed in [§ 46-1-550.5-35 § 46.2-1576] of the Act and based on one or more of the grounds specified in [§ 46-1-550.5-34 § 46.2-1575] of the Act.

"Advertiser" means same as licensee.

"Civil penalty" means the monetary assessment imposed by the Commissioner against a licensee not to exceed one \$1,000 for any single violation of [§ 46-1-550.5-40: § 46.2-1581.]

"Commissioner" means the Commissioner of the Department of Motor Vehicles of this Commonwealth.

"Disclaimer" means those words or phrases used to provide a clear understanding or limitation to an advertised statement but not used to contradict or change the meaning of the statement.

"Disclosure" means a statement in clear terms of the dollar amounts, time frames, down payments and other terms which may be needed to provide a full understanding of credit terms, periodic payment, interest

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rates, time payment plans, etc.

"Department" means the Department of Motor Vehicles of this Commonwealth.

"License" means the document issued to a Virginia motor vehicle dealer and which permits such dealers to engage in the business of buying and selling new and used motor vehicles or used motor vehicles only.

"Licensee" means any person, partnership, association, corporation or entity which is required to be licensed as a motor vehicle dealer in this Commonwealth.

"Line-make marketing group" means an association of motor vehicle dealers franchised to sell and advertise the same line-make of new motor vehicles.

"New motor vehicle" means a vehicle which meets all of the following criteria:

1. It has had limited use necessary in moving or road testing the vehicle prior to delivery to a customer;

2. It is transferred by a manufacturer's or distributor's certificate of origin which is the document provided by the manufacturer of a new motor vehicle, or its distributor to its franchised motor vehicle dealer;

3. It has the manufacturer's or distributor's certification that it conforms to all applicable federal motor vehicle safety and emission standards;

4. It has not been previously sold by a dealer except for the purpose of resale and when the exchange is between franchised dealers of the same line-make;

5. It has not been used as a rental, driver education, or demonstration motor vehicle; and

6. It has not been used for the personal and business transportation of the manufacturer, distributor or dealer or any of their employees.

["Repossessed vehicle" means a vehicle which meets all of the following criteria:

1. It has been sold, titled, registered, and taken back from a purchaser; and

2. Has not yet been resold to an ultimate user.]

"Sale" means there is a significant reduction from the advertiser's usual and customary price of a motor vehicle and the offer is for a limited period of time.

"Used motor vehicle" shall mean any vehicle other than a new motor vehicle as defined in these regulations.

PART II.

REGULATED ADVERTISING PRACTICES.

§ 2.1. Practices.

For purposes of these regulations, a violation of the following regulated advertising practices shall be an unfair, deceptive, or misleading act or practice.

A. New motor vehicle.

A motor vehicle shall not be advertised as new, either by word or implication, unless it is one which conforms to the definition of a "new motor vehicle" as defined in Part I.

B. Used motor vehicle.

1. The fact that a motor vehicle is used should be clearly and unequivocally expressed by the term "used" or by such other term as is commonly understood to mean that the vehicle is used. For example, "special purchase" by itself is not a satisfactory disclosure; however, such terms as "demonstrator" or "former leased and/or rental vehicles" used alone clearly express that they meet the definition of a used vehicle for advertising purposes. When in doubt, the dealer should provide more information or simply say "used."

2. Once a certificate of origin as defined in [§ ~~46.1-516~~ § 46.2-1500] has been assigned to a purchaser, the motor vehicle becomes a used vehicle and must be advertised as such.

C. Finance charges or interest rates advertisements.

[1.] Advertisements of finance charges or other interest rates "below market" (or words to that effect) shall not be used unless it is manufacturer or distributor sponsored or substantiated by a written agreement with the finance source.

[2. Advertisement of finance charges or other interest rates shall not be used when there is a cost to buy-down said charge or rate which is passed on, in whole or in part, to the purchaser.]

D. Terms, conditions, and disclaimers.

1. When terms, conditions or disclaimers are used, they shall always be stated clearly and conspicuously. An asterisk or other reference symbol may be used to point to a disclaimer or other information but the disclaimer shall not be used as a means of contradicting or changing the meaning of an advertised statement. In addition, they must meet the Federal Trade Commission Truth in Lending Act Requirements (Regulation Z) [or the Federal Trade Commission Truth in Leasing Act Requirements, as applicable] .

2. In all printed media, where terms, conditions or disclaimers are used, they shall be clearly and conspicuously visible and printed in not less than 6-point upper case type print. When billboards, portable signs, posters, etc., are used, all terms, conditions or disclaimers need to be displayed and phrased in a manner which are clear and conspicuous.

3. In radio ads, where terms, conditions or disclaimers are used, they shall be clearly announced during the ad. They must be explained clearly and at an understandable speed and volume level.

4. In television ads, where terms, conditions or disclaimers are used, they shall be clearly and conspicuously displayed or announced during the ad. They shall be at an understandable speed and volume level.

E. Sales(s).

The expiration date of an advertised "sale" shall be clearly and conspicuously disclosed. If the sale exceeds 30 days, the advertiser should be prepared to substantiate that the offering is indeed a valid reduction and has not become his regular price.

F. "List price," "sticker price," "suggested retail price."

These terms and similar terms shall be used only as follows:

1. In reference to the manufacturer's or distributor's suggested retail price for new vehicles, or
2. The dealer's own usual and customary price for used vehicles.

G. "Cost" and "invoice price" terms.

1. "At cost," "below cost," "\$ off cost" shall not be used in advertisements because of the difficulty in determining a dealer's actual net cost at the time of sale.
2. "Invoice price," "\$ over invoice," may be used, provided that the invoice referred to is the manufacturer's factory invoice, distributor's invoice, or a bona fide bill of sale [, as applicable, and that it] is available for customer inspection.
3. "Manufacturer's factory invoice" or "distributor's invoice" means that document supplied by the manufacturer or the distributor listing the manufacturer's or distributor's charge to the dealer before any deduction for items such as holdback, group advertising, factory incentives or rebates, or any governmental charges.

H. Price or credit terms of advertised vehicles.

When the price [of or] credit terms of a vehicle are advertised in print, radio, or television, the vehicle should be fully identified as to year, make, and model. In addition, in all advertisements placed by individual dealers and not marketing groups, the stated price or credit terms shall include all charges which the buyer must pay to the seller including "freight" or "destination charges." [If there are deferred payments on credit sales where accrued finance charges are ultimately charged to the consumer for any part of the deferred period, then these charges must be clearly stated.] State and local fees and taxes need not be included in the stated price. If the buyer will be required to pay to the seller charges which increase the advertised price, the charges must be disclosed and priced in the advertisement.

I. Matching or bettering competitor's price ads.

Advertisements which set out a policy matching or bettering competitor's price shall not be used unless the terms of the offer are specific, verifiable, and reasonable. All terms of the offer shall be included in the disclosure and disclaimer area and may not say such things as "rules or terms available in showroom" or "available before delivery." You must fully disclose as a part of the ad any material or significant conditions which must be met or the evidence the consumer must present to take advantage of the offer.

J. Advertisements of dealer rebates shall not be used.

Offers to match down payments or guarantee minimum trade-in allowances are forms of dealer rebates.

K. "Free," "at no extra cost" terms.

In a negotiated sale no "free," "at no cost" (or any words to that effect) offer of equipment, accessory, other merchandise or service, shall be made. No equipment, accessory, other merchandise or service shall be described as "free" or "at no cost," if its cost, or any part of its cost, is included in the price of the vehicle, or if the vehicle can be purchased for a lesser price without accepting the free offer [, or if a purchase is required in order to receive the free offer] .

L. "Bait advertising" shall not be used.

1. [The purpose of this section is to ensure that customers will be informed the vehicle is in limited quantity or availability.] If a specific vehicle is advertised, the seller shall be in possession of a reasonable supply of said vehicles and they shall be available at the advertised price. If the advertised vehicle is available only in limited numbers or only by order, that shall be stated in the ad. [For purposes of these guidelines,] The [listings listing] of [a vehicle vehicles] by stock [number numbers] or vehicle identification [number in the advertisement numbers] is permissible [for a used vehicle,] and is one means of satisfactorily disclosing a limitation of

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availability [, provided a separate number is used for each vehicle] . For new vehicles, if the offer is limited, you will be able to say such things as "in stock" or "will order" provided you can order the vehicle just as advertised and delivery can be assured as soon as the manufacturer or distributor can confirm the order and deliver to your dealership. If you cannot get an order confirmation within 30 days, you must refund all moneys collected from the buyer at his request. If the vehicle is available only by order then it must be clearly and conspicuously disclosed in the advertisement.

2. Advertising a vehicle at a certain price (including "as low as" statements), but having available for sale only vehicles equipped with dealer added cost "options" which increase the selling price, above the advertised price, may also be considered "bait advertising."

3. If a lease payment is advertised, the fact that it is a lease arrangement shall be disclosed.

M. [Term "repossessed vehicle" means a vehicle which meets all of the following criteria:

1. It has been sold, titled, registered, and taken back from a purchaser; and

2. Has not yet been resold to an ultimate user.]

[The term "repossessed vehicle" shall not be used unless the full criteria of the definition in § 1.2 is met. Advertisers offering such vehicles for sale shall provide proof of repossession upon request.]

N. "Finance" or "loan."

Words such as "finance" or "loan" shall not be used in a motor vehicle dealer advertiser's firm name or trade name, unless that person is actually engaged in the financing of motor vehicles.

O. "Special arrangement or relationship" advertisements.

Statements such as "big volume buying power," "manufacturer's outlet," "factory authorized outlet," and "factory wholesale outlet," shall not be used. Any term that gives the consumer the impression the dealer has a special arrangement with the manufacturer or distributor as compared to similarly situated dealers, is misleading and shall not be used.

P. Records retention.

Advertisers shall maintain the original or a clear facsimile copy of all ads in a manner that permits systematic retrieval for a period of 60 days subsequent to the expiration date of the [advertised sale advertisement] .

PART III. ENFORCEMENT.

In addition to any other sanctions or remedies available to the Commissioner under the Act, the following regulations are adopted to enforce the regulated advertising practices set forth in [§ 46.1-550.5:40 § 46.2-1581] and as described in Part II.

§ 3.1. Administrative and civil penalties.

A. Violations of any regulated advertising practice may, in the discretion of the Commissioner, be addressed by a written warning to the licensee as an initial step in the enforcement process.

B. Any single violation of a regulated advertising practice may also, after an informal fact finding proceeding as provided in the Administrative Process Act (§ 9-6.14:1 et seq.), result in an assessment of a civil penalty up to \$1,000.

C. Subsequent, same or similar violations may, after an informal fact finding proceeding as provided in the Administrative Process Act (§ 9-6.14:1 et seq.), result in an assessment of a civil penalty up to the \$1,000 and may also be grounds for denying, suspending or revoking a license subject to the hearing requirements pursuant to [§ 46.1-550.5:35 § 46.2-1576] of the Act, either or both.

§ 3.2. Appeals.

The action of the department in suspending, revoking or refusing any license or in imposing a monetary civil penalty against the licensee shall be subject to judicial review as provided in [§§ 46.1-550.5:36 and 46.1-550.5:37 §§ 46.2-1577 and 46.2-1578] of the Act.

§ 3.3. Other enforcement.

These regulations and the provisions of [Article 7 (§ 46.1-550.5:39 et seq.) of Chapter 7 of Title 46.1 Article 9 (§ 46.2-1580 et seq.) of Chapter 15 of Title 46.2] of the Code of Virginia shall be in addition to and not a substitute for the powers and authority granted pursuant to the provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.) or of any other provision of the Code of Virginia.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: VR 615-01-26. Aid to Dependent Children (ADC) Program - Deprivation Due to the Incapacity of a Parent.

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

Effective Date: April 1, 1990

Summary:

Eligibility for assistance in the Aid to Dependent Children (ADC) program is based on a child being deprived of parental support and care by reason of the death, continued absence, or incapacity of at least one parent. When determining if a child is deprived based on the parent's incapacity, federal regulations require the limited employment opportunities of handicapped individuals be evaluated to ascertain if such limited employment opportunities impede the parent from providing for the child's support. This regulation expands upon Virginia's current program policy to require local eligibility staff to evaluate the limited employment opportunities of handicapped individuals when making a determination as to whether a child is deprived, thereby ensuring program compliance with federal regulations.

VR 615-01-26. Aid to Dependent Children (ADC) Program - Deprivation Due to the Incapacity of a Parent.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Handicapped individuals" means any person who has a physical or mental impairment that results in a substantial deterrent to employment.

"Incapacity" means having a physical or mental impairment that substantially limits employment.

"Limited employment opportunities" means the types of jobs from which the handicapped individual is disqualified, the geographical area to which the individual has reasonable access, and the individual's job experience and training.

"Support" means the provision of a basis for subsistence.

PART II.
PHYSICAL OR MENTAL INCAPACITY OF A PARENT.

§ 2.1. A child is deprived of parental support or care if either parent has a physical or mental defect, illness, or disability and that incapacity substantially reduces or prevents the parent from providing support or care. Incapacity may be total or partial, permanent or temporary, but must be expected to last for a period of at least 30 days. In making the determination of a parent's ability to provide care and support, the local social services agency [*must shall*] take into account the limited employment opportunities of handicapped

individuals. The applicant or recipient [*must shall*] establish the existence of an impairment that substantially limits employment opportunities.

* * * * *

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

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

Effective Date: April 1, 1990

Summary:

According to an Aid to Families with Dependent Children (AFDC) Action Transmittal Number FSA-AT-89-37 from the Department of Health and Human Services, states must disregard as income and resources payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and payments received by Aleuts under the Aleutian and Pribilof Islands Restitution Act. Additionally, according to an Aid to Families with Dependent Children (AFDC) Action Transmittal Number FSA-AT-89-22 from the Department of Health and Human Services, states must disregard as income and resources any federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance of 1988. States must also disregard disaster and emergency assistance provided by state and local governments, and disaster assistance organizations. The proposed regulation assures compliance with federal laws.

VR 615-01-29. Aid to Dependent Children (ADC) Program - Disregarded Income and Resources.

PART I.
DEFINITIONS.

§ 1.1. Definitions.

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

"Aid to Dependent Children (ADC) Program" means the

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program administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Allowable reserve" means the type and amount of real and personal property, including cash and liquid assets, which may be retained by the assistance unit without affecting eligibility for financial assistance.

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

"Emergency" means any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

"Major disaster" means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Disaster Relief Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.

PART II. DISREGARDED INCOME AND RESOURCES.

§ 2.1. Disregarded income.

A. The following income of members of the assistance unit, a parent not included in the assistance unit or anyone whose income is used in determining eligibility or the amount of assistance in the Aid to Dependent Children (ADC) program, must be disregarded.

B. Income which is disregarded under the following provisions must not be counted in determining the need for assistance of any individual under any other federal assistance program:

1. Home produce of the assistance unit utilized for their own consumption;
2. The value of food coupons under the Food Stamps program;
3. The value of foods donated under the U.S.D.A. Commodity Distribution Program, including those furnished through school meal programs;

4. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

5. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

6. Grants or loans to any undergraduate students for educational purposes made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Guaranteed Student Loan (including the Virginia Education Loan), PLUS Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

7. Funds derived from the College Work Study Program;

8. A scholarship, loan, or grant obtained and used under conditions which preclude its use for current living costs;

9. Training allowance (transportation, books, required training expenses, and motivational allowance) provided by the Department of Rehabilitative Services (DRS) for persons participating in Rehabilitative Services Programs.

This disregard is not applicable to the allowance provided by DRS to the family of the participating individual;

10. Any portion of an SSI payment or Auxiliary Grant;

11. Payments to VISTA Volunteers under Title I, when the monetary value of such payments is less the minimum wage as determined by the Director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-13, the Domestic Volunteer Service Act of 1973;

12. The Veterans Administration educational amount for the caretaker 18 or older is to be disregarded when it is used specifically for educational purposes.

Any additional money included in the benefit amount for dependents is to be counted as income to the assistance unit;

13. Foster care payments received by anyone in the assistance unit;

14. Unearned income received from Title IV, Part B (Job Corps) of the Job Training Partnership Act (JTPA) by an eligible child is to be disregarded as an incentive payment. However, any payment received by any other Job Corps participant or any payment made on behalf of the participant's eligible child(ren) is to be counted as income to the assistance unit;

15. Income tax refunds including earned income tax credit advance payments and refunds;

16. Payments made under the Fuel Assistance program;

17. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs; the Women, Infants, and Children (WIC) program; and the Child Care Food program;

18. HUD Section 8 and Section 23 payments;

19. Unearned income received by an eligible child under Title II, Parts A and B, and Title IV, Part A, of the Job Training Partnership Act (JTPA) is to be disregarded;

20. Funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

21. Tax exempt portions of payments made under the Alaska Native Claims Settlement Act (Public Law 92-203);

22. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 92-114);

23. The first \$50 of total child or spousal support payments received each month by an assistance unit, including Social Security benefits received by a child, prior to the issuance of the first ongoing check.

For ongoing cases, an assistance unit is entitled to receive one disregard of the first \$50 of combined support and Social Security benefits received per month;

24. Payments sent to the recipient by the Commonwealth which are identified as disregarded support;

25. Disaster assistance payments made through the Individual and Family Grant (IFG) Program. Federal

major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707); and

26. Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383).

§ 2.2. Disregarded resources.

A. In determining eligibility for financial assistance for the Aid to Dependent Children (ADC) program, all resources must be considered in relation to the \$1,000 allowable reserve, except as specifically disregarded below. These resources are to be disregarded as long as they are kept separate from the allowable reserve. In the event any funds derived from *subdivisions 3 through 14 below of this section* are combined with other resources, they must be considered in determining eligibility.

1. The value of the food coupons under the Food Stamp Program;

2. The value of foods donated under the U.S.D.A. Commodity Distribution Program;

3. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

4. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

5. Grants or loans to undergraduate students for educational purposes, made or insured under any program administered by the U.S. Commissioner of Education.

Programs that are administered by the U.S. Commissioner of Education include: Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan, Congressional Teacher Scholarship Program, College Scholarship Assistance Program, and the Virginia Transfer Grant Program;

6. The value of supplemental food assistance received under the Child Nutrition Act of 1966. This includes all school meal programs, the Women, Infants, and Children (WIC) program, and the Child Care Food program;

7. Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage as determined by the director of the Action Office, and payments for services of reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents,

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senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973;

8. Funds distributed to, or held in trust for, members of any Indian tribe under Public Law 92-254, 93-134, 94-540, 98-64, 98-123, or 98-124. Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are disregarded;

9. Tax exempt portions of payments made under the Alaska Native Claims Settlement Act (Public Law 92-903);


10. Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114);

11. Disregarded support payments which were sent to the recipient by the Virginia Department of Social Services or determined to be a disregard by the eligibility worker;

12. Tools and equipment belonging to a temporarily disabled member of the assistance unit during the period of disability, when such tools and equipment have been and will continue to be used for employment;

13. ~~Disaster assistance payments made through the Individual and Family Grant (IFG) program.~~ *Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988, and disaster assistance provided by state and local governments and disaster assistance organizations (Public Law 100-707); and*

14. *Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Island Restitution Act (Public Law 100-383).*


COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

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February 2, 1990

JOAN W SMITH
REGISTRAR OF REGULATIONS

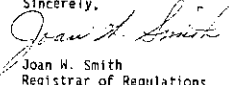
Larry D. Jackson, Commissioner
Department of Social Services
8007 Discovery Drive
Richmond, Virginia 23229

Re: VR 615-01-29. Aid to Dependent Children (ADC)
Disregarded Income and Resources

Dear Commissioner Jackson:

This will acknowledge receipt of the above-referenced regulations from the Department of Social Services.

As required by § 9-6.14:4.1 C.4.(c). of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.

Sincerely,

Joan H. Smith
Registrar of Regulations

JWS:s11

* * * * *

Title of Regulation: VR 615-43-3. Nonagency Placement for Adoption - Consent.

Statutory Authority: §§ 63.1-25 and 63.1-220.3 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

The 1989 General Assembly enacted legislation amending Chapter 11 § 63.1-220 et seq.) of Title 63.1 of the Code of Virginia. The statutory changes enable birth parents to place their children for adoption with individuals of their choice; provide procedures for executing consent to the adoption; and specify the penalty for violation of laws governing parental placements. The legislative changes have resulted in changes in responsibilities of agencies, roles of agencies, and time frames for the provision of services. The regulations will enable local departments of social services and licensed child-placing agencies to implement the new legislation.

Substantive changes were made in § 2.1, Responsibilities of the Agency, which clarify that when a child is placed into Virginia by birth parents who reside outside of Virginia, the placement must comply with the law regarding the Interstate Compact on the Placement of Children.

The department also added a requirement in subdivision 2 of § 2.1 that identifying information shall be shared through the use of a signed and dated document. The regulation stipulates that a copy of the document shall be preserved as a part of the agency's permanent record and shall be made available at any time to both parties of the adoption.

VR 615-43-3. Nonagency Placement for Adoption - Consent.

PART I.
[DEFINITIONS.]

§ 1.1. Definitions.

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

"Adult adoption" means the adoption of any person eighteen years of age or older.

"Adoption" means the legal process in which a person's rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

"Adoptive home" means any family home selected and

approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive home study" means an assessment of the adoptive family to determine their suitability for adoption.

"Agency" means a local department of social services or a licensed child-placing agency.

"Child" means any person under eighteen years of age.

"Commissioner" means the Commissioner of the Department of Social Services [or his designee] .

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Nonagency placement" means the placement for purposes of foster care or adoption of a child who is not in the custody of a local board of social services or child-placing agency. Nonagency placements include parental placements, step-parent adoptions, and adult adoptions.

"Parental placement" means the placement of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Person" means any natural person, or any association, partnership or corporation.

"Step-parent adoption" means the adoption of a child by a new spouse of the birth or adoptive parent.

PART II.
POLICY.

§ 2.1. Responsibilities of the agency.

In order for the Juvenile and Domestic Relations [District] Court to make the legally required determinations before accepting consent, the agency shall:

1. Conduct a home study of the prospective adoptive home in accordance with regulations promulgated by the Board of Social Services; and
2. Provide the court with a report of the home study. Two copies of the home study report shall be sent with the original for the court, at its discretion, to provide to the birth and adoptive parents. The report shall include the following:

- a. Information regarding whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental

Final Regulations

health to enable them to care for the child;

b. The physical and mental condition of the child;

c. Information about both birth parents including:

(1) Full names and addresses;

(2) Why the parents desire to be relieved of the responsibility for the child and what their attitude is toward the proposed adoption;

(3) Physical description, age, race, marital status, education, employment, and, if known, physical and mental health.

d. The circumstance under which the child came to live, or will be living, in the home of the prospective adoptive family;

e. Fees that have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child;

f. A statement as to whether the requirements of law related to execution of consent have been met;

[g. A statement, if applicable, as to whether the requirements of law related to the Interstate Compact on the Placement of Children have been met;

h. A statement that the birth parents and the adoptive parents have shared identifying information. The identifying information shall be written, signed and dated by the adoptive parents and the birth parents, and a copy of the document shall be preserved as part of the agency's permanent adoption record. The agency shall make available at any time to both parties a copy of this document. The document shall include but not be limited to full names, addresses, physical, mental, social and psychological information;]

[~~g. i.~~] The agency's recommendation regarding the suitability of the placement. When the recommendation is that the placement appears to be contrary to the best interest of the child, the agency shall provide its justification for the recommendation; and

[~~h. j.~~] Any other matters specified by the court.

3. If the agency suspects there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, the agency shall report such findings to the commissioner for investigation. The following exceptions apply:

a. Reasonable and customary services provided by a

licensed or duly authorized child-placing agency, and fees, based on prevailing community rates, paid for such services;

b. Payment or reimbursement for medical expenses directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, and for expenses incurred for medical care for the child;

c. Payment or reimbursement to birth parents for transportation necessary to execute consent to the adoption;

d. Usual and customary fees, based on prevailing community rates, for legal services in adoption proceedings; and

e. Payment or reimbursement of reasonable expenses incurred by adoptive parents for transportation in intercountry placements and as necessary for compliance with state and federal law in such placements.

4. If the agency suspects that a person has engaged in [the any] activities of a child-placing agency without [legal authority or] a license to do so, the agency shall report the findings to the commissioner for investigation. These activities include:

[a. Physical placement of the child with the prospective adoptive family;

b. Conducting an adoptive home study; and]

[a. Taking custody of a child for purposes of placing the child for adoption;

b. Studying and approving adoptive homes;

c. Selecting a particular adoptive home for a child;

d. Placing a child in an adoptive home; and]

[e. e.] Providing supervision of the placement to meet legal requirements related to visitation of the child and family.

§ 2.2. Responsibilities of the commissioner.

When reports of suspected violations of law in the placement and adoption of the child are received by the commissioner, the commissioner shall:

1. Investigate the suspected violation; and

2. Take appropriate action.

[when the investigation reveals that:]

a. [When the investigation reveals that] there may

have been a violation of law; the commissioner shall report his findings to the appropriate attorney for the Commonwealth [; .]

b. [When the investigation reveals that] the violation occurred in the course of the practice of a profession or occupation licensed or regulated pursuant to Title 54.1 of the Code of Virginia; the commissioner shall also report his findings to the appropriate regulatory authority for investigation and appropriate disciplinary action [; and .]

c. [When the investigation reveals that] the violation involves engaging in the activities of a child-placing agency without a license; the commissioner may file suit with the court of record having chancery jurisdiction.

* * * * *

Title of Regulation: VR 615-43-10. Nonagency Placements for Adoption - Adoptive Home Study.

Statutory Authority: §§ 63.1-25 and 63.1-220.3 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

The 1989 General Assembly enacted legislation amending Chapter 11 (§ 63.1-220 et seq.) of Title 63.1 of the Code of Virginia. The statutory changes enable birth parents to place their children for adoption with individuals of their choice; provide procedures for executing consent to the adoption; and specify the penalty for violation of laws governing parental placements. The statutory changes further requires that a child-placing agency perform an adoptive home study of the prospective adoptive families prior to the juvenile and domestic relations district court accepting the consent of the birth parents to the proposed adoption. These regulations were revised as a result of public comments received and will provide guidance to child-placing agencies in conducting an adoptive home study.

In § 2.1 A, Method of Study, an introductory paragraph was developed which provides information as to the source of the criteria required to complete an adoptive home study in a parental placement adoption. The addition in § 2.1 B, Assessment of the Family, clarifies that the criteria used in assessing the family are guidelines the agency should use in an adoptive home study.

VR 615-43-10. Nonagency Placements for Adoption - Adoptive Home Study.

PART I.

DEFINITIONS.

§ 1.1. Definitions.

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

“Adult adoption” means the adoption of any person eighteen years of age or older.

“Adoption” means the legal process in which a person’s rights and duties toward birth parents are terminated and similar rights and duties are established with a new family.

“Adoptive home” means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.

“Child” means any person under 18 years of age.

“Child-placing agency” means any person or agency who places children in foster homes or adoptive homes or a local board of public welfare or social services which places children in foster homes or adoptive homes.

“Nonagency placement” means the placement for purposes of foster care or adoption of a child who is not in the custody of a local board of social services or child-placing agency. Nonagency placements include parental placements, step-parent adoptions, and adult adoptions.

“Parental placement” means the placement of a child in a family home by the child’s parent or legal guardian for the purpose of foster care or adoption.

“Person” means any natural person, or any association, partnership or corporation.

“Step-parent adoption” means the adoption of a child by a new spouse of the birth or adoptive parent.

**PART II.
POLICY.**

§ 2.1. Adoptive home study.

The manner in which a family receives a child for adoption shall have no bearing on how the family is assessed for purposes of adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, by the birth parents, or by a legal guardian.

The difference between completing a home study for a child placed by an agency and for a child placed by birth parents is in the role of the agency, not in the assessment of the adoptive family. In an agency placement, the

Final Regulations

agency approves or denies adoptive applicants based on agency standards. In a parental placement, the agency is to make a recommendation to the court regarding the suitability of the family to adopt. The recommendation is to be based on an assessment of whether the placement is contrary to the best interest of the child. The assessment is based on information gathered during the home study process.

Section 63.1-220.3 B 6 of the Code of Virginia requires home studies to be conducted according to regulations established by the State Board of Social Services. These are described below.

A. Method of study.

[The following criteria provide agencies with the minimum requirements for the completion of an adoptive home study. These criteria are based on the current Minimum Standards for Licensed Child Placing Agencies and the department's Agency Approved Provider Standards as they apply to an adoptive home study in a parental placement adoption.]

1. Interviews.

a. There shall be a minimum of three interviews. At least one interview must occur in the home of the adoptive family and, in the case of married applicants, shall be a joint interview with husband and wife.

b. In a parental placement, the agency social worker shall meet at least once with the birth parents and prospective adoptive parents simultaneously.

c. All members of the household shall be interviewed as part of the home study, including children when appropriate.

2. References. Adoptive applicants shall provide at least two references from individuals who are unrelated to them.

3. Criminal and child protective services records.

a. Adoptive applicants shall identify any criminal convictions and be willing to consent to a criminal records search;

b. Adoptive applicants shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of the child.

c. Adoptive applicants shall be willing to consent to a search of the child protective services central registry.

4. Medical examinations. Adoptive applicants shall provide a physician's statement that reflects their

current health and that states that they are in satisfactory physical and mental health to enable them to provide adequate care for the child.

B. Assessment of the family.

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. The home study shall include, but not be limited to, an assessment of the following criteria, which are based on standards developed by the Child Welfare League of America. [The criteria below are to be used as guidelines in assessing the adoptive family during the home study process.]

1. Total personality functioning.

a. Significant life experiences and the individual's response to them;

b. Relationships with nuclear and extended family members;

c. Work history and the individual's response to work situations;

d. Relationships with friends;

e. Involvement in community activities.

2. Emotional maturity.

a. Capacity of the family to give and receive love;

b. Ability to assume responsibility for the care, guidance and protection of other people;

c. The family's flexibility and ability to change in relation to the needs of others;

d. Ability to cope with problems, disappointments and frustrations;

e. Ability to accept normal hazards and risks;

f. Capacity to take responsibility for one's own actions;

g. Capacity to accept and handle loss;

h. The capacity to understand that adoption is a lifelong experience and that the family may need support over time;

i. Capacity to accept professional support.

3. Quality of relationships.

a. Duration and stability of spousal relationship, when married; or with significant others, when single;

b. The capacity of the nuclear and extended family members to accept the adopted child as an equal member of the family.

4. Capacity to parent.

a. The ability of the family to realistically understand the needs and behaviors of children and the impact of adoption on the child and family;

b. The ability to love and nurture a child born to someone else;

c. The family's willingness to provide linkages to the child's birth family;

d. The family's capacity for feeling satisfaction from contributing to the development of a child;

e. The family's ability to understand and respond to changing developmental, health, and emotional needs of the child.

5. Reasons for adoption.

a. Motivation to adopt;

b. In infant adoptions, the primary motivation to adopt may be infertility. Applicants may want help to understand and cope with feelings about the inability to have a child. When indicated, the agency should assist applicants in obtaining services to help resolve feelings associated with infertility. However, unresolved feelings about childlessness do not necessarily indicate inability to parent a child through adoption.

6. Readiness to adopt.

a. The ability to make a lifelong commitment to a child not born to them;

b. The ability to accept the circumstances of the child's birth and birth family history;

c. The capacity to understand the lifelong impact of adoption and to help the child deal with adoption related issues at various developmental stages of life.

7. Home and community environment.

a. The degree to which the home environment allows for privacy among family members; adequate play areas; and freedom from health and safety hazards;

b. The accessibility of community resources that may be needed for the child.

8. Financial circumstances of the family. The ability

of the family to meet the basic needs of the child and family (food, clothing, shelter, and medical care).

C. Approval period.

A home study conducted for purposes of parental placements shall be approved for a period of 12 months from the date of completion of the study.

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-1-1805.1. General Provisions: Padlocking Premises.

Statutory Authority: §§ 58.1-203 and 58.1-1805 of the Code of Virginia.

Effective Date: April 1, 1990

Summary:

With the exception of the substantive change made to § 2 A 1 to set forth the minimum amount of tax delinquency required (\$100), all changes from the proposed regulation were nonsubstantive and made pursuant to suggestions by the Office of the Attorney General and the Department of Planning and Budget for clarification.

The regulation sets forth the administrative procedures that must be followed by the Department of Taxation in suspending the business operations of delinquent taxpayers by padlocking the doors of a business that is seriously delinquent in paying its taxes.

The regulation sets forth the conditions that must exist and the additional conditions that the department may consider in making the determination that padlocking is the appropriate remedy to force the collection of delinquent taxes. It provides that no less than 10 days prior to the actual padlocking, the department must provide the taxpayer with notice that it is contemplating forcing the business to suspend its operations by padlocking the doors of the business. The taxpayer is given the opportunity for a hearing to show cause why the department should not proceed. If the Tax Commissioner determines that padlocking is appropriate, he may order the business to be padlocked and notices of distraint posted at each entrance to the business. In the event that the taxpayer either (i) pays the delinquent taxes; (ii) posts a bond; or (iii) makes satisfactory payment arrangements with the department, the department must remove the padlocks and cease the distraint. If none of the three actions takes place within three days after the business is padlocked, the department may obtain a writ of fieri facias (if it has not already obtained one) and have the sheriff proceed to levy and sell sufficient assets of the business to pay the

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delinquent taxes.

VR 630-1-1805.1. General Provisions: Padlocking Premises.

§ 1. Definitions.

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

“Business [enterprise] “ means the location at which a person is engaged in an activity requiring the registration [for the ,] collection, withholding [.] or payment of a tax administered by the Department of Taxation.

“Department” means the Department of Taxation.

“Delinquent tax” means any amount of tax, penalty or interest, assessed by the Department of Taxation, which is not paid in full within 30 days after the date of assessment. No tax is considered delinquent while the Department of Taxation is considering a timely filed application for correction under § 58.1-1821 of the Code of Virginia.

“Padlock” means any act of physical restraint which makes [a ~~business location~~ the location of a business enterprise] inaccessible to any person other than a person given permission to enter such premises by the Tax Commissioner.

“Tax Commissioner” means the chief executive officer of the Department of Taxation or his delegate.

§ 2. Determination of when padlocking is appropriate.

A. Required factors.

Prior to ordering the padlocking of a business [~~or a business location~~ enterprise], the Tax Commissioner first shall make the determination that such action is the appropriate remedy to force the collection of delinquent taxes. The Tax Commissioner must find that the following conditions are satisfied:

1. Minimum amount of tax delinquency. The aggregate amount of delinquent taxes owned by the business [enterprise] or the owner of such business [~~or business location~~ enterprise] must exceed [a minimum amount established by the Tax Commissioner and published in the same manner as documents published under § 58.1-204 C of the Code of Virginia \$100] . The aggregate amount of delinquent taxes shall include the total amount of delinquent taxes, penalties and interest owed by the business [enterprise] or the owner of the business [enterprise], attributable to the business operations of the business [enterprise] to be padlocked.

2. Other collections actions. Padlocking may occur only after the Department of Taxation has attempted

other methods of collecting the delinquent taxes. At a minimum, the following shall have occurred:

a. An assessment shall have been issued and mailed or delivered in accordance with the provisions of § 58.1-1820 of the Code of Virginia [; and]

b. A memorandum of lien shall have been filed in accordance with the provisions of subsection A of § 58.1-1805 of the Code of Virginia.

B. Additional factors which may be considered.

In addition to the requirements under subsection A, the following factors may be considered by the Tax Commissioner in determining whether padlocking is appropriate:

1. The effectiveness of prior collection actions, i.e., written requests for payment, telephone contacts, personal contacts and prior judicial orders.

2. The taxpayer's history of chronic delinquency and other conduct tending to hinder or delay the timely collection of taxes administered by the Department of Taxation as a factor in the determination of whether padlocking is appropriate.

3. Whether padlocking is appropriate to complement other actions, e.g., revocation of a dealer's certificate of registration to collect sales tax.

4. The likelihood that continued operation of the business [enterprise] may increase the amount of sales or withholding tax, collected from others and held in trust for the Commonwealth, which has not been paid over to the Department of Taxation.

5. The likelihood that padlocking the business [enterprise] of a delinquent taxpayer will adversely affect the business operations of other taxpayers whose businesses may share the same physical business location as the delinquent taxpayer.

§ 3. Notice of intent to padlock a business [enterprise] .

A. Notice.

If under the provisions of § 2 of this regulation, the Tax Commissioner makes the determination that padlocking is an appropriate method of collecting delinquent taxes, the taxpayer must be so notified. Padlocking may not occur unless the following requirements are met:

1. A notice of the department's intention to padlock is mailed to the last known address of the taxpayer or personally delivered to the taxpayer not less than 10 days prior to the date padlocking occurs.

2. Such notice shall set out the amounts of delinquent

taxes, the periods for which such taxes are delinquent, the types of taxes that are delinquent, and the date such taxes were first assessed by the Department of Taxation.

3. The notice shall contain a brief statement explaining what action the Department of Taxation intends to take if the delinquent taxes are not paid or satisfactory arrangement is not made to pay such taxes and a brief statement explaining the taxpayer's administrative remedies.

4. The notice shall inform the taxpayer of the date, time and location of the administrative hearing to be held at which the taxpayer may show cause why the business [enterprise] should not be padlocked. Failure to appear at the administrative hearing will be deemed a waiver of the hearing.

5. The notice shall inform the taxpayer that an allegation that the assessment is erroneous will not be considered at the hearing. If the taxpayer desires to make such an allegation it shall be in the form of an application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia. The application shall fully set forth the grounds upon which the taxpayer relies and all facts relevant to the taxpayer's contention. (See subsection C.)

6. The notice shall give the taxpayer a telephone number that he can call to get more information regarding the Department of Taxation's intent to padlock the business [enterprise] .

B. Complementary actions.

The department's notice may be issued at the same time as a notice to revoke a dealer's registration certificate under § 58.1-613 of the Code of Virginia. The show cause hearing under subdivision A 4 may be held in conjunction with a hearing required under § 58.1-613 of the Code of Virginia for the revocation of a sales tax certificate of registration.

C. Application for correction.

The taxpayer may file an application for correction of an erroneous assessment pursuant to § 58.1-1821 of the Code of Virginia if he has reason to believe that the assessment is erroneous. However, if a taxpayer files an application after the department has issued a notice of intent to padlock the business [enterprise] , it is presumed that one of the taxpayer's reasons for filing the application is to prejudice or to render wholly or partially ineffectual proceedings to collect the delinquent tax. In this case, the department may determine that it is in the best interest of the Commonwealth to continue efforts to collect the delinquent tax during the time that it is considering the application for correction, unless the taxpayer posts a bond in an amount and with security satisfactory to the Tax Commissioner.

§ 4. Procedure for padlocking a business [enterprise] .

A. Order to padlock and notice of distraint.

If the Tax Commissioner determines that it is in the best interest of the Commonwealth to cause a business [enterprise] to cease operations by padlocking, he shall issue an order requiring that such action be done. In issuing an order to padlock and notice of distraint, the Tax Commissioner shall certify:

1. He has determined that padlocking is an appropriate method of collecting delinquent taxes; and
2. There has been compliance by the Department of Taxation with the notice requirements found in § 3 of this regulation.

B. Delivery of order and notice.

The Tax Commissioner or his delegate shall personally deliver the order to padlock and the notice of distraint to the business [enterprise] . The order and notice will be delivered during the normal business hours of the business [enterprise] . If the owner of the business [enterprise] is present, the order and notice shall be presented to the owner. In the absence of the owner, the order and notice shall be presented to the person having responsibility for the operation of the business [enterprise] . If no such person is present, the order and notice shall be posted. In all cases, the order and notice shall also be mailed to the last known address of the taxpayer.

C. Employees' and customers' personal effects.

After delivering or posting the order to padlock and notice, employees and customers of the business [enterprise] shall be allowed to gather their personal belongings and to leave the premises. [~~After all individuals have left the business premises, steps shall be taken to protect the inventory and other property of the business.~~]

D. All entrances to the business [enterprise] shall be adequately secured in order to ensure that no individual may enter the business [enterprise] to remove inventory, merchandise or other property. [~~After all individuals have left the business premises, steps shall be taken to protect the inventory and other property of the business enterprise.~~]

E. Notices of distraint.

A copy of the order to padlock and the notice of distraint shall be posted at each entrance of the business [enterprise] that is padlocked. The notice shall contain the name of the Tax Commissioner's designated agent or agents, street address and telephone number where any person may call concerning the distraint. The notice shall contain a statement that it is a Class 1 misdemeanor for anyone to enter the premises without prior approval of

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the Tax Commissioner or his designee.

§ 5. Remedies.

A. Removal of padlocks.

If the taxpayer takes any one of the following actions, the Department of Taxation must cease the distraint and remove the notices and any other devices preventing entry to the business [enterprise] .

1. Full payment of all assessed taxes. Upon receipt of payment in full [in cash or its equivalent] for the amount of delinquent taxes specified in the notice to the taxpayer, plus any taxes, penalties and interest assessed after the date of the notice, and after the taxpayer has filed returns for all periods for which returns were delinquent and all taxes when due, the Department of Taxation shall cease the distraint and remove the padlocks.

2. Satisfactory payment arrangement. The Tax Commissioner may enter into a good faith agreement with the taxpayer that provides for the full payment of all delinquent taxes specified in the notice to the taxpayer. The agreement may provide for periodic payments to be made at specific dates. Upon agreement on a satisfactory payment arrangement the Department of Taxation shall cease the distraint and remove the padlocks.

3. Posting of bond. The taxpayer may file an application to the Tax Commissioner for correction of an assessment if he has reason to believe that the assessment is erroneous. However, if a taxpayer files an application after padlocking has occurred, the Department of Taxation will not cease the distraint and remove the padlocks during the time that it is considering the application for correction until the taxpayer has posted a bond in an amount and with security satisfactory to the Tax Commissioner.

B. Levy and sale.

If the taxpayer fails to take any of the actions specified in subsection A within three business days after the padlocking of the business [enterprise] , collection may be enforced as provided in Article 19 (§ 8.01-196 et seq.) of Chapter 3 of Title 8.01 of the Code of Virginia. The Tax Commissioner may cause a writ of fieri facias to be issued or may direct the sheriff to sell property pursuant to a previous writ of fieri facias. As provided in § 8.01-201 of the Code of Virginia, such a writ shall require the sheriff to levy upon the "goods, chattels, and real estate" of the taxpayer.

C. Leased premises.

If the business [enterprise] is located in leased premises and the taxpayer has not taken any of the actions specified in subsection A within three business

days after padlocking, then the Department of Taxation may cause a writ offieri facias to be issued and served as soon as practicable after expiration of the three-day period, if it has not already done so. The sheriff shall be directed to remove the property of the business [enterprise] from the leased premises for storage pending sale. Notwithstanding the preceding sentence, the Department of Taxation may make arrangements with the sheriff and the owner of the leased premises to store the property of the business [enterprise] at the leased premises for such time as may be deemed expedient.

§ 6. Criminal penalty.

It is a Class 1 misdemeanor for any person to enter the padlocked premises without prior approval of the Tax Commissioner. For purposes of this provision:

1. Persons who enter the premises under emergency conditions to protect life or property shall be deemed to have the prior permission of the Tax Commissioner for such entry.

2. The owner of the premises, or an employee or agent of the owner who enters the premises for purposes of routine maintenance shall be deemed to have the prior permission of the Tax Commissioner for such entry.

3. Any person who desires to remove his personal property from the premises shall contact the designated agent of the Tax Commissioner to establish his ownership of the property and to obtain permission to remove it.

If the property has been repaired by the business [enterprise] , or other charges are owed to the business [enterprise] by the owner of the property, the Tax Commissioner may require payment [of to the Department of Taxation for] such charges prior to permitting the removal of such property. Prior to permitting the removal of such property, the Tax Commissioner may require a lien holder to establish the priority and amount of his lien to establish the fair market value of the property, and to pay an amount representing the excess of the fair market value of the property over the amount secured by the lien on the property. Any payments received shall be applied first to the expenses of levy and sale, if any, then to the delinquent tax.

4. Under no circumstances will any person be deemed to have permission to enter the premises if:

a. The purpose of the entry is to operate the business [enterprise] , or

b. The purpose of the entry is to remove, conceal or destroy any property on the premises (unless subdivision 1 applies).

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR THE)

Title of Regulation: VR 670-02-01. Regulations to Govern the Operation of Vending Facilities in Public Buildings and Other Property.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

The Department for the Visually Handicapped has repealed existing regulations and adopted new regulations under which the Business Enterprises Program for the Blind is operated. The regulations set forth criteria for the issuance of licenses, termination of licenses, vending facility equipment and initial stock, maintenance and replacement of equipment, setting aside of funds, distribution and use of income from vending machines on federal property, agreement between the department and blind vendor, department administrative review, transfer and promotion of vendors, training program, election organization and function of vending facility, vendors council, arbitration of vendor complaints, evidentiary hearings, access to program and financial information, and explanation of vendor rights and responsibilities.

VR 670-02-01. Regulations to Govern the Operation of Vending Facilities in Public Buildings and Other Property.

PART I. INTRODUCTION.

§ 1.1. Definitions.

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

"Act" means the Randolph-Sheppard Vending Stand Act (P.L. 74-732), as amended by P.L. 83-565 and P.L. 93-516, 20 U.S.C., Chapter 6A, § 107.

"Blind licensee" means a blind person licensed by the state licensing agency to operate a vending stand or vending facility on public or other property.

"Blind person" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Custodian" means any person or group of persons having the authority to grant permission for the installation and operation of vending facilities and vending stands.

"Department" means the Department for the Visually Handicapped.

"Direct competition" means the presence of an operation of a vending machine or a vending facility on the same premises as a vending facility operated by a blind vendor. (Vending machines or vending facilities operated in areas where the majority of employees do not have direct access to the vending facility operated by a blind vendor, shall not be considered to be in direct competition with the vending facility operated by a blind vendor.)

"DVH" means the Department for the Visually Handicapped.

"License" means a written instrument issued by the state licensing agency to a blind person, authorizing such person to operate a vending facility or vending stand.

"Management services" means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities and vending stands operated by blind vendors. "Management services" does not include those services or costs which pertain to the on-going operating of an individual facility after the establishment period.

"Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, vending stands, or other income accruing to blind vendors after deducting the cost of such sale and other expenses.

"Nominee" means a nonprofit agency or organization designated by a state licensing agency through a contractual arrangement to act as its agent in the provision of services to blind licensees [as set forth in §§ 63.1-145 and 63.1-146 of the Code of Virginia] .

"Permit" means the official approval given to a state licensing agency by a department, agency, or instrumentality in control of maintenance operation and protection of federal property, or person in control of public and private buildings and other properties, whereby the state licensing agency is authorized to establish a vending facility or vending stand.

"Program" means all the activities of the state licensing agency under these regulations related to public and private buildings and other properties throughout the Commonwealth.

"Public and private buildings and other properties throughout the Commonwealth" means buildings, land, or other property owned by or leased to the Commonwealth or a political subdivision, including a municipality, or a corporation or individual.

"Set aside funds" means funds which accrue to a state licensing agency from an assessment against the net proceeds of each vending facility or vending stand in the state's vending facility program and any income from vending machines on public and private buildings and

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other properties which accrue to the state licensing agency.

"State vocational rehabilitation agency" means the state agency designated by the Secretary of Education to issue licenses to blind persons for the operation of vending facilities and vending stands on public and private buildings and other properties throughout the Commonwealth.

"Vending facility" means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending for any lottery authorized by state law and conducted by an agency of a state within such state.

"Vending stand" means an installation in any public or private building for the sale of newspapers, periodicals, confections, tobacco products, soft drinks, ice cream, wrapped foods, and other such articles as may be approved by the custodian thereof and the department.

"Vending machine" means a coin or currency operated machine which dispenses articles or services, except that those machines operated by the United States Postal Service for the sale of stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

"Vending machine income" means receipts from public, private, and other property after deducting applicable costs where [: (i)] the machines are operated by the property custodian [or , (ii)] commissions are received by the property custodian [or , (iii) an] activity [receives income] from a commercial vending firm which provides vending machines on the property with the approval of the property custodian.

"Vendor" means a blind licensee who is operating a vending facility or vending stand on federal property, [in a] public [and or] private building [,] or [on] other property throughout the Commonwealth.

PART II. ELIGIBILITY.

§ 2.1. Issuance of licenses.

The department shall [~~cause the issuance of issue~~] a license to operate a vending facility to persons who are in need of employment and [who] meet the following criteria:

- [1. A blind person;

2. Citizen of the United States;

3. At least 18 years of age; and

4. Have successfully completed the prescribed training and have satisfactorily completed all probationary periods.]

[1. A blind person who is at least 18 years of age and a citizen of the United States.

2. The individual successfully completes the prescribed training and satisfactorily completes all probationary periods.]

§ 2.2. Termination of licenses.

A. Licenses issued to blind persons to operate vending facilities shall be issued for an indefinite period but shall be subject to suspension or termination if, after affording the vendor an opportunity for a full evidentiary hearing, the department finds that the vending facility is not being operated in accordance with its regulations, the terms and conditions of the permit, or the terms and conditions of the written agreement with the vendor.

B. Additionally, the license of an individual vendor for the operation of a vending facility on federal or other property may be suspended or terminated for any of the following reasons:

1. Improvement of vision so that the vendor no longer meets the definition of blind person;

2. Extended illness with medically documented diagnosis of prolonged incapacity of the vendor to operate the vending facility in a manner consistent with the needs of the location or other available locations in the vending facility program; [or]

3. Withdrawal of the vendor from the program upon his written notification to the department.

PART III. OPERATIONS.

§ 3.1. Vending facility equipment and initial stock.

The department is responsible for furnishing each vending facility with adequate, suitable equipment and initial stocks of merchandise necessary for the establishment and operation of such facility.

The right, title to, and interest in the equipment of each vending facility (exclusive of automatic coin-operated machines, except for those facilities that are totally coin operated) used in the program and the stock of merchandise shall be vested in the department; provided that title, at the discretion of the department, may be vested in an agency or organization designated by the department under terms of a written agreement as its

nominee, to hold such title for program purposes only, subject to the paramount right of the department to direct and control the use, transfer, and disposition of such vending facility equipment and stock of merchandise.

§ 3.2. Maintenance and replacement of equipment.

The department [; through its nominee,] shall maintain all vending facility equipment in good repair and in attractive condition, and shall replace worn out or obsolete equipment as required to ensure the continued successful operation of the vending facility.

The department [; through its nominee,] shall cause the repair or replacement of vending facility equipment upon the recommendation of the vendor and the business counselor and the approval of the program manager. When equipment is no longer functional and has been fully depreciated, the equipment [is shall be] placed in the surplus process through the Department of General Services in accordance with state regulations.

Each vendor shall take reasonable care of the equipment in his facility and shall carry out routine, day-to-day maintenance procedures prescribed for such equipment.

§ 3.3. Operating agreement between the department and blind vendor.

The department shall cause to be signed an agreement between the department and each blind vendor which shall be developed with the active participation of the vending facility vendors council covering the basic terms and conditions including, but not restricted to, the following:

1. The duties of the vendor and the performance of such duties in accordance with standards prescribed by the department. Such standards shall be developed with the active participation of the vending facility vendors council [; with regard . Such standards shall conform] to applicable health laws and regulations, and the terms of the permit granted by, or the contract entered into with, the federal or other agency or organization in control of the site of the vending facility.
2. The responsibilities of the department to provide management services to the vendor including assistance and supervision, and the ways in which such responsibilities will be carried out.
3. A statement that the vendor shall receive the net proceeds from the vending facility which he operates.
4. The responsibility of the vendor to furnish such reports as the department may require.
5. The right of the vendor to terminate the operating agreement at any time.

6. The termination of the operating agreement upon termination of the permit or contract.

7. The termination or revocation of the operating agreement upon failure of the vendor to operate the vending facility or vending stand in accordance with the operating agreement or applicable federal, state, or local laws or regulations.

§ 3.4. Transfer and promotion of vendors.

A. The department shall use as a basis for vendor upward mobility or transfer, the following criteria:

1. Sanitation inspections;
2. Business counselor evaluation for upward mobility;
3. Tenure in program;
4. Gross profit percentage;
5. Vendor attitude toward the program;
6. Appearance;
7. Attendance (Daily);
8. Building host-employee relations; and
9. Customer relations.

B. Each category [is shall be] evaluated independently of the other with no single category outweighing the other. The total score of each vendor [is shall be] the sum of scores in each category.

C. Vendors who apply for upward mobility/transfer and who are denied their request [are shall be] entitled to review the evaluation [and results be shown cause for the nonaward by the state licensing agency . The state licensing agency shall show cause for the nonaward] .

§ 3.5. Training of blind vendors.

A. The department, with the active participation of the vending facility vendors council, shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to eligible blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1974.

B. These programs shall include classroom as well as on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or retraining for improved work opportunities) for all blind licensees. The department shall ensure that post-employment services

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shall be provided to blind vendors in vocational rehabilitation services as necessary to assure that the optimum vocational potential of such vendors is achieved and suitable employment is maintained within the vending facility program.

§ 3.6. Election, organization and function of the Vending Facility Vendors Council.

A. The function of the vending facility vendors council shall be:

1. To participate with the state [licensing] agency in major administrative actions and program development;
2. To receive grievances of blind vendors and serve as advocates for such vendors;
3. To participate with the state [licensing] agency in the development and administration of a transfer and promotion service for blind vendors;
4. To participate with the state [licensing] agency in developing a training and retraining program;
5. Sponsorship with the state [licensing] agency in meeting and instructional conferences for blind vendors; and
6. Such other functions as may be of interest to blind vendors.

B. The state licensing agency has the ultimate responsibility for the administration of the state vending facility program. When the agency position is opposed to that of the vending facility vendors council, the agency will notify the council in writing of the decision reached or the action taken and the reasons [thereof therefor] .

C. Council membership.

The vending facility vendors council shall consist of nine vendors. Two from the Richmond district; two from the Norfolk district; two from the Roanoke district; and three from the Northern Virginia district.

D. Elections.

1. All elections shall be conducted by the [DVH state licensing agency] or its nominee in the district to be represented. The election shall be opened to all vendors in the district. A simple majority shall elect.
2. The members of the council shall elect the chairman by simple majority to serve for a one-year term [; however, the . The] chairman [must shall] be elected after the elections of council members, but before October 1. [The chairman may serve two consecutive terms by a simple majority vote of council members.]

E. Terms of office.

All terms of office shall be two years. Councilmen shall be eligible [for two consecutive terms for reelection] . The terms of office shall start October 1 of the year elected.

F. Meetings of council.

The vending facility vendors council shall meet at least biannually. When the vending facility vendors council meets to conduct business, there [must shall] be a quorum of not less than four members present [; provided that all council members have been previously advised of the meeting] . Subcommittees will be appointed by the council to carry on the business between regular council meetings.

G. Removal of a councilman and vacancies.

Any councilman found abusing, misusing, or neglecting his office may be required to show cause at a meeting of the vendors in his district why he should not be removed from office. Removal shall require a two-thirds majority vote by the vendors council membership. Vacancies on council will be filled by a special election held by DVH or its nominee in the district concerned.

H. Financial data and reports.

1. The DVH shall provide relevant financial data concerning the vending facility program to each of the nine councilmen.
2. To the extent permissible under applicable federal or state laws pertaining to the disclosure of confidential information, the department shall provide quarterly and annual financial reports and program data to the vending facility vendors council. Such data shall be made available by [recorded tape medium of choice] to each blind vendor, upon request; and when requested, the department will arrange a convenient time to assist in the interpretation of such data.

I. Amendments to council guidelines and reference.

Any changes in these guidelines are to be presented in the following manner:

1. If a vendor or the state licensing agency wishes formal changes in the guidelines, such proposed changes shall be prepared in writing at least 30 days prior to the annual vendors meeting. Copies should be distributed to each vendor, the Commissioner of DVH and the program manager.
2. The proposed change will be incorporated into the business meeting of the annual vendors meeting. Discussion will occur on the merit of the proposed change and the change will be approved or rejected

by a simple majority of the blind vendors at the annual vendor's meeting.

3. Reference. The Vending Facility Vendors Council may be referred to as the V.F.V. Council.

§ 3.7. Standards of operation in management of a vending facility.

A. The following standards shall constitute the department's minimum policy requirements for the operation and supervision of the vending facility program.

1. Operations manual. An operations manual shall be maintained in each facility. [A The] blind licensee shall operate the facility so as to comply with [the] requirements as specified in the operations guidelines.

2. Vacations. Since the blind licensee receives the net proceeds from the facility, any vacation taken by the blind licensee will be at his own expense and the salary paid the substitute manager will be deducted from the proceeds. Requests for vacations shall be filed in writing with the nominee on or before March 1 of the calendar year in which the vacation is to be taken. Both the time for requesting vacation and the selection of the substitute manager shall be subject to prior approval by the department.

3. Sick leave. In the event of illness, the nominee will supply a substitute manager whose salary will be deducted from the proceeds of the facility. In instances of incapacity or prolonged illness the blind licensee may be replaced at the discretion of the department. Incapacity or prolonged illness is defined as one lasting six months or longer. [This will be considered as an An] accumulation of absences due to illness and incapacity [will be considered] within the calendar year. In such cases, management, with input from the vendors [committee council], will determine the final outcome to the blind licensee. Blind licensees in facilities producing [draw fair minimum] or less shall have expenses for sick leave subtracted from [draw fair minimum] .

4. Permits and contracts. All official permits and contracts with building management [for vending facilities] shall be made by an official representative of the department. Such permits and contracts are the property of the department. Any [request inquiries concerning permits or contracts] made by building management shall be referred to the department.

5. Building host relationship. The blind licensee and Assistant Deputy Commissioner for Business Facilities or his designee shall meet [together periodically] with building management. [The agenda will include at a minimum a review of the permit or contract.]

6. Customer relationship. Use of alcoholic beverages

and illegal drugs within the facility shall be prohibited. Smoking is prohibited in food preparation and serving area. A blind licensee shall always be pleasant and alert to serving the customer's needs. The blind licensee shall be responsible for all financial transactions conducted by the facility.

7. Sanitation. [The] blind licensee shall adhere to sanitation regulations set forth by building management, [Health Department the Virginia Department of Health] , and any other applicable regulations.

8. Personal hygiene. It is expected that all personnel working in the vending facility shall present a clean and neat appearance. Good grooming techniques shall be followed.

9. Advertisement. [No materials or advertising, other than those pertaining to business, shall be allowed to be displayed in facility.] No advertisement or material shall be displayed other than that supplied or approved by the department or its nominee.

10. General maintenance. [The] blind licensee shall exercise reasonable judgment in [the] performance of maintenance of equipment in [the] facility. Damage resulting from gross neglect may result in financial [charge charges] to the blind licensee.

B. The department shall furnish to each blind licensee copies of documents relevant to the operation of the vending facility including the [applicable] regulations, a written description of the arrangements for providing services, and the agreement and permit covering the operation of the vending facility. The documents shall be read to the blind licensee and his receipt taken that they have been explained to his satisfaction.

PART IV.

FISCAL: INCOME AND DISTRIBUTION OF FUNDS.

§ 4.1. Setting aside of funds

A. Funds will be set aside from the net proceeds of the operations of the vending facilities under the program and from retained vending machine income according to the formula submitted to and approved by the [U.S.] Commissioner of Rehabilitation Services Administration and [the U.S.] Secretary of Education in an amount determined to be reasonable.

B. These charges shall be assessed quarterly. Statements shall be prepared and rendered, along with settlement, to each blind vendor quarterly.

C. Moneys collected from the setting aside of funds shall be used solely for the following purposes:

1. Maintenance and replacement of equipment;

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2. Purchase of new equipment;

3. Management services;

4. Assuring a fair minimum return to vendors;

5. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors licensed by the state licensing agency, after such agency provides to each vendor information on all matters relevant to such proposed purposes.

D. The charge for each of the listed purposes will be determined by the department on the basis of records or expenditures made for each of these purposes over a reasonable period of time, with allowances for reasonable charges for improving services, fluctuation in costs, and for program expansion. The charges shall be reviewed and approved by the commissioner of the department with the assistance of the operations management team. Charges will be reevaluated periodically and necessary adjustments made. Adequate records will be maintained by the department to support the reasonableness of the charge for each of the purposes listed, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

E. [The setting aside of funds policy has been developed with the active participation of the vending facility vendors council. The policy on setting aside of funds shall be reviewed annually with the active participation of the vending facility vendors council.]

§ 4.2. Distribution and use of income from vending machines.

A. Income from vending machines [on property which has been disbursed to the department by a property managing department, agency, or instrumentality of the United States and public and private buildings and other properties throughout the Commonwealth, () with the exception of revenues derived from the state highway vending program ()], shall accrue to each vendor operating a vending facility on such property [in an . The] amount [shall] not [to] exceed the average net income of the total number of blind vendors within the Commonwealth as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States.

B. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

C. No limitation shall be imposed on income from vending machines combined to create a vending facility

when such facility is maintained, serviced, or operated by a blind vendor.

D. The department will disburse vending machine income to eligible blind vendors on a quarterly basis.

E. [The department will retain vending machine income disbursed in excess of the amounts eligible to accrue to blind vendors which will be used for the establishment and maintenance of retirement pension plans; for health insurance contributions; and for the provisions of paid sick leave and vacation time for blind vendor, if it is so determined by a majority vote of the licensed vendors; after each vendor has been furnished information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used for one or more of the following: The department shall retain vending machine income which is in excess of the amount eligible to accrue to a blind vendor in a facility. Funds received from these facilities will be used for:]

[1. The establishment and maintenance of retirement or pension plan;

2. Contributions toward a health insurance program; and

3. The provision of paid sick leave and vacation time for blind licensees.

The purposes stated must be approved by a majority vote of the licensed vendors after each licensee has been furnished information relevant to such purpose.

Any vending machine income not necessary for such purposes shall be used for one or more of the following:]

1. Maintenance and replacement of equipment;

2. Purchase of new equipment;

3. Management services; and

4. Assuring a fair minimum return to vendors.

F. Any assessment charged to blind vendors shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

§ 4.3 Administrative review of income and distribution of funds.

A. The department shall receive on an annual basis a budget prepared by the nominee which sets forth the anticipated revenue and the designated uses thereof.

B. The budget shall be developed with the active participation of the vending facility vendors council.

C. Quarterly updates to the revenue projections and revisions to the proposed budget will be submitted by the

nominee to the commissioner of the department.

D. An annual budget summary will be submitted to the commissioner of the department at the end of the budget cycle.

E. The commissioner of the department shall determine the time of submission for such documents.

F. The proposed budget of the nominee shall be submitted by the commissioner to the board of the department [~~for final approval~~ for review and comment]

G. The nominee shall submit to the commissioner and to the board of the department an annual financial audit. The audit is to be performed by an independent firm of certified public accountants to be secured in accordance with the Virginia Procurement Act, §§ 11-35 through 11-80 of the Code of Virginia.

PART V. VENDOR'S RIGHTS AND APPEALS.

§ 5.1. Administrative review of blind vendor grievance.

The administrative review provides a blind vendor or his representative an opportunity to express and seek remedy for his dissatisfactions with any agency action arising from the operation or administration of the vending facility program. The administrative review procedures shall be as follows:

A. A blind vendor or his designee (who may be a member of the Vending Facility Vendors Council) may request in writing, within 15 working days of the occurrence of the action, administrative review of an agency action relating to the operation or administration of the vending facility program with which the blind vendor is aggrieved. The administrative review will be conducted by a member or members of the administrative staff of the department or its nominee who has not participated in the agency action in question.

B. The administrative review shall be held at a time and place convenient to the blind vendor requesting such review. The administrative review should be held during regular agency working hours at a district or local office location.

C. [~~It is expected that an~~ An [administrative review [~~will~~ shall] be conducted within 15 working days of receipt by the department of such a written request.

D. Transportation, reader, or other communication services, if needed, shall be arranged for the blind vendor by the department.

E. Documentation as to written requests for administrative review, actions, and decisions resulting thereof shall be maintained as part of the official record

of the administrative review process.

F. When an administrative review does not resolve a dispute to the satisfaction of a blind vendor, such blind vendor may request of the department a full evidentiary hearing.

§ 5.2. Procedures for a full evidentiary hearing.

A. When a blind vendor is dissatisfied with any agency action arising from the operation or administration of the vending facility program, such blind vendor may file a complaint with the department requesting a full evidentiary hearing.

B. Blind vendors shall be informed in writing of their rights and the procedures in obtaining a full evidentiary hearing at the time they are licensed. The procedures for obtaining a full evidentiary hearing are:

1. If a blind vendor requests a full evidentiary hearing, such request shall be made in writing either within 15 working days after an adverse decision based on an administrative review or, in absence of an administrative review, within 15 working days of the occurrence of the action with which the blind vendor is dissatisfied. The request shall be transmitted to the commissioner of the department personally or by certified mail, return receipt requested. The request may be transmitted through the vending facility vendors council. Such a request shall indicate consent by the blind vendor for release of such information as is necessary for the conduct of a full evidentiary hearing or an ad hoc arbitration panel.

2. A blind vendor is entitled to legal counsel or other representatives in a full evidentiary hearing. A blind vendor may wish to obtain his own counsel at his own expense or may wish to avail himself of any legal services available through public agencies, such as the Department for Rights of the Disabled or other community resources.

3. Reader services or other communication services shall be arranged for the blind vendor should he request it. Transportation costs and per diem shall be provided also to the blind vendor during the pendency of the evidentiary hearing if the location of the hearing is in a city other than the legal residence of the blind vendor.

4. The hearing shall be held at a time and place convenient and accessible to the blind vendor requesting a full evidentiary hearing. The hearing shall be scheduled by the department within 15 working days of its receipt of such a request, unless the department and the blind vendor mutually agree, in writing, to some other period of time. The blind vendor shall be notified in writing of the time and place fixed for the hearing and of his right to be represented by legal or other counsel. The blind

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vendor shall be provided a copy of the hearing procedures and other relevant information necessary to enable him to prepare his case for the hearing.

5. The presiding officer at the hearing shall be an impartial and qualified official who has no involvement either with the department action which is at issue in the hearing or with the administration or operation of the Randolph-Sheppard vending facility program. [~~He~~ The presiding officer] may be a staff member or official of another state agency or a state agency hearing officer. []

6. The presiding officer shall conduct a full evidentiary hearing, avoid delays, maintain order and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing shall be open to the public unless the presiding officer determines otherwise for good cause shown.

7. The blind vendor and the department are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross-examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issues.

8. All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties and opportunities shall be given to refute facts and arguments advanced on either side of the issues.

9. A transcript shall be made of the oral evidence and shall be made available to the parties. The department shall pay all transcript costs and shall provide the blind vendor with at least one copy of the transcript.

10. The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.

11. The decision of the presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, regulation, and agency policy. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision shall also set forth any remedial action necessary to resolve the issues in dispute. The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be mailed promptly to the blind vendor and the department.

12. If a blind vendor is dissatisfied with the decision rendered after a full evidentiary hearing, he may request that an ad hoc arbitration panel be convened by filing a complaint with the Secretary of the U.S. Department of Education. Such complaint shall be accompanied by all supporting documents, including a statement of the decision rendered and the reasons in support thereof.

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Title of Regulation: VR 670-03-1. Regulation Governing Provisions of Services in Vocational Rehabilitation.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These regulations are intended to state the department's policies under which vocational rehabilitation services are provided. The regulations set forth criteria for eligibility for services, order of selection for services, the type and duration of services, the conditions under which persons may receive services, and their rights and responsibilities including their right to appeal department decisions affecting them.

The Virginia Department for the Visually Handicapped (DVH) is empowered by the Code of Virginia to administer the Vocational Rehabilitation Program for the blind and visually impaired. The Federal Program Regulations (Federal Register, Vol. 46, No. 12, January 19, 1981) for Title I of the Rehabilitation Act of 1973, as amended, forms the basis for the department's vocational rehabilitation client service policies to the applicable federal regulations—the proposed rules are present in Parts II through VI.

The only substantive changes in the Vocational Rehabilitation regulations are as follows: (i) inclusion of rehabilitation engineering services; (ii) inclusion of supported employment services; (iii) inclusion of a statement that the agency will conduct a public hearing prior to implementation of the order of selection; and (iv) exclusion of the formula for determining when to implement an order of selection.

All other changes and revisions in these regulations are for the purposes of consistency in definitions, clarity in writing, and grammatical correctness.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the

context clearly states otherwise:

"Audiological examination" means the testing of the sense of hearing.

"Board" means the Board of the Department for the Visually Handicapped.

"Client" means any person receiving a service provided by the Department for the Visually Handicapped, whether referred to as a client, participant, patient, resident, or other term.

"Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs, projects, and facilities providing rehabilitation services.

"Commissioner" means the Commissioner of the Department for the Visually Handicapped.

"Comparable services and benefits" means any appropriate service [*of or*] financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services [*to be provided which is*] under an individualized written rehabilitation program for a handicapped individual.

"Department" means Virginia Department for the Visually Handicapped.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the cost of services provided by this program.

"Eligibility" means, when used in relation to an individual's qualification for vocational rehabilitation services, a certification that an individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment and that vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

"Employability" means a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor markets, the practice of a profession, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than in cash), sheltered employment, homebound employment, or other gainful work.

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case (i) a preliminary diagnostic study to determine that an individual is eligible

for vocational rehabilitation services; (ii) a thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability; (iii) any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability; (iv) referral to other agencies or organizations, when appropriate; and (v) the provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

"Extended evaluation" means the provision of vocational rehabilitation services necessary for determination of rehabilitation potential.

"Family member or member of the family" means any relative by blood, marriage, or adoption of a handicapped individual living in the same household. If the family member lives outside the household and is not emancipated, he is a member of the family unit.

"Higher education/institutions of higher education" means training or training services provided by universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Individual Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the state agency to conduct a vocational rehabilitation program in the locality under the supervision of the state agency in accordance with the state plan.

"Long range goals and intermediate objectives" means the establishment of a vocational goal with job placement, physical restoration, personal adjustment and the achievement of vocational skills as possible objectives needed to attain the goal.

"Ophthalmologist" means a medical doctor skilled in eye disease and eye treatment.

"Optometrist" means a person licensed to practice optometry by the Virginia Board of Optometry.

"Physical impairment" means any physical condition,

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anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

"Post-employment services" means services which are required to maintain the individual in employment after closure.

"Prevocational training" means individual and group instruction, counseling, or both; the controlled use of varied activities; and the application of special behavior modification techniques. Clients/patients are helped to: (i) develop physical and emotional tolerance for work demands and pressures; (ii) acquire personal-social behaviors which would make them acceptable employees and co-workers on the job; and (iii) develop the basic manual, academic, and communication skills needed to acquire basic job skills.

"Prosthetic and orthotic appliances" means any mechanical equipment that improves or substitutes for one of more of an individual's senses or for impaired mobility or motor coordination.

"Public safety officer" means an individual who performs duties directly related to the enforcement, execution, and administration of law or fire prevention, fire fighting, or related public safety activities and whose handicapping condition arose from a disability sustained in the line of duty while performing as a public safety officer and the immediate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition.

"Rehabilitation engineering" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with handicaps in areas that include education, rehabilitation, employment, transportation, independent living, and recreation.

"Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (i) vocational rehabilitation services, including under one management medical, psychiatric, psychological, social, and vocational services; (ii) testing, fitting, or training in the use of prosthetic and orthotic devices; (iii) prevocational conditioning or recreational therapy; (iv) physical and occupational therapy; (v) speech and hearing therapy; (vi) psychological and social services; (vii) evaluation of rehabilitation potential; (viii) personal and work adjustment; (ix) vocational training with a view toward career advancement (in combination with other rehabilitation services); (x) evaluation or control of specific disabilities; (xi) orientation and mobility services and other adjustment services to blind individuals; and (xii) transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market.

"Reservation" means a federal or state Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; and land held by incorporated native groups, regional corporations, and village corporations under the provision of the Alaska Native Claims Settlement Act.

"Services to groups" means the provision of facilities and services which may be expected to contribute substantially to the vocational rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation program of any one handicapped individual.

"Severely visually impaired" means vision [no better worse] than 20/70 in the better eye with correction or a field of vision restricted to [70 degrees or less less than 70 degrees] in the better eye.

"Sheltered employment" means a service which provides supervised, guided remunerative employment for an individual whose current assessment indicates employment in a sheltered setting representing the individual's maximum level of vocational functioning. This service may involve the development of social, personal, and work-related skills based on an individualized client rehabilitation/habilitation plan.

"Similar benefits" means any appropriate service or financial assistance available from a program other than vocational rehabilitation to meet, in whole or in part, the cost of vocational rehabilitation services to be provided under an individualized written rehabilitation program for a handicapped individual.

"Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

"Supported employment" means competitive work in an integrated work setting with ongoing support services for individuals with severe handicaps for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe handicaps.

"Third party funding" means the use of money from a public or private source to match available allocations to the Department for the Visually Handicapped from the General Assembly.

"Vocational evaluation" means a systematic, formalized assessment and subsequent recommendations. The assessment is for the purpose of determining an individual's vocational objectives based on his assets and limitations. The assessment methods are client centered and include evaluation techniques appropriate to the individual. The assessment results in specific recommendations to be used

in the development of the individual rehabilitation/habilitation plan.

"*Vocational rehabilitation services*" when provided to an individual means evaluation of vocational potential, counseling and guidance, physical and mental restoration, vocational and other training, maintenance, transportation, services to family members, interpreter and note-taking services, reader services, telecommunications services, placement, post-employment services, other goods and services which can reasonably be expected to benefit the individual in terms of employability; when provided for the benefit of groups of individuals, also means (i) the establishment of a rehabilitation facility; (ii) the construction of a rehabilitation facility; (iii) the provision of other facilities and services, including services provided at rehabilitation facilities that promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual; (iv) the use of existing telecommunications systems; and (v) captioned films or video cassettes for deaf persons.

"*Vocational skill training*" means a program of organized and systematic instruction conducted by qualified instructors and designed to enable clients to acquire marketable skills in a specific occupation or trade.

"*Work activity*" means therapeutic work activities and educational, social, personal, and vocational adjustment training to assist severely disabled individuals to attain their optimal level of vocational development and to enhance their ability to function independently within the community.

"*Work adjustment training*" means a treatment/training process utilizing individual and group work or work-related activities to assist individuals in understanding the meaning, value, and demands of work; to modify or develop attitudes, personal characteristics, and work behavior; and to develop functional capacities, as required, in order to assist individuals toward their optimum level of vocational development.

"*Workshop*" means a rehabilitation facility or that part of a rehabilitation facility that provides work opportunity at a less-than-competitive level.

PART II. REFERRAL AND ELIGIBILITY.

§ 2. § 2.1. Processing referrals and applications.

A. Certain items of information are required in order to open a case record on individuals who are referred for rehabilitation services. The Vocational Rehabilitation Program shall open a case record on every individual who is referred and regarding whom the required items of information are known.

B. A referred individual regarding whom the Vocational Rehabilitation Program has the required items of information and who requests in writing consideration for eligibility for the Vocational Rehabilitation Program shall be considered an applicant. All applicants are informed regarding the availability of the Client Assistance Program.

§ 2. § 2.2. Eligibility for vocational rehabilitation services.

A. The DVH Vocational Rehabilitation Program shall serve only individuals with visual impairments. The Virginia Department of Rehabilitative Services (VDRS) is empowered in the Code of Virginia to provide vocational rehabilitation services to individuals with disabilities not involving visual impairment. A cooperative agreement exists between the DVH and VDRS which delineates the client populations to be served by DVH and by VDRS. A multihandicapped individual, one of whose impairments is legal blindness, is to be served by the DVH.

B. No vocational handicap exists on a usual basis if the disabled individual is not of working age. Therefore, the DVH program does not provide vocational rehabilitation services to individuals who have not attained the age of 14. One exception exists to the age of 14 lower limit — an individual may be served at age 13 if he clearly meets all other requirements, is in immediate need of vocational rehabilitation services, and no community resources or similar benefits are available to defray the cost of vocational rehabilitation services.

C. Any qualified applicant residing in Virginia will be served by the DVH Vocational Rehabilitation Program. Services may be provided to aliens who have a permanent or working visa. To provide services to an alien, there must be documentation in the case records that the individual has either a permanent or work visa, or the green card registration number.

D. The presence of a physical disability for purposes of eligibility for the DVH Vocational Rehabilitation Program shall constitute one or more of the following:

1. Legal blindness—having not better than 20/200 central visual acuity in the better eye measured at 20 feet with correcting lenses or having visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle of no greater than 20 degrees measured (at a distance of 33 centimeters using a three-millimeter white test object, a Goldman III-4e target, or other equivalent equipment);

2. 20/100 to 20/200 distance vision in the better eye with correcting glasses or a field limitation to 30 degrees or less in the better eye, if the person has been unable to adjust satisfactorily to the loss of vision and if it is determined by the DVH rehabilitation counselor that the person is in need of the specialized services available through DVH Vocational Rehabilitation Program;

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3. Night blindness or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less; and

4. Recommendation by an eye doctor for eye surgery or special treatments, regardless of visual acuity, as long as the eye surgery or special treatment is not merely to improve cosmetic effect.

E. The federal requirement for the presence of a substantial handicap to employment is met if the visually impaired individual is unemployed or is employed but at employment which is determined by the DVH rehabilitation counselor to be marginal or unstable. The DVH does not provide vocational rehabilitation services to successfully employed visually impaired individuals seeking job promotions or a career change.

F. The federal vocational rehabilitation eligibility requirement that there be a reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability is carried out by the DVH rehabilitation counselor as described in § 4.A § 2.3 below. In order for a visually impaired individual to be eligible for vocational rehabilitation services under this criteria, the DVH rehabilitation counselor must determine that the visually impaired individual is likely to enter remunerative employment, or function as a homemaker, as a result of the delivery of vocational rehabilitation services.

G. The DVH elects not to provide vocational rehabilitation services on the basis of an interim determination of eligibility.

§ 4. § 2.3. Evaluation of vocational rehabilitation potential; preliminary diagnostic study.

A. In order to determine if an applicant is eligible for vocational rehabilitation services, the DVH requires the following items:

1. An eye report from an ophthalmologist or optometrist.
2. An appraisal of the current general health status of the individual. This appraisal is to be procured from a qualified physician, except in instances where the individual is referred solely for sponsorship for eye surgery or special treatments. In such instances, the DVH rehabilitation counselor may review health information supplied by the applicant in lieu of a general preoperative medical exam by a physician.
3. A determination by the DVH rehabilitation counselor that the applicant will likely be able, as a result of vocational rehabilitation services, to enter or reenter remunerative employment or to function as a homemaker. This determination shall be based on the applicant's general health status, his general level of

functioning apart from the visual limitation, and his family status.

4. The DVH rehabilitation counselor will secure such additional examinations or testing as may be indicated by the findings from §§ 4.A.1, 4.A.2, and 4.A.3 § 2.3 A 1-3 above in order to assist in determining eligibility for vocational rehabilitation services. Such additional examinations and tests may include but are not necessarily limited to: specialty medical exams, psychological or psychiatric exams, and vocational evaluations.

B. The applicant for vocational rehabilitation services from the DVH may use a qualified physician(s) of his choice in obtaining the necessary eye and general health appraisals.

§ 5. § 2.4. Evaluation of vocational rehabilitation potential; thorough diagnostic study.

A. The DVH rehabilitation counselor shall assess the medical, psychological, vocational, education, and other factors relating to employment and rehabilitation needs.

B. An assessment to the extent appropriate will consist of the following tests and evaluation data.

1. Specialty medical reports;
2. Psychological or psychiatric reports;
3. Vocational evaluations reports;
4. Activities of daily living (ADL) skills evaluation; and
5. Low vision evaluation.

PART III. SERVICES.

§ 6. § 3.1. Order of selection for services.

A. The following order of selection will prevail in the Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped. The order of selection will be implemented if the Virginia Department for the Visually Handicapped cannot serve, due to limited financial resources, all individuals who apply and are potentially eligible for services.

1. A legally blind individual means having a visual acuity of [~~no better than~~] 20/200 [*or worse*] in the better eye with correction, or who have a field [~~less~~ *of restricted to*] 20 degrees or less in the better eye.
2. Those who are severely disabled, based on visual acuity which means their vision [~~cannot be better is worse~~] than 20/70 in the better eye with correction, or if [~~there is a field of their visual field is restricted~~

to] less than 70 degrees in the better eye.

3. The nonseverely disabled.

B. When cumulative average monthly expenditures exceed 5.0% of the total funds available for two consecutive months, the order of selection will be immediately implemented. The order of selection can be lifted when the level of expenditures return to the total level of available funding for two consecutive months. *When the Vocational Rehabilitation Program of the DVH determines it is necessary to go on an order of selection, a public hearing will be held prior to the implementation of the order of selection.*

C. The Vocational Rehabilitation Program of the DVH shall give top priority to serving public safety officers disabled in the line of duty.

§ 7. § 3.2. Services to handicapped American Indians.

Eligible American Indians, whether or not residing on the Indian reservation in Virginia, will be provided vocational rehabilitation services to the same extent and in the same fashion as other eligible individuals.

§ 8. The individualized written rehabilitation program: procedures.

A. It is Vocational Rehabilitation Program policy that the individual's views be taken into account and that the individualized written rehabilitation plan be jointly developed. As evidence that the individualized written rehabilitation program was jointly developed by the DVH rehabilitation counselor and the disabled individual, the rehabilitation counselor will do the following:

1. Forward a copy of the plan to the individual along with a stamped, self-addressed postcard for the individual to sign and return. The postcard states that the individual has received the copy and is aware of the provisions of his plan.
2. Enter the individual's views, either in paraphrase or verbatim, regarding his rehabilitation program on the "plan of services" page of the individualized written rehabilitation program.

B. It is Vocational Rehabilitation Program policy that the DVH rehabilitation counselor inform the individual or his representative of all agency procedures and requirements affecting the development and review of the individualized written rehabilitation program.

C. The periodic review of the individual's individualized written rehabilitation program (IWRP) will be conducted by the rehabilitation counselor in a face-to-face interview with the individual whenever possible. The review will be conducted via telephone if a face-to-face interview is not feasible. The individual's views will always be taken into account in redeveloping the IWRP. In all cases, a written

copy of the periodic review and redeveloped IWRP will be forwarded to the individual along with a stamped, self-addressed postcard for the individual to sign to indicate that he has received a copy of his updated, redeveloped IWRP and is aware of its content.

D. The Vocational Rehabilitation Program fully complies with the federal regulations relating to the termination of services if an individual is determined to be no longer eligible for services. When a case is closed by the Vocational Rehabilitation Program from active status because it has been determined that the individual no longer has rehabilitation potential, the required annual review at that time is done by a representative of the agency's Program Evaluation and Support team (PEST) rather than the rehabilitation counselor who made the ineligibility decision.

§ 9. § 3.3. Scope of state unit program: vocational rehabilitation services for individuals.

A. Evaluation of vocational rehabilitation potential. (See §§ 5-A and 5-B 2.4 A and 2.4 B of these regulations or applicable requirements.)

The Department for the Visually Handicapped reserves the right to require, prior to commitment of case services funds, to conduct or procure evaluative studies and reports which in the department's opinion are necessary to determine the individual's eligibility for vocational rehabilitation, and to determine the nature and scope of services needed by the individual.

B. Counseling, guidance, and referral.

It is the policy of the Virginia Department for the Visually Handicapped to provide counseling, including vocational counseling and adjustment counseling, as appropriate to all vocational rehabilitation clients. It is also policy of the Virginia Department for the Visually Handicapped that its clients will be referred as appropriate to other agencies for needed services.

C. Physical and mental restoration and training: *Scope of vocational rehabilitation services appropriate to the needs of individuals:*

1. Physical and mental restoration services can be provided only to correct or substantially modify a physical or mental condition which is stable or slowly progressive. [*Physical or mental restoration services are provided to enable eligible vocational rehabilitation clients to enter, reenter, or retain employment.*]

2. The Vocational Rehabilitation Program does not sponsor visually handicapped individuals for physical restoration when the sole objective is improvement of cosmetic effect, except when the individual's vocational goal requires extensive, interpersonal, or public contact.

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3. The Vocational Rehabilitation Program, in determining rates of payment for various medical services for its clients, abides by the medical fee schedule developed and maintained by the Virginia Department of Rehabilitative Services. In instances where the Virginia Department of Rehabilitative Services has not established rates of payments, the Vocational Rehabilitation Program will set rates of payment seeking and considering the views of medical practitioners, medical insurance carriers, and the Medical Advisory Committee of the Virginia Department of Rehabilitative Services.

4. In determining the amount to be paid for any physical or mental restoration service for a handicapped individual covered by medical insurance, the Vocational Rehabilitation Program will pay only after the ~~similar benefit comparable services or benefits~~ or insurance has paid. The Vocational Rehabilitation Program of the Virginia Department for the Visually Handicapped deems the amount established in the medical fee schedule of the Virginia Department of Rehabilitative Services (VDRS) for any given medical procedure or services to be the full reasonable charge for such medical procedure or service.

5. Individuals eligible for physical restoration services from the Vocational Rehabilitation Program and who are also eligible for Medicare parts A and B are entitled to ~~having the Vocational Rehabilitation Program pay only the Medicare deductible amounts for parts A and B, only to having the Vocational Rehabilitation program pay the established fee less the Medicare parts A and B payment.~~

6. The Vocational Rehabilitation Program does not sponsor individuals for experimental surgery or special treatments. A decision as to whether any given surgery or special treatment is experimental versus having demonstrated benefit will be made by the Vocational Rehabilitation Program after consultation with appropriate physicians.

7. The following ~~rules govern~~ *rule governs* the purchase of hearing aids for clients:

a. Hearing aids will be provided only on the recommendation of an otologist or audiologist *with a hearing aid evaluation*.

b. ~~Binaural hearing aids will be purchased only after the client has successfully adjusted to the use of a monaural aid.~~

8. The Vocational Rehabilitation Program will not provide routine dental care and prophylaxis (such as, routine cleaning, filling cavities, etc.). Oral surgery, orthodontic services, and dental prosthesis may be provided when necessary in order to assist vocational rehabilitation clients obtain employment.

9. Eye surgery or treatment will be provided by a physician skilled in diseases of the eye.

10. The client will exercise free choice in the selection, if necessary, of a physician skilled in the diseases of the eye or an optometrist from those who are duly qualified. If the client desires the Vocational Rehabilitation Program staff to select an ophthalmologist or optometrist, the client will be referred to the optometrist or ophthalmologist most convenient to the client's home.

11. The Vocational Rehabilitation Program will not provide routine "maintenance" drugs (such as, high blood pressure medication, eye drops for the control of glaucoma, insulin for diabetics, etc.) for clients. Prescription drugs may be provided incidental to eye surgery or other special treatments or to stabilize a client's medical or eye condition. The Vocational Rehabilitation Program will not pay amounts in excess of the maximum allowable charge (MAC) as described in 45 CFR Part 19 Limitations on Payment or Reimbursement for Drugs.

12. On-the-job training is used by the Vocational Rehabilitation Program as a means of giving a client practical experience on a job without putting an extra expense on an employer [~~because of a longer learning period on the part of the blind worker~~]. On-the-job training is also a means of persuading reluctant employers to give vocational rehabilitation clients a job trial without cost to the employer. Clients placed in on-the-job training must be paid at least the federal minimum wage plus the employer's part of the FICA. One exception to the minimum wage rule is in sheltered workshops that have been approved by the U.S. Department of Labor for payment of less than minimum wage to these workers. A maximum time limit of three months is placed on Vocational Rehabilitation Program sponsorship for on-the-job training. A monthly training progress report from the employer is required in order for the Vocational Rehabilitation Program to process the bill.

13. The following policies shall apply to the Vocational Rehabilitation Program sponsorship for college training:

a. It is the policy of the Virginia Department for the Visually Handicapped to sponsor college student-clients in Virginia state-supported colleges and universities. If the necessary curriculum is not available to the student-client in a Virginia state-supported college or university, or if there exists other adequate justification for sponsoring a student-client at an out-of-state college or university, the Vocational Rehabilitation Program may sponsor the student-client in an out-of-state college or university.

b. The Vocational Rehabilitation Program is

permitted to sponsor students at public and private colleges and universities in the Commonwealth whose primary purpose is to provide a collegiate education. Students may be sponsored at nonsectarian and public colleges and universities out of state. Any college or university to be used by the Vocational Rehabilitation Program must be on the list of approved colleges and universities maintained by the Virginia Department of Rehabilitative Services.

c. In determining whether to sponsor a client for college, the Vocational Rehabilitation Program staff will consider high school grade transcripts, aptitude test scores, and psychological test results. The Vocational Rehabilitation Program is not obligated to sponsorship for college unless a determination can be made that the student-client has a reasonable chance of successfully completing his chosen curriculum.

d. In sponsoring a student-client, the Vocational Rehabilitation Program will pay the actual cost of the education or an amount that does not exceed the amount charged by the most expensive state-supported college or university, whichever is lower. Student-clients not categorically ineligible for Pell Grant assistance must apply annually for such assistance before the Vocational Rehabilitation Program will obligate itself to pay toward the cost of college training. The Vocational Rehabilitation Program requires maximum utilization of Pell Grant or other available educational grants. Student-clients who are categorically ineligible for Pell Grant assistance (example: graduate students) are required to apply for other available scholarships, fellowships, etc., and to make maximum utilization of same. The client shall send to the DVH rehabilitation counselor a copy of the Student Eligibility Report (SER) when he receives it from the college scholarship service. Those who are ineligible to apply for a Pell Grant are required to have a letter by the college sent to the rehabilitation counselor verifying that he has applied for all available scholarship aid and the amounts of assistance, if any. The student-client must apply for Pell Grant or other financial aid within the college's deadline for accepting such applications. Failure to provide SER or other written verification will result in the Vocational Rehabilitation Program not providing sponsorship for the year. The student-client must provide the DVH rehabilitation counselor with the required SER or other written verification at least 60 days prior to the beginning of the college quarter or semester in order to receive sponsorship from the DVH.

e. The student-client must complete required course work within the "normal" period of time. Ordinarily for a bachelor's degree, this will be four academic years. Student-clients receiving maintenance, transportation, or personal incidentals must complete

a minimum academic load of 12 hours per regular term and nine during summer term. No student will be sponsored for more than two summer terms, unless he plans to finish college in three academic years and three summer terms; and this must be documented on his IWRP when the service is authorized. Graduate students are required to carry an equivalent load. If at any time the number of hours completed by a student-client receiving maintenance, transportation, or personal incidentals from Vocational Rehabilitation Program falls under 12 hours per term, sponsorship by DVH will be withdrawn except in exceptional circumstances, such as illness. The requirements for minimum credit hours as described immediately above do not apply to student-clients receiving tuition only.

f. All college students, who have been declared emancipated, are required to apply for SSI/SSDI benefits before receiving financial assistance from DVH.

g. At the end of the first term of the freshman year, the student-client is expected to have attained a grade point average of at least 1.8 on a 4.0 scale. Following the first term of the freshman year, the student-client is expected to maintain a 2.0 average. Failure to do so will result in suspension of sponsorship by the DVH. The DVH will also withdraw sponsorship if the student-client fails to achieve a 2.0 for any two consecutive terms. (Examples: (i) If a student-client achieves a 1.8 grade point average for the first term of the freshman year, he must achieve a 2.2 the second term in order for the DVH to continue sponsorship; (ii) a student-client cannot achieve a 1.7 or lower quality point average for the first semester of the freshman year and continue to receive DVH sponsorship.) DVH sponsorship for college can resume at such time that the student-client brings his cumulative grade point average to a 2.0 or above. However, in no case will the total DVH college sponsorship exceed four academic years and two summer terms or three academic years and three summer terms.

h. The DVH will pay maximum of \$300 per academic year for books and supplies and \$100 for summer sessions.

i. Each vocational rehabilitation client being sponsored for college training is required to review and sign a document called the VR-27C (Terms and Conditions of DVH Sponsorship of College Students). Failure to sign and return the "Terms and Conditions" document constitutes grounds for termination of DVH college sponsorship. Failure to comply with the terms and conditions as set forth in "Terms and Conditions" document will also result in termination of DVH college sponsorship. The VR-27C must be reviewed and signed annually by the client.

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This must be done prior to the development of the IWRP and authorization for the academic year involved.

j. DVH clients attending college will be served by the DVH rehabilitation counselor who serves the territory in which the college is located. Student-clients attending college out-of-state but within 25 miles of Virginia will be served by the DVH rehabilitation counselor whose territory is in closest proximity to the college. Where more than one DVH rehabilitation counselor's territory is in equal proximity to an out-of-state college (such as in Washington, D.C.), the DVH rehabilitation counselors involved will divide as equally as possible the number of such college student-clients to be served. Student-clients attending colleges more than 25 miles from the Virginia state line will be served by the DVH rehabilitation counselor in whose territory the student-client resides when not at college.

14. It is the policy of the Vocational Rehabilitation Program to provide personal and vocational adjustment training services in the least expensive manner compatible with adequate quality and comprehensiveness of service. Sponsorship decisions involving selection of training vendors/providers will be so governed.

15. Vocational training sponsorship for any vocational rehabilitation client will be limited to that which prepares the client to meet the minimum entry job qualifications for the job he plans to obtain. If, due to the presence of high numbers of qualified job seekers, it is determined that the vocational rehabilitation client will need more than minimum qualifications to reasonably expect to gain employment in the chosen job field, the Vocational Rehabilitation Program may provide training which prepares the vocational rehabilitation client at more than minimum qualification level. In such situations, the sponsorship decision will be made by the Vocational Rehabilitation Program on an individual basis—taking into account available information regarding qualification profiles of entry-level personnel in the client's chosen career field. In instances where an individual's employment is interrupted by sudden blindness, the Vocational Rehabilitation Program will make every effort to assist the individual to return to his previous employment or to an equivalent position.

16. Vocational training will not be provided by the Vocational Rehabilitation Program for clients whose vision is restored by physical restoration to normal or near normal status. That is, clients who after the provision of physical restoration services have vision better than 20/100 distance acuity in the better eye with glasses or who is left with a visual field of more than 30 degrees in the better eye are not eligible for vocational rehabilitation sponsorship for vocational training.

17. In order for the Vocational Rehabilitation Program to continue vocational training sponsorship, the vendor/provider of such training must provide the Vocational Rehabilitation Program with periodic training reports dealing with the client's performance and progress. "Periodic" here is defined as the time period stipulated in writing by the Vocational Rehabilitation Program at the time of authorizing the service.

18. In sponsoring its clients for vocational evaluation or adjustment and vocational adjustment training at a sheltered workshop or other rehabilitation facility, the Vocational Rehabilitation Program will abide by the fee schedule developed and maintained by the Virginia Department of Rehabilitative Services (VDRS). In instances where out-of-state rehabilitation facilities are not listed in the VDRS fee schedule, the Vocational Rehabilitation Program will pay the same amount as the state vocational rehabilitation agency (agencies) pay for services.

19. Vocational Rehabilitation Program clients will be sponsored, as needed, for prevocational training services in a variety of settings. Such prevocational training consists of, but is not necessarily limited to, work adjustment training and behavior modification training.

20. The following rules apply to provision of maintenance services:

a. Hospitalization incidental to treatment of intercurrent illness is deemed by the (federal) Rehabilitation Services Administration to be maintenance; and therefore, any vocational rehabilitation client to be sponsored for hospitalization for intercurrent illness must be eligible for maintenance services as described in this section of these regulations.

b. It is the policy of the Vocational Rehabilitation Program to pay maintenance, as far as possible, at the prevailing rate in the community. Payment rates and schedules are revised as needed to keep them current.

c. Maintenance payments are provided only to enable individuals to participate in other vocational rehabilitation services. Maintenance may only be provided when supportive of other vocational rehabilitation services. Maintenance payments may be made to cover food, shelter, clothing, personal incidentals, intercurrent illness, and other subsistence expenses.

d. Maintenance payments may be provided during diagnosis and evaluation, active case services, and post-employment.

e. Payments for maintenance shall not exceed the

amount of increased expenses that the rehabilitation program causes to the individual or his family.

f. Maintenance can be paid by the Vocational Rehabilitation Program for clients who reside at home during their rehabilitation programs, but only to the extent of increased costs to the client as a result of participating in the rehabilitation program. When training is outside of their home area, maintenance may be paid only to the extent of increased cost to the client after all available ~~similar benefits~~ *comparable services and benefits* have been used.

g. Vocational Rehabilitation Program clients who are SSDI or SSI recipients are not eligible for maintenance payments from the Vocational Rehabilitation Program, except when there is an increased maintenance cost due to participating in a rehabilitation program. In such instances, the Vocational Rehabilitation Program may pay the difference between actual maintenance costs and the amount of the client's monthly SSDI or SSI benefits.

21. The Vocational Rehabilitation Program makes payments when necessary for transportation for vocational rehabilitation clients incidental to participating in their rehabilitation programs. The amount of payment is limited to that of the least expensive available common carrier. If common carrier service is not available in the client's locality, the Vocational Rehabilitation Program may pay up to the current amount per mile for travel by automobile which is authorized for employees of the Commonwealth of Virginia. It is the policy of the Vocational Rehabilitation Program to provide necessary transportation for eligible clients in the least expensive manner. Transportation, in the sense of relocation and moving expenses necessary for clients to enter employment, is also available to eligible individuals.

22. The Vocational Rehabilitation Program provides services to the vocational rehabilitation client's family members when necessary to the vocational rehabilitation of the client. Due to the highly individualized nature of client situations, the provision of services to family members must be considered on an individualized basis to determine the "necessity." Examples of services to client's family members include: (i) providing bookkeeping training to the client's spouse if the Vocational Rehabilitation Program intends to assist the client start a small family business and (ii) providing child care service if the client is a single parent with small children and the client's vocational rehabilitation involves vocational training or other activities requiring the client's being out of the home.

23. The Vocational Rehabilitation Program provides tactile interpreting for deaf-blind vocational

rehabilitation clients when necessary for them to achieve their vocational objectives. The rate of payment, when it is necessary to purchase such tactile interpreter service, is determined in consultation with the Virginia Department for the Deaf and Hard of Hearing.

24. The Vocational Rehabilitation Program provides reader services for its clients when necessary to assist them in vocational training. The Vocational Rehabilitation Program requires that other available resources for this service be utilized before or in place of the Vocational Rehabilitation Program. The maximum number of hours per academic year for which the Vocational Rehabilitation Program will purchase this service per client is 400 hours. Rates of payment for reader service for vocational rehabilitation clients will be set by the Virginia Department for the Visually Handicapped at as nearly as possible to the federal minimum wage amount—taking into account available fiscal resources of the Vocational Rehabilitation Program.

25. The Vocational Rehabilitation Program provides rehabilitation teaching services to its clients through an arrangement with the Rehabilitation Teaching Program of the Virginia Department for the Visually Handicapped and through the Virginia Rehabilitation Center for the Blind.

26. The Vocational Rehabilitation Program discharges its responsibility of payment for note taking in academic and vocational training by providing adaptive equipment which may be used by the blind and severely visually handicapped to take notes. The equipment consists of slate and stylus, tape recorder, or braillewriter.

27. The Vocational Rehabilitation Program discharges its responsibility for provision of orientation and mobility instruction for its clients through DVH staff. The following client group priorities exist for providing orientation and mobility instruction services:

- a. Clients employed or entering employment;
- b. Clients in or entering vocational evaluation or vocational training;
- c. Clients enrolled in personal adjustment training only; and
- d. Clients having limited (restricted to home and yard) mobility needs and objectives.

At such times that DVH orientation and mobility instructors' workloads require prioritization of clients in terms of waiting periods for services, the above-listed priority sequence will be followed.

28. The Vocational Rehabilitation Program provides,

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as necessary and as its operating budget allows, telecommunications, sensory, and other technological aids and devices for its clients to assist them to achieve their rehabilitation objectives. Due to the high cost of many such telecommunications and other sensory aids and devices, the Vocational Rehabilitation Program commits itself only to providing them when they are essential to the client's successful achievement of his rehabilitation objectives. Clients in or entering employment or vocational training are accorded first priority in the provision of such aids and devices. Any purchase of an aid or device with costs exceeding \$2,000 must receive the prior approval of the Vocational Rehabilitation Program Director.

29. In determining the most appropriate sensory aid to provide, the Vocational Rehabilitation Program will provide the least expensive aid or device which is determined to adequately meet the client's needs in relation to achieving his vocational goal. In instances involving the proposed provision of a closed circuit television, optical to tactile conversion system (Optacon), or other device designated by the Vocational Rehabilitation Program, a DVH low vision examination report must certify that the client does not have sufficient vision to use less expensive optical aids.

30. Clients of the Vocational Rehabilitation Program will receive necessary vocational rehabilitation services incidental to opening new employment opportunities in the fields of rehabilitation, medicine, health, welfare, public safety, law enforcement, and other appropriate public service employment.

31. Placement in suitable employment is provided by the Vocational Rehabilitation Program through designated staff members of the DVH.

32. Vocational Rehabilitation Program staff, in providing the job placement service, may assign certain tasks to the client (such as, reviewing newspaper personnel recruitment ads, contacting prospective employers to arrange for employment interviews, completing sample employment applications, etc.). Failure by the client to discharge reasonable task assignments may constitute grounds for discontinuing job placement assistance from the Vocational Rehabilitation Program.

33. Clients requesting sponsorship from the Vocational Rehabilitation Program in establishing self-employment enterprises are required to cooperate in any feasibility studies which are deemed necessary by the Vocational Rehabilitation Program. Failure to cooperate in such feasibility studies will result in termination of consideration for sponsorship.

34. Post-employment services necessary to maintain suitable employment are provided, as necessary, by the Vocational Rehabilitation Program. Any vocational

rehabilitation services may be provided in post-employment status but cannot involve a complex or comprehensive rehabilitation effort unrelated to the original IWRP. Only individuals who have been served by the Vocational Rehabilitation Program in the past and have been determined to be rehabilitated can be eligible for post-employment services from the Vocational Rehabilitation Program. If the Vocational Rehabilitation Program determines that complex or comprehensive vocational rehabilitation services are necessary, the individual cannot be served in post-employment status but shall undergo determination of eligibility for vocational rehabilitation services as described in § 3-A § 2.2 A above.

35. Although federal law and regulations (the Rehabilitation Act of 1973, as amended, and its implementing regulations) do not prescribe a specific time limit for the duration of post-employment services, it is clear from federal (Rehabilitation Services Administration) guidance that post-employment services are not to be "complex" or "comprehensive" and must be related to the original handicapping condition and IWRP. Therefore, the following rules apply for provision of post-employment services by the Vocational Rehabilitation Program:

a. To be eligible for consideration for post-employment services, the individual must have been determined within the previous 12-month period to have been rehabilitated.

b. The provision of post-employment services by the Vocational Rehabilitation Program shall not exceed 12 months in duration.

c. Individuals being assisted by the Vocational Rehabilitation Program in post-employment status shall have their post-employment services and arrangements documented via amendments to their IWRP.

36. The Vocational Rehabilitation Program will assist clients as necessary to procure occupational licenses (including any license, permit, or other written authority required by a state, city, or other governmental unit to be obtained in order to enter an occupation or enter a small business), tools, equipment, initial stocks, and supplies. Such assistance will include the payment of examinations or issuance fees.

37. The Vocational Rehabilitation Program may provide other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability.

38. *Rehabilitation engineering services may be provided for disabled individuals when such services are necessary to enable the individual to access a training program or employment.*

a. An evaluation to determine the need for rehabilitation engineering services may be provided as part of the thorough diagnostic evaluation, and is not based on financial need. The cost of the rehabilitation engineering service following the evaluation is based on financial need.

b. Rehabilitation engineering should be considered on an individual basis as appropriate.

c. Rehabilitation engineering is appropriate when modification of equipment or adaptive equipment is necessary to enable an individual to participate in training or employment. The vocational rehabilitation counselor must use his judgment when there is more than one alternative available for adapting or modifying equipment for training or employment or both.

d. Rehabilitation engineering services shall be entered on the individual's individualized written rehabilitation program.

§ 3.4. Supported employment services.

Supported employment is available as a vocational option to individuals who were traditionally not eligible for vocational rehabilitation services.

A. Individuals who are eligible for supported employment services are those who are blind or who are visually impaired with a second physical or mental disability, and who cannot successfully become employed without ongoing supported services.

B. Vocational rehabilitation pays for the time-limited phase of supported employment, and third party funding must be available for the ongoing phase of supported employment before vocational rehabilitation can obligate funds for the time-limited phase of supported employment.

C. Supported employment must occur in an integrated work setting. Individuals shall be employed for an average of 20 hours per week over the pay period.

PART IV. PROGRAM PROCEDURES AND REVIEWS.

§ 4.1. The individualized written rehabilitation program: procedures.

A. It is vocational rehabilitation program policy that the individual's views be taken into account and that the individualized written rehabilitation plan be jointly developed. As evidence that the individualized written rehabilitation program was jointly developed by the DVH rehabilitation counselor and the disabled individual, the rehabilitation counselor will do the following:

1. Forward a copy of the plan to the individual along with a stamped, self-addressed postcard for the

individual to sign and return. The postcard states that the individual has received the copy and is aware of provisions of his plan.

2. Enter the individual's views, either in paraphrase or verbatim, regarding his rehabilitation program on the "plan of services" page of the individualized written rehabilitation program.

B. It is vocational rehabilitation program policy that the DVH rehabilitation counselor inform the individual or his representative of all agency procedures and requirements affecting the development and review of the individualized written rehabilitation program.

C. At least once a year [~~a~~, the periodic] review of the individual's individualized written rehabilitation program (IWRP) will be conducted by the rehabilitation counselor in a face-to-face interview with the individual whenever possible. The review will be conducted via telephone if a face-to-face interview is not feasible. The individual's views will always be taken into account in redeveloping the IWRP. In all cases, a written copy of the periodic review and redeveloped IWRP will be forwarded to the individual along with a stamped, self-addressed postcard for the individual to sign to indicate that he has received a copy of his updated, redeveloped IWRP and is aware of its content.

D. The vocational rehabilitation program [shall] fully [~~complies~~ comply] with the federal regulations relating to the termination of services if an individual is determined to be no longer eligible for services. When a case is closed by the vocational rehabilitation program from active status because it has been determined that the individual no longer has rehabilitation potential, the required annual review at that time [~~is done~~ shall be conducted] by a representative of the agency's program evaluation and support team (PEST) rather than the rehabilitation counselor who made the ineligibility decision.

§ ~~4.0~~ § 4.2. Rates of payment.

A. Reference to policies governing rates of payment may be found in the following sections of this document:

1. Medical Fees § ~~9-C.4~~ § 3.3 C 4
2. College Fees § ~~9-C.13~~ § 3.3 C 13
3. Obligation of Sheltered Workshops or Other Rehabilitation Facilities for Vocational Evaluation and Adjustment § ~~9-C.18~~ § 3.3 C 18
4. Maintenance § ~~9-C.20~~ § 3.3 C 20
5. Transportation § ~~9-C.21~~ § 3.3 C 21
6. Interpreter Service for Deaf-Blind § ~~9-C.23~~ § 3.3 C 23

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7. Reader Service § ~~9-C-24~~ § 3.3 C 24

B. The vendor's acceptance of an authorized fee from the medical fee schedule shall be considered a payment in full for medical services.

C. The vendor's acceptance of an authorized fee for a nonmedical service is considered payment in full for that service unless mutually agreed otherwise by the vendor, the client, and the Vocational Rehabilitation Program of the Department for Visually Handicapped.

PART V.

FINANCIAL [MEASURE PARTICIPATION] .

§ ~~11~~ § 5.1. Participation by handicapped individuals in the cost of vocational rehabilitation services.

A. The Virginia Department for the Visually Handicapped has elected to uniformly apply a financial needs assessment for vocational rehabilitation clients in the Commonwealth. Financial need, however, is not applied in order that clients receive the following services:

1. Reader service for clients enrolled in college or in a vocational training program.
2. Adjustment training provided at the Virginia Rehabilitation Center for the Blind in Richmond.
3. Prevocational adjustment training, such as, rehabilitation teaching, provided to vocational rehabilitation clients by the Department for the Visually Handicapped field staff.
4. Interpreter services for the deaf-blind.
5. Diagnosis and evaluation.
6. Counseling, guidance, and referral.
7. Job placement and follow-up.
8. Orientation and mobility training.
9. Summer work experience for high school and college students.

[10. The purchase of adaptive equipment for vocational training or employment, or both.]

B. Those services where financial need will be assessed include:

1. Tuition for college or other training.
2. Medical treatment and physical restoration services.
3. Books and supplies.

[4. Equipment.]

[~~5~~ 4.] Services to members of a handicapped individual's family when necessary to the vocational rehabilitation of the handicapped individual.

[~~6~~ 5.] Occupational licenses, tools, equipment, and initial stock and supplies.

[~~7~~ 6.] Maintenance during training.

[~~8~~ 7.] Personal incidentals during training.

[~~9~~ 8.] Post-employment services.

[~~10~~ 9.] Telecommunications, sensory, and other technological aids and devices [*(when such aids and equipment are not used as adaptive devices for vocational training or employment or both)*].

[~~11~~ 10.] Transportation.

[~~12~~ 11.] Rehabilitation engineering services when not incidental to the evaluation of rehabilitation potential.

C. Vocational rehabilitation clients will be required to utilize all available similar benefits for maintenance, training, transportation, medical treatment, and physical restoration when it is appropriate to utilize such benefits.

D. Financial eligibility will be based on the following:

1. Gross income. [~~Income level will be adjusted periodically and will be done uniformly for all independent living vocational rehabilitation clients. A uniform income level will be used for all vocational rehabilitation clients. An annual review will be made and updated as needed.~~]

[*The income eligibility is based on 80% of the federal estimated median income in Virginia, which is published annually in the Federal Register. The median income levels will be reviewed on an annual basis and updated as appropriate. The chart below reflects the gross income level and liquid assets exemptions for financial eligibility as applied by the Vocational Rehabilitation Program:*

Normal Living Requirements

<i>Number of Persons Depending on Income</i>		<i>Monthly Amounts</i>
<i>Annual Amounts</i>		

1	\$15,760	\$1,313
2	20,609	1,717
3	25,459	2,122

30,308	4	2,526
35,157	5	2,929
40,007	6	3,334
40,916	7	3,410
41,825	8	3,485

would be unusual dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living vocational rehabilitation for which there is financial need considered. [*The income eligibility is based on 80% of the federal estimated median income in Virginia, which is published annually in the Federal Register. The median income levels will be reviewed on an annual basis and updated as appropriate. The chart below reflects the gross income level and liquid assets exemptions for financial eligibility as applied by the vocational rehabilitation program.*]

[*Normal Living Requirements*

*Number of Persons
Annual
Depending on Income Monthly Amounts
Amounts*

[*Exemptions for Liquid Assets*

<i>Number in Family</i>	<i>Amount</i>
1	\$10,000
2	11,200
3	12,400
4	13,600
5	14,800
6	16,000
7	17,200
8	17,400]

1	\$ 1,313
2	1,717
3	2,122
4	2,526
5	2,929
6	3,334
7	3,410
8	3,485

Add \$300 per month for each additional person in the family, if more than eight.

4. Allowable deduction.

a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which will mean those expenses are not of a routine nature and for which the costs will not be covered by similar benefits. comparable services and benefits. The medical Medical conditions that are not considered routine are those which are acute or have arisen from trauma traumatic and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature

Exemptions for Liquid Assets

<i>Number in Family</i>	<i>Amount</i>
1	\$ 6,000
2	7,200
3	8,400
4	9,600
5	10,800
6	12,000
7	13,200
8	14,400]

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PART VI. CLIENT'S RIGHTS.

~~§ 12.~~ § 6.1. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.

C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually Handicapped, who can either accept or overturn the decision of the impartial hearing officer. ~~The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint within the judicial system.~~

F. DVH vocational rehabilitation staff will inform each applicant or individual being provided vocational rehabilitation services of the procedure to file a complaint, including the names and addresses of those persons with whom to file a complaint.

~~§ 13.~~ § 6.2. Protection, use, and release of personal information.

A. The Virginia Department for the Visually Handicapped's Vocational Rehabilitation Program ~~considers the names of~~ *considers all [personal] information about* prospective clients, current clients, and past clients as confidential information.

~~B. Any information or documents (such as, eye and medical reports, financial reports, narrative reports, and general data sheet) are considered to be confidential.~~

~~C. B.~~ Individuals referred for vocational rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:

1. The need for confidential information.
2. Conditions for accessing and releasing this information.
3. The authority under which confidential information is collected.

4. The principle purpose for which DVH will use or release the information.

5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information.

6. Identification of those situations where the agency does or does not require the client's written permission to release the information.

7. Identification of agencies to which information is routinely released.

~~D. C.~~ Explanation of policies and procedures affecting personal information will be made by appropriate media by DVH's Vocational Rehabilitation Program to individuals who do not communicate in English or who rely on special modes of communication.

~~E. D.~~ Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal or state law.

~~F. E.~~ DVH's Vocational Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Vocational Rehabilitation Program. Information containing identifiable personal information will not be shared by DVH's Vocational Rehabilitation Program with advisory or other bodies which do not have official responsibility for the administration of the program.

~~G. F.~~ When requested in writing, DVH/Vocational Rehabilitation Program will make all case information promptly available to the individual or his representative.

~~H. G.~~ Personal information obtained by DVH's Vocational Rehabilitation Program from other agencies or organizations will be released only by, or under conditions established by, the other agency or organization.

~~I. H.~~ DVH's Vocational Rehabilitation will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Vocational Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and if assurances are given that:

1. The information will be used only for the purposes for which it is being provided.
2. The information will be released only to persons officially connected with the audit, evaluation, or research.
3. The information will not be released to the individual involved.

4. The information will be managed in a manner to safeguard confidentiality.

4. 5. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual or his representative.

J. I. DVH's Vocational Rehabilitation Program releases personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual.

K. J. Medical or psychological information which is determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures DVH that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. K. DVH's Vocational Rehabilitation Program will release any personal information required:

1. To fulfill [~~When required by~~ To fulfill] federal law;
2. To fulfill [~~In response to judicial order or and in response to a law-enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law) investigations in connection with law enforcement, fraud, or abuse (except where expressly prohibited by federal or state law) ; and To fulfill court order or in response to a law-enforcement investigation of fraud or abuse (except where expressly prohibited by federal law); and]~~
3. To protect the individual or others when the individual poses a threat to the safety of himself or others.

M. L. Upon the request of the U.S. Secretary of Education or his designee, the DVH's Vocational Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

§ 14. § 6.3. Periodic review of extended employment in rehabilitation facilities.

The Virginia Department for the Visually Handicapped annually reviews and reevaluates the status of handicapped clients it has placed in employment in rehabilitation facilities to determine their potential for placement or training for future placement in the competitive labor market. These reviews and reevaluations are conducted by administrative staff. Where potential for competitive labor market placement or training is found, a referral is made to the appropriate rehabilitation counselor.

* * * * *

Title of Regulation: VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These regulations will be used to provide uniform service delivery to blind and visually impaired infants, children, and youth.

The purpose of the amendments is to:

1. Conform with language changes prepared by the Office of the Attorney General;
2. Add the department's "Protection, Use, and Release of Personal Information" policy and procedures to this regulation; and
3. Specify who is eligible to receive a free eye examination and glasses.

VR 670-03-2. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.

PART I. INTRODUCTION.

Article 1. Definitions.

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

"Client" means any person receiving a service provided by the Program for Infants, Children, and Youth of the Department for the Visually Handicapped.

"Department" means the Virginia Department for the Visually Handicapped.

"Infant" means a child age birth through two years inclusive.

["~~PICY~~" means Program for Infants, Children, and Youth.]

"Visual impairment" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially sighted and blind children.

Article 2. Legal Basis.

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§ 1.2. Section 22.1-217, Article 2, Chapter 13, Title 22.1, of the Code of Virginia sets forth the responsibility of the Department for the Visually Handicapped in cooperation with the Virginia Board of Education to provide services to visually impaired children.

PART II. POPULATION SERVED.

§ 2.1. The department serves children who meet the following requirements:

1. Ages birth through 21 inclusive.
2. Have a visual impairment.

PART III. SERVICES.

§ 3.1. Except where stipulated, all services which are available through the Program for Infants, Children, and Youth are provided free of charge from public funds and in a fashion that is appropriate to the individual members of the population.

§ 3.2. The following services are provided free of charge for students ~~who meet the Title XX financial eligibility requirement whose family's income is less than 70% of the federally estimated median income for Virginia as determined by the U.S. Department of Health and Human Services, Family Support Administration :~~

1. An eye examination is available once per year.
2. One pair of glasses is available once per year.

§ 3.3. ~~The Subject to the limitations specified in § 3.7, the~~ department will be responsible for, but not limited to, providing the following discretionary services as appropriate for each individual client:

1. Orientation and mobility services.

Orientation and mobility services include teaching body image; spatial concepts; compass directions; protective travel techniques for the visually impaired; the proper use of a "long cane" if appropriate; and independent travel skills for residential, city, and rural settings as appropriate for the client's needs.

2. Low vision services.

a. Low vision services include a functional vision evaluation, a low vision examination if indicated, training in the use of prescribed low vision aids, and teaching vision utilization skills.

b. These services are available to partially sighted clients.

3. Infant development services.

a. Infant development services are provided using the diagnostic-prescriptive model in which the department's specialists work with the parent and infant program teachers to help them understand the nature of the client's visual disability and the needs associated with that disability. Technical assistance is provided so that developmental techniques can be adapted to meet the client's needs.

b. These services are available to clients age birth to two years of age.

c. If the client is enrolled in an infant program, then the department's services will supplement those of the infant program.

4. Transition services.

Transition services include technical assistance to schools who have clients enrolled in vocational education programs. This technical assistance will include suggestions for both curriculum modification and special or modified equipment.

§ 3.4. Discretionary services will be provided in accordance with the department's service plan and the client's individual education plan (IEP) from his school division or, lacking an IEP, the department's education plan.

§ 3.5. The department will lend braille or large-print textbooks and specific equipment to the school divisions for use with visually impaired children. The children for which the items are loaned must be on the active service rolls of the department. The list of equipment which is available is updated annually and kept on file at the department's Instructional Materials and Resource Center. The equipment and textbooks can only be ordered by the department's staff and the public school division's Itinerant Vision Program teachers.

Article 2: Client Priority Determination.

§ 3.6. The following is a list of priorities to be used in determining the level and extent of services to be provided to visually impaired children.

1. Age. The younger the child the higher the priority to provide services.

2. Visual acuity. The more severe the child's visual loss the higher the priority to provide services.

3. When the visual impairment occurred. The more recently a child developed a visual impairment the higher the priority to provide services.

§ 3.7. The level and extent of services, equipment, and materials which is available to visually impaired are

subject to the personnel and fiscal constraints on the department.

PART IV. CLIENT APPEALS PROCESS.

§ 4.1. Appeal procedures.

1. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

2. Before requesting a fair hearing, clients of the Virginia Department for the Visually Handicapped should make every effort to resolve the dispute through frank discussions with the employee whose decisions are in dispute. It is normally expected that virtually all grievances can be handled in this manner. If, however, the grievance is not resolved, the complainant should proceed.

3. First step. If the grievance is not resolved within 10 full working days after discussions between the client and the employee, the grievant must reduce his grievance to writing on a form obtainable from regional managers, facility administrators, or supervisors. The fully completed grievance form shall be delivered by the grievant to the employee of the Virginia Department for the Visually Handicapped with whom discussions were held. A copy shall also be delivered to that employee's immediate supervisor. The immediate supervisor of this employee shall meet with the grievant and the affected employee within a reasonable time not to exceed two weeks of receipt of the grievance form. The grievant may have a representative or legal counsel, or both, of his choice present at this meeting. Every effort will be made to reach a mutually satisfactory solution during the first step fair hearing.

4. Second step. If the supervisor's reply from the first step meeting is not acceptable to the grievant, he may request, in writing, a meeting with the Assistant Deputy Commissioner for Services. Such request must be submitted within a reasonable time not to exceed two weeks after the first step decision is made. The Assistant Deputy Commissioner for Services shall meet with the grievant or his representative, or both, or legal counsel and the employee within five full working days of the grievant's request and reply in writing to the grievant within three full working days following the second step meeting. The agency may, however, at its own option omit the second step and choose a panel to hear the grievance in accord with the provisions of the third step of this procedure.

5. Third step. If the Assistant Deputy Commissioner's reply from the second step meeting is not acceptable to the grievant, he may submit the grievance to a third step panel hearing. The request for panel

hearing must be received within seven full working days after the conclusion of the second step. The panel shall be selected by the Commissioner of the Virginia Department for the Visually Handicapped and will consist of three persons, including the Assistant Deputy Commissioner who served in the second step and the Commissioner who shall be chairman. The panel has the responsibility to interpret the application of appropriate agency policies and procedures in the case. It does not have the prerogative to formulate or change policies or procedures.

The panel shall set the time and place for the hearing, which shall be held as soon as practicable but no more than 10 full working days after the panel has been selected. The grievant may have present at this meeting a representative or legal counsel at his own expense. Copies of the grievance form shall be sent to the panel members.

The conduct of the hearing shall be as follows:

a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing.

b. The panel may at the beginning of the hearing ask for statements clarifying the issues involved.

c. Exhibits, when offered by the grievant, may be received in evidence by the panel; and when so received, shall be marked and made part of the record.

d. The grievant or his representative and the agency employee shall then present claims and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.

e. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and the parties.

~~f. The majority decision of the panel shall be final, except that vocational rehabilitation clients have the right to appeal to the Secretary of Education.~~

The panel chairman shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.

The hearing may be reopened by the panel on its own motion or under application of a party for good cause

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shown at any time before the decision is made.

Copies of the decision shall be transmitted in writing to the grievant no later than 15 full working days after the completion of the hearing. The grievant shall be informed that this final decision completes all administrative action but does not preclude further pursuit of his grievance through the judicial or other process if he so desires. (See step f.)

Nothing in this procedure is intended to circumvent or modify the existing right of the Virginia Department for the Visually Handicapped to ~~do the following~~, provided, however, that none of these may be exercised in an arbitrary or capricious manner :

- a. Establish and maintain service standards.
 - b. Determine the methods and means by which services are to be carried on.
 - c. Direct the work of its employees.
 - d. Maintain the efficiency of governmental operations and services to clients.
6. If the department is unable to resolve a complaint in 30 full working days, it shall notify the Virginia Department of Education of the substance of the complaint and the reason for the delay.

PART V.

PROTECTION, USE, AND RELEASE OF PERSONAL INFORMATION.

§ 5.1. Protection, use, and release of personal information.

1. [~~The DVH Infants, Children, and Youth Program considers the names of prospective clients, current clients, and past clients as confidential information. The names of prospective clients, current clients, and past clients of the DVH Infants, Children, and Youth Program shall be confidential.~~]

2. Any information or documentation, such as eye reports, medical reports, financial reports, psychological reports, progress reports, DVH Plan for Services, DVH Narratives, and General Data Sheet, [~~is considered to shall~~] be confidential.

3. Individuals referred for Infants, Children, and Youth Program services will receive an explanation at intake of the confidentiality of personal information including:

- a. The need for confidential information;
- b. Conditions for accessing and releasing this information;
- c. The authority under which confidential

information is collected;

d. The principal purpose for which DVH will use or release the information;

e. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information; and

f. Identification of those situations where the agency requires the client's written permission to release the information.

4. Explanation of policies and procedures affecting personal information will be made in appropriate media by DVH's Infants, Children, and Youth Program to individuals who do not communicate in English or who rely on special modes of communication.

5. DVH's Infants, Children, and Youth Program will use personal information only for purposes directly connected with the administration of the Infants, Children, and Youth Program. Identifiable personal information will not be shared by DVH's Infants, Children, and Youth Program with advisory or other bodies which do not have official responsibility for the administration of the program.

6. When requested in writing, the DVH's Infants, Children, and Youth Program make all case information promptly available to the individual's parent(s) or guardian(s).

7. Personal information obtained by DVH's Infants, Children, and Youth Program from other agencies or organizations will be released only by, or under conditions established by, the other agency or organization.

8. DVH's Infants, Children, and Youth Program will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Infants, Children, and Youth Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

a. The information will be used only for the purpose for which it is being provided;

b. The information will be released only to persons officially connected with the audit, evaluation, or research; and

c. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual's parent(s) or guardian(s).

9. DVH's Infants, Children, and Youth Program will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual's parent(s) or guardian(s).

10. DVH's Infants, Children, and Youth Program will release any personal information required:

- a. To fulfill federal law;
- b. To fulfill court order or in response to a law-enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law); and
- c. To protect the individual or others when the individual poses a threat to the safety of himself or others.

11. Upon the request of the [U.S.] Secretary of Education or his designee, the DVH's Infants, Children, and Youth Program will release to the Secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the Secretary's review of the final decision.

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Title of Regulation: VR 670-03-3. Provision of Services in Rehabilitation Teaching.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These final regulations state the basis for the provision of rehabilitation teaching services. They define the criteria for eligibility, the scope and duration of services, referral of applicants, and the financial participation of clients.

The only revisions in these regulations are to provide conformity of definitions and clarity in accordance with appropriate state and federal statutes.

VR 670-03-3. Provision of Services in Rehabilitation Teaching.

**PART I.
INTRODUCTION.**

§ 1. § 1.1. Definitions.

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

"Assessment" means the systematic evaluation/identification of the clients' need for services.

"Client" means any person receiving a service provided by the Rehabilitation Teaching Program of the Department for the Visually Handicapped.

"Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Reasonable expectation" means that rehabilitation teaching services will significantly assist an individual to improve his ability to function independently.

"Rehabilitation teaching" means the process of guiding and instructing a visually impaired person through an individualized plan of instruction designed to develop and raise the level of adaptive coping skills, and functional independence.

"Severely visually impaired" means vision [no better less] 20/70 in the better eye with correction or a field restricted to 70 degrees or less in the better eye.

**PART II.
REFERRAL.**

§ 2. § 2.1. Referral.

The department shall expeditiously and equitably process referrals for rehabilitation teaching services.

A. Referral.

A referral is any person for whom rehabilitation teaching services have been requested and for whom the worker has obtained the following information:

- 1. Name and address;
- 2. Date of birth and sex;
- 3. Disability; and
- 4. Referral source and date of referral.

B. Processing referrals.

An assessment by the Department for the Visually Handicapped is required of each severely disabled person who applies for rehabilitation teaching services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided rehabilitation teaching services and to determine which rehabilitation teaching services are needed.

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PART III. ELIGIBILITY/INELIGIBILITY.

§ 3. § 3.1. Eligibility for rehabilitation teaching services.

A. To be eligible for rehabilitation teaching services, a client must have a visual disability which, for the individual, constitutes or results in a substantial handicap to personal independent functioning.

A. The presence of a visual disability for purposes of eligibility for the Department for the Visually Handicapped's rehabilitation teaching services shall constitute one or more of the following:

1. Be legally blind.

2. 20/100 to 20/200 distance vision in the better eye with correcting glasses or a field limitation to 30 degrees or less in the better eye, and if the person has been unable to adjust to the loss of vision and if it is determined by the rehabilitation teacher that the person is in need of the specialized services available through the Department for the Visually Handicapped's rehabilitation teaching.

3. Night blindness or a rapidly progressive eye condition which, in the opinion of a qualified ophthalmologist, will reduce the distance vision to 20/200 or less.

B. A reasonable expectation that rehabilitation teaching services will significantly assist the individual to improve his ability to cope with blindness and to function more independently.

§ 4. § 3.2. Certification of eligibility.

A. Prior to or simultaneously with acceptance of a visually handicapped individual for rehabilitation teaching services, there [*must shall*] be ~~documentation in the case narrative; the documentation~~ [*a*] *certification* [*of eligibility*] ; *the certification shall state the basis for the visual eligibility and a reasonable expectation that rehabilitation teaching will significantly assist the individual in achieving functional independence .*

B. *The certification [is shall be] approved, dated, and signed by a DVH staff member.*

§ 5. § 3.3. Certification of ineligibility.

When an individual is determined ineligible for rehabilitation teaching services, the rehabilitation teacher [*must shall*] *inform the client of the ineligibility determination, stating the reasons(s); this may be done during a personal contact or by a letter. A case narrative certification of ineligibility shall be placed in the case folder explaining the reasons the client is ineligible.*

PART IV.

SERVICES.

§ 6. § 4.1. The Individualized Written Rehabilitation Teaching Program (IWRP).

A. Initial plan development.

1. The IWRP shall be initiated and periodically updated for individually provided rehabilitation teaching services.

2. Rehabilitation teaching services shall be provided in accordance with IWRP.

3. The IWRP shall be initiated after certification of eligibility for rehabilitation teaching services.

§ 7. § 4.2. Scope of rehabilitation teaching services.

Services provided through the rehabilitation teaching services program may include:

1. Intake counseling to determine the handicapped individual's need for specific rehabilitation teaching services.

2. Referral to and information regarding available community resources that might benefit the individual.

3. Counseling to assist the visually handicapped individual cope with visual loss.

4. Provision of low vision services [*in accordance with regulation governing this program*]. This includes: assessment of need, arrangement for examination, arrangement for/coordination of purchase of low vision aids, and the provision of instruction and follow-up services [*(services provided in accordance with regulations for Low Vision Services)*].

5. Instruction in the following areas:

a. Personal management skills/activities of daily living;

b. Home management skills;

c. Communication skills: reading, writing braille, typing, script, and use of electronic equipment;

d. Other appropriate adaptive coping skills, i.e., leisure and recreational activities; and

e. Information and instruction in the acquisition of and use of adaptive equipment.

PART V. FINANCIAL [PARTICIPATION] .

§ 8. § 5.1. Financial participation.

There is no financial participation required for the counseling, referral, and instructional services provided through rehabilitation teaching.

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Title of Regulation: VR 670-03-4. Provision of Independent Living Rehabilitation Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These regulations state the basis for the provision of independent living rehabilitation services to those eligible to receive them. They define the criteria for eligibility, the scope and duration of services, referral of applicants, financial participation of clients, confidentiality of personal information, and the appeals procedures for clients of independent living rehabilitation services.

The purpose of the revised amendments is:

- 1. To conform with language changes prepared by the Department of Planning and Budget and the Office of the Attorney General;*
- 2. To provide clarification of the financial eligibility guidelines; and*
- 3. To clarify regulations in keeping with comments received from public hearings held in September, 1989.*

VR 670-03-4. Provision of Independent Living Rehabilitation Services.

**PART I.
INTRODUCTION.**

§ 1. § 1.1. Definitions.

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

"Center for independent living" means a program of services which offers a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals.

"Client Assistance Program" means a program located within the Department for Rights of the Disabled for the purpose of advising independent living rehabilitation applicants or clients about all available services under the Rehabilitation Act of 1973, as amended, and to assist them in their relationship with programs, projects, and facilities providing independent living rehabilitation services.

"Comparable services and benefits" means any appropriate service [of or] financial assistance available from a program other than independent living to meet, in whole or in part, the cost of independent living services [to be provided and which is] under an individualized written rehabilitation program for a handicapped individual.

"Economic needs test" means a test used to consider the financial need of handicapped individuals for the purpose of determining the extent of their participation in the costs of services provided by this program.

"Independent living" means control over one's life based on the choice of acceptable options that minimize reliance on others in making decisions and performing everyday activities. This includes managing one's affairs, participating in day-to-day life in the community, fulfilling a range of social roles, making decisions that lead to self-determination, and the minimization of physical and psychological dependency on others.

"Individual with a severe disability" means an individual whose ability to function independently in a family or a community or whose ability to engage or continue in employment is so limited by the severity of his physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning in a family or a community or engaging or continuing in employment. Independent living rehabilitation services needed by an individual with a severe disability generally are appreciably more costly and of appreciably greater duration than vocational rehabilitation services that might be provided under 34 CFR, Part 361.

"Individualized Written Rehabilitation Program (IWRP)" means an individualized written rehabilitation program for each individual being provided specified services by this program.

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Reasonable expectation" means an expected outcome of services provision based on a judgment/decision made jointly by an applicant (or parent or guardian) and a case manager that the services requested and provided will enable the applicant to improve independent functioning.

"Severely visually impaired" means vision [no better less] than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

**PART II.
REFERRAL.**

§ 2. § 2.1. Referrals.

The department shall expeditiously and equitably process

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referrals for independent living services.

A. Referral.

A referral is any person for whom independent living rehabilitation services have been requested and for whom the worker has obtained the following information:

1. Name and address;
2. Date of birth and sex;
3. Disability(ies); and
4. Referral source and date of referral.

PART III. ELIGIBILITY/INELIGIBILITY.

§ 3. § 3.1. Eligibility for independent living services.

A. Eligibility requirements shall be applied without regard to sex, race, creed, color, or national origin. No group or individual shall be excluded or found ineligible solely on the basis of the type of disability or on the basis of age. No residence requirement shall be imposed which excludes from services any individual who is presently in the Commonwealth.

B. An assessment/evaluation by the Department for the Visually Handicapped (DVH) is required of each severely disabled person who applies for independent living services. The assessment is limited to that information necessary to determine whether the individual is eligible to be provided independent living services, and to determine which independent living services are needed.

C. All applicants for independent living services must be apprised of the services of the Client Assistance Program within the Department for Rights of the Disabled.

§ 4. § 3.2. Basic conditions for eligibility.

The following set forth criteria for basic eligibility:

1. The presence of legal blindness, which constitutes or results in a substantial impediment to the individual's ability to function independently in the family or community.
2. A reasonable expectation that independent living services will significantly assist the individual to improve his ability to function independently in his family or community or to engage in or continue employment.
3. Center for independent living. In addition to the basic conditions for eligibility contained in items subdivisions 1 and 2 of § 4 § 3.2, an individual must possess a second severe physical, mental, or emotional disability which constitutes or results in a substantial

impediment to the individual's ability to function independently in a family or community.

§ 5. § 3.3. Certification of eligibility.

A. Prior to or simultaneously with acceptance of an individual with a severe disability for independent living rehabilitation services, there must be a certification that the individual has met the basic requirements specified in § 4 § 3.2.

B. The certification is approved, dated, and signed by a DVH staff member.

§ 6. § 3.4. Certification of ineligibility.

A. When it is determined that independent living rehabilitation services cannot be expected to assist an individual to engage or continue in employment or to function more independently in family or community, a certification of ineligibility shall be signed and dated by a DVH staff member. A copy shall be provided to the individual simultaneously.

Such determination shall be made only after full consultation with the individual or, as appropriate, his guardian, or other representative. After affording a clear opportunity for this consultation, the DVH shall ensure notification in writing of the action taken and shall inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, including procedures for administrative review and fair hearings. The individual shall be provided a detailed explanation of the availability of the resources within the Client Assistance Program, Department for Rights of the Disabled; and as appropriate, referral shall be made to other agencies and facilities, including, when appropriate, the vocational rehabilitation program.

B. Review of ineligibility determination.

When DVH has certified the ineligibility of an applicant for independent living rehabilitation services because of a determination that these services cannot be expected to assist the individual to engage or continue employment or to continue to function more independently in family or community, the individual's ineligibility status will be reviewed annually. The review will not be conducted in situations where the individual has refused the review, is no longer present in Virginia, or the individual's whereabouts are unknown.

§ 7. § 3.5. The individualized written independent living rehabilitation program (IWRP).

A. Initial plan development.

1. The IWRP shall be initiated and periodically updated for individually provided independent living services.

2. Independent living services shall be provided in accordance with the IWRP and approved by DVH staff member. A copy of the IWRP and any amendments shall be provided to the blind individual or his parents, guardian, or other representative.

3. The IWRP must be initiated after certification of eligibility for independent living services.

B. IWRP review.

The IWRP shall be reviewed as often as necessary but at least on an annual basis. Each blind individual or his parents, guardian, or other representative shall be given an opportunity to review the IWRP and, if necessary, jointly modify the IWRP.

C. Determination of ineligibility under IWRP.

If it becomes necessary to terminate services for any reason under an IWRP, the following conditions and procedures shall be met and carried out:

1. The decision shall be made only with the full participation of the blind individual, or his parents, guardian, or other representative, unless the individual has refused to participate, the individual is no longer residing in Virginia, or his whereabouts are unknown. When the full participation of the individual or a representative of the individual has been secured in making the decision, the reviews of the individual shall be recorded in the IWRP.

2. The basis for the ineligibility decision shall be recorded as an amendment to the IWRP, certifying that the provision of independent living services has not enabled the individual to function more independently in family or community or engaging or continuing employment. A certification of ineligibility is then completed.

3. There shall be at least an annual review of the ineligibility decision in which the individual is given an opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services, has refused a periodic review, the individual is no longer living in Virginia, or his whereabouts are unknown. The first periodic review of the ineligibility decision shall be initiated by DVH staff. Any additional reviews shall be provided at the request of the individual.

D. Coordination with vocational rehabilitation, developmental disabilities and education program.

The development of the IWRP for independent living services will be coordinated with the IWRP for vocational rehabilitation services if there is such a program, as well as with any individualized written rehabilitation program for the individual prepared under Developmental

Disabilities Assistance and Bill of Rights Act or with any individualized education program for the individual.

PART IV. SCOPE OF SERVICES.

§ 8: § 4.1. Scope of independent living rehabilitation services for individuals.

The following independent living rehabilitation services may be provided if deemed necessary to the independence of the individual:

1. Intake counseling to determine the severely handicapped individual's need for specific independent living services;
2. Counseling services, including psychological counseling, psychotherapeutic counseling, peer counseling, and related services;
3. Advocacy for disabled individuals with respect to legal and economic rights and benefits;
4. Housing incidental to the provision of independent living rehabilitation service—this includes assistance in finding adequate housing and minor modifications to make housing accessible;
5. Independent living skills, counseling, and training:
 - a. Special tutorial and training services;
 - b. Orientation and mobility;
 - c. Special communication skills for deaf-blind;
 - d. Interpreter services for deaf-blind;
 - e. Rehabilitation teaching; and
 - f. Education and training necessary for living in the community and consumer education.
6. Transportation associated with the provision of essential independent living services;
7. Reader services;
8. Recreation activities—group and individual;
9. Attendant care—attendant for short-term care—to enable a multihandicapped blind person who has potential for acquiring skills to expand his independent living skills;
10. Interpreter services for deaf-blind;
11. Services to members of a blind individual's family when needed for improving the individual's ability to live and function more independently;

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12. Provision of physical, occupational, and speech therapy;
13. Purchase of special adaptive aids and appliances;
14. Vocational and other training services;
15. Information, referral, and outreach;
16. Other programs and services necessary to provide resources, training, counseling, services, or other assistance of substantial benefit on promoting the independence, productivity, and quality of life for the severely handicapped individual; and
17. Any appropriate preventive services necessary to decrease the future needs of a blind individual assisted under the program for similar services.

PART V.

FINANCIAL [RESPONSIBILITIES PARTICIPATION] .

§ 9. § 5.1. Participation by blind individuals and blind multihandicapped in the cost of independent living services.

A. An economic needs test will be utilized to determine the extent of client participation in the cost of independent living services. Services exempt from consideration for financial participation will be diagnostic and evaluation, counseling, guidance and referral, and interpreter services for the deaf.

B. Groups exempt are:

1. Recipients of General Relief;
2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent;
3. Recipients of Supplemental Security Income (SSI); and
4. Recipients of Social Security Disability Income (SSDI).

C. The department will make an assessment of similar benefits available to pay for independent living rehabilitation services. The department will not pay program costs which could otherwise be provided by similar benefits unless it is documented that the delay in securing such benefits would be detrimental to the Independent Living Rehabilitation Program.

D. Financial eligibility will be based on the following:

1. Gross income. ~~Income level will be adjusted periodically and will be done uniformly~~ A uniform income level will be used for all independent living clients. An annual review [of the income levels stated

below] will be made and updated as needed.

[*The Virginia median income for a family of four is \$ 37,885. The visually handicapped, as a special condition group, is set at 80% of the median income level. The income eligibility is based on 80% of the federal estimated median income in Virginia, which is published annually in the Federal Register. The median income levels will be reviewed on an annual basis and updated as appropriate. The chart below reflects the gross income level and liquid assets exceptions for financial eligibility as applied to the Independent Living Program.]*

[NORMAL LIVING REQUIREMENTS]

Family Unit	Monthly Income	Annual Income
1	\$ 1,313	\$15,760
2	1,717	20,609
3	2,122	25,459
4	2,526	30,308
5	2,929	35,157
6	3,334	40,007
7	3,410	40,916
8	3,485	41,825

Add \$300 per month for each additional person in the family, if more than eight.

2. Income for real property. Real property will not be considered for financial eligibility, but income from such property is to be considered as part of the client's income.

3. Liquid assets. Will be applied toward the cost of services when the liquid assets exceed the amount established for financial eligibility.

Exemptions for Liquid Assets

Number in Family	Amount
1	\$ 10,000
2	11,200
3	12,400
4	13,600
5	14,800
6	16,000
7	17,200
8	17,400

4. Allowable deduction.

a. Unusual medical costs. The only deductions that will be considered will be unusual medical expenses which ~~will mean those expenses are~~ not of a routine nature and for which the costs will not be covered by ~~similar benefits- comparable services and benefits.~~ ~~The medical~~ Medical conditions that are not considered routine are those which are acute or

have arisen from trauma *traumatic* and which place an additional burden upon the family income and resources. Other medical expenses which could be deferred because they are not of a routine nature would be unusual dental braces, retainers, etc. Those routine medical expenses that could not be deferred would include routine doctors' visits and hospital insurance premiums.

b. Tuition costs for client or family member to attend a private or public educational facility.

When the client's gross income, liquid assets, or both exceed the financial eligibility requirement after allowable deductions have been considered, the client and his family will have to apply the excess toward the cost of those services provided by independent living for which there is financial need considered.

PART VI. CLIENT'S RIGHTS.

§ 10. § 6.1. Appeal procedures.

A. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

B. When an individual files a formal complaint, he will meet with the employee and his supervisor. The grievant will be reminded as to the availability of the Client Assistance Program within the Department for Rights of the Disabled to assist him in the appeals process.

C. If resolution is not reached at Step B, the Assistant Deputy Commissioner for Services meets with the grievant, his representative, the employee, and his supervisor.

D. If resolution is not reached at Step C, the grievant can request a hearing before an impartial hearing officer.

E. The impartial hearing officer will submit his decision to the Commissioner of the Department for the Visually Handicapped, who can either accept or overturn the decision of the impartial hearing officer. ~~The commissioner's decision is final in the appeal process; however, the grievant can elect to continue his complaint within the judicial system.~~

F. DVH independent living staff will inform each applicant or individual being provided independent living rehabilitation services of the procedure to file a complaint, including the name and addresses of those persons with whom to file a complaint.

§ 11. § 6.2. Protection, use, and release of personal information.

A. The DVH Independent Living Rehabilitation Services Program considers ~~the names of all personal information~~

~~about~~ prospective clients, current clients, and past clients as confidential information.

~~B. Any information or documentation, such as, an eye and medical report, financial reports, psychological reports, progress reports, and General Data Sheet are considered to be confidential.~~

~~C. B. Individuals referred for independent living rehabilitation services will receive an explanation at intake of the confidentiality of personal information including:~~

- ~~1. The need for confidential information;~~
- ~~2. Conditions for accessing and releasing this information;~~
- ~~3. The authority under which confidential information is collected;~~
- ~~4. The principle purpose for which DVH will use or release the information;~~
- ~~5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information;~~
- ~~6. Identification of those situations where the agency does or does not require the client's written permission to release the information; and~~
- ~~7. Identification of agencies to which information is routinely released.~~

~~D. C. Explanation of policies and procedures affecting personal information will be made by appropriate media by DVH's independent living rehabilitation services to individuals who do not communicate in English or who rely on special modes of communication.~~

~~E. Policies and procedures concerning protection, use, and release of personal information will be utilized to provide the highest standard for confidentiality which is provided for in federal and state law.~~

~~F. D. DVH's Independent Living Rehabilitation Program will use personal information only for purposes directly connected with the administration of the Independent Living Rehabilitation Services Program. Identifiable personal information will not be shared by DVH's independent living rehabilitation services with advisory or other bodies which do not have official responsibility for the administration of the program.~~

~~G. E. When requested in writing, DVH/Independent Living Rehabilitation Services will make all case information promptly available to the individual or his representative.~~

~~H. F. Personal information obtained by DVH's Independent Living Rehabilitation Services from other~~

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agencies or organizations will be released only by, or under conditions established by the other agency or organization.

I. G. DVH's Independent Living Rehabilitation Services will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Independent Living Rehabilitation Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

1. The information will be used only for the purpose for which it is being provided;
2. The information will be released only to persons officially connected with the audit, evaluation, or research;
3. The information will not be released to the individual involved;
4. *The information will be managed in a manner to safeguard confidentiality.*
4. 5. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual or his representative.

J. H. DVH's Independent Living Rehabilitation Services will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual.

K. I. Medical or psychological information which is determined by a physician or psychologist to be harmful to the individual may be released when the other agency or organization assures DVH that the information will be used only for the purpose for which it is provided and that it will not be released to the involved individual.

L. J. DVH's Independent Living Rehabilitation Services will release any personal information required:

1. To fulfill [*When required by To fulfill*] federal law;
2. To fulfill [*In response to judicial order or and in response to a law-enforcement investigation, investigations, in consideration with law enforcement, fraud, or abuse (except where expressly prohibited by federal law); and To fulfill court order or in response to a law-enforcement investigation of fraud or abuse (except where expressly prohibited by federal law); and*]
3. To protect the individual or others when the

individual poses a threat to the safety of himself or others.

M. K. Upon the request of the Secretary of Education or his designee, the DVH's Independent Living Rehabilitation Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.

PART VII. INDEPENDENT LIVING CENTER SERVICES.

~~§ 12.~~ § 7.1. Centers for independent living.

The department operates independent living centers for blind multihandicapped Virginians in its regional offices. The centers shall adhere to the regulations in the previous sections of these regulations.

~~§ 13.~~ § 7.2. Governing board of centers for independent living.

A. There shall be a governing board consisting of a majority number of persons with disabilities.

B. Independent living advisory committees.

1. Each independent living center shall have an advisory committee consisting of no less than seven persons, established for the purpose of assistance in planning, developing, and implementing a comprehensive system of delivering independent living services to blind and blind multihandicapped individuals.

2. The advisory committee shall contain a majority number of persons with disabilities.

~~§ 14.~~ § 7.3. Staff.

Independent living center staff shall include as large a proportion of persons with disabilities as is practicable.

* * * * *

Title of Regulation: VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

Statutory Authority: §§ 63.1-77 and 63.1-78 of the Code of Virginia

Effective Date: March 28, 1990

Summary:

The Virginia Department for the Visually Handicapped (DVH) shall, through powers conferred and imposed upon the department as to matters relating to social services to the blind and visually handicapped,

provide supervision and administration of its provisions. The department shall make rules and regulations; establish minimum standards of service and personnel based upon training, experience, and general ability for the personnel employed by the department; and maintain those standards.

The purpose of these regulations is to provide guidelines to the procedures for intake and program referral.

The only changes to these regulations are for purposes of clarity, conformity of definitions, and grammatical correctness.

VR 670-03-5. Supervision of Administrative Regulations Governing Intake and Social Services.

PART I. PROCEDURES.

§ 1. § 1.1. Intake process.

The welfare services specialists shall handle all referrals processed through the applicable Virginia Department for the Visually Handicapped (DVH) regional office with the following exceptions: individuals in primary, secondary school, or under the age of 14 and individuals in need of physical restoration. These individuals shall be referred to Program for Infants, Children, and Youth Services and Vocational Rehabilitation Services, respectively. This procedure expedites the referral process by matching need with service in the most effective way. If other services are indicated, the appropriate service provider shall make the subsequent referral.

A. Welfare services specialist shall contact the referred individual to arrange an interview within 10 workdays.

B. If unable to contact individual within 10 workdays, a contact letter shall be mailed to the individual with a brochure describing services through the Department for the Visually Handicapped.

C. If the individual desires to receive services from the department, he shall sign the application for services and release of information form forms.

D. Among the elements of information gathered is data on the income of the individual. This enables the service providers to determine financial eligibility for specific programs, Vocational Rehabilitation, Independent Living, and Rehabilitation Teaching Services ; and Title XX .

E. Arrangements shall be made for an eye examination or the acquisition of an eye examination if recently completed.

PART II. SERVICES.

§ 2. § 2.1. Services of the Department for the Visually Handicapped not indicated.

During the intake process, it may be determined that services other than intake shall not be delivered to an individual. This referral is deemed services not indicated. A services not indicated referral shall be referred to other community services outside the department with the permission of the referred individual. There are two categories:

A. Inappropriate referral.

- 1. The individual is not visually impaired or does not possess a deteriorating eye condition.
2. The individual may have physical or mental handicaps so severe to prevent him from benefiting from services.
3. The individual is visually impaired but is not prepared to accept services.

B. Refused services referral.

A person has the legal right to refuse all services regardless of how severe the visual impairment.

Title of Regulation: VR 670-03-6. Regulations Governing Deaf-Blind Services.

Statutory Authority: § 63.1-78 of the Code of Virginia.

Effective Date: March 28, 1990

Summary:

These regulations set forth the requirements and procedures relating to needs of deaf-blind persons. The agency recognizes that deaf-blind persons have unique needs that can best be met by highly specialized programs of service that provide the deaf-blind individual with training in skills he must master in order to attain the highest degree of physical, emotional, and economic functioning possible.

The only revisions to these regulations are to provide clarity and conformity of definitions in accordance with state and federal regulations.

VR 670-03-6. Regulations Governing Deaf-Blind Services.

PART I. INTRODUCTION.

§ 1. § 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning unless the

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context clearly indicates otherwise:

["Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.]

"Client" means any person receiving a service provided by Deaf-Blind Services of the Department for the Visually Handicapped

["Deaf" means those individuals who cannot hear and understand speech through the ear alone under normal conditions, with or without amplification; a hearing loss greater than 70 decibels in the better ear without amplification; a speech discrimination score below 40%; or both.]

"Deaf-Blind Services" means special services a client would need due to a combined loss of vision and hearing; i.e., interpreter for the deaf-blind; communication skills assessment and training; and assessment of special aids and devices such as tactile or visual signaling systems, telecommunication devices, and assistive listening devices.

["Hearing impaired" "Hard of hearing" means those individuals whose hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without amplification. Hearing loss is in the range of 30 decibels to 70 decibels, a speech discrimination score below 75%, or both.]

"Blindness, legal blindness" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

["Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Speech discrimination" means the ability to hear and understand spoken communication.]

PART II. ELIGIBILITY.

§ 2. § 2.1. Eligibility.

An individual with a combined loss of vision and hearing who is blind or severely visually impaired, and also deaf or [hard of] hearing [impaired] is eligible for deaf-blind services.

["Blind" means the condition as defined in §§ 63.1-142 and 63.1-166 of the Code of Virginia.

"Severely visually impaired" means vision no better than 20/70 in the better eye with correction or a field of vision restricted to 70 degrees or less in the better eye.

"Deaf" means inability to hear and understand speech

through the ear alone under normal conditions, with or without amplification; a hearing loss greater than 70 decibels in the better ear without amplification; a speech discrimination score below 40%; or both.

"Speech discrimination" means the ability to hear and understand spoken communication.

"Hearing impaired" means hearing is impaired to an extent that makes hearing difficult but does not preclude the understanding of spoken communication through the ear alone, with or without amplification. Hearing loss is in the range of 30 decibels to 70 decibels; a speech discrimination score below 75%, or both.

The agency practices nondiscrimination in serving multiply handicapped visually impaired individuals.]

PART III. SERVICES.

§ 3. § 3.1. Delivery of services.

It is the intent of these regulations that deaf-blind clients be fully integrated into the service programs provided by the department to the extent practical.

Procedures for the delivery of deaf-blind services will be [are being developed can be found] in the manuals of the following agency programs: Intake and Social Services; Independent Living Rehabilitation Services; Rehabilitation Teaching Services; Vocational Rehabilitation Services; Program for Infants, Children, and Youth; and Volunteer Services ; and Low Vision .

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

Bureau of Insurance

January 26, 1990

Administrative Letter 1990-3

TO: All Licensed Property and Casualty Insurers and
Advisory Organizations

RE: Policy Effective Dates

This letter outlines the position of the Bureau of Insurance regarding two issues related to the effective date of rule, rate and form filings.

The first issue is the establishment of policy effective dates for newly filled rules, rates and forms. It is the position of the Bureau that all filings must contain wording stating that the filing applies to all policies effective on and after a specified date. Different dates are permitted for new and renewal business. Any filing received without this wording will be returned to the filer. The Bureau takes this position so that there is no ambiguity as to which rules, rates or forms apply to a policy, based on the policy effective date.

The second issue is the establishment of this same procedure for the extended reporting period endorsement (tail coverage) attached to claims-made policies. It is the position of the Bureau that the rates charged for the extended reporting period endorsement shall be those that were in effect as of the most recent policy effective date. If there has been a rate change since the latest policy effective date, it is not permissible to charge for the endorsement based on rates that are in effect at the time the endorsement is purchased. Rather, the insurer must charge the rates in effect as of the most recent effective date of the policy to which the extended reporting period endorsement is attached.

We take the second position for two reasons. One, this procedure will permit an insured to know the price of the extended reporting period endorsement at the time a policy is purchased and two, it will facilitate comparison shopping by insureds prior to renewal dates.

The procedures outlined above are effective immediately. Insurers should review their current filings and make any appropriate changes forthwith.

* * * * *

AT RICHMOND, January 31, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS890325

Ex Parte: In the matter of adopting
Rules Governing Underwriting Practices
and Coverage Limitations and Exclusions
for Acquired Immunodeficiency Syndrome
(AIDS)

ORDER ADOPTING REGULATION

WHEREAS, pursuant to an order entered herein on June 16, 1989, the Commission's Hearing Examiner conducted a hearing on July 17, 1989, for the purpose of considering comments of interested persons concerning the adoption of a regulation proposed by the Bureau of Insurance and entitled "Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS)";

WHEREAS, ON October 20, 1989, the Commission's Hearing Examiner filed his report in this matter wherein he found that the regulation, as amended by the Hearing Examiner and set forth in Appendix A of his report, should be adopted by the Commission; and

THE COMMISSION, having considered the record herein, the report and recommendations of its Hearing Examiner and the comments filed in response to the Hearing Examiner's final report, concurs with the finding of its Hearing Examiner except to the extent that the Commission, in response to the comments filed to the Hearing Examiner's final report, has further amended the regulation,

THEREFORE, IT IS ORDERED that the proposed regulation entitled "Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS)," as amended by the Commission, which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED, to be effective May 1, 1990.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Roberta B. Meyer, Esquire, American Council of Life Insurance, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004-2599; Regina Grayson Jamerson, Esquire, Health Insurance Association of America, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036-3998; William E. McRorie, Esquire, First Colony Life Insurance, P.O. Box 1280, 700 Main Street, Lynchburg, Virginia 24505; Joan M. Gardner, Esquire, Government Affairs Counsel, Blue Cross & Blue Shield of Virginia, 2015 Staples Mill Road, P.O. Box 27401, Richmond, Virginia 23279; L. Benjamin Young, Jr., CARE Virginia, P.O. Box 4080, Charlottesville, Virginia 22900; Diana M. Marchesi, Esquire, Transamerica Life, Box 2101, Terminal Annex, Los Angeles, California 90051-0101; Michelle Redden, Esquire, State Farm, One State Farm Plaza, Bloomington, Illinois 61710; Adele M. Conway, Phoenix Mutual Life, 100 Bright Meadow Boulevard, Enfield, Connecticut 06082-1989; Sandra Kramer, Esquire, 700 E. Main Street, Suite 1612, Richmond, Virginia 23219; C.M.G. Buttery, M.D., Virginia

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Department of Health, 109 Governor Street, Richmond, Virginia 23219; Carolyn White Hodgins, Department for Rights of the Disabled, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia 23219; John S. Boritas, Metropolitan Life Insurance Company, One Madison Avenue, New York, New York 10010-3690; Dorothy M. Moga, INOVA Health Systems, 8001 Braddock Road, Springfield, Virginia 22151; Margaret Parker, 6610 West Broad Street, Richmond, Virginia 23230; Anda Olsen, 7440 Woodland Drive, Indianapolis, Indiana 46278; Joseph Califf, Box 324, Arlington, Virginia 22210; Paul Wirhun, 3426 Washington Boulevard #102, Arlington, Virginia 22201; and the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky who shall forthwith mail a copy of this order together with a copy of the regulation to every insurance company licensed to sell life and accident and sickness insurance policies in the Commonwealth of Virginia and every health services plan and health maintenance organization licensed to do business in the Commonwealth of Virginia.

Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS).

Section 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under Sections 38.2-223, 38.2-316, 38.2-508, 38.2-610, 38.2-3100.1 and 38.2-3401 of the Code of Virginia.

Section 2. Purpose.

The purpose of this Regulation is to set forth rules and procedural requirements that the Commission deems necessary to regulate underwriting practices and policy limitations and exclusions with regard to *HIV infection and Acquired Immune Deficiency Immunodeficiency Syndrome (AIDS)*.

Section 3. Effective Date.

This Regulation shall become effective ~~January~~ May 1, 1990.

A. No new application, policy, subscription contract or rider as described in Section 4 shall be approved on or after ~~January~~ May 1, 1990, unless it complies with this Regulation.

B. No application shall be used and no policy, subscription contract or rider as described in Section 4 shall be delivered, issued for delivery, reissued, renewed or extended in Virginia nor shall any term of the policy, contract or rider be changed or premium adjustment be made, on or after ~~January~~ May 1, 1990, unless it complies with this Regulation.

Section 4. Scope.

This Regulation shall apply to all life and accident and sickness insurance policies, and all health service plans and health maintenance organization subscription contracts delivered or issued for delivery in this Commonwealth, and to all applications, riders, and underwriting procedures used in connection with such policies or subscription contracts. This Regulation shall apply to all such coverage delivered or issued for delivery in Virginia, whether individual or group.

Section 5. Definitions.

As used in this Regulation:

A. "Adverse Underwriting Decision" means any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:

1. A declination of insurance coverage,
2. A termination of insurance coverage,
3. Failure of an agent to apply for insurance coverage with a specific institution that an agent represents and that is requested by an applicant,
4. An offer to insure at higher than standard rates, or with limitations or exceptions or benefits other than those applied for.

B. "AIDS" means Acquired Immune Deficiency Immunodeficiency Syndrome as defined by the Centers for Disease Control of the United States Public Health Service.

C. "HIV" means the human immunodeficiency virus.

D. "HIV-related test" means a test for *exposure to* infection with HIV, including antibody tests such as the ELISA or Western Blot assays, or any future valid test approved by the Commission.

E. "Insurance" means any coverage provided by an insurer.

F. "Insurer" means any insurance company, health services plan, or health maintenance organization licensed in this Commonwealth.

Section 6. Underwriting Procedures.

A. Insurers may underwrite for Acquired Immune Deficiency Immunodeficiency Syndrome (AIDS) or HIV infection provided the underwriting procedures, including the questions used on the application for life or accident and sickness insurance coverage, are consistent and not unfairly discriminatory.

1. Questions relating to the applicant having or having been diagnosed as having AIDS or HIV infection are permissible if they are factual and designed to

establish the existence of the condition.

2. An adverse underwriting decision is permissible if, during the underwriting process, it is revealed that the applicant has been diagnosed as having AIDS or HIV infection.

3. An adverse underwriting decision is not permissible if it is based solely on the presence of symptoms, as disclosed in an application for life or accident and sickness insurance coverage ; indicating the possible existence of AIDS or HIV infection . An adverse underwriting decision is permissible, however, if the symptoms disclosed in the application for coverage are confirmed as being HIV-related through the use of *medical records* or HIV-related tests as provided in Section 6.C.

B. No inquiry in an application for life or accident and sickness insurance coverage, or in an investigation conducted by an insurer or an insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation.

1. No question that is designed to establish the sexual orientation of the applicant shall be used on an application for life or accident and sickness insurance coverage.

2. Neither the marital status, the "living arrangements," the occupation, the gender, the medical history, the beneficiary designation, nor the zip code or other territorial classification of an applicant may be used to establish, or aid in establishing, the sexual orientation of the applicant.

3. If information about an applicant's sexual orientation becomes known through other means, no adverse underwriting decision shall be made based solely on such information.

4. Questions relating to medical and other factual matters intending to reveal the possible existence of a medical condition are permissible if they are not used as a proxy to establish the sexual orientation of the applicant. The applicant must be given an opportunity to provide an explanation of any answers given in the application for life or accident and sickness insurance coverage that may result in an adverse underwriting decision.

5. Questions relating to an applicant having, or having been diagnosed as having, or having been advised to seek treatment for, a sexually transmitted disease are permissible.

6. No adverse underwriting decision shall be made solely because medical records or a report from an insurance support organization as defined in Section 38.2-602 shows that an applicant has demonstrated

AIDS-related concerns by seeking preventative educational counseling or advice from health care professionals. This prohibition does not apply to an applicant diagnosed as having been infected with the HIV or seeking treatment for AIDS.

C. Insurers may require applicants for life or accident and sickness insurance coverage to be tested for the presence of HIV infection, provided the procedures are consistent, accurate, and not unfairly discriminatory.

1. If an HIV-related test is not required for all applicants, insurers may test a specific class of applicants based on type ~~or~~ of insurance, face amount, or age and face amount of coverage being requested or late entrance under a group insurance policy or subscription contract. In all other cases, the insurer must have a medical basis for requiring individual applicants to take an HIV-related test.

2. Whenever an applicant is requested to take an HIV-related test in connection with an application for life or accident and sickness insurance coverage, the use of such a test must be revealed to the applicant and his or her written consent *must be* obtained. The consent form does not need to be filed with the Commission but must *provide an explanation of the meaning of the HIV-related test and must disclose:*

a. The *types* of individuals or organizations that will receive a copy of the test results;

b. The *types* of individuals or organizations that will have access to the applicant's insurance file;

c. The *types* of individuals or organizations that will keep the ~~blood~~ test information in a data bank or other file;

d. *That if the applicant requests the names of the specific individuals or organizations named in subsections a, b, or c in connection with his application, the information shall be provided to the applicant;*

d. e. The name and address of the person to be notified of the HIV test results. The applicant may choose to receive the test results directly or designate another person such as a physician; and

e. f. *That if the person being tested does not designate a person or physician as provided in Section 6.C.2. d e of this regulation, personal face-to-face counseling is available through the Virginia Department of Health. To obtain information regarding counseling, a person should contact their local health department. Additional information concerning AIDS or HIV infection can be obtained by calling the Virginia Health Department at 1-800-533-4148.*

State Corporation Commission

3. Insurers shall notify applicants or their designees of positive or indeterminate test results. Insurers shall:

a. Notify all applicants or their designees of negative test results; or

b. Permit each applicant to indicate affirmatively on the consent form whether or not negative test results are to be mailed to the applicant or his designee. If the applicant indicates the desire to receive notice of negative test results, the insurer shall comply with such request.

~~3.~~ 4. Insurers shall not send HIV test results or notification of an Adverse Underwriting Decision, to the applicant if another person is named on the consent form as provided in Section 6.C.2. ~~d~~ e of this regulation. If a person other than the applicant is named on the consent form, insurers shall, no earlier than seven days after sending the test results to the person designated by the applicant, send the applicant notice of an Adverse Underwriting Decision.

4. 5. Insurers shall maintain strict confidentiality regarding HIV-related test results or the diagnosis of a specific sickness or medical condition derived from such tests.

a. Information regarding specific HIV-related test results shall not be disclosed outside the insurance company or its employees, insurance affiliates, agents or reinsurers, third party contractors, insurance regulators, public health regulators or insurance industry data banks, except to the applicant being tested or persons designated in the consent form by the applicant.

b. Specific HIV-related test results may not be furnished to an insurance industry data bank if a review of the information would identify the individual and the specific test results.

c. The use of an insurance industry data bank code for a general blood disorder which is not specific to the HIV infection is permissible.

5. 6. No adverse underwriting decision shall be made on the basis of positive HIV-related test results unless based on, as a minimum, the following test protocol: (i) two positive enzyme-linked immunosorbent assay (ELISA) tests, followed by (ii) one Western Blot. If the results of the Western Blot are indeterminate and the insurer makes a decision to delay issuing the insurance coverage, an adverse underwriting decision notice must be issued.

6. 7. New and more effective HIV-related tests are anticipated to be developed in the future. If, in the opinion of the Commission, the medical community and public health officials establish that future tests are superior to the existing protocol, they may be

used instead of the above.

7. 8. An insurer may include questions on the application for life or accident and sickness insurance coverage as to whether the applicant has tested positive for the presence of HIV infection.

a. No adverse underwriting decision shall be made concerning an applicant who has tested positive for the presence of HIV infection unless the insurer determines that the test protocol outlined in paragraph ~~C.5~~, ~~or~~ C.6, or C.7 if applicable, of this section was followed.

b. Nothing in this section prohibits an insurer from requiring such an applicant to be re-tested if the insurer is unable to make a determination that the proper test protocol was followed.

8. 9. An adverse underwriting decision is permissible if the applicant refuses to take an HIV-related test requested by the insurer.

9. 10. If an insurer requires an applicant to be tested for the presence of HIV infection as a condition of underwriting, the cost of testing must be borne by the insurer to the same extent that the insurer bears the cost for any other tests required in the underwriting process.

Section 7. Prohibition on Coverage Limitations and Exclusions.

A. The following policy limitations and exclusions are prohibited under this regulation:

A. 1. Any life or accident and sickness insurance policy, any health services plan or health maintenance organization subscription contract or any rider used in connection with such policies or subscription contracts that excludes coverage for the treatment of *HIV infection* or *Acquired Immune Deficiency Immunodeficiency Syndrome (AIDS)* or complications or death resulting from such disease.

B. 2. Any life or accident and sickness insurance policy, any health services plan or health maintenance organization subscription contract or any rider used in connection with such policies or subscription contracts that places a dollar limit on face amount ~~or~~ of benefits payable for the treatment of *HIV infection* or *Acquired Immune Deficiency Immunodeficiency Syndrome (AIDS)* or complications or death resulting from such disease (other than the overall policy maximum or face amount).

C. 3. A "preexisting condition" limitation related to *HIV infection* or *Acquired Immune Deficiency Immunodeficiency Syndrome (AIDS)* that is:

1. a. Defined to be more restrictive than the

State Corporation Commission

following:

a. (1) The existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment within a five (5) year period preceding the effective date of the coverage of the insured person; or

b. (2) A condition for which medical advice or treatment, not including preventative educational counseling, was recommended by a physician or received from a physician within a five (5) year period preceding the effective date of the coverage of the insured.

2. b. Based on the sole existence of a positive HIV-related test result, following the protocol as described in Section 6.C, without the manifestation of symptoms or actual diagnosis of *HIV infection or AIDS*. Claims may not be denied as a preexisting condition solely on the existence of a positive HIV-related test result without the manifestation of symptoms or actual diagnosis of AIDS. *Nothing in § 7.A 3 b of this regulation shall be considered as prohibiting an insurance company from contesting a policy on the basis of material misrepresentation during the contestable period of the policy.*

B. In only the following circumstances may insurers utilize a preexisting condition limitation for HIV infection or Acquired Immunodeficiency Syndrome (AIDS) which is more restrictive than that provided in § 7.A 3 above.

1. *With regard to open enrollment contracts issued by health services plans pursuant to Virginia Code § 38.2-4216.1, a preexisting condition waiting period no more restrictive than that for any other illness is permitted. However, after the preexisting condition waiting period has expired, the health services plan shall provide coverage for HIV infection or Acquired Immunodeficiency Syndrome (AIDS) as it does for any other illness not related to AIDS.*

2. *With regard to group life or accident and sickness insurance policies, group health services plans or health maintenance organization subscription contracts, where the insurer does not retain the right to exclude or limit coverage on any person when evidence of individual insurability is not satisfactory, a preexisting condition waiting period for HIV infection or Acquired Immunodeficiency Syndrome (AIDS) is permitted to the same extent as such period is permitted for all other preexisting conditions. Nothing in this subsection shall prohibit an insurer from excluding or limiting coverage on any person when evidence of individual insurability is not satisfactory, if the person applies for coverage after the period they are first eligible to enroll under the group policy or subscription contract. After the preexisting condition waiting period has expired, the insurer shall provide the same coverage for HIV infection or Acquired Immunodeficiency*

Syndrome (AIDS) as it does for any other death or illness not related to AIDS.

Section 8. Severability.

If any provisions of this Regulation, or the application of it to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

* * * * *

AT RICHMOND, January 31, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS900003

Ex Parte: In the matter of adopting Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein January 4, 1990, all interested persons were ordered to take notice that the Commission would enter an order on January 31, 1990, adopting a regulation proposed by the Bureau of Insurance entitled "Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act," unless on or before January 30, 1990, the Commission received a request for a hearing to contest the adoption of the proposed regulation; and

WHEREAS, as of the date of this order, no request for a hearing to contest the adoption of the proposed regulation has been filed with the Clerk of the Commission,

IT IS ORDERED that the proposed regulation entitled "Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act" which is attached hereto and made a part hereof, should be, and it is hereby, ADOPTED, to be effective January 31, 1990.

AN ATTESTED COPY hereof 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 send a copy of this order together with a copy of the regulation to every insurance company licensed to sell medicare supplement insurance in the Commonwealth of

State Corporation Commission

Virginia.

Rules to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of the Medicare Catastrophic Coverage Act.

Section 1. Authority.

This Regulation is issued pursuant to the authority vested in the Commission under §§ 38.2-223, 38.2-3516 through 38.2-3520, 38.2-3600 through 38.2-3609, 38.2-4214, 38.2-4215 and 38.2-514 of the Code of Virginia.

Section 2. Purpose.

This Regulation is designed to

- (a) assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program;
- (b) provide for the reasonable standardization of the coverage, terms and benefits of Medicare supplement policies or contracts;
- (c) facilitate public understanding of such policies or contracts;
- (d) eliminate provisions contained in such policies or contracts which may be misleading or confusing in connection with the purchase of such policies or contracts;
- (e) eliminate policy or contract provisions which may duplicate Medicare benefits;
- (f) provide for adjustment of required minimum benefits for Medicare supplement policies;
- (g) provide notice to former policyholders of offer to reinstitute coverage;
- (h) provide full disclosure of policy or contract benefits and benefit changes; and
- (i) provide for appropriate premium adjustments.

Section 3. Effective Date.

This Regulation shall be effective January 31, 1990.

Section 4. Applicability and Scope.

This Regulation shall take precedence over other rules and requirements relating to Medicare supplement policies or contracts to the extent necessary to assure that benefits are not duplicated and to adjust minimum required benefits to changes in Medicare benefits, applicants receive adequate notice and disclosure of changes in

Medicare supplement policies and contracts, appropriate premium adjustments are made in a timely manner, and premiums are reasonable in relation to benefits.

Except as provided in Section 6, this Regulation shall apply to:

A. All Medicare supplement policies and contracts delivered, or issued for delivery in this Commonwealth, or which are otherwise subject to the jurisdiction of this Commonwealth, on or after the effective date hereof, and

B. All certificates issued under group Medicare supplement policies as provided in A. above.

Section 5. Definitions.

For purposes of this Regulation:

A. "Applicant" means:

- (1) In the case of an individual Medicare supplement policy or contract, the person who seeks to contract for insurance benefits, and
- (2) In the case of a group Medicare supplement policy or contract, the proposed certificate holder.

B. "Certificate" means any certificate issued under a group Medicare supplement policy.

C. "Medicare Supplement Policy" means a group or individual policy of accident and sickness insurance or any other contract which is advertised, marketed or designed primarily to provide health care benefits as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

Section 6. Benefit Conversion Requirements.

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate in force in this Commonwealth shall contain benefits which duplicate benefits provided by Medicare.

B. Benefits eliminated by operation of the Medicare Catastrophic Coverage Act of 1988 transition provisions shall be restored.

C. For Medicare supplement policies subject to the minimum standards adopted by the states pursuant to Medicare Catastrophic Coverage Act of 1988, the minimum benefits shall be:

- (1) 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;
- (2) Coverage for either all or none of the Medicare

Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional 365 days;

(5) Coverage under Medicare Part A 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 or already paid for under Part B.

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible of \$75;

(7) 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 or already paid for under Part A, subject to the Medicare deductible amount.

D. General Requirements

(1) No later than January 31, 1990, 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. Such notice shall be in the format adopted by the National Association of Insurance Commissioners (Appendix A).

(a) Such notice shall 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.

(b) The notice shall inform each covered person as to when any premium adjustment due to changes in Medicare benefits will be effective.

(c) 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.

(d) Such notice shall not contain or be accompanied by any solicitation.

(2) No modifications to an existing Medicare supplement contract or policy shall be made at the time of or in connection with the notice requirements of this regulation except to the extent necessary to accomplish the purposes articulated in Section 2 of this Regulation.

Section 7. Form and Rate Filing Requirements.

A. As soon as practicable, but no longer than forty-five (45) days after the effective date of the Medicare benefit changes, every insurer, health services plan or other entity providing Medicare supplement insurance or contracts in this Commonwealth 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 are necessary to justify the adjustment shall accompany the filing.

(2) Any appropriate riders, endorsements or policy forms needed to accomplish the Medicare supplement insurance modifications necessary to eliminate benefit duplications with Medicare and to provide the benefits required by Section 6. Any such riders, endorsements or policy forms shall provide a clear description of the Medicare supplement benefits provided by the policy or contract.

B. Upon satisfying the filing and approval requirements of this Commonwealth, every insurer, health services plan or other entity providing Medicare supplement insurance in this Commonwealth shall provide each covered person with any rider, endorsement or policy form necessary to make the adjustments outlined in Section 6 above.

C. Any premium adjustments shall produce an expected loss ratio under such policy or contract as will conform with minimum loss ratio standards for Medicare supplement policies and shall result in an expected loss ratio at least as great as that originally anticipated by the insurer, health services plan or other entity for such Medicare supplement insurance policies or contracts. Premium adjustments may be calculated for the period commencing with Medicare benefit changes.

Section 8. Offer of Reinstitution of Coverage.

A. Except as provided in Subsection B, in the case of an individual who had in effect, as of December 31, 1988, a Medicare supplement policy with an insurer, as a policyholder or, in the case of a group policy, as a certificate holder, and the individual terminated coverage under such policy before the date of the enactment of the repeal of the Medicare Catastrophic Coverage Act of 1988,

State Corporation Commission

the insurer shall:

(1) Provide written notice no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder at the most recent available address, of the offer described below, and

(2) Offer the individual, during a period of at least 60 days beginning not later than February 1, 1990, reinstatement of coverage, with coverage effective as of January 1, 1990, under terms which:

(a) Do not provide for any waiting period with respect to treatment of pre-existing conditions;

(b) Provide for coverage which is substantially equivalent to coverage in effect before the date of such termination; and

(c) Provide for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

B. An insurer is not required to make the offer under Paragraph (2) above in the case of an individual who is a policyholder or certificate holder in another Medicare supplement policy as of January 1, 1990, if the individual is not subject to a waiting period with respect to treatment of a pre-existing condition under such other policy.

Section 9. Requirements for New Policy and Certificates.

A. Effective January 1, 1990, no Medicare supplement insurance policy, contract or certificate shall be delivered or issued for delivery in this Commonwealth which provides benefits which duplicate benefits provided by Medicare. No such policy, contract or certificate shall provide less benefits than those required under the existing law or regulation except where duplication of Medicare benefits would result and except as required by these transition provisions.

B. General Requirements

(1) Within ninety (90) days of the effective date of this Regulation, every insurer, health services plan or other entity required to file its policies or contracts for approval by the Commission shall file new Medicare supplement insurance policies or contracts which eliminate any duplication of Medicare supplement benefits with benefits provided by Medicare, which adjust minimum required benefits to changes in Medicare benefits, and which provide a clear description of the policy or contract benefit.

(2) The filing required under Section 7A(1) shall provide for less ratios which are in compliance with all statutory and regulatory requirements.

(3) Every applicant for a Medicare supplement insurance policy, contract or certificate shall be provided with an outline of coverage which simplifies and accurately describes benefits provided by Medicare and policy or contract benefits along with benefit limitations.

Section 10. Filing Requirements for Advertising.

Every insurer, health services plan or other entity providing Medicare supplement insurance or benefits in this Commonwealth shall provide a copy of any advertisement intended for use in this Commonwealth whether through written, radio or television medium to the Commission for review. Such advertisement shall comply with all applicable laws of this Commonwealth.

Section 11. Buyer's Guide.

No insurer, health services plan or other entity shall make use of or otherwise disseminate any Buyer's Guide or informational brochure which does not accurately outline current Medicare Benefits.

Section 12. Separability.

If any provision of this Regulation or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

* * * * *

AT RICHMOND, JANUARY 10, 1990

COMMONWEALTH OF VIRGINIA ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE900004

Ex Parte, In re: Investigation of the Standards for Evaluating Fuel Costs Projections of Electric Utilities

PRELIMINARY ORDER

Senate Joint Resolution No. 156 adopted by the 1989 Session of the General Assembly requested the Commission to establish standards for evaluating the reasonableness of the fuel costs projections of electric utilities. The Resolution stated that "such standards need to be established in order to insure that payments for power purchased by electric utilities from cogenerators are fair, reasonable and appropriate." Pursuant to that Resolution the Commission's Staff requested comments from each electric utility subject to the Commission's jurisdiction and from each existing cogenerator in Virginia. Specifically, comments were requested on the following issues:

1. Use of production costing models for projecting fuel expenses.

2. Load projections which are current and reflective of the economic conditions and growth in the utility service area, including demand side options and their projected effect.

3. Fuel costs which reflect historical fuel costs adjusted for any known dynamics of the projection period: i.e., UMWA contracts, expected operation of the spot market, current fuel contracts, the world fuel market, inventory levels, purchasing volumes, etc.

4. Unit operations which take into account planned maintenance, expected operating levels, historical performance levels, as well as efforts made and expected to be made that will impact performance.

5. Dispatch orders which reflect such variables as system economics, unit availability, minimum operating levels and terms and conditions of purchase power contracts.

6. Purchase power levels which reflect need, system economics, power availability and transmission constraints.

7. Impact of purchase power costs recovered through the fuel factor and the impact of revenues from off-system sales.

With the comments and input provided by the respondents to that inquiry, the Staff can now complete its investigation and prepare a report setting forth its findings and recommendations and proposed standards for evaluating fuel costs projections.

We encourage all interested and affected persons to continue providing meaningful input and assistance to the Staff as it completes its investigation and further, to subsequently provide comments to the Staff report to assist the Commission in the final establishment of standards.

Therefore, we are of the opinion and find that Staff should complete its investigation and submit its findings and recommendations for appropriate standards in a report to be filed with the Commission on or before February 15, 1990. Staff's report and recommendations will likely serve as the basis of the proposed standards for evaluating fuel costs projections of electric utilities. Upon the filing of that report we will direct public notice of proposed standards, invite comment and provide for an opportunity for hearing. Accordingly,

IT IS ORDERED;

(1) That this matter shall be docketed and assigned Case No. PUE900004;

(2) That the Commission's Staff is directed to complete its investigation and to recommend proposed standards for evaluating fuel costs projections of electric utilities;

(3) That upon completion of its investigation, the Commission's Staff shall file its report on or before February 15, 1990, in which it should set forth its findings, recommendations and the proposed standards which it believes should be considered by the Commission;

(4) That all Virginia electric public utilities shall respond fully and promptly to any Staff requests for data in the investigation directed herein; and

(5) That any other interested and affected parties should also provide Staff with any data and information pertinent to the Staff's investigation.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each electric utility subject to the jurisdiction of this Commission; Edward L. Flippen, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-9970; Edward C. Minor, Esquire, Union Camp Corporation, Franklin, Virginia 23851; J.J. Carrara, Esquire, Westvaco, 299 Park Avenue, New York, New York 10171; Don Dowling, Senior Vice President, Cogentrix, 9405 Arrow Point Boulevard, Charlotte, North Carolina 28217; and to the Commission's Divisions of Energy Regulation and Economic Research and Development.

NOTICE: Due to the length, the Standards and Procedures Governing Intrastate Rail Rates in Virginia are not being published. The full text of the standards and procedures is available for public inspection at the office of the Registrar of Regulations and in the Clerk's Office of the State Corporation Commission.

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. RRR830003

Ex Parte, in re: Adoption of Standards and Procedures to Administer the Staggers Rail Act of 1980.

ORDER ADOPTING REGULATIONS

On November 2, 1989, the Commission issued an order in this proceeding giving notice of its intent to adopt regulations. The regulations consist of the Standards and Procedures Governing Intrastate Rail Rates in Virginia, revised as of October 20, 1989. In addition, the Commission will interpret the Standards and Procedures consistently with commitments undertaken by the Commission in its March 13, 1989 Supplemental Submission to the Interstate Commerce Commission. The October 20, 1989 Standards and Procedures supersede all previous Commission requirements for administration of the Staggers Rail Act of 1980.

Copies of the Standards and Procedures and the Supplemental Submission, along with the November 2

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order, have been sent to each rail carrier operating in Virginia and the order was published in the Virginia Register on December 4, 1989. In the order, the Commission asked interested parties to file any written comments or requests for hearing on the Standards and Procedures on or before January 15, 1990, but no comments or requests for hearing were received. Accordingly,

IT IS ORDERED:

(1) That the Standards and Procedures Governing Intrastate Rail Rates in Virginia, revised as of October 20, 1989, as contained in the attachment to this order, shall be adopted as regulations, effective as of the date of this order;

(2) That notice of the adoption of these regulations shall be published in the Virginia Register;

(3) That a copy of this order (including the attachment) shall be sent to each rail carrier operating within Virginia; and

(4) That, there being nothing further to be done in this matter, this case is dismissed and record herein shall be made a part of the Commission's files for ended causes.

FORMS

DEPARTMENT OF MOTOR VEHICLES

NOTICE: The Department of Motor Vehicles and the Department of State Police (DSP) created the "Suspension/Revocation/Disqualification Notice" with input from the Supreme Court of Virginia and the Attorney General's Office. The form resulted from previous requests made by DSP personnel in addition to 1989 Legislation (i.e., House Bill 1673). It will be issued by law enforcement, court and DMV personnel to notify drivers that their driving privilege has been suspended or revoked.

SAMPLE



SUSPENSION/REVOCAION/DISQUALIFICATION NOTICE

NOTIFICATION TO THE BELOW-NAMED DRIVER

You are hereby personally notified that your driver's license/privilege has been suspended/revoked/disqualified. You may not operate a motor vehicle in the State of Virginia until you have complied with the requirements of previously issued Department of Motor Vehicles order(s) regarding that suspension/revocation/disqualification.

I, the undersigned, issue this NOTICE

TO: DRIVER'S NAME (LAST, FIRST AND MIDDLE)			
LICENSE NUMBER		LICENSE TYPE <input type="checkbox"/> DL <input type="checkbox"/> CDL	STATE LICENSE ISSUED BY
DRIVER'S CURRENT HOME ADDRESS	STREET		
	CITY	STATE	ZIP CODE
ON: DAY OF WEEK	DATE	AT: TIME	_____ A. M. _____ P. M.
IN: CITY/COUNTY	ROUTE NO./LOCATION		

SURRENDER OF DRIVER'S LICENSE/LICENSE PLATES

The above-named driver surrendered his/her driver's license and/or license plates to the undersigned officer/DMV representative.

The above-named driver stated that he/she is not surrendering his/her driver's license to the undersigned officer/DMV representative because:

- It is lost. It has been stolen. It has been destroyed.
 He/she does not have it with him/her at this time; however, he/she was advised to surrender it to DMV immediately.
 Other _____

A true copy of this NOTICE was personally delivered to the above-named driver on the date and at the time and place indicated.

DRIVER'S SIGNATURE (ACKNOWLEDGES RECEIPT OF THIS NOTICE ONLY)	
OFFICER'S/DMV REPRESENTATIVE'S NAME (PRINT)	BADGE NO./CODE
OFFICER'S/DMV REPRESENTATIVE'S SIGNATURE	AGENCY

ORIGINAL (white) - DMV
 COPY #1 (cyan) - Driver (see reverse)
 COPY #2 (pink) - Issuing Agency/
 Department

NOTE: Within 24 hours of issuance, law enforcement personnel must either deliver the ORIGINAL and any surrendered license items to the nearest DMV branch office or mail the ORIGINAL and any surrendered license items to DMV Headquarters, P. O. Box 27412, Richmond, Virginia 23269-0001.

DMV 10/11/88

SAMPLE

INSTRUCTIONS

To the DRIVER who receives a copy of this Notice

This NOTICE is being issued to you because DMV records indicate that your driver's license/privilege has been suspended or revoked or disqualified as a result of DMV or court order(s).

You should surrender your driver's license to the officer/representative who issues this NOTICE to you.

If your driver's license is not in your possession at this time, within 24 hours or the next business day, --

- mail your suspended/revoked/disqualified driver's license to DMV Headquarters at the address below.

OR

- have someone take you to the nearest DMV branch office to surrender your driver's license or take the necessary steps to comply with the order(s) issued against you (EXAMPLE: submit appropriate forms/information, pay required fees, etc.).

MAILING ADDRESS	Department of Motor Vehicles Driver Services Administration/Driver Licensing & Info. Division P. O. Box 27412 Richmond, Virginia 23269-0001
STREET ADDRESS	2300 West Broad Street Richmond, Virginia 23220

DMV 10/11/00

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 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law.** The purpose of the proposed action is to reduce ozone-producing evaporative volatile organic compound emissions, by limiting gasoline volatility during the ozone season (May through September), for the protection of public health and welfare. Such reductions will contribute to the attainment of the National Ambient Air Quality Standards for ozone.

This regulatory initiative is being undertaken in consultation with the Department of Air Pollution Control.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., February 28, 1990.

Contact: W. P. Zentmeyer, Supervisor, Fertilizer and Motor Fuel Section, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511

AUCTIONEERS BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider amending regulations entitled: **VR 150-01-02. Auctioneers Board Regulations.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Public Participation Guidelines.

Statutory Authority: §§ 54.1-100 and 54.1-602 of the Code of Virginia.

Written comments may be submitted until March 12, 1990.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

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 190-04-1. Regulations Relating to Private Security Services.** The purpose of the proposed action is to solicit public comment on all existing regulations as to the effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with the Public Participation Guidelines.

Statutory Authority: § 54.1-1902 of the Code of Virginia.

Written comments may be submitted until March 12, 1990.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

DEPARTMENTS OF CORRECTIONS; EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE; AND SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Corrections; Education; Mental Health, Mental Retardation and Substance Abuse; and Social Services intend to consider amending regulations entitled: **Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.** The purpose of the proposed action is to establish standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to amend and clarify those sections of standards which address management of resident behavior (Part V, Articles 22-28). Only those sections of the regulation that address management of resident behavior will be considered for amendment.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 63.1-25 and 63.1-196.4 of the Code of Virginia.

Written comments may be submitted until March 15, 1990.

Contact: Rhonda Merhout-Harrell, Assistant Coordinator, Office of the Coordinator, Interdepartmental Licensure and

General Notices/Errata

Certification, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124

DEPARTMENT OF EDUCATION (BOARD OF)

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia**. The purpose of the proposed action is to amend § 3.5 A 2 of the regulation setting forth a time period for filing for a due process hearing from six months after the disagreement occurs to anytime after a disagreement occurs.

This amendment is in response to an order from the U.S. Department of Education to remove the six-month time limit from the regulations since it is contrary to federal law.

Statutory Authority: § 22.1-16 of the Code of Virginia and 20 USC §§ 1412 and 1413.

Written comments may be submitted until March 12, 1990.

Contact: Robin Hegner, Supervisor of Due Process Proceedings, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2887

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-2. Virginia Tradesmen Certification Standards, 1987 Edition**. The purpose of the proposed action is to amend current standards for local certification of plumbers, building-related mechanical workers, electricians and divisions within those trade areas.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 15.1-11.4 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Robert Gregory, Administrator, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4857

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **394-01-4. Virginia Uniform Statewide Building Code, Amusement Device Regulations**. The purpose of the proposed action is to protect the health, safety and welfare of amusement device users.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-6. Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to provide mandatory statewide regulation for protection of life and property from the hazards of fire or explosion.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-8. Virginia Liquefied Petroleum Gas Regulations**. The purpose of the proposed action is to require safe use and storage of L-P gases in order to protect individuals and property from fire and explosion hazards.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 27-87 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager,

Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code Volume I, New Construction Code.** The purpose of the proposed action is to provide mandatory, statewide uniform regulation for construction of new buildings.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code Volume II, Building Maintenance Code.** The purpose of the proposed action is to provide mandatory, statewide uniform regulation for maintenance and use of buildings.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider promulgating regulations entitled: **VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies.** The purpose of the proposed action is to promulgate current standards for governing operation of individual and regional code academies.

Statutory Authority: § 36-137 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Robert Gregory, Administrator, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-4857

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Housing and Community Development intends to consider amending regulations entitled: **VR 394-01-31. Virginia Uniform Statewide Building Code, Industrialized Building and Manufactured Home Safety Regulations.** The purpose of the proposed action is to provide uniform statewide safety standards for industrialized buildings and manufactured homes.

The purpose of the intended regulatory action is to develop a 1990 edition of the existing regulation.

Statutory Authority: § 36-80 of the Code of Virginia.

Written comments may be submitted until April 15, 1990.

Contact: Gregory H. Revels, Program Manager, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

LOTTERY BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Lottery Board intends to consider amending regulations entitled: **VR 447-02-1. Instant Game Regulations.** The purpose of the proposed action is to allow lottery retailers to return instant lottery tickets for credit prior to the announced end of the games, and clarify when a claim form is required to redeem prizes.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until May 21, 1990.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2021 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-4.1940. Nursing Home Payment System: Revised COPN Limits.** The purpose of

General Notices/Errata

the proposed action is to revise the COPN limit for reimbursing nursing home construction costs.

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

Written comments may be submitted until February 28, 1990, to William R. Blakely, Director, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

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 465-03-01. Physical Therapy.** The purpose of the proposed action is to amend Part II, § 2.4 to establish licensure requirements for graduates of foreign institutions to practice as physical therapist assistants.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until March 28, 1990.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Mental Health, Mental Retardation and Substance Abuse Services Board intends to consider amending regulations entitled: **VR 470-02-02. Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children.** The purpose of the proposed action is to regulate the use of strip searches and body cavity searches in residential facilities for children licensed by the department.

The prohibition of strip searches and body cavity searches is being proposed for Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children, unless permitted by other state regulations.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Written comments may be submitted until March 27, 1990.

Contact: Barry P. Craig, Director of Licensure, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3472 or (804) 371-8977/TDD ☎

DEPARTMENT OF PERSONNEL AND TRAINING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Personnel and Training intends to consider promulgating regulations entitled: **Guidelines for Public Participation in Regulation Development and Promulgation.** The purpose of the proposed regulation is to establish Department of Personnel and Training guidelines for soliciting and incorporating public participation in the development and promulgation of regulations.

Statutory Authority: §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.

Written comments may be submitted until March 9, 1990.

Contact: Anthony C. Graziano, Manager of State Benefits, Department of Personnel and Training, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2170

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Pharmacy intends to consider amending regulations entitled: **VR 530-01-1. Board of Pharmacy Regulations.** The purpose of the proposed action is to amend § 1.3 B by deleting the language for a temporary or probationary or reciprocal license and inserting language for an application for an endorsement license \$300.

The proposed change will eliminate the issuance of a temporary license to pharmacists licensed in other states when the amendment is adopted. Licenses will subsequently be issued by endorsement after the applicant has passed a validated state drug law examination which will be administered approximately every three months.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until March 7, 1990.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Psychology intends to consider amending regulations entitled: **VR 565-01-2. Regulations Governing the Practice of Psychology.** The purpose of the proposed action is to review requirements for technical assistants, requirements for internships, changes in the examination schedule, general education requirements, residency requirements, and possible fee changes.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until February 26, 1990.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Social Services intends to consider amending regulations entitled: **VR 615-70-17. Child Support Enforcement Program.** The purpose of the proposed action is to comply with new federal child support regulations. In response to new federal child support regulations and in anticipation of legislative action by the General Assembly in 1990, the department will develop rules to:

- define the department's responsibilities when responding to (i) requests for applications for child support enforcement services from the general public and (ii) referrals of ADC, Medicaid, and Title IV-E Foster Care upon approval of their application for public assistance. This regulation will also define the time requirements for such responses.
- define the department's time requirements for opening a child support case, establishing paternity, establishing a child support obligation, and enforcing a child support obligation.
- establish the method by which putative fathers who voluntarily acknowledge paternity will be advised of their rights and responsibilities regarding child support.
- (i) establish the time requirements for locating absent responsible parents and the frequency with which location services will be provided, and (ii) identify the types of location services that will be provided.

- establish the criteria by which the department will assess and prioritize child support cases.

- establish the conditions under which the department will periodically review child support obligations.

- (i) establish guidelines defining diligent efforts to serve process and (ii) to define the time requirements for such service.

- establish both the criteria by which the department will close child support cases and the time requirements for case closure.

New federal regulations on Child Support Enforcement Program operations were issued August 4, 1989, and become effective October 1, 1990.

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

Written comments may be submitted until March 13, 1990, to Penelope Boyd Pellow, Division of Child Support Enforcement, 8007 Discovery Drive, Blair Building, Richmond, Virginia 23229-8699.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, Office of Governmental Affairs, 8007 Discovery Dr., Blair Bldg., Richmond, VA 23229-8699, telephone (804) 662-9217

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-02. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to update the Roanoke River Basin Water Quality Management Plan's Upper Roanoke River Subarea to reflect current data and scientific studies; new or revised legislation, procedures, policy and regulations; and the results of facilities planning.

There are approximately 332,612 persons residing in the Subarea and 105 issued VPDES permits. No financial impact to the regulated community is anticipated. The proposed action is authorized by the statutes cited below and is governed by the State Water Control Law; Permit Regulation (VR 680-14-01); Water Quality Standards; the Clean Water Act, 33 USCA Sections 1251 et seq.; and Title 40 Parts 35 and 130 of the Code of Federal Regulations. A copy of these documents may be reviewed or obtained by contacting Mr. Estes at the address below.

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

Written comments may be submitted until 4 p.m.,

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February 26, 1990.

Contact: Wellford S. Estes, State Water Control Board, West Central Regional Office, P. O. Box 7017, Roanoke, VA 24019, telephone (703) 857-7432

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-03.1. Upper James River Basin Water Quality Management Plan.** The purpose of the proposed action is to update the plan for the Upper James River Subarea in response to changed conditions since the plan was first developed in the mid 1970's. The proposed update will include the following sections: Water Quality Evaluation which will detail general water quality goals, segment classifications, priority water bodies, and segment analysis of surface and ground water quality; Point Sources which will detail VPDES permit issuance, effluent limitation determinations, total maximum daily loads, methods for allocation between dischargers, inspection programs, chlorine disinfection policy, toxics management program, pretreatment program, urban stormwater management, combined sewer overflows, wasteload allocations, and strategy for nutrient enriched waters; Nonpoint Sources which will detail, among other things, nonpoint source management program, Pollution Abatement Permits, and inspection programs; Coordination with Other Planning which will detail various planning activities including wastewater treatment facilities planning and the Virginia Revolving Loan Fund; Ground Water which discuss the antidegradation policy, Ground Water Protection Strategy, and underground storage tank program; Management and Implementation of the Plan which will detail the managing agencies and State Water Control Board actions.

Federal and state laws require that VPDES permits be in compliance with appropriate area and/or basin wide water quality management plans. There are approximately 367,000 persons residing in the Subarea and 106 issued VPDES permits. Since the update of this plan does not impose any wasteload allocations more stringent than currently exist, no impact on the dischargers is anticipated. The proposed amendments will, however, provide the Commonwealth, units of local government, industrial firms and agricultural interest a current management tool to assist in achieving and maintaining applicable water quality goals in the Subarea. The proposed action is authorized by the statute cited and is governed by the State Water Control Law; Permit Regulation (VR 680-14-01); Water Quality Standards; the Clean Water Act, 33 USCA Sections 1251 et seq.; and Title 40 Parts 35 and 130 of the Code of Federal Regulations. A copy of these documents may be reviewed or obtained by contacting Mr. Charles T. Mizell at the address below.

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

Written comments may be submitted until 4 p.m., March 12, 1990.

Contact: Charles T. Mizell, State Water Control Board, Valley Regional Office, P. O. Box 268, Bridgewater, VA 22812, telephone (703) 828-2595 or SCATS 332-8789

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-16-11. Lower James River Basin Water Quality Management Plan.** The purpose of the proposed action is to update the plan for the Hampton Roads Planning Area in response to changed conditions since the plan was first developed. The plan will also be retitled to the Lower James River Basin Water Quality Management Plan. The proposed update will include the following sections: Water Quality Evaluation which will detail general water quality goals, segment classifications, priority water bodies, VPDES permit issuance, effluent limitation determinations, total maximum daily loads, methods for allocation between dischargers, inspection programs, chlorine disinfection policy, toxics management program, pretreatment program, urban stormwater management, combined sewer overflows and wasteload allocations, wastewater treatment facilities planning, and the Virginia Revolving Loan Fund; Nonpoint Sources which will detail, among other things, nonpoint source management program, Pollution Abatement Permits, inspection programs and the Chesapeake Bay Preservation Act; Ground Water which will discuss the antidegradation policy, Ground Water Protection Strategy, and ground water management areas; Management and Implementation of the Plan which will detail the State Water Control Board management actions.

Federal and state laws require that VPDES permits be in compliance with appropriate area and/or basin wide water quality management plans. There are seven major municipal and eight major industrial discharges in the plan area. Since the update of this plan does not impose any wasteload allocations more stringent than currently exist, no impact on the dischargers is anticipated. The proposed amendments will, however, provide the Commonwealth, units of local government, industrial firms and agricultural interest a current management tool to assist in achieving and maintaining applicable water quality goals in the plan area. The proposed action is authorized by the statute cited and is governed by the State Water Control Law; Permit Regulation (VR 680-14-01); Water Quality Standards; the Clean Water Act, 33 USCA Sections 1251 et seq.; and Title 40 Parts 35 and 130 of the Code of Federal Regulations. A copy of these documents may be reviewed or obtained by contacting Mr. Robert F. Jackson, Jr., at the address below.

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

Written comments may be submitted until 4 p.m., March

12, 1990.

Contact: Robert F. Jackson, Jr., State Water Control Board, Tidewater Regional Office, 287 Pembroke Office Park, Pembroke Two, Suite 310, Virginia Beach, VA 23462, telephone (804) 552-1820

GENERAL NOTICES

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Guidelines for Enforcement of the Virginia Pesticide Control Act - Civil Penalty Assessment Decision Matrix

Statutory Authority: § 3.1-249.70 of the Code of Virginia.

§ 1.1 Definitions.

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

“Act” means the Virginia Pesticide Control Act, Chapter 14.1 of Title 3.1 (§§ 3.1-249.27 through 3.1-249.78) of the Code of Virginia.

“Board” means the Pesticide Control Board.

“Previous violation” means any violation of the Virginia Pesticide Control Act, or regulations adopted pursuant thereto, cited within the three-year period preceding the current violation.

“Reportable pesticide spill, accident, or incident” means any release of a pesticide into the environment in any manner not in accordance with instructions for use or disposal provided on the product label.

“Repeat violation” means another violation following the first violation of the same provision of the Virginia Pesticide Control Act, or regulations adopted pursuant thereto, committed within a three-year period commencing with the date of official notification of the first violation of the provision.

§ 1.2 Provision for Civil Penalties Generally.

A. The Board may assess a penalty of not more than \$1,000 for a violation that is less than serious, not more than \$5,000 for a serious violation, and not more than \$20,000 for a repeat or knowing violation.*

B. The Board may assess an additional penalty of up to \$100,000 for any violation which causes serious damage to the environment, causes serious injury to property, or serious injury to or death of any person.*

*Language taken from the Code of Virginia, § 3.1-249.70, Part D.

§ 1.3 Assessment of separate violations.

A. Each violation of the Act, or regulations adopted pursuant thereto, shall be assessed separately for the purpose of determining the total civil penalty assessment.

B. In cases of continued violation, a civil penalty may be assessed separately for each day of violation beginning with the date of notification of the violation and ending with the date of abatement.

§ 1.4 Penalty Point System.

The point system described in this section shall be used to determine the amount of the civil penalty.

A. Type of Violation

A person or firm in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to 10 points for the type of violation described in one of the following categories:

Points	Violation Category
--------	--------------------

- | | |
|-----|--|
| 1-2 | Failing to comply with the requirements for certification or licensing, or the conditions of a certificate or license. |
| 1-2 | Failing to meet all requirements regarding labelling, registration, color, composition, and container for a pesticide or device. |
| 1-2 | Making any statement, declaration or representation through any medium implying that any person certified or registered under the provisions of Article 3 of the Act is recommended or endorsed by any agency of the Commonwealth. |
| 2-3 | Applying any pesticide in a negligent manner. |
| 2-3 | Failing to maintain proper records or permit access to records as required. |
| 2-3 | Failing to notify Department of a reportable pesticide spill, accident, or incident. |
| 2-3 | Dispensing, applying or using any pesticide through any equipment not in sound mechanical condition, or not properly equipped with effective cut-off valves, leakproof pesticide tanks and distribution systems, or not equipped to dispense a pesticide at the proper rate. |
| 2-4 | Handling, transporting, storing, displaying, or distributing pesticides in a manner which may endanger humans, and the environment, or which may contaminate food, feed, or other products transported, |

General Notices/Errata

	Points	Seriousness Category
displayed, stored or distributed with pesticides.		
2-4 Making pesticide recommendations, or causing a person to use any pesticide, in a manner inconsistent with label directions or in violation of the Act, or regulations promulgated pursuant thereto.	0	No actual or potential damage to the environment or threat to human health and safety.
3-6 Using any pesticide, or storing or disposing of any pesticide or container inconsistent with label directions or in violation of the Act, or regulations promulgated pursuant thereto.	1-2	Slight actual or potential damage to property or the environment, or such threat to human health and safety.
3 Providing one's certification or registration to be used by another person.	3-4	Moderate, but significant, actual damage to property or the environment; also, Moderate, but significant, potential damage to property or the environment, or such threat to human health and safety.
4 Using to fill pesticide handling, storage, or application equipment, any hose, pump, or other equipment that has not been fitted with an effective device to prevent back flow or back siphon.	5-6	Serious actual damage to property or the environment; also, Serious potential damage to property or the environment, or such threat to human health and safety.
4 Providing or making available any restricted use pesticide to any person not certified to use such a pesticide.	7-8	Very serious actual damage to property or the environment; also, Very serious potential damage to property, the environment, or such threat to human health and safety.
7-8 Aiding, abetting or conspiring with any person to violate the provisions of Article 3 of the Act, or regulations adopted pursuant thereto.	9-10	Extremely serious actual damage to property or the environment which may be irreparable, or which can be corrected only after a considerable effort or period of time; also, Extremely serious potential damage to property or the environment, or such threat to human health and safety.
8 Using fraud, or false claims involving pesticide sale or use, or involving licensing, certification, or registration requirements of the Act, or regulations adopted pursuant thereto.		
8 Making false or fraudulent claims misrepresenting the effect of materials or methods to be utilized or sold, or the effects of a pesticide application on the environment or on human health and safety.		
10 Violating a stop sale, use, or removal order.		
10 Failure to comply with any lawful order of the Commissioner or the Board.		
10 Neglecting, or after notice refusing, to comply with the provisions of Article 5 of the Act, or regulations promulgated pursuant thereto.		
10 Interfering with the Commissioner or his duly authorized agents in the performance of duties.		
10 Impersonating any federal, state, county or city inspector or official.		

B. Seriousness of Violation

A person or firm in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to 10 points for the seriousness of the violation, taking into consideration any harm to the environment and any hazard to public health and safety, as described in one of the following categories:

C. Culpability.

A person or firm in violation of the Act, or regulations adopted pursuant thereto, shall be assigned up to six points, from one of the following categories, based on the degree of fault of the person to whom the violation is attributed:

Points Culpability Category

0 No fault attributed; an inadvertent violation which was unavoidable by the exercise of reasonable care.

1-2 Negligent.

3-6 Knowing, aware of actions.

D. Repeat violation.

Any person or firm having committed a repeat violation shall be assigned up to 10 points from one of the following categories:

Points Repeat Violation Category

- 5-6 Second occurrence of a violation.
- 9-10 Third occurrence of a violation, or violations following this occurrence.

E. Credit for good faith in attempting to achieve compliance.

The demonstrated good faith of the person or firm in attempting to achieve rapid compliance after notification of the violation shall be taken into consideration in determining penalty points. No more than four points may be deducted from the total points assigned under Subsections A, B, C, and D, based on the following categories:

Points Good Faith Credit Category

- 3-4 Immediate action taken to abate the violation, and correct any conditions resulting from the violation, in the shortest possible amount of time.
- 1-2 Prompt and diligent efforts made to abate the violation, and correct any conditions resulting from the violation, within a reasonable period of time.
- 0 No points deducted.

F. Determination of base civil penalty.

The total penalty point amount shall be determined by adding the points assigned under Subsections A, B, C, and D, and subtracting from that subtotal the points assigned under Subsection E of this Section. The resulting total penalty point amount is converted to a dollar amount, according to the following schedule:

Points	Dollars	Points	Dollars
1	\$ 50	11	\$2000
2	100	12	2500
3	150	13	3000
4	200	14	4000
5	350	15	5000
6	500	16	8000
7	650	17	11000
8	800	18	14000
9	1000	19	17000
10	1500	20	20000

G. Consideration of previous violations; reduction of penalty.

All previous violations of a person or firm shall be taken into consideration in determining the base civil penalty. In the case of a less than serious violation where no previous violation exists, the base civil penalty may be reduced by 20 percent. In the case of a serious violation or a repeat violation the base civil penalty shall not be

reduced.

H. Additional penalty for causing serious damage, illness, or death.

An additional penalty of up to \$100,000 may be assessed for any violation which causes serious damage to the environment, serious injury to property, or serious injury to or death of any person. Each serious incident shall be examined on a case-by-case basis, taking into consideration the severity of the damage or injury, the potential long-term effects, and any economic loss involved. The basis for an additional assessment shall be fully explained and documented in the records of the case.

§ 1.5 Waiver of Use of Formula to Determine Civil Penalty.

A. The Virginia Pesticide Control Board may waive the use of the formula contained in Section 1.4 to set the civil penalty, if the Board determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case.

B. If the Board waives the use of the formula, it shall give a full written explanation of the basis for any penalty assessment to the person or firm found in violation.

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: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

- NOTICE OF INTENDED REGULATORY ACTION - RR01
- NOTICE OF COMMENT PERIOD - RR02
- PROPOSED (Transmittal Sheet) - RR03
- FINAL (Transmittal Sheet) - RR04
- EMERGENCY (Transmittal Sheet) - RR05
- NOTICE OF MEETING - RR06
- AGENCY RESPONSE TO LEGISLATIVE OR GUBERNATORIAL OBJECTIONS - RR08
- DEPARTMENT OF PLANNING AND BUDGET (Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

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ERRATA

instead of 32.1-179.

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

Title of Regulation: VR 173-01-00. Public Participation Guidelines.

Publication: 6:9 VA.R. 1381 January 29, 1990

Correction to the Final Regulation:

Page 1381, § 5.7, third line, the word "following" should be deleted.

DEPARTMENT OF COMMERCE

Title of Regulation: VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.

Publication: 6:9 VA.R. 1257-1275 January 29, 1990

Correction to the Final Regulation:

Page 1258, § 1.1, "License" means certificate... should read, "License" shall also mean certificate... and "Licensee" means certificate... should read, "Licensee" shall also mean certificate...

Page 1258, § 2.1 A, the comma after "are" should be deleted to read "...and verification of registrations are received by the board..."

Page 1259, § 3.4 A 1, insert the word "and" after the semi-colon to read "...practice of architects; and"

Page 1264, § 4.8 A 3, delete the word "and" after the semi-colon to read "...one year of credit;"

Page 1267, § 5.8 E, should read, "Upon payment of a reexamination fee..."

Page 1275, § 10.11 B, the second paragraph as printed is repetitive of the last sentence of subsection B. The second paragraph should be deleted.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Publication: 6:7 VA.R. 1045 January 1, 1990

Correction to the Proposed Regulation:

Page 1045, Part I, Definitions, "Health care institution," the fourteenth line should read, "...37.1-179 et seq..."

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

† May 7, 1990 - 10 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to repeal existing regulations and adopt new regulations entitled: VR 115-01-2. **Board for Accountancy Regulations.** The board is repealing its current regulations and proposing new regulations to establish the requirements for certification and licensure as a certified public accountant and establish the standards of practice for the professions.

STATEMENT

Pursuant to § 54.1-201 5 of the Code of Virginia and in accordance with § 9-6.14:7.1, the Board for Accountancy proposes to repeal its existing regulations and adopt new regulations.

The regulations apply directly to approximately 5,413 licensed CPAs, 3,782 certificate maintenance holders, and 270 registered professional corporations.

The board is repealing its current regulations as a result of a reorganization of the regulations which includes General, Entry, Renewal/Reinstatement, and Standards of Practice sections. This document will outline the substantive changes from the text which the board is

repealing to the text the board is proposing and the estimated impact of such changes.

1. The board is proposing to amend the definition of an "accredited institution" by eliminating the reference to a four-year college or university. This will assist candidates who do not live near a four-year college to meet specific course requirements at a community college.

2. The board is deleting the definition of "compilation of financial statements" because the definition is considered unnecessary. No impact is anticipated.

3. The board is proposing a definition of "holding out" as a result of § 54.1-2004 which states that only a person holding a valid license may practice or offer to practice public accounting. The practice of public accounting is defined in § 54.1-2000 but the meaning of "practice or offer to practice" is not defined. Accordingly, the board has proposed a definition of "holding out" to define when a regulant will be deemed to be practicing or offering to practice public accounting and, therefore, is required to be licensed. This regulation is anticipated to assist the public in determining if an individual they are seeking professional services from should be licensed.

4. The board is proposing a definition of "practice of accounting" or "accounting practice" or "performance of accounting services" to clarify references to the terms in its regulations.

5. The board is eliminating the requirement in proposed regulation 2.1 B 1 a of three semester hour courses in Statistics and Business Policy, and 15 semester hours of business electives. The board is increasing the requirement from six semester hours to nine semester hours of Financial Accounting/Accounting Theory (above the introductory level). This increase is necessary because of the rapid increase in the number of financial accounting standards issued during the past few years. These amendments reduce the required semester hours of accounting and business courses from 60 to 42 and should reduce, in some cases, the length of time it takes to meet the requirements to sit for the examination, and in some cases, reduce the cost to students. Effective December 1, 1993, individuals will only be eligible to sit for the examination if they meet the education requirements set forth in § 2.1 B 1 a. The board is proposing in §§ 2.1 B 1 b, 2.1 B 1 c, and 2.1 B 1 d, as explained in the following paragraphs to allow adequate time for individuals to apply and sit for the examination if they meet the provisions of §§ 2.3 1, 2.3 2 or 2.3 4 under the current regulations.

6. The board is proposing § 2.1 B 1 b to require

Calendar of Events

individuals who satisfied by July 31, 1988, the requirement of a baccalaureate or higher degree and had completed 27 semester hours in accounting subjects to have included courses in accounting, auditing, cost accounting and shall not have included more than six semester hours in commercial law, to initially apply and sit for the examination by November 30, 1992, to be eligible to be admitted under this rule. Individuals who do not apply and sit for the examination by November 30, 1992, must meet the requirement of proposed § 2.1 B 1 a to be admitted to future examinations. The board is taking this action because it feels that the course outlined in § 2.1 B 1 a are necessary to minimally prepare an individual for the examination and the practice of public accountancy. The phasing out of § 2.1 B 1 b may require individuals who graduated prior to July 31, 1988, to take additional courses in order to meet the requirement to sit for the examination after November 30, 1992.

7. The board is proposing § 2.1 B 1 c to require individuals who have completed a baccalaureate or higher degree with either a major in accounting or a concentration in accounting from an accredited institution to initially apply and sit for the examination by November 30, 1993. Individuals who do not apply and sit for the examination by November 30, 1993, must meet the requirements of proposed § 2.1 B 1 a to be eligible to be admitted to future examinations. The board is taking this action because it feels that the courses outlined in § 2.1 B 1 a are necessary to minimally prepare an individual for the examination and for the practice of public accountancy. The phasing out of § 2.1 B 1 c may require individuals to take additional courses in order to meet the requirement to sit for the examination after November 30, 1993.

8. The board is proposing § 2.1 B 1 d to require individuals who have completed 120 semester hours of earned credit from an accredited institution of which at least 60 hours must include specific business related courses as outlined in proposed § 2.1 B 1 d to initially apply and sit for the examination by November 30, 1993. Individuals who do not apply and sit for the examination by November 30, 1993, must meet the requirements of proposed § 2.1 B 1 a to be eligible to be admitted to future examinations. The board is taking this action because it feels that the courses outlined in § 2.1 B 1 a are necessary to minimally prepare an individual for the examination and for the practice of public accountancy. The board additionally is requiring that the 60 semester hours be at the junior and senior level to assure that students will complete courses above the introductory level. The phasing out of § 2.1 B 1 d should have no impact because proposed § 2.1 B 1 a requires a fewer number of courses and it is anticipated candidates will therefore apply under that rule.

9. The board is proposing in § 2.1 B 1 e language which requires degrees received outside the United States to be evaluated to determine their equivalency to a degree received from an accredited institution. This has been the

practice of the board, so there is no additional burden being placed on the candidates.

10. The board has eliminated current § 2.3 3 which allowed candidates to meet the education requirements by sitting for an examination approved by the board to test the equivalent of a baccalaureate or higher degree with 27 semester hours in accounting subjects to have included courses in accounting, auditing, cost accounting and shall not have included more than six semester hours in commercial law. The board is unaware of anyone who has sat for the examination under this rule, so little impact is anticipated.

11. The board is proposing in §§ 2.1 C 3 and 2.1 C 7 language which will allow it to extend examination credit and excuse individuals from an examination for serious illness, injury or death in their immediate family, service to the Peace Corps, or for other good cause of similar magnitude approved by the board. This will allow the board more flexibility to respond to the appeals of candidates sitting for the examination. The impact of the proposed regulation will benefit the candidate financially and will provide the candidate with additional time to pass the examination without losing credit.

12. The board is proposing language in § 2.5 which will require and clarify that CPAs on a firm's professional staff, as well as sole proprietors, partners and shareholders who are engaged in or holding themselves out to be engaged in the practice of public accounting be required to hold a license. The board is taking this action because it feels that CPAs on the professional staff of a CPA firm regard themselves as being in the practice of public accounting, that their clients believe they are practicing public accounting and that the public is of the opinion that they are practicing public accounting. The board, therefore, does not feel that there is any basis for treating CPAs on professional staffs any differently than sole proprietors, partners or shareholders as regards the licensing requirement. The difference between the cost of a license renewal and the certificate maintenance fee will be \$15 per year. The impact to the general public will be that they will be assured that they are receiving the services of a licensed CPA.

13. Section 54.1-2002 B of the Code of Virginia empowers the board to restrict the practice of public accountancy to licensed CPA's only and "to take such actions as may be authorized by this title to aid the public in determining the qualifications of persons who give assurance on financial statements." Additionally, § 54.1-2004 of the Code of Virginia requires that the board issue a license only to a CPA who has met the work experience requirements established by the board. Accordingly the board proposes to amend the experience requirement as follows:

Section 2.7 1, formerly 2.14 1, has been made more specific by stating that the two years of experience contemplated by the rule must be in public accounting and that the 800 hour requirement must not include more than

200 hours in compilation services.

Section 2.7 2 will permit individuals who are not in public accounting to be certified with two years experience if they meet the requirements spelled out in the regulation and are supervised by a certified public accountant. The current regulation requires three years experience.

Section 2.7 3, formerly 2.14 2, has been clarified and expanded in two principal respects. The proposed rule states specifically that the license must have had intensive and diversified experience in the application of appropriate standards, principles and procedures. In addition, the proposed rule expands the scope of the type of experience which will be acceptable to include auditing, tax or management services as well as accounting. This experience can be in public accounting, private accounting, internal auditing or with governmental agencies.

Section 2.7 4, formerly 2.14 3, contains two minor changes. The years of experience has been reduced from four to three years and the hours of work in the giving of assurances increased from 600 to 800. These changes make the rule more consistent with the years and hours required in §§ 2.7 1 and 2.7 3.

14. The board is proposing language in § 2.7 5 which would require an individual to have a baccalaureate degree and courses as defined in § 2.1 B 1 and a master's degree from an accredited institution with 15 semester hours in graduate level courses. This amendment is being proposed so that this requirement is consistent with the proposed education requirement. Little impact is anticipated.

15. The board is proposing language in § 2.8 which specifically states the requirements for professional corporations practicing accountancy. No impact is anticipated.

16. The board is proposing language in § 3.1 C which provides the regulants of the board with a 30 day grace period to renew the license, registration, or certificate maintenance.

17. The board is proposing language in § 3.1 D which requires individuals applying for renewal of their license or certificate maintenance to certify that they continue to meet the standards for entry as set forth in § 2.1 A. It is anticipated that this will protect consumers by assuring that regulants who render accounting services continue to be qualified.

18. The board is proposing language in § 3.2 C which requires individuals applying for reinstatement of their license or certificate maintenance to certify that they continue to meet the standards for entry as set forth in § 2.1 A. It is anticipated that this will protect consumers by assuring that regulants who render accounting services continue to be qualified.

19. Section 4.7 eliminates the requirement for the licensee to notify the board of the retirement of a shareholder or partner, the termination of any partnership or professional corporation, and the closing of an office in Virginia. The remaining reporting requirements are in the board's current regulations with the exception of the requirement to report the formation of a firm and its name, location, and the names of partners or shareholders.

20. The board is proposing language in § 4.22 which provides examples of what the board considers client's records. It is anticipated this will eliminate some confusion expressed by the public and regulants regarding what portion of a regulant's working papers the board might consider to be client's records.

All changes, deletions, and additions to the proposed regulations not discussed in this document are not substantive in nature but are made for purposes of organization, clarification and consistency.

Statutory Authority: § 54.1-201(5) of the Code of Virginia.

Written comments may be submitted until April 30, 1990.

Contact: Roberta L. Banning, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only)

DEPARTMENT FOR THE AGING

Long-Term Care Ombudsman Program Advisory Council

March 29, 1990 - 9:30 a.m. - Open Meeting
Department for the Aging, 700 East Franklin Street, 10th Floor, Conference Room, Richmond, Virginia. ☒

Business will include review of revised Advisory Council Guidelines and a report of recent program activities.

Contact: Virginia Dize, State Ombudsman, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219, telephone (804) 225-2271/TDD ☒ or toll-free 1-800-552-3402

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

May 16, 1990 - 10 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Room 204, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures

Calendar of Events

Law. The purpose of the proposed action is to adopt a method of sale and standards of fill, as determined by weight, for clams, mussels, oysters, and other mollusks.

Statutory Authority: § 3.1-926 of the Code of Virginia.

Written comments may be submitted until April 2, 1990.

Contact: J. Alan Rodgers, Bureau Chief, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 402, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-2476

Pesticide Control Board

† **March 6, 1990 - 1 p.m.** – Open Meeting

† **March 7, 1990 - 8:30 a.m.** – Open Meeting

Richmond Airport Hilton, 5501 Eubank Road, Presidential North Room, Sandston, Virginia. ☒

The committees of the board will meet March 6 to consider the need for additional regulations pursuant to the Virginia Pesticide Control Act and make recommendations to the board on March 7. Other items necessary for board attention will also be considered.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, P. O. Box 1163, Room 403, 1100 Bank St., Richmond, VA 23209, telephone (804) 786-3523

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† **May 2, 1990 - 9:30 a.m.** – Public Hearing
Virginia Tech, Donaldson-Brown Continuing Education Center, Room G, Blacksburg, Virginia

† **May 7, 1990 - 10:30 a.m.** – Public Hearing
Washington Building, 1100 Bank Street, Board Room, Room 204, 2nd Floor, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to amend regulations entitled: **VR 115-04-03. Rules and Regulations for the Enforcement of the Virginia Pesticide Law.** The purpose of the proposed amendments is to repeal § 23, "Records" and § 26, "Evidence of Financial Responsibility" of the aforementioned regulation as a part of the development of VR 115-04-22, Regulations Governing Licensing of Pesticide Businesses Under Authority of Virginia Pesticide Control Act. The Pesticide Control Act provides that current regulations, with provisions related to but different than those proposed, will remain in effect "until repealed by the Pesticide Control Board."

STATEMENT

Purpose: The purpose of the proposed action is to repeal two sections of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law—specifically § 23, "Records," and § 26, "Evidence of Financial Responsibility." Parts of proposed regulation VR 115-04-22, Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of Virginia Pesticide Control Act, are in conflict with these two sections. The provisions of the current regulation are to remain in force and effect, according to the Pesticide Control Act, "until repealed by the Pesticide Control Board." This proposed rescission arises out of the proposal of the new regulation, and will accomplish in part the authorized repeal of the current regulation.

Substance: So that there are not conflicting provisions of regulation, this action is necessary. The proposed regulation contains regulatory language that is in conflict with language of the present regulation.

Issues: Establishing a program for the management of pesticides in Virginia in keeping with the requirements of the Pesticide Control Act of 1989. Such a program should provide a greater measure of protection from the harmful effects of pesticides.

Impact:

1. Number and types of regulated entities or persons affected. The rescission of the recordkeeping responsibility will have no notable effect on the 3,000 commercial applicators required to keep records, because of the institution of similar (albeit somewhat different provisions) in VR 115-04-22. The rescission of the provision relating to evidence of financial responsibility will not have any impact, per se. Whereas the present regulation places the burden of establishing financial responsibility on the commercial pesticide applicator, the proposed regulation would place the burden on businesses, with greater required financial responsibility applying. Heretofore, however, for many such applicators the insurance coverage has been provided by their employer companies.

2. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. This proposed regulatory action will not occasion any cost to the agency.

3. Projected cost to agency for implementation and enforcement. The regulatory action will not occasion any cost to the agency.

4. Source of funds. The regulatory action will not occasion the expenditure of funds.

Statutory Authority: §§ 3.1-249.28 and 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until April 30, 1990.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 403, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3523

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† **May 2, 1990 - 9 a.m.** – Public Hearing
Virginia Tech, Donaldson-Brown Continuing Education Center, Room G, Blacksburg, Virginia

† **May 7, 1990 - 10 a.m.** – Public Hearing
Washington Building, 1100 Bank Street, Board Room, Room 204, 2nd Floor, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to adopt regulations entitled: VR 115-04-20. Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services under the Virginia Pesticide Control Act. The purpose of the proposed regulation is to establish fees to be collected by the Virginia Department of Agriculture and Consumer Services for Pesticide Product Registration, Certified Commercial Applicator Certificates, and Registered Technician Certificates as well as for licensing pesticide businesses. This regulation will establish user fees to fund the management of pesticide programs fully in Virginia as recommended by the Council on the Environment in a report entitled Special Report: Pesticide Management in Virginia (January, 1989), which gave impetus to legislation that became the 1989 Pesticide Control Act.

STATEMENT

Substance: By establishing fees for issuing business licenses and for issuing certificates to registered technicians, and by raising the fees for the registration of pesticide products and for the issuance of certificates to commercial pesticide applicators, this measure will provide the financial resources necessary to operate an effective pesticide-management program in Virginia under the newly adopted Virginia Pesticide Control Act.

Issues: In a report entitled Special Report: Pesticide Management in Virginia (January, 1989), the Council on the Environment recommended that the Office of Pesticide Management of the Department of Agriculture and Consumer Services be fully funded by user fees collected on pesticide products, commercial pesticide applicators, registered technicians, and business licenses. Unless the regulation is implemented, the Office will not be funded and hence will not be able to carry out responsibilities mandated by statute. Acting in concert with the Pesticide Control Board, the Office of Pesticide Management bears responsibility for enforcing the Pesticide Control Act.

Impact:

1. Number and types of regulated entities or persons affected. This regulation will provide for collecting special funds for the operations of the Office of Pesticide Management of the Department of Agriculture and Consumer Services, through pesticide product registration fees from an estimated 900 registrants (manufacturers) for an estimated 8,000 products, for issuing an estimated 3,000 Commercial Applicator Certificates, for issuing an estimated 5,000 Registered Technician Certificates, and for issuing an estimated 2,000 Business Licenses.

2. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. Pesticide Product Registration will cost the registrants each year an estimated \$1,000,000 (8,000 x \$125.00); Commercial Applicator Certificates will cost applicators an estimated \$105,000 (3,000 x \$35.00); Registered Technician Certificates will cost technicians an estimated \$75,000 (5,000 x \$15.00); and Business Licenses will cost businesses an estimated \$100,000 (2,000 x \$50.00).

3. Projected cost to agency for implementation and enforcement. The implementation and enforcement of a program for registering pesticide products, for issuing certificates to commercial applicators and registered technicians, and for licensing pesticide businesses is mandated by the Pesticide Control Act passed by the Legislature in 1989. The cost of implementing this regulation will be the cost of processing the fees and applications collected. Fees for registration of products have been collected under previous pesticide laws (since 1948) and for certified commercial applicators (since 1977). Only two new classes of regulated parties would be included under this measure—pesticide businesses and registered technicians, and these additional numbers of application fees can be processed by either current staff or by staffing recommended in the Governor's proposed 1990-92 budget.

4. Source of funds. In fiscal year 1989-90, the Office of Pesticide Management is fully funded through general funds. In fiscal year 1990-91, about two-thirds of its funding will come from general funds and about one-third from special funds generated from moneys raised by this regulation. Thereafter, the Office of Pesticide Management will be fully funded through special funds.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until April 30, 1990.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 403, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3523

Calendar of Events

† May 2, 1990 - 10 a.m. - Public Hearing
Virginia Tech, Donaldson-Brown Continuing Education
Center, Room G, Blacksburg, Virginia

† May 7, 1990 - 11 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Board Room, Room
204, 2nd Floor, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to adopt regulations entitled: **VR 115-04-21. Public Participation Guidelines of the Pesticide Control Board.** The purpose of the proposed regulation is to establish public participation guidelines, pursuant to § 9-6.14:7.1 of the Code of Virginia, for use by the Pesticide Control Board. This regulation will assure that the public is fully involved in the board's development of regulations.

STATEMENT

Substance: The regulation will assure that the public is fully involved in any and all regulations developed by the Pesticide Control Board, through such means as mailings, public meetings, and public hearings. The regulation provides specifics as to the responsibilities of the board and agency staff in the development and adoption of regulations.

Issues: There are no known issues or known controversies regarding the principles contained in the proposed regulation. The regulation's sole purpose is to assure that, in the making of regulations, issues are fully aired before those regulations are adopted.

Impact: The regulation should have the beneficial impact of assuring that parties interested in the regulation-making activities of the Pesticide Control Board are made aware of those activities and offered an opportunity to participate.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until April 30, 1990.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 403, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3523

† May 2, 1990 - 9:30 a.m. - Public Hearing
Virginia Tech, Donaldson-Brown Continuing Education
Center, Room G, Blacksburg, Virginia

† May 7, 1990 - 10:30 a.m. - Public Hearing
Washington Building, 1100 Bank Street, Board Room, Room

204, 2nd Floor, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to adopt regulations entitled: **VR 115-04-22. Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of Virginia Pesticide Control Act.** The purpose of the proposed regulation is to require an annual business license for persons who sell, recommend for use, store, or apply pesticides in Virginia. (Businesses that sell pesticides in limited quantities primarily for limited household use are exempt from the provisions of this regulation.) This regulation will provide a means of identifying those firms that sell, recommend for use, store, or apply pesticides for hire. It will also provide a system for tracking certified commercial applicators and registered technicians. In addition, the regulation will require that records be kept on storage, sale, recommendation for use, and use of pesticides. The regulation also requires evidence of financial responsibility for all licensed entities, which under current regulations is required only of the certified commercial pesticide applicator.

In part, this regulation will supersede two portions of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Law—specifically § 23, "Records," and § 26, "Evidence of financial responsibility." The adoption, therefore, of this new regulation will require the repeal of these two provisions of the present regulation, a step authorized by the Virginia Pesticide Control Act.

STATEMENT

Substance: "Any large businesses which sell, distribute, or store quantities or types of pesticides based on criteria established by the board, and any businesses which apply pesticides commercially should be licensed by the Commonwealth."

Issues: "The use and misuse of pesticides is one of the most significant ways in which toxic compounds enter the general environment."

"Virginia's ability to manage the use of pesticides, and thereby reduce the risk they pose to the public health, safety and the environment, is severely hampered by a lack of direct control over businesses which sell and store certain quantities of pesticides or apply pesticides and by the lack of basic information concerning the amounts, types and locations of pesticides used."

"The lack of a state licensing requirement deprives the Commonwealth of the most direct, effective and equitable means of ensuring the safe and appropriate application of pesticides, safe storage, sufficient liability coverage and adequate recordkeeping."

Impact:

1. Number and types of regulated entities or persons affected. It is estimated that this regulation will require 2,000 businesses to become licensed.

2. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance. The proposed annual business license fee is \$50.00. The annual cost to regulated entities for licensure would be \$100,000 for the estimated 2,000 businesses involved. In addition, each business will have to provide evidence of financial responsibility, with coverages, at a minimum, of \$200,000 for property damage, subject to a \$1,000 deductible, and \$200,000 for personal injury. The Pesticide Control Act mandates that the board establish requirements, as a condition of licensure, that a business have a surety bond or a general liability insurance policy to meet financial obligations arising out of damage to property or persons. However, the level of protection set in the regulation is the minimum that the Act will countenance. (See § 3.1-249.49 of the Code.) Section 26, "Evidence of financial responsibility" of the regulation currently in effect, VR 115-04-03, requires evidence of financial responsibility only of certified commercial applicators. The proposed regulation requires such evidence of all pesticide businesses (including businesses that employ certified commercial applicators and including also certified commercial applicators who are self-employed) but in amounts greater than in the present regulation. These greater amounts are set at the minimum level countenanced by the 1989 Pesticide Control Act. For this reason, the repeal of § 26 is necessary.

The regulation requires that bulk storage facilities have a method of (to include emergency response to) spill containment for pesticides they store and that they observe prescribed procedures for the prevention of such spills. They must also establish prescribed security from intrusion into the pesticide containment area, and they must maintain records of the pesticides they store and dispense.

The pesticide dealer is required pursuant to this regulation to maintain records for each transaction of what pesticide was sold, to whom it was sold, and the quantity sold. These records are subject to inspection by the Department of Agriculture and Consumer Services.

The regulation requires the commercial pesticide applicator to keep records of any pesticide he has applied, including the identity of the pesticide, the amount used, the date of use, the premises on which it was used, the acreage treated, the kinds of animals or plants treated, and the kind of equipment used. These records are subject to inspection by the Department of Agriculture and Consumer Services. The regulation to be repealed, § 23, "Records," of VR 115-04-03, Rules and Regulations for Enforcement of the Virginia Pesticide Laws, contains similar, but

somewhat different, provisions.

The regulation requires the pest management consultant to keep records relating to his recommendations on the use of pesticides, including the identity of the pesticide recommended, the amount recommended for use, the date of recommendation, the premises for which the recommendation was made, the acreage involved, the kinds of animals or plants involved, the recommended dosage, and the recommended method of disposal for unused pesticide. These records are subject to inspection by the Department of Agriculture and Consumer Services.

3. Projected cost to agency for implementation and enforcement. The implementation and enforcement of a program for licensing pesticide businesses is mandated by the Pesticide Control Act passed by the legislature in 1989. The cost of this regulation is partly the cost of issuing 2,000 business licenses each year, largely a clerical function, which can be accomplished with current staffing, augmented by one grade-5 clerical employee, recommended in the Governor's proposed 1990-92 budget. The other part of administering the regulation is the monitoring and inspection of pesticide businesses by a staff of eight grade-10 investigators located throughout the Commonwealth, seven of whom are already on staff and enforcing the Pesticide Control Act. The eighth investigator's position has been recommended in the Governor's proposed 1990-92 budget.

4. Source of funds. In fiscal year 1989-90, the Office of Pesticide Management is fully funded through general funds; in fiscal year 1990-91, about two-thirds of its funding will come from general funds and about one-third from special funds generated by the agency from user fees. Thereafter, the Office of Pesticide Management will be fully funded through special funds collected in the form of user fees. Thereafter, the Office of Pesticide Management will be fully funded through special funds collected in the form of user fees.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Written comments may be submitted until April 30, 1990.

Contact: C. Kermit Spruill, Jr., Director, Division of Product and Industry Regulation, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 403, P. O. Box 1163, Richmond, VA 23209, telephone (804) 786-3523

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **March 8, 1990 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street,

Calendar of Events

Richmond, Virginia. ☒

A meeting to (i) approve minutes from December 1, 1989; (ii) review correspondence; (iii) review applications; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016

† **March 29, 1990 - 10 a.m. – Open Meeting**

† **March 30, 1990 - 10 a.m. – Open Meeting**

Council Chambers, Rouss City Hall, North Cameron Street, Winchester, Virginia

The board will meet to conduct a formal hearing: APELSCLA Board v. Keith Williams. File Number 89-00264

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

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April 12, 1990 - 10 a.m. – Public Hearing

Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to repeal existing regulations and adopt new regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to regulate the practice of architecture, professional engineering, land surveying and landscape architecture, as well as the professional corporations and business entities offering those professional services.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until March 31, 1990.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016

Board for Land Surveyors

† **March 9, 1990 - 9 a.m. – Open Meeting**

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from February 8, 1990, meeting; (ii) review applications; (iii) review and discuss correspondence; and (iv) review enforcement files.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016

BOARD FOR AUCTIONEERS

† **March 20, 1990 - 10 a.m. – Open Meeting**

Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☒

The board will meet to conduct a formal hearing: Board for Auctioneers v. Paul Stark. File Numbers 89-00931 and 89-00998

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

† **April 19, 1990 - 9 a.m. – Open Meeting**

Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to (i) review complaints; (ii) discuss revenue and expenditures; (iii) discuss regulatory review; and (iv) consider other matters which require board action.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

LOCAL EMERGENCY PLANNING COMMITTEE OF CHESTERFIELD COUNTY

March 1, 1990 - 5:30 p.m. – Open Meeting

April 5, 1990 - 5:30 p.m. – Open Meeting

Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

The committee will meet to discuss the requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Dept., P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236

CHILD DAY-CARE COUNCIL

March 8, 1990 - 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. The

contingency snow dates are February 16, 1990, and March 16, 1990.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217

DEPARTMENT FOR CHILDREN

Consortium on Child Mental Health

March 7, 1990 - 9 a.m. - Open Meeting
April 4, 1990 - 9 a.m. - Open Meeting
May 2, 1990 - 9 a.m. - Open Meeting
Eighth Street Office Building, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Wenda Singer, Chair, Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208

COORDINATING COMMITTEE FOR INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF RESIDENTIAL FACILITIES FOR CHILDREN

March 16, 1990 - 8:30 a.m. - Open Meeting
Office of the Coordinator, Interdepartmental Licensure and Certification, 1603 Santa Rosa Drive, Tyler Building, Suite 210, Richmond, Virginia. ☒

A regularly scheduled meeting to consider such administrative and policy issues as may be presented to the committee. A period for public comment is provided at each meeting.

Contact: John J. Allen, Jr., Coordinator, Interdepartmental Licensure and Certification, Office of the Coordinator, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-7124

BOARD FOR COMMERCIAL DRIVER TRAINING SCHOOLS

† March 14, 1990 - 10 a.m. - Open Meeting
Department of Commerce, 3600 W. Broad St., Richmond, Virginia. ☒

An open board meeting to conduct regulatory review and routine board business.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

BOARD FOR CONTRACTORS

February 28, 1990 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia

The board will meet to conduct a formal hearing:

File Numbers 88-00518 Board for Contractors v. Tony L. Burgess.

† March 16, 1990 - 10 a.m. - Open Meeting
Council Chambers, Municipal Building, 215 Church Avenue, Conference Room, 4th Floor, Roanoke, Virginia

The board will meet to conduct a formal hearing:

File Number 87-00052, Board for Contractors v. Malvern Construction Corporation.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8524

VIRGINIA CORN BOARD

March 5, 1990 - 1:30 p.m. - Open Meeting
March 6, 1990 - 1:30 p.m. - Open Meeting
Williamsburg Hilton and Conference Center, Williamsburg, Virginia

The board will review project reports on projects that were funded for fiscal 1989-90 and will receive project proposals for fiscal 1990-91.

Contact: W. Rosser Cobb, IV, Secretary, P. O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710 or SCATS 371-2163

BOARD OF CORRECTIONS

† March 14, 1990 - 10 a.m. - Open Meeting
† April 11, 1990 - 10 a.m. - Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia

A regular monthly meeting.

Contact: Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235

COMMUNITY CORRECTIONS RESOURCES BOARD

† February 27, 1990 - 2 p.m. - Open Meeting
9 Court Square, Board of Supervisor's Meeting Room, Winchester, Virginia. ☒

A meeting to review evaluations and referrals.

Calendar of Events

Contact: Scott Anderson, CDI Coordinator, 112 S. Cameron St., Winchester, VA 22601, telephone (703) 665-5633

CRIMINAL JUSTICE SERVICES BOARD

April 4, 1990 - 9:30 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-4. Rules Relating to Compulsory Minimum Training Standards for Jailors or Custodial Officers, Courtroom Security Officers and Process Service Officers.** The proposed rules set forth optimum tasks and the minimum acceptable level of proficiency for entry level jailors, custodial officers, courtroom security officers and process service officers.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 5, 1990, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, Criminal Justice Services Board, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

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April 4, 1990 - 9:30 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.** The proposed amendments revise qualifications, requirements and minimum standards for the certification and recertification of criminal justice instructors.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 5, 1990, to L. T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula Scott, Executive Assistant, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000

* * * * *

April 4, 1990 - 10:30 a.m. - Public Hearing
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Criminal Justice Services intends to adopt regulations entitled: **VR 240-04-1. McGruff House Program Regulations.** These proposed regulations outline procedures for the designation and operation of McGruff House Programs and McGruff Houses.

Statutory Authority: §§ 9-170 and 9-173.4 of the Code of Virginia.

Written comments may be submitted until March 16, 1990.

Contact: Paula Scott, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8730

BOARD OF DENTISTRY

March 10, 1990 - 10 a.m. - Open Meeting
Sheraton-Fredericksburg, I-95, Route 3, Fredericksburg, Virginia

A legislative committee meeting to discuss regulations.

† **April 5, 1990 - 1:30 p.m. - Open Meeting**
† **April 6, 1990 - 8:30 a.m. - Open Meeting**
† **April 7, 1990 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to conduct (i) regular board business; (ii) committee meetings; (iii) a formal hearing; and (iv) regulatory review.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906

BOARD OF EDUCATION

† **March 29, 1990 - 9 a.m. - Open Meeting**
† **March 30, 1990 - 9 a.m. - Open Meeting**
General Assembly Building, Capitol Square, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. The agenda is available upon request.

Contact: Margaret Roberts, Director, Community Relations Office, Department of Education, P.O. Box 6Q, Richmond, VA 23216, telephone (804) 225-2540

LOCAL EMERGENCY PLANNING COMMITTEE FOR FAIRFAX COUNTY, THE CITY OF FAIRFAX AND THE TOWNS OF HERNDON AND VIENNA

† March 8, 1990 - 10 a.m. - Open Meeting
SICPA, 8000 Research Way, Springfield, Virginia. ☒

A regular meeting.

Contact: Eileen McGovern, 4031 University Dr., Fairfax,
VA 22030, telephone (703) 218-3426

FAMILY AND CHILDREN'S TRUST FUND

Board of Trustees

† March 10, 1990 - 11 a.m. - Open Meeting
Blair Building, 8007 Discovery Drive, Conference Room C,
Richmond, Virginia. ☒

A regular meeting.

Contact: Mary Mullins, Executive Director, Blair Bldg.,
8007 Discovery Dr., Richmond, VA 23229, telephone (804)
662-9217

VIRGINIA FARMERS' MARKET BOARD

March 15, 1990 - 1 p.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond,
Virginia. ☒

A regular board meeting.

Contact: Nancy L. Israel, Farmers' Market Network
Program Director, 1100 Bank Street, Washington Bldg.,
Room 1002, Richmond, VA 23219, telephone (804) 371-6157

DEPARTMENT OF FORESTRY

March 1, 1990 - 10 a.m. - Public Hearing
Department of Forestry, Alderman and McCormick Road,
Conference Room, Charlottesville, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Board of Forestry
intends to amend regulations entitled: **VR 312-01-02.**
Standards for Classification of Real Estate as
Devoted to Forest Use Under the Virginia Land Use
Assessment Law. The purposes of the proposed action
is to provide a standardized form for a written
commitment by landowners to preserve forest land
use.

Statutory Authority: § 58.1-3229 of the Code of Virginia.

Written comments may be submitted until March 1, 1990.

Contact: James D. Starr, Chief, Forest Management,
Department of Forestry, P. O. Box 3758, Charlottesville,
VA 22903, telephone (804) 977-6555

Reforestation of Timberlands Board

March 1, 1990 - 10 a.m. - Open Meeting
Department of Forestry, Buckingham-Appomattox State
Forest Route 3, Box 133, 12 miles north of Appomattox,
Route 636 off Route 24, Dillwyn, Virginia

A semi-annual meeting of the board to review
accomplishments and budget.

Contact: Phil T. Grimm, Field Operations, Department of
Forestry, P. O. Box 3758, Charlottesville, VA 22903,
telephone (804) 977-6555, SCATS 487-1230 or toll-free
1-800-977-6555

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† March 13, 1990 - 9 a.m. - Open Meeting
† March 14, 1990 - 10 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☒

March 13 - Informal fact-finding conferences.

March 14 - Formal administrative hearing, board
meeting that may include proposed regulations,
proposed preneed regulations.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Dr., Richmond, VA, telephone (804) 662-9907

BOARD FOR GEOLOGY

† March 2, 1990 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☒

A meeting to (i) approve minutes from November 3,
1989, meeting; (ii) review applications; (iii) sign wall
certificates; and (iv) review correspondence.

Contact: Peggy J. Wood, Assistant Director, Department of
Commerce, 3600 W. Broad St., Richmond, VA 23229,
telephone (804) 367-8595

GOOCHLAND COUNTY LOCAL EMERGENCY PLANNING COMMISSION

† March 27, 1990 - 8 p.m. - Open Meeting
Goochland County General District Court, Goochland,
Virginia

A meeting to review changes in the Emergency
Operations Plan.

Calendar of Events

Contact: Gregory K. Wolfrey, County of Goochland, Board of Supervisors, P. O. Box 10, Goochland, VA 23063, telephone (804) 556-5300

DEPARTMENT OF HEALTH (STATE BOARD OF)

NOTE: EXTENSION OF WRITTEN COMMENT PERIOD
March 31, 1990 - 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 355-11-02.02. Regulations Governing the Newborn Screening and Treatment Program.** The rules and regulations governing the newborn screening and treatment program have been revised and amended to include genetic, metabolic, and other diseases of the newborn as specified in §§ 33.1-12 and 33.2-65 et seq. of the Code of Virginia. They specifically clarify the critical time periods for submitting newborn screening tests in an effort to more accurately screen and diagnose newborn diseases.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of the Code of Virginia.

Written comments may be submitted until March 31, 1990.

Contact: J. Henry Hershey, M.D., M.P.H., Genetics Director, Maternal and Child Health, 109 Governor St., 6th Floor, Richmond, VA 23219, telephone (804) 786-7367

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April 17, 1990 - 10 a.m. - Public Hearing
Roanoke County Board of Supervisors Meeting Room, 3738 Brambleton Avenue, Roanoke, Virginia

April 19, 1990 - 10 a.m. - Public Hearing
Virginia Beach Council Chamber, City Hall, 2nd Floor, Municipal Center, Court House Drive and North Landing Road, Virginia Beach, Virginia

April 20, 1990 - 10 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Conference Room, Richmond, 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 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.** The purpose of the proposed action is to allow the department to grant an exemption to a marina required to have boat sewage pump-out service, if the service is being provided by another nearby marina.

Statutory Authority: § 32.1-246 of the Code of Virginia.

Written comments may be submitted until May 4, 1990.

Contact: A. F. Golding, Marina Supervisor, Department of Health, 109 Governor Street, James Madison Bldg., Room 903A, Richmond, VA 23219, telephone (804) 786-1761

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 27, 1990 - 9:30 a.m. - Open Meeting
† **March 27, 1990 - 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: G. Edward Dalton, Acting Director, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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March 7, 1990 - 10 a.m. - Public Hearing
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** These amendments will bring nursing homes under the financial reporting requirements of the council and require an audited consolidated financial statement from each hospital that reports to the council or any corporation that controls a hospital.

Statutory Authority: § 9-169 of the Code of Virginia.

Written comments may be submitted until 3 p.m., March 5, 1990.

Contact: G. Edward Dalton, Acting Director, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371

BOARD FOR HEARING AID SPECIALISTS

† **May 7, 1990 - 8:30 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to (i) administer examinations; (ii) review enforcement cases; (iii) sign certificates; and (iv) consider other matters which require board action.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917,

telephone (804) 367-8534 or toll-free 1-800-552-3016

VIRGINIA HISTORIC PRESERVATION FOUNDATION

† **March 13, 1990 - 10 a.m.** - Open Meeting
The Athenaeum, 201 Prince Street, Alexandria, Virginia

A general business meeting.

Contact: Margaret T. Peters, Information Officer, 221 Governor Street, Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-4276/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

March 6, 1990 - 9 a.m. - Open Meeting

† **April 3, 1990 - 9 a.m.** - Open Meeting

† **May 1, 1990 - 9 a.m.** - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local emergency preparedness committee meeting as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

March 2, 1990 - 10 a.m. - Public Hearing
City Council Chambers, 215 Church Street, S.W., Roanoke, Virginia. ☒

March 5, 1990 - 10 a.m. - Public Hearing
Human Services Center Auditorium, 5249 Olde Towne Road, Williamsburg, Virginia. ☒

March 7, 1990 - 10 a.m. - Public Hearing
County Administration Building, 1 County Court Complex, Prince William, Virginia. ☒

A hearing to receive public comments regarding the Board of Housing and Community Development's intent to develop 1990 editions of the Uniform Statewide Building Code, Volume I, New Construction Code; Volume II, Building Maintenance Code; Virginia Uniform Statewide Code, Industrialized Building and Manufactured Home Safety Regulations; Virginia Statewide Fire Prevention Code; Virginia Liquefied Petroleum Gas Regulations; Virginia Uniform Statewide Building Code, Amusement Device Regulations; Virginia Tradesmen Certification Standards; Standards Governing Operation of Individual and Regional Code

Academies.

Contact: Gregory H. Revels, Program Manager, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

† **April 26, 1990 - 10 a.m.** - Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-06. Virginia Statewide Fire Prevention Code/1987 Edition.** The Board of Housing and Community Development proposes to amend those portions of the Virginia Statewide Fire Prevention Code regulations pertaining to: Applications to Pre-USBC and Post-USBC buildings necessary to permit the amendments to Volume II requiring all existing hospitals, nursing homes and homes for adults to be retrofitted with automatic sprinkler systems and fire detection systems to be enforced by the local fire official or the State Fire Marshal.

STATEMENT

Purpose: These amendments are necessary to ensure mandatory statewide enforcement of the retrofit requirements proposed for the USBC, Volume II - Building Maintenance Code.

Agency impact: Since the change is editorial in nature, the Board of Housing and Community Development does not anticipate any appreciable increase in cost for enforcement and monitoring of these proposed regulations.

Small business impact: The small business impact is consistent with that noted in the briefing memorandum for the USBC, Volume II.

Issues: Those localities which have adopted the Fire Prevention Code as these amendments will authorize their enforcement of § 100.5.3 of Volume II.

The impact to owners and occupants of these buildings is covered in the Regulation Review Briefing Memorandum for the proposed amendments to Volume II - Building Maintenance Code.

Statutory Authority: §§ 27-95 and 27-97 of the Code of Virginia.

Written comments may be submitted until May 4, 1990.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

Calendar of Events

† April 26, 1990 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-21. Virginia Uniform Statewide Building Code Volume I - New Construction Code, 1987 Edition.** The proposed amendments eliminate the option of constructing institutional facilities, other than certain child care facilities, without an automatic fire suppression system. Historical fire experience had indicated that an automatic sprinkler system is the more reliable approach to providing early detection, fire containment and fire suppression to protect patients and residents occupying institutional buildings.

STATEMENT

Agency impact: There are no increased costs anticipated for the Department of Housing and Community Development for the enforcement or distribution of these regulations.

Small business impact: The prospective owner/operator and residents of small homes for adults will realize an increase in construction costs, which will vary with the number of people being accommodated by the home, and the location of the facility with respect to a public water supply.

Sprinkler system costs: Installation estimates for the NFIPA system range from \$1.50 - \$2.00/square foot of building area. Estimates for the NFIPA 13R and 13D systems were approximately \$1.00/square foot. These estimates do not include the costs for providing an adequate water supply or local water connection fees.

Water connection fees: Due to the numerous variables and the lack of uniformity involved; there is no reliable method for a definitive cost estimate (see briefing memorandum for further amplification).

Private water supply costs: The cost to provide a private water supply will vary based on the type of sprinkler system installed, and the size of the facility. Also, fire pumps may be required if the local water pressure is not adequate to meet the needs of the sprinkler system. Low estimates to supply a 13D system would be \$4,000, a 13R system: \$5,000, and a 13 system: \$30,000.

Statutory Authority: §§ 36-98 and 36-99 of the Code of Virginia.

Written comments may be submitted until May 4, 1990.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

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† April 26, 1990 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **VR 394-01-22. Virginia Uniform Statewide Building Code Volume II - Building Maintenance Code, 1987 Edition.** The proposed amendments by the Board of Housing and Community Development to the 1987 edition of the Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code will require all existing nursing homes, homes for adults, hospitals and mental health care facilities to have sprinkler and fire alarm systems installed by August 1, 1994.

STATEMENT

Agency impact: The Department of Housing and Community Development does not anticipate any appreciable increase in cost for enforcement and monitoring of these proposed regulations.

Small business impact: The owner/operator and residents of small homes for adults will realize the greatest economic burden, particularly where an adequate water supply is not available.

Fiscal impact: 1. Installation estimates for the NFIPA 13 system ranged from \$1.50 - 2.50/square foot of building area. Two estimates for the NFIPA 13R and 13D systems were \$1.00 - 2.00/square foot, and \$1.50/sprinkler head. These estimates do not include the costs for providing an adequate water supply or related costs such as local water connection fees or asbestos removal.

2. The number of facilities which would be required to provide a private water supply for the spinkler system, and the private water supply costs for each system: This information was gathered along with the data presented in the agency impact. The cost to provide a private water supply will vary based on the type of sprinkler system installed, and the size of the facility. Also, fire pumps may be required if the local water pressure is not adequate to meet the needs of the sprinkler system. Low estimates to supply a 13D system would be \$4,000, a 13R system: \$5,000, and a 13 system: \$30,000.

3. Section 15.1-292 of the Code of Virginia authorizes localities to establish service charges and tap fees for providing public waters to users. Therefore, many jurisdictions have promulgated separate connection fee costs for sprinkler systems. These fees vary depending on the size of the line being served, and can approach \$50,000.

4. Inspection, removal and disposal costs for

asbestos-containing materials: Asbestos inspection costs range between .10-15 cents/square foot, while removal and disposal could cost up to \$25/square foot of material. Factors which affect removal costs are: (i) where the asbestos is located (i.e., in walls, above ceilings, on structural steel, or on piping or ductwork) and (ii) whether the material must be replaced. The estimated costs do not include the costs of laboratory sample analysis or air monitoring.

Statutory Authority: §§ 36-98 and 36-103 of the Code of Virginia.

Written comments may be submitted until May 4, 1990.

Contact: Gregory H. Revels, Program Manager, Code Development Office, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† March 9, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing and Development Authority intends to amend regulations entitled: **VR 400-02-0011. Rules and Regulations for Allocation of Low Income Housing Tax Credits.** The purpose is to provide for the allocation of federal low-income housing tax credits in accordance with the requirements of the Revenue Reconciliation Act of 1989 and for the allocation of state tax credits in accordance with § 36-55.63 of the Code of Virginia.

STATEMENT

Subject, substance and issues: The proposed amendments will include a point system in which applications for federal low-income housing tax credits ("federal credits") will be ranked based upon the number of points received for compliance with certain standards and criteria. These standards and criteria give more points to those developments which can proceed promptly with construction or rehabilitation, provide new construction units, are located on less dense sites, have larger units, have lower per unit and per bedroom credit amounts, have local support, involve participation by local tax-exempt organizations, give leasing preference to families on public housing waiting lists, and provide housing for the elderly, homeless or physically or mentally handicapped. Certain preferences and priorities required by the Internal Revenue Code as to the efficient use of the federal credits and as to serving the lowest income families for the longest period of time are also included.

In accordance with the Internal Revenue Code, the proposed amendments will require that the authority determine that the amount of federal credits does not exceed the amount necessary for the financial feasibility

and viability of the proposed developments. The proposed amendments will authorize the executive director of the authority to establish assumptions for the purpose of making this determination.

The proposed amendments will authorize the executive director to establish pools and subpools of the federal credits based upon such factors as geographic areas and types or characteristics of housing, construction, financing, owners or occupants. The developments within each pool or subpool will be ranked in accordance with the point system, and any unused federal credits in each pool or subpool will be reallocated to other pools with excess applicants.

At the time of allocation of federal credits to a development, covenants and restrictions will be imposed on the development to assure compliance with the Code and the commitments, representations and information in the application. The covenants and restrictions will be enforceable by the authority and by individuals who meet the applicable income limits, whether prospective, present or former occupants of the development.

The proposed amendments will authorize the reservation and allocation of state tax credits based upon a percentage of the federal credits for any development. State tax credits will be allocated in an amount which, if the development receives the maximum amount of federal credits, will be necessary for the feasibility and viability of the development. State tax credits will be available for developments to be financed by certain tax-exempt bonds in an amount so as not to require under the Internal Revenue Code an allocation of federal low-income housing tax credits. In order to be eligible for state tax credits, 75% of the interests in the applicant must be owned by Virginia taxpayers.

In accordance with the Internal Revenue Code, the proposed amendments will provide that the authority will notify the Internal Revenue Service if the authority becomes aware of any noncompliance with the requirements of the Internal Revenue Code.

Impact: The proposed amendments are expected to result in the selection of developments which will promptly proceed to completion and occupancy, which will serve lower income families for longer periods of time, which will provide additional housing in those areas and for those persons with the greatest need, and which will most efficiently and effectively use the federal credits.

The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the amendments.

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

Written comments may be submitted until March 9, 1990.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia

Calendar of Events

Housing Development Authority, 601 S. Belvidere St.,
Richmond, VA 23220, telephone (804) 782-1986

COUNCIL ON HUMAN RIGHTS

March 28, 1990 - 10 a.m. - Public Hearing
James Monroe Building, 101 North 14th Street, 1st Floor,
Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Council on Human Rights intends to adopt regulations entitled: **VR 402-01-02. Regulations to Safeguard Virginia'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 February 18, 1990, 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 or toll-free 1-800-633-5510

COUNCIL ON INFORMATION MANAGEMENT

† **March 13, 1990 - 9 a.m. - Open Meeting**
Washington Building, 1100 Bank Street, 9th Floor,
Conference Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Linda Hening, Administrative Assistant, Suite 901, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† **March 21, 1990 - 10:30 a.m. - Open Meeting**
Holiday Inn-Crossroads, 2000 Staples Mill Road, Richmond,
Virginia. ☒

A general meeting.

Contact: Gladys Walker, Executive Secretary, 4615 W. Broad St., Commonwealth Bldg., 3rd Floor, Richmond, VA 23230, telephone (804) 367-9816

LIBRARY BOARD

March 8, 1990 - 9:30 a.m. - Open Meeting

Virginia State Library and Archives, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

March 12, 1990 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond,
Virginia. ☒

A regular meeting.

Contact: Barbara Bingham, Commission on Local Government, 702 Eighth Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508

STATE LOTTERY BOARD

February 28, 1990 - 10 a.m. - Open Meeting
† **March 28, 1990 - 10 a.m. - Open Meeting**
State Lottery Department, 2201 West Broad Street,
Conference Room, Richmond, Virginia. ☒

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-9433

MARINE RESOURCES COMMISSION

February 27, 1990 - 9:30 a.m. - Open Meeting
Marine Resources Commission, 2600 Washington Avenue,
4th Floor, Room 403, Newport News, Virginia. ☒

The commission will meet to hear and decide cases on fishing licensing, oyster ground leasing, environmental permits in wetlands bottomlands, coastal sand dunes and beaches. The commission 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: Cathy W. Everett, Secretary to the Commission, 2600 Washington Ave., Room 303, Newport News, VA 23607-0756, telephone (804) 247-8088

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

April 13, 1990 - 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 Medical Assistance Services intends to amend regulations entitled: VR 460-03-3.1100. State Plan for Medical Assistance Relating to Coverage of Prosthetics Services and Expansion of Dental Services under EPSDT - Amount, Duration, and Scope of Services. The purpose of the proposed action is to promulgate permanent rules to conform the State Plan for Medical Assistance to the General Assembly's mandate through the 1989 Appropriations Act.

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

Written comments may be submitted until April 13, 1990, to Malcolm O. Perkins, Manager, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

† April 27, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-05-1000.0000. State/Local Hospitalization Program. The purpose of the proposed action is to regulate the State/Local Hospital program under the administration of the Department of Medical Assistance Services. These rules provide for client eligibility, covered services and provider reimbursement.

STATEMENT

Basis and authority: Section 32.1-346 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the State/Local Hospitalization Program. The 1989 General Assembly approved HB 1858 to transfer this program's administration to DMAS. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's promulgation of

proposed regulations subject to the Department of Planning and Budget's and Governor's reviews. 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.

Purpose: The purpose of this regulatory action is to establish the Department of Medical Assistance Services' authority to administer the State/Local Hospitalization Program, and to establish uniform eligibility criteria for clients, uniform covered services and provider reimbursement.

Summary and Analysis: This proposed regulation establishes DMAS' administration of the SLH Program, and grants to the Board of Medical Assistance Services the authority to establish statewide uniform eligibility criteria and uniform amount, duration, and scope of covered services.

The SLH Program was established by the General Assembly in 1946 to encourage and assist counties and cities to provide hospitalization for indigent and medically indigent persons. "Indigent" generally refers to those whose incomes are at or below the poverty level. "Medically indigent" generally refers to people who become impoverished due to the medical expenses they have incurred. During its 41 years of operation, SLH has been locally administered under limited supervision by the Department of Social Services (DSS).

Responsibility for local operation has rested with the governing bodies which designated the administering agency. Each locality determined its own criteria for eligibility for covered services. Localities also determined the amount, duration, and scope of services to be provided. The DSS distributed funds to participating localities on the basis of population with the state/local shares being 75% and 25% respectively.

The Joint Legislative Audit and Review Commission was directed to review the SLH funding formulas in Senate Joint Resolution 87 (1986). JLARC's report, Senate Document No. 17, contained the staff findings and recommendations for revising the SLH funding formula. JLARC identified several limitations in the SLH funding formula: "(1) allocating funds based on population does not reflect need for the program; (2) some localities chose not to participate in the program; (3) some localities did not fully match their State allocation for the program's services; (4) localities were required to expend local funds before requesting reimbursement from the program reserve fund; (5) reserve funds were used to meet routine demand for reimbursed program services."

In its 1987-1988 statistical report on SLH, the DSS reported that 96 localities participated in providing inpatient services. Sixty-five localities were reported as providing outpatient, clinical, and emergency room services. Professional services (i.e., physicians and surgeons) were

Calendar of Events

provided by the service staffs of participating hospitals at no charge to the SLH program. Choice of hospitals to participate rested with the participating localities which negotiated agreements on the basis of all-inclusive per diem rates within reimbursable maximums determined by the Board of Social Services.

The JLARC study found several problems which hampered the achievement of equal access to needed services. For the most part these problems arose from the nonbinding nature of the program guidelines issued by DSS, and the lack of service plans by localities participating in SLH.

Not all participating localities offered the full range of available services (inpatient, outpatient surgical, and nonsurgical outpatient and emergency room services). SLH reimbursement of inpatient days has also varied among localities. Localities exercised their discretion to eliminate or cover certain services from year to year.

In addition, localities selected the eligibility criteria to be locally applied. The localities also determined how much of a prospective client's resources would be considered during the eligibility determination process.

This diverse use of income standards and covered services resulted in differing treatments of clients who had similar medical needs. The JLARC study reported that 71 of 101 localities used the income scale ("(1) DSS criteria, (2) Medicaid standards with an increase in the percentage of the poverty income level, or (3) Virginia Department of Health (VDH) Guidelines") established for the program. The remaining localities used modified SLH scales, modified Medicaid scales, various definitions of current poverty level, Virginia Department of Health scales, and other miscellaneous scales. Under that system, it was possible for one locality to deny coverage to individuals or cover services to a lesser degree because they did not meet certain criteria, while an adjacent locality could have provided complete service coverage.

As a result of the JLARC study cited above, the General Assembly altered the nature and scope of the SLH program. Due to its similarities to the Medicaid Program, House Bill 1858 transferred administration of the SLH program to DMAS. This bill mandated local participation, standard eligibility criteria and services, and a new funding formula based on the JLARC report.

As provided in the department's public participation guidelines, a special advisory committee was formed to advise and provide input to DMAS on the development of these proposed regulations. The organizations represented included the Virginia Hospital Association (VHA), the Virginia Association of County Officials, the Virginia Municipal League, the Virginia Department of Social Services, and the Hampton Department of Social Services.

Impact: The Appropriations Act, Chapter 668 contains a General Fund appropriation of \$11,499,340 to DMAS to accommodate the administrative transfer as well as an

additional appropriation to provide for equal program access and localities' unmet demands for SLH funding. The state's overall funding share was also increased from 75% to an average of nearly 80% with each locality's share determined by its ability to pay.

The appropriation also included \$300,000 for DMAS' administrative costs associated with program execution. The use of these administrative dollars was subject to the Governor's approval of the DMAS' SLH operating plan. The plan's goal is to ensure effective program supervision and policy development. DMAS submitted its SLH operating plan to the Governor in June, 1989.

Forms: Forms modified for the DMAS' administration of SLH include: SLH Client Notification; SLH City/County Administrator Notification; SLH Request; SLH Claim rejection letter; Practitioner and adjustment invoices (DMAS 12 and DMAS 220); Inpatient and adjustment invoices (UB-82); SLH Patient's other resources rejection letter; SLH Additional information pended claim letter, and SLH Denied inpatient days letter.

Statutory Authority: §§ 32.1-344 and 32.1-346 of the Code of Virginia.

Written comments may be submitted until April 27, 1990, to David Coronado, Director, Division of Indigent Health Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933

BOARD OF MEDICINE

March 15, 1990 – 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 adopt regulations entitled: **VR 465-08-01. Regulations for Certification of Occupational Therapists.** These proposed regulations will establish educational requirements, examination, and application fee for certification to practice as an Occupational Therapist.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until March 15, 1990, to Hilary H. Conner, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

Contact: Eugenia K. Dorson, Deputy Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9925

March 22, 1990 - 8 a.m. - Open Meeting
March 23, 1990 - 8 a.m. - Open Meeting
March 24, 1990 - 8 a.m. - Open Meeting
March 25, 1990 - 8 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Surry Building, Board Room 1, 1st Floor, Richmond,
Virginia. ☒

The board will meet on March 22, 1990, in open session to conduct general board business and discuss any other items which may come before the board. The board will meet on March 23-25, 1990, to review reports, interview licensees and make decisions on discipline matters.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., Richmond, VA 23229-5005, telephone (804) 662-9925

Ad Hoc Committee on Optometry

March 9, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Board Room 2, Richmond, Virginia. ☒

The committee will meet to discuss and respond to public comments received on proposed regulations VR 465-07-01 - Certification of Optometrists and prepare recommendations to the board for consideration and adoption.

Advisory Committee on Acupuncture

February 28, 1990 - 6 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Board Room 4, Richmond, Virginia. ☒

The committee will meet to (i) conduct general business; (ii) review educational programs, regulations and other state laws; and (iii) discuss such 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

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

February 28, 1990 - 9:30 a.m. - Open Meeting
Hanover Community Services Board, Ashland, Virginia. ☒

A regular monthly meeting. Agenda to be published on February 21 and may be obtained by calling Jane Helfrich.

Tuesday evening - Committee meeting - 6 p.m., informal session - 8:30 p.m.

Wednesday - Legislative breakfast - 7:30 a.m., regular session - 9:30 a.m.

† March 22, 1990 - 9:30 a.m. - Open Meeting
James Madison Building, 13th Floor, Conference Room,
Richmond, Virginia. ☒

A regular monthly meeting. Agenda to be published on March 7 and may be obtained by calling Jane Helfrich.

Wednesday evening - Committee meeting - 6 p.m., informal session - 8:30 p.m.

Thursday - Legislative breakfast - 7:30 a.m., regular session - 9:30 a.m.

Contact: Jane Helfrich, Board Administrator, P. O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education

March 13, 1990 - Open Meeting

March 14, 1990 - Open Meeting

Patrick Henry Inn, Best Western, Colonial Williamsburg, Virginia. ☒

The 13th Annual Symposium on Mental Health and the Law to address issues related to mental health and the law. 9 hours in Category 1 CME, 9 CEU and 9 CLE credits applied for.

Contact: Carolyn Engelhard, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, VA 22901, telephone (804) 924-5435

MIGRANT AND SEASONAL FARMWORKERS BOARD

† March 21, 1990 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

A regular meeting.

Contact: Marilyn Mandel, Director, Office of Planning and Policy Analysis, Department of Labor and Industry, P. O. Box 12064, Richmond, VA 23241, telephone (804) 786-2385

DEPARTMENT OF MINES, MINERALS AND ENERGY

March 8, 1990 - 1 p.m. - Open Meeting

Division of Mined Land Reclamation, AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ☒

A meeting to give interested persons an opportunity to be heard in regard to the FY-1990 Virginia Abandoned

Calendar of Events

Mine Land Emergency Grant application to be submitted to the federal Office of Surface Mining.

Contact: Roger L. Williams, AML Manager, P. O. Drawer U, 622 Powell Avenue, Big Stone Gap, VA 24219, telephone (703) 523-8206 or toll-free 1-800-552-3831/TDD ☎

COUNTY OF MONTGOMERY/TOWN OF BLACKSBURG LOCAL EMERGENCY PLANNING COMMITTEE

† **March 13, 1990 - 3 p.m.** – Open Meeting
Montgomery County Courthouse, 3rd Floor, Board of Supervisors Room, Christiansburg, Virginia. ☒

A meeting for the development of a 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

April 13, 1990 - 10 a.m. – Public Hearing
Department of Motor Vehicles, 2300 West Broad Street, Monticello Room, Room 133, 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 amend regulations entitled: **VR 485-60-8401. Evidence Required to Permit Registration of Reregistration of Vehicles for Which Proof of Tax Payment and of State Corporation Commission Registration is Required.** The purpose of the proposed amendment is to eliminate the requirement for the owner of a vehicle, with a registered gross weight of 33,000 pounds or more, to complete a certification of tax paid.

Statutory Authority: §§ 46.2-203 and 46.2-649 of the Code of Virginia.

Written comments may be submitted until April 10, 1990.

Contact: Jerry M. Fern, Program Manager, Motor Carrier Services, Department of Motor Vehicles, P. O. Box 27412, Richmond, VA 23269, telephone (804) 367-0469

VIRGINIA MUSEUM OF FINE ARTS

Buildings and Grounds Committee

† **February 27, 1990 - 10 a.m.** – Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Conference Room, Richmond, Virginia. ☒

A meeting to review (i) long-range plans proposal from John Hilberry and Associates and (ii) various

buildings and grounds issues.

Contact: Emily C. Robertson, Secretary to the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553

BOARD OF NURSING

March 26, 1990 - 9 a.m. – Open Meeting
March 27, 1990 - 9 a.m. – Open Meeting
March 28, 1990 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting of the board to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement, and other matters under the jurisdiction of the board. On March 26, 1990, at 1:30 p.m., the board will convene at the General Assembly Building, House Room C, 9th and Broad Streets, Richmond, for the purpose of conducting a public hearing on proposed regulations as published in The Virginia Register on February 12, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or 662-7197/TDD ☎

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March 26, 1990 - 1:30 p.m. – Public Hearing
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **VR 495-01-1. Board of Nursing Regulations.**

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until April 12, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909

BOARD OF NURSING HOME ADMINISTRATORS

February 28, 1990 - 8 a.m. – Open Meeting
March 1, 1990 - 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.

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111

VIRGINIA OUTDOORS FOUNDATION

† February 27, 1990 - 1 p.m. - Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia. ☐

A general business meeting.

Contact: Tyson B. Van Auken, Executive Director, 221 Governor St., Richmond, VA 23219, telephone (804) 786-5539 or (804) 786-1934/TDD ☎

BOARD OF PHARMACY

† March 7, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Conference Room 1, Richmond, Virginia. ☐

A meeting to (i) conduct routine board business; (ii) consider Notice of Intended Regulatory Action to amend § 1.3 B with respect to temporary license fees; and (iii) adopt proposed Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911

POLYGRAPH EXAMINERS ADVISORY BOARD

† March 21, 1990 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☐

A meeting to administer the Polygraph Examiners licensing examination to eligible polygraph examiner interns.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

VIRGINIA PORK INDUSTRY BOARD

† March 2, 1990 - 3 p.m. - Open Meeting
OMNI International Hotel, Norfolk, Virginia

A quarterly meeting to discuss TRACEC Swine Arena construction appointed of committees, discussion of

DIT Final Report, NPPC Joint Funding Projects and other business.

Contact: John H. Parker, Secretary, 1100 Bank St., Suite 1006, Richmond, VA 23219, telephone (804) 786-7092

BOARD OF PSYCHOLOGY

March 1, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive,
Richmond, Virginia. ☐

A meeting to conduct general board business to (i) review applications for licensure, residency, and registration as Technical Assistants; and (ii) discuss regulatory review.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Dr., Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913

PORTSMOUTH LOCAL EMERGENCY PLANNING COMMITTEE

† March 14, 1990 - 9 a.m. - Open Meeting
† May 9, 1990 - 9 a.m. - Open Meeting
St. Julien's Annex, Building 307, Victory Boulevard at Magazine Road, Portsmouth, Virginia

A regular business meeting.

Contact: Diana H. Creecy, Chairperson, American Red Cross, Portsmouth Chapter, 700 London Boulevard, Portsmouth, VA 23704-2413, telephone (804) 393-1031

RAPPAHANNOCK-RAPIDAN DIVISION OF COURT SERVICES

† March 19, 1990 - 6:30 p.m. - Open Meeting
155 West Davis Street, Culpeper, Virginia

A quarterly business meeting of the District Nine Virginia Alcohol Safety Action Program to review (i) budget; (ii) personnel; (iii) program activities; (iv) 1989 Annual Report; and (v) the 1990 Legislative Status Report.

Contact: R. Dean Irvine, Director, 155 W. Davis St., Culpeper, VA 22701, telephone (703) 825-4550

REAL ESTATE BOARD

February 27, 1990 - 10 a.m. - Open Meeting
City Council Conference Room, Municipal Building, 215 Church Avenue, 4th Floor, Roanoke, Virginia

The board will conduct a formal hearing:

Calendar of Events

File Number 88-00865, The Real Estate Board v. Donald W. Hall and Julia W. Mawyer.

Contact: Gayle Eubank, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8524

† February 28, 1990 - 11 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting of the Education Coordinating Committee for the purpose of educational matters for real estate licenses.

Contact: David A. Vest, Education Administrator, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8307 or toll-free 1-800-552-3016

† February 28, 1990 - 2 p.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia

A meeting for the purpose of planning.

† March 1, 1990 - 9 a.m. - Open Meeting
† May 3, 1990 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia

A regular business meeting to consider (i) investigative cases (files); (ii) matters relating to Fair Housing, (iii) Property Registration; and (iv) Licensing issues (e.g., reinstatement, eligibility requests).

Contact: Joan L. White, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-8552 or toll-free 1-800-552-3016

BOARD OF REHABILITATIVE SERVICES

† March 22, 1990 - 9:30 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The board will receive department reports, consider regulatory matters and conduct the regular business of the board.

Finance Committee

† March 21, 1990 - 2 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will (i) review monthly financial reports and (ii) review budgetary projections.

Legislation and Evaluation Committee

† March 21, 1990 - 4 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will (i) review pending federal and state legislation; (ii) develop criteria for evaluation of department programs; (iii) review risk assessment report; and (iv) review report and analysis of bills submitted to the General Assembly.

Program Committee

† March 21, 1990 - 3 p.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee will review vocational rehabilitation regulation proposals and explore options for developing amendments to current VR regulations. The committee will also review Project schedule of board meetings during FY 1991 and Client Service Program Information.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Ave., Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD ☎ or (804) 367-0280/TDD ☎

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† March 7, 1990 - 10 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Conference Room B, Richmond, Virginia. ☒

A meeting to hear and render a decision on all appeals of denials of on-site sewage disposal system permits.

Contact: Deborah E. Randolph, 109 Governor St., Room 500, Richmond, VA 23219, telephone (804) 786-3559

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

April 15, 1990 - 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 615-01-90. Degree Requirements for Social Work/Social Work Supervision Classification Series.** The purpose of the proposed action is to initiate the requirement of possession of a degree from an accredited college/university for applicants for position vacancies in the Social Work/SW Supervision series.

Statutory Authority: § 63.1-26 of the Code of Virginia.

Written comments may be submitted until April 15, 1990, to Eddie L. Perry, Human Resources Director Senior, 8007 Discovery Dr., Richmond, Virginia 23229.

Contact: Peggy Friedenber, Agency Regulatory Liaison, 8007 Discovery Dr., Richmond, VA 23229, telephone (804) 662-9217

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March 26, 1990 - 10 p.m. - Public Hearing
Blair Building, 8007 Discovery Drive, Conference Room A and B, Richmond, Virginia

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 amend regulations entitled: **VR 615-48-02. Employment Services Program Policy.** The purpose of the proposed action is to amend Employment Services Program Policy to include provisions of the Job Opportunities and Basic Skills (JOBS) program. These amendments address provisions presented to the department as both optional and mandatory.

Statutory Authority: Title IVA and IVF of the Social Security Act and § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 12, 1990, to Madeleine Guerin, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Margaret J. Friedenber, Legislative Analyst, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9182

VIRGINIA SOIL AND WATER CONSERVATION BOARD

March 5, 1990 - Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Soil and Water Conservation Board intends to amend regulations entitled: **VR 625-03-00. Flood Prevention and Protection Assistance Fund.** This regulation is intended to provide administration of the Flood Prevention and Protection Fund and to provide guidance and assistance to local public bodies applying for a loan or grant.

Statutory Authority: § 10.1-603.18 of the Code of Virginia.

Written comments may be submitted until 3 p.m., March 5, 1990, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, Virginia 23219.

Contact: L. S. Button, Jr., Manager, Bureau of Dam Safety and Floodplain Management, Department of Conservation

and Recreation, 203 Governor St., Suite 238, Richmond, VA 23219, telephone (804) 371-7536

† **March 15, 1990 - 9 a.m. - Open Meeting**
Colonial Farm Credit Office Building, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia

A regular bimonthly business meeting.

Contact: Donald L. Wells, Deputy Director, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064 or (804) 786-2121/TDD ☎

VIRGINIA SOYBEAN BOARD

March 14, 1990 - 1:30 p.m. - Open Meeting
March 15, 1990 - 1:30 p.m. - Open Meeting
Williamsburg Hilton and Conference Center, Williamsburg, Virginia

The board will review project reports on projects that were funded for fiscal 1989-90 and will receive project proposals for fiscal 1990-91.

Contact: W. Rosser Cobb, IV, Executive Secretary, P. O. Box 26, Warsaw, VA 22572, telephone (804) 333-3710 or SCATS 371-2163

COMMONWEALTH TRANSPORTATION BOARD

† **March 14, 1990 - 2 p.m. - Open Meeting**
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.

† **March 15, 1990 - 10 a.m. - Open Meeting**
Department of Transportation, 1401 East Broad Street, Board Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to highway system, and any other matters requiring board approval.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA, telephone (804) 786-9950

TREASURY BOARD

March 21, 1990 - 9 a.m. - Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia. ☒

Calendar of Events

A regular monthly meeting.

Contact: Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P. O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931

VIRGINIA MILITARY INSTITUTE

Board of Visitors

March 31, 1990 - 8 a.m. - Open Meeting
Virginia Military Institute, Smith Hall Board Room, Smith Hall, Lexington, Virginia. ☒

A regular Spring meeting of the VMI Board of Visitors to (i) review committee reports; (ii) visit academic departments; and (iii) adopt 1990-91 Operating Budget.

Contact: Colonel Edwin L. Dooley, Jr., Secretary, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

April 28, 1990 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The committee meets quarterly to advise the board 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) 371-3350, toll-free 1-800-622-2155 or (804) 371-3140/TDD ☎

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

February 27, 1990 - 2 p.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Glen R. Slonneger, Jr., Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3340/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

March 6, 1990 - 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, 109 Governor St., Richmond, VA 23219, telephone (804) 786-4326

VIRGINIA WASTE MANAGEMENT BOARD

† **March 8, 1990 - 10 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, Room B, Richmond, Virginia. ☒

A general business meeting to consider final adoption of Regulations for the Development of Solid Waste Management Plans.

Contact: Loraine Williams, Secretary, 101 N. 14th St., James Monroe Bldg., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, toll-free 1-800-552-2075 or (804) 225-3753/TDD ☎

STATE WATER CONTROL BOARD

February 26, 1990 - 10:30 a.m. - Public Hearing
Rockbridge Regional Library, 128 South Main Street, Lexington, Virginia

March 19, 1990 - 3 p.m. - Formal Hearing
General Assembly Building, Capitol Square, Senate Room B, 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 680-21-01. Standards with General, Statewide Application.** The proposed amendment would add a new section, VR 680-21-01.15 - Dioxin for Surface Waters, to the Water Quality Standards.

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

Written comments may be submitted until March 5, 1990, to Doneva Dalton, State Water Control Board, P. O. Box 11143, Richmond, Virginia 23230.

Contact: Durwood Willis, Office of Environmental Research and Standards, State Water Control Board, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6714

† **March 8, 1990 - 7 p.m. - Public Hearing**
William Campbell High School, Route 917 off Route 501, Naruna, Virginia. ☒

A public hearing to receive comments on the proposed

issuance or denial of the proposed 401 Certification for Commonwealth Cogeneration Partners, L.P., for the withdrawal of 03.23 mgd of water from the Roanoke River and the return of approximately 0.75 mgd, the issuance or denial of the certificate, and the effect the withdrawal will have on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, State Water Control Board, Office of Policy Analysis, 2111 N. Hamilton St., P. O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815

March 19, 1990 - 9 a.m. - Open Meeting
March 20, 1990 - 9 a.m. - Open Meeting
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, Office of Policy Analysis, P. O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **April 5, 1990 - 8:30 p.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to (i) review enforcement cases; (ii) discuss training programs; and (iii) consider other matters which require board action.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534 or toll-free 1-800-552-3016

COUNCIL ON THE STATUS OF WOMEN

March 13, 1990 - 8 p.m. - Open Meeting
The Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia

Meetings of the standing committees of the council.

March 14, 1990 - 9 a.m. - Open Meeting
The 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

VIRGINIA WORLD TRADE COUNCIL

† **February 28, 1990 - 9 a.m. - Open Meeting**
Washington Building, 1100 Bank Street, 2nd Floor, Richmond, Virginia

A meeting to discuss activities associated with the state government exporting projects.

Contact: Donna F. Wheeler, Secretary, Executive Offices, Suite 6000, World Trade Center, Norfolk, VA 23510, telephone (804) 683-2949 or toll-free 1-800-553-3170

LEGISLATIVE

Notice to Subscribers

Legislative meetings held during the Session of the General Assembly are exempt from publication in The Virginia Register of Regulations. You may call Legislative Information for information on standing committee meetings. The number is (804) 786-6530.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 27

† Corrections Resources Board, Community Health Services Cost Review Council
Marine Resources Commission

† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee

† Outdoors Foundation, Virginia
Real Estate Board

Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

February 28

Contractors, Board for
Lottery Board, State
Medicine, Board of

- Advisory Committee on Acupuncture
Mental Health, Mental Retardation and Substance Abuse Services Board, State

Nursing Home Administrators, Board of
† Real Estate Board

† World Trade Center Council

March 1

Chesterfield County, Local Emergency Planning

Calendar of Events

Committee of
Nursing Home Administrators, Board of
Psychology, Board of
† Real Estate Board

March 2

† Geology, Board for
† Pork Industry Board, Virginia

March 5

Corn Board, Virginia
Housing and Community Development, Department of

March 6

† Agriculture and Consumer Services, Department of
- Pesticide Control Board
Corn Board, Virginia
Hopewell Industrial Safety Council
Voluntary Formulary Board, Virginia

March 7

† Agriculture and Consumer Services, Department of
- Pesticide Control Board
Children, Department for
- Consortium on Child Mental Health
Housing and Community Development, Department of
† Pharmacy, Board of
† Sewage Handling and Disposal Appeals Review
Board

March 8

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
Child Day-Care Council
† Fairfax County, The City of Fairfax, and the Towns
of Herndon and Vienna, Local Emergency Planning
Committee for
Library Board
Mines, Minerals and Energy, Department of
† Waste Management Board, Virginia
† Water Control Board, State

March 9

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
- Board for Land Surveyors
Medicine, Board of
- Ad Hoc Committee on Optometry

March 10

Dentistry, Board of
† Family and Children's Trust Fund
- Board of Trustees

March 12

Local Government, Commission on

March 13

† Funeral Directors and Embalmers, Board of
† Historic Preservation Foundation, Virginia
† Information Management, Council on

Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- University of Virginia Institute of Law, Psychiatry
and Public Policy, Division of Continuing Education,
Office of Continuing Legal Education and Office of
Continuing Medical Education
† Montgomery/Town of Blacksburg Local Emergency
Planning Committee, County of
Women, Council on the Status of

March 14

† Commercial Driver Training Schools, Board for
† Corrections, Board of
† Funeral Directors and Embalmers, Board of
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- University of Virginia Institute of Law, Psychiatry
and Public Policy, Division of Continuing Education,
Office of Continuing Legal Education and Office of
Continuing Medical Education
† Portsmouth Local Emergency Planning Committee
Soybean Board, Virginia
† Transportation Board, Commonwealth
Women, Council on the Status of

March 15

Farmers' Market Board, Virginia
† Soil and Water Conservation Board, Virginia
Soybean Board, Virginia
† Transportation Board, Commonwealth

March 16

Children, Coordinating Committee for
Interdepartmental Licensure and Certification of
Residential Facilities for Children
† Contractors, Board for

March 19

† Rappahannock-Rapidan Division of Court Services
Water Control Board, State

March 20

† Auctioneers, Board for
Forestry, Department of
- Reforestation of Timberlands Board
Water Control Board, State

March 21

† Job Training Coordinating Council, Governor's
† Migrant and Seasonal Farmworkers Board
† Polygraph Examiners Advisory Board
† Rehabilitative Services, Board of
- Finance Committee
- Legislation and Evaluation Committee
- Program Committee
Treasury Board

March 22

Medicine, Board of
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State

- † Rehabilitative Services, Board of
- March 23**
Medicine, Board of
- March 24**
Medicine, Board of
- March 25**
Medicine, Board of
- March 26**
Nursing, Board of
Social Services, Department of
- March 27**
† Goochland County Local Emergency Planning
Commission
† Health Services Cost Review Council, Virginia
Nursing, Board of
- March 28**
† Lottery Board, State
Nursing, Board of
- March 29**
Aging, Department for the
- Long Term-Care Ombudsman Program Advisory
Council
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Education, Board of
- March 30**
† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board for
† Education, Board of
- March 31**
Virginia Military Institute
- Board of Visitors
- April 3**
† Hopewell Industrial Safety Council
- April 4**
Children, Department for
- Consortium on Child Mental Health
- April 5**
Chesterfield County, Local Emergency Planning
Committee
† Dentistry, Board of
† Waterworks and Wastewater Works Operators, Board
for
- April 6**
† Dentistry, Board of
- April 7**
† Dentistry, Board of
- April 11**
† Corrections, Board of
- April 19**
† Auctioneers, Board for
- April 28**
Visually Handicapped, Department for the
- Advisory Committee on Services
- May 1**
† Hopewell Industrial Safety Council
- May 2**
Children, Department for
- Consortium on Child Mental Health
- May 3**
† Real Estate Board
- May 7**
† Hearing Aid Specialists, Board for
- May 9**
† Portsmouth Local Emergency Planning Committee

PUBLIC HEARINGS

- February 26**
Water Control Board, State
- March 1**
Forestry, Department of
- March 2**
Housing and Community Development, Department of
- March 7**
Health Services Cost Review Council, Virginia
- March 8**
† Water Control Board, State
- March 26**
Nursing, Board of
Social Services, Department of
- March 28**
Human Rights, Council on
- April 4**
Criminal Justice Services Board
- April 12**
Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- April 13**

Calendar of Events

Motor Vehicles, Department of

April 17
Health, Department of

April 19
Health, Department of

April 20
Health, Department of

April 26
† Housing and Community Development, Department
of

May 2
† Agriculture and Consumer Services, Department of
- Pesticide Control Board

May 7
† Accountancy, Board for
† Agriculture and Consumer Services, Department of
- Pesticide Control Board

May 16
Agriculture and Consumer Services, Department of