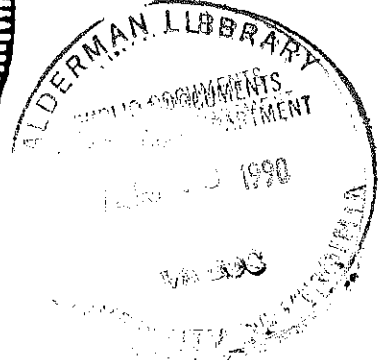
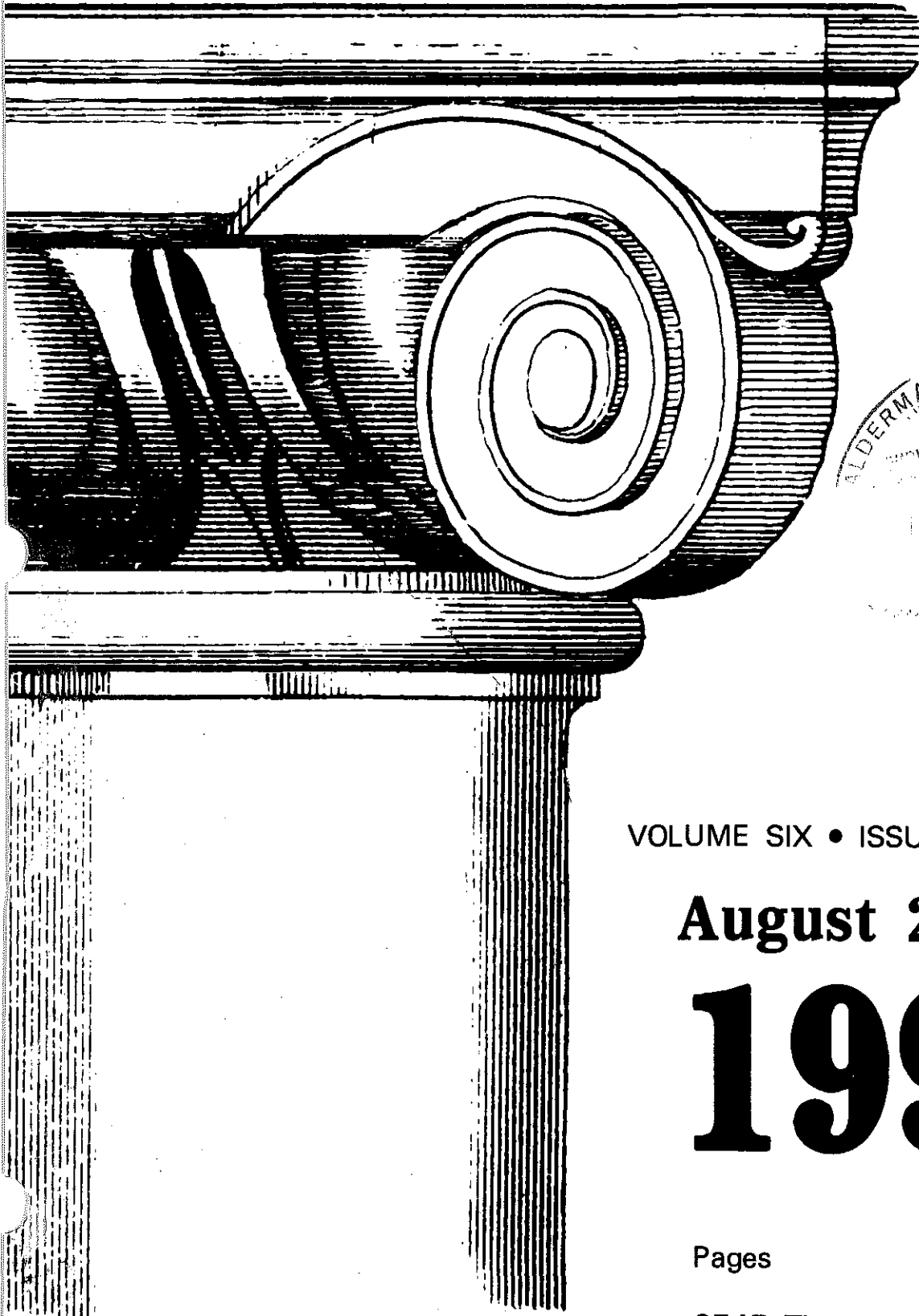


5/R26/6-24 R

THE VIRGINIA REGISTER

OF REGULATIONS

VA
DOC



VOLUME SIX • ISSUE TWENTY-FOUR

August 27, 1990

1990

Pages

3747 Through 4076

VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

"The *Virginia Register of Regulations*" (USPS-001831) is published bi-weekly, except four times in January, April, July and October for \$85 per year by the Virginia Code Commission, General Assembly Building, Capitol Square, Richmond, Virginia 23219. Telephone (804) 786-3591. Second-Class Postage Rates Paid at Richmond, Virginia. **POSTMASTER:** Send address changes to the *Virginia Register of Regulations*, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219.

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

Members of the Virginia Code Commission: Dudley J. Emick, Jr., Chairman, J. Samuel Glasscock, Vice Chairman; Russell M. Carneal; Joseph V. Gartlan, Jr.; John Wingo Knowles; Gail S. Marshall; E. M. Miller, Jr.; Theodore V. Morrison; William F. Parkerson, Jr.; A. L. Philpott.

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

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

July 1990 through September 1991

MATERIAL SUBMITTED BY
Noon Wednesday

PUBLICATION DATE

Volume 6 - 1989-90

June 13	July 2
June 27	July 16
July 11	July 30
July 25	Aug. 13
Aug. 8	Aug. 27
Aug. 22	Sept. 10
Sept. 5	Sept. 24
Final Index - Volume 6	

Volume 7 - 1990-91

Sept. 19	Oct. 8
Oct. 3	Oct. 22
Oct. 17	Nov. 5
Oct. 31	Nov. 19
Nov. 14	Dec. 3
Nov. 28	Dec. 17
Dec. 12	Dec. 31
Index 1 - Volume 7	

Dec. 26	Jan. 14, 1991
Jan. 9	Jan. 28
Jan. 23	Feb. 11
Feb. 6	Feb. 25
Feb. 20	Mar. 11
Mar. 6	Mar. 25
Index 2 - Volume 7	

Mar. 20	Apr. 8
Apr. 3	Apr. 22
Apr. 17	May 6
May 1	May 20
May 15	June 3
May 29	June 17
Index 3 - Volume 7	

June 12	July 1
June 26	July 15
July 10	July 29
July 24	Aug. 12
Aug. 8	Aug. 26
Aug. 21	Sept. 9
Sept. 4	Sept. 23
Final Index - Volume 7	

TABLE OF CONTENTS

PROPOSED REGULATIONS

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Rules Governing the Solicitation of Contributions. (VR 115-06-01) 3749

STATE AIR POLLUTION CONTROL BOARD

Regulations for the Control and Abatement of Air Pollution. (VR 120-01) 3762

DEPARTMENT OF COMMERCE

Asbestos Licensing Regulations. (VR 190-05-01) 3779

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

Definitions and Miscellaneous. In General. (VR 325-02-1) 3821

Game.

Skunk. (VR 325-02-20) 3821

Weasel. (VR 325-02-28) 3822

Woodchuck. (VR 325-02-29) 3822

Fish.

Aquatic Invertebrates, Amphibians, Reptiles and Nongame Fish. (VR 325-03-5) 3822

DEPARTMENT OF HEALTH (STATE BOARD OF)

Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations. (VR 355-30-01) 3823

BOARD OF NURSING

Board of Nursing Regulations. (VR 495-01-01) 3837

FINAL REGULATIONS

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES (BOARD FOR)

Nondiscrimination Under State Grants and Programs. (VR 602-01-2) 3855

BOARD FOR ACCOUNTANCY

Board for Accountancy Regulations. (VR 105-01-02) .. 3869

DEPARTMENT OF HEALTH (STATE BOARD OF)

Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings. (VR 355-17-01) 3893

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Virginia Statewide Fire Prevention Code/1987. (VR 394-01-06) 3901

Virginia Uniform Statewide Building Code, Volume I - New Construction Code/1987. (VR 394-01-21) 3901

Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1987. (VR 394-01-22) 3901

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Nursing Home Payment System (REPEALED). (VR 460-03-4.1940) 3909

Methods and Standards for Establishing Payment Rates - Long-Term Care. (VR 460-02-4.1940) 3910

Nursing Facility and MR Criteria. (VR 460-03-3.1310) 3911

Nursing Home Payment System: Patient Intensity Rating System. (VR 460-03-4.1940:1) 3918

Uniform Expense Classification. (VR 460-03-4.1941) ... 3936

Leasing of Facilities. (VR 460-03-4.1942) 3941

Cost Reimbursement Limitations. (VR 460-03-4.1943) . 3943

Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate of Adjustments to the Prospective Direct Patient Care Operating Cost Rate - Allowance for Inflation Methodology Base "Current" Operating Rate. (VR 460-03-4.1944) 3945

EMERGENCY REGULATIONS

DEPARTMENT OF COMMERCE

Regulations of Asbestos Analytical Laboratories and Conflict of Interest for the Department of Commerce. (VR 190-05-1) 3964

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Standards Established and Methods Used to Assure High Quality of Care (Long Stay Acute Care Hospitals). (VR 460-02-3.1300) 3970

Regulations for Long Stay Acute Care Hospitals (Non-Mental Hospitals). (VR 460-04-8.10) 3975

State Plan for Medical Assistance Relating to Nursing Home Cost Savings Initiatives.

Table of Contents

Amount, Duration and Scope of Services. (VR 460-03-3.1100)	3980
Nursing Home Payment System. (VR 460-03-4.1940)	3982

STATE CORPORATION COMMISSION

ORDER

Investigation Into the Promulgation of Filing Requirements for Independent Power Producers. (PUE900044)	3984
---	------

STATE LOTTERY DEPARTMENT

DIRECTORS ORDERS

Virginia's Tenth Instant Game Lottery; "Play TV," End of Game. (20-90)	3990
Advance Approval for Return of Unsold Tickets; Revised. (21-90)	3990
"Catch of the Day," Fishing Contest Rules. (22-90) ...	3990
Virginia's Thirteenth Instant Game Lottery; "Catch of the Day," Final Rules for Game Operation. (23-90)	3991

FINAL REGULATIONS

Instant Game Regulations. (VR 447-02-1)	3991
On-Line Game Regulations. (VR 447-02-2)	4010

GOVERNOR

EXECUTIVE ORDERS

Providing for Cooperation Between the Virginia National Guard and the Virginia State Police in Suppression of Drug Traffic and Other Criminal Activities Within the Commonwealth. (11-90)	4034
Legislative Coordination. (12-90)	4035
Promulgation of Volume II, Emergency Operations Plan for Peacetime Disasters. (19-90)	4035
Promulgation of the Commonwealth of Virginia Emergency Operations Plan, Volume III, Operational Survival Plan for War-Caused Disasters. (20-90)	4036

COMMENTS

MARINE RESOURCES COMMISSION

Barrier Island Policy. (VR 450-01-0058)	4036
---	------

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Nursing Home Payment System Methodology: PIRS. (VR 460-03-4.1940:1.)	4037
--	------

STATE WATER CONTROL BOARD

Water Quality Standards. (VR 680-21-01 through VR 680-21-08)	4037
Permit Regulation. (VR 680-14-01)	4037

GENERAL NOTICES/ERRATA

NOTICES OF INTENDED REGULATORY ACTION

Notices of Intent	4038
-------------------------	------

GENERAL NOTICES

Notice to subscribers of the Virginia Register of Regulations concerning increase in annual subscription rate for the Virginia Register of Regulations.	4044
--	------

NOTICE TO STATE AGENCIES

Forms for filing material on date for publication in the Virginia Register of Regulations.	4044
---	------

ERRATA

DEPARTMENT OF CONSERVATION AND RECREATION

Stormwater Management Regulations. (VR 215-02-00)	4044
---	------

DEPARTMENT OF CORRECTIONS

Supervision Fee - Rules and Regulations and Procedures. (VR 230-30-007)	4044
---	------

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings	4045
---	------

LEGISLATIVE

Open Meetings and Public Hearings	4069
---	------

CHRONOLOGICAL LIST

Open Meetings	4072
Public Hearings	4074

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

NOTICE: Due to its length, the regulation entitled "Rules Governing the Solicitation of Contributions" filed by the Department of Agriculture and Consumer Services is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary, in lieu of full text, is being published. The full text of the regulation is available for public inspection at the Office of the Registrar of Regulations and the Department of Agriculture and Consumer Services.

Title of Regulation: VR 115-06-01. Rules Governing the Solicitation of Contributions.

Statutory Authority: § 57-66 of the Code of Virginia.

Public Hearing Date: December 6, 1990 - 2 p.m.
(See Calendar of Events section for additional information)

Summary:

The regulation will replace, in its entirety, the original regulation of the same name.

The original regulation was adopted in 1978, and has not been amended since. The Virginia Solicitation of Contributions Law, which the regulation supports, has been amended five times since its enactment in 1974. The proposed amendments will bring the regulation into conformity with the amendments to the statute.

The regulation (i) defines certain terms contained in the statute regarding exemption from annual registration; (ii) specifies, pursuant to § 57-55.2 (i) of the Code of Virginia, the name or names by which a professional solicitor may identify himself and his employer; (iii) standardizes documentation required for filing with the commissioner; (iv) establishes procedures for compliance with the statute; and (v) establishes certain evidence deemed adequate to lift a suspension of registration.

3750

Virginia Register of Regulations

Form 990 Return of Organization Exempt From Income Tax
 Under section 501(c) (except black lung benefit trust or private foundation) of the Internal Revenue Code or section 4947(a)(1) trust
 (See separate instructions.)

OMB No. 1545-0047
1989

Department of the Treasury Internal Revenue Service
 Note: You may be required to use a copy of this return to satisfy state reporting requirements. See instruction E.

For the calendar year 1989, or fiscal year beginning 1989, and ending 19

Name of organization: _____ A Employer identification number (see instruction S): _____
 Address (number and street) or P.O. box number: _____ B State registration number (see instruction E): _____
 City or town, state, and ZIP code: _____ C If application for exemption is pending, check here:

D Check type of organization—Exempt under section 501(c) () (insert number), OR section 4947(a)(1) trust (see instruction C7 and question 92-2)
 E Accounting method: Cash Accrual Other (specify) _____
 F Is this a group return (see instruction Q) filed for affiliates? Yes No
 G If other answer in F is "Yes," enter four-digit group exemption number (GEN) _____
 H Check here if your gross receipts are normally not more than \$25,000 (see instruction B11). You do not have to file a completed return with IRS; but if you received a Form 990 Package in the mail, you should file a return without financial data (see instruction A). Some states require a completed return.
 Note: Form 990EZ is available for organizations with gross receipts less than \$100,000 and total assets less than \$250,000 at end of year.
 501(c)(3) organizations and 4947(a)(1) trusts must also complete and attach Schedule A (Form 990). (See instructions.)

Part I Statement of Revenue, Expenses and Changes in Net Assets or Fund Balances

1 Contributions, gifts, grants, and similar amounts received:				
a	Direct public support	1a		
b	Indirect public support	1b		
c	Government grants	1c		
d	Total (add lines 1a through 1c) (attach schedule—see instructions)	1d		
2	Program service revenue (from Part VII, line 93)	2		
3	Membership dues and assessments	3		
4	Interest on savings and temporary cash investments	4		
5	Dividends and interest from securities	5		
6a	Gross rents	6a		
b	Less: rental expenses	6b		
c	Net rental income (loss)	6c		
7	Other investment income (describe _____)	7		
8a	Gross amount from sale of assets other than inventory	8a		
b	Less: cost or other basis and sales expenses	8b		
c	Gain (loss) (attach schedule)	8c		
9	Special fundraising events and activities (attach schedule—see instructions):			
a	Gross revenue (not including \$ _____ of contributions reported on line 1a)	9a		
b	Less: direct expenses	9b		
c	Net income (line 9a less line 9b)	9c		
10a	Gross sales less returns and allowances	10a		
b	Less: cost of goods sold	10b		
c	Gross profit (loss) (attach schedule)	10c		
11	Other revenue (from Part VII, line 103)	11		
12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)	12		
13	Program services (from line 44, column (B)) (see instructions)	13		
14	Management and general (from line 44, column (C)) (see instructions)	14		
15	Fundraising (from line 44, column (D)) (see instructions)	15		
16	Payments to affiliates (attach schedule—see instructions)	16		
17	Total expenses (add lines 16 and 44, column (A))	17		
18	Excess (deficit) for the year (subtract line 17 from line 12)	18		
19	Net assets or fund balances at beginning of year (from line 74, column (A))	19		
20	Other changes in net assets or fund balances (attach explanation)	20		
21	Net assets or fund balances at end of year (add lines 18, 19, and 20)	21		

For Paperwork Reduction Act Notice, see page 1 of the instructions. Form 990 (1989)

Form 990 (1989) Page 2

Part II Statement of Functional Expenses
 All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (c)(4) organizations and 4947(a)(1) trusts but optional for others. (See instructions.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.

	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22	Grants and allocations (attach schedule)			
23	Specific assistance to individuals			
24	Benefits paid to or for members			
25	Compensation of officers, directors, etc.			
26	Other salaries and wages			
27	Pension plan contributions			
28	Other employee benefits			
29	Payroll taxes			
30	Professional fundraising fees			
31	Accounting fees			
32	Legal fees			
33	Supplies			
34	Telephone			
35	Postage and shipping			
36	Occupancy			
37	Equipment rental and maintenance			
38	Printing and publications			
39	Travel			
40	Conferences, conventions, and meetings			
41	Interest			
42	Depreciation, depletion, etc. (attach schedule)			
43	Other expenses (itemize): a _____			
b _____				
c _____				
d _____				
e _____				
f _____				
44	Total functional expenses (add lines 22 through 43) _____			
	Organizations completing column (B), carry their totals to lines 13-15			

Part III Statement of Program Service Accomplishments (See instructions)

Describe what was achieved in carrying out your exempt purposes. Fully describe the services provided, the number of persons benefited, or other relevant information for each program title. Section 501(c)(3) and (4) organizations must also enter the amount of grants to others.

	Expenses Required for section 501(c)(3) and (4) organizations (attach schedule for others)
a	
b	(Grants and allocations \$ _____)
c	(Grants and allocations \$ _____)
d	(Grants and allocations \$ _____)
e	(Grants and allocations \$ _____)
f	(Grants and allocations \$ _____)
Total (add lines a through e) (transfer annual line 44, column (B))	

VK - 115-06-01 Department of Agriculture and Consumer Services

Part IV Balance Sheets
Note: Where required, attach schedules and amounts in the description column should set for the organization only.

(A)	(B)
Beginning of year	End of year
45 Cash—noninterest-bearing	45
46 Savings and temporary cash investments	46
47a Accounts receivable	47a
47b Less: allowance for doubtful accounts	47b
48a Pledges receivable	48a
48b Less: allowance for doubtful accounts	48b
49 Grants receivable	49
50 Receivables due from officers, directors, trustees, and key employees (attach schedule)	50
51a Other notes and loans receivable (attach schedule)	51a
51b Less: allowance for doubtful accounts	51b
52 Inventories for sale or use	52
53 Prepaid expenses and deferred charges	53
54 Investments—securities (attach schedule)	54
55a Investments—land, buildings, and equipment basis	55a
55b Less: accumulated depreciation (attach schedule)	55b
56 Investments—other (attach schedule)	56
57a Land, buildings, and equipment: basis	57a
57b Less: accumulated depreciation (attach schedule)	57b
58 Other assets (describe)	58
59 Total Assets (add lines 45 through 58)	59
60 Accounts payable and accrued expenses	60
61 Grants payable	61
62 Support and revenue designated for future periods (attach schedule)	62
63 Loans from officers, directors, trustees, and key employees (attach schedule)	63
64 Mortgages and other notes payable (attach schedule)	64
65 Other liabilities (describe)	65
66 Total liabilities (add lines 60 through 65)	66
Fund Balances or Net Assets	
Organizations that use fund accounting: check here <input type="checkbox"/> and complete lines 67 through 75	
67a Current unrestricted fund	67a
67b Current restricted fund	67b
68 Land, buildings, and equipment fund	68
69 Endowment fund	69
70 Other funds (describe)	70
Organizations that do not use fund accounting: check here <input type="checkbox"/> and complete lines 71 through 75	
71 Capital stock or trust principal	71
72 Paid-in or capital surplus	72
73 Retained earnings or accumulated income	73
74 Total fund balances or net assets (see instructions)	74
75 Total liabilities and fund balances/net assets (see instructions)	75

Part V Other Information

	Yes	No
76 Did you engage in any activity not previously reported to the Internal Revenue Service?		
77 If "Yes," attach a detailed description of each activity.		
78a Did your organization have unrelated business gross income of \$1,000 or more during the year covered by this return?		
78b If "Yes," have you filed a tax return on Form 990-T, Exempt Organization Business Income Tax Return, for this year?		
78c At any time during the year, did you own a 50% or greater interest in a taxable corporation or partnership?		
79 Was there a liquidation, dissolution, termination, or substantial contraction during the year? (See instructions.)		
79a If "Yes," attach a statement as described in the instructions.		
80a Are you related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization? (See instructions.)		
80b If "Yes," enter the name of the organization		
81 Enter amount of political expenditures, direct or indirect, as described in the instructions. <input type="checkbox"/> exempt <input type="checkbox"/> nonexempt.		
82a Did you receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?		
82b If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. See instructions for reporting in Part III.		
83a Did anyone request to see either your annual return or exemption application for both?		
83b If "Yes," did you comply as described in the instructions? (See General Instructions L.)		
84a Did you solicit any contributions or gifts that were not tax deductible?		
84b If "Yes," did you include with every solicitation an express statement that such contributions or gifts were not tax deductible? (See General Instruction N.)		
85a Section 501(c)(5) or (6) organizations—Did you spend any amounts in attempts to influence public opinion about legislative matters or referendums? (See instructions and Regulations section 1.162-20(c).)		
85b If "Yes," enter the total amount spent for this purpose.		
86 Section 501(c)(7) organizations—Enter:		
a Initiation fees and capital contributions included on line 12.		
b Gross receipts, included on line 12, for public use of club facilities (See instructions.)		
c Does the club's governing instrument or any written policy statement provide for discrimination against any person because of race, color, or religion? (See instructions.)		
87 Section 501(c)(2) organizations—Enter amount of:		
a Gross income received from members or shareholders.		
b Gross income received from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)		
88 Public interest law firms.—Attach information described in the instructions.		
89 List the states with which a copy of this return is filed.		
90 During this tax year, did you maintain any part of your accounting/tax records on a computerized system?		
91 The books are in care of _____ Telephone no. _____		
92 Sections 5847(b)(1) trusts filing Form 990: Use of Form 1041, U.S. Fiduciary Income Tax Return, and other information. See instructions. Received tax deficiencies during the tax year.		

Part VII Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.

	Unrelated business income		Excluded by section 512, 513, or 514		(e) Related or exempt function income
	(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount	
93 Program service revenue:					
(a) _____					
(b) _____					
(c) _____					
(d) _____					
(e) _____					
(f) _____					
(g) Fees from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments					
96 Dividends and interest on securities					
97 Net rental income (loss) from real estate:					
(a) debt-financed property					
(b) not debt-financed property					
98 Net rental income (loss) from personal property					
99 Other investment income					
100 Gain (loss) from sales of assets other than inventory					
101 Net income from special fundraising events					
102 Gross profit (loss) from sales of inventory					
103 Other revenue: (a) _____					
(b) _____					
(c) _____					
(d) _____					
(e) _____					
104 Subtotal (add columns (b), (d), and (e))					
105 TOTAL (add line 104, columns (b), (d), and (e))					

(Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.)

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes

Line No.	Relationship of activity to the accomplishment of your exempt purposes (other than by providing funds for such purposes).

Part IX Information Regarding Taxable Subsidiaries (Complete this Part if you answered "Yes" to question 78c)

Name, address, and employer identification number of corporation or partnership	Percentage of ownership interest	Nature of business activities	Total income	End-of-year assets

Please Sign Here

Under penalty of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, this return, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature of officer _____ Title _____

Preparer's signature _____ State _____ Check if self-employed

Preparer's name (do not print if self-employed) _____ ZIP code _____

For the calendar year 1989, or fiscal year beginning _____, 1989, and ending _____, 19

Please type, print, or attach label. See Specific Instructions.

Name of organization _____ A Employer identification number _____

Address (number and street) _____ B State registration number (see instructions) _____

City or town, state, and ZIP code _____ C If application pending, check here

D Foreign organizations, check here

E If your private foundation status terminated under section 907(b)(1)(A), check here

F If the foundation is in a 60-month termination under section 907(b)(1)(B), check here

G Check type of organization: Exempt private foundation 4947(a)(1) trust Other taxable private foundation

H Fair market value of assets at end of year (from Part II, col. (c), line 16) _____ Section 4947(a)(1) trusts filing this form in lieu of Form 1041, see General Instructions and question 19 of Part VII.

Part I Analysis of Revenue and Expenses (The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a) (see instructions).)	(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes
1 Contributions, gifts, grants, etc., received (attach schedule)				
2 Contributions from split-interest trusts				
3 Interest on savings and temporary cash investments				
4 Dividends and interest from securities				
5a Gross rents				
b Net rental income (loss)				
6 Net gain or (loss) from sale of assets not on line 10				
7 Capital gain net income (from Part IV, line 2)				
8 Net short-term capital gain				
9 Income modifications				
10a Gross sales minus returns and allowances				
b Minus: Cost of goods sold				
c Gross profit (loss) (attach schedule)				
11 Other income (attach schedule)				
12 Total (add lines 1 through 11)				
13 Compensation of officers, directors, trustees, etc.				
14 Other employee salaries and wages				
15 Pension plans, employee benefits				
16a Legal fees (attach schedule)				
b Accounting fees (attach schedule)				
c Other professional fees (attach schedule)				
17 Interest				
18 Taxes (attach schedule)				
19 Depreciation (attach schedule) and depletion				
20 Occupancy				
21 Travel, conferences, and meetings				
22 Printing and publications				
23 Other expenses (attach schedule)				
24 Total operating and administrative expenses (add lines 13 through 23)				
25 Contributions, gifts, grants paid				
26 Total expenses and disbursements (add lines 24 and 25)				
27a Excess of revenue over expenses and disbursements (line 12 minus line 26)				
b Net investment income (if negative enter -0-)				
c Adjusted net income (if negative enter -0-)				

Foreign organizations - Please attach check or money order here.

Operating and Administrative Expenses

Part II Balance Sheets		Attached schedules and amounts in the description column should be for end-of-year amounts only. (See instructions.)		
		Beginning of year	End of year	
		(a) Book Value	(b) Book Value	(c) Fair Market Value
Assets	1 Cash—non-interest-bearing			
	2 Savings and temporary cash investments			
	3 Accounts receivable ▶ minus: allowance for doubtful accounts ▶			
	4 Pledges receivable ▶ minus: allowance for doubtful accounts ▶			
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons (attach schedule) (see instructions)			
	7 Other notes and loans receivable (attach schedule) ▶ minus: allowance for doubtful accounts ▶			
	8 Inventories for sale or use			
	9 Prepaid expenses and deferred charges			
	10 Investments—securities (attach schedule)			
	11 Investments—land, buildings, and equipment: basis ▶ minus: accumulated depreciation (attach schedule) ▶			
	12 Investments—mortgage loans			
	13 Investments—other (attach schedule)			
	14 Land, buildings, and equipment: basis ▶ minus: accumulated depreciation (attach schedule) ▶			
	15 Other assets (describe ▶)			
16 Total assets (completed by all filers—see instructions)				
Liabilities	17 Accounts payable and accrued expenses			
	18 Grants payable			
	19 Support and revenue designated for future periods (attach schedule)			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable (attach schedule)			
	22 Other liabilities (describe ▶)			
23 Total liabilities (add lines 17 through 22)				
Organizations that use fund accounting, check here ▶ and complete lines 24 through 27 and lines 31 and 32. <input type="checkbox"/>				
Fund Balances or Net Assets	24a Current unrestricted fund			
	b Current restricted fund			
	25 Land, buildings, and equipment fund			
	26 Endowment fund			
	27 Other funds (Describe ▶)			
	Organizations not using fund accounting, check here ▶ and complete lines 28-32. <input type="checkbox"/>			
28 Capital stock or trust principal				
29 Paid-in or capital surplus				
30 Retained earnings or accumulated income				
31 Total fund balances or net assets (see instructions)				
32 Total liabilities and fund balances/net assets (see instructions)				

Part III Analysis of Changes in Net Assets or Fund Balances

	1	2	3	4	5	6
1 Total net assets or fund balances at beginning of year—Part II, column (a), line 31. (must agree with end-of-year figure reported on prior year's return)						
2 Enter amount from Part I, line 27a						
3 Other increases not included in line 2 (itemize) ▶						
4 Add lines 1, 2, and 3						
5 Decreases not included in line 2 (itemize) ▶						
6 Total net assets or fund balances at end of year (line 4 minus line 5)—Part II, column (b), line 31						

Part IV Capital Gains and Losses for Tax on Investment Income

1	(a) List and describe the kind(s) of property sold, e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.	(b) How acquired P—Purchase D—Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)	(e) Greatest sales price minus expense of sale	(f) Depreciation allowed (or allowable)	(g) Cost or other basis	(h) Gain or (loss) (e) plus (f) minus (g)	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Losses (from col. (h)) Gains (excess of col. (h) gain over col. (k), but not less than "-0-")
Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69												
2 Capital gain net income or (net capital loss) 2												
3 Net short-term capital gain (loss) as defined in sections 1222(5) and (6) If gain, also enter in Part I, line 8, column (c) (see instructions) If loss, enter "-0-" in Part I, line 8 3												

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income

(For optional use by domestic private foundations subject to the section 4940(a) tax on net investment income.)

If section 4940(d)(2) applies, leave Part V blank.

Were you liable for the section 4942 tax on the distributable amount of any year in the base period? Yes No
If "Yes," you do not qualify under section 4940(e). Do not complete this part.

1 Enter the appropriate amount in each column for each year; see instructions before making any entries.

	(a) Base period years Calendar year (or fiscal year beginning in)	(b) Qualifying distributions	(c) Net value of noncharitable-use assets	(d) Payout ratio (column (b) divided by column (c))
	1988			
	1987			
	1986			
	1985			
	1984			

- 2 Total of line 1, column (d) 2
- 3 Average payout ratio for the 5-year base period—divide the total on line 2 by 5, or by the number of years the foundation has been in existence if less than 5 years. 3
- 4 Enter the net value of noncharitable-use assets for 1989 from Part IX, line 5 4
- 5 Multiply line 4 by line 3 5
- 6 Enter 1% of Part I, line 27b 6
- 7 Add lines 5 and 6 7
- 8 Enter the amount from Part XIII, line 6 8
If line 8 is equal to or greater than line 7, check the box in Part VI, line 1b, and complete that part using a 1% tax rate. See the Part VI instructions.

Part VIII Statements Regarding Activities (continued)

10b If you answered "Yes" to any of questions 10a(1) through (6), were the acts you engaged in excepted acts as described in Regulations sections 53.4941(d)-3 and 4?
10c Did you engage in a prior year in any of the acts described in 10a, other than excepted acts, that were acts of self-dealing not corrected by the first day of your tax year beginning in 1989?
11 Taxes on failure to distribute income (section 4942) (does not apply for years you were a private operating foundation as defined in section 4942(j)(3) or 4942(j)(5)):
11a Did you at the end of tax year 1989 have any undistributed income (lines 6d and e, Part XIV) for tax year(s) beginning before 1989? If "Yes," list the years:
11b If 11a is "Yes," are you applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the undistributed income for ALL such years? (If "Yes" attach statement—see instructions.)
11c If the provisions of section 4942(a)(2) are being applied to ANY of the years listed in 11a, list the years here:
12 Taxes on excess business holdings (section 4943):
12a Did you hold more than a 2% direct or indirect interest in any business enterprise at any time during the year?
12b If "Yes," did you have excess business holdings in 1989 as a result of any purchase by you or disqualified persons after May 26, 1969; after the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or after the lapse of the 10, 15, or 20-year first phase holding period? (Use Schedule C, Form 4720, to determine if you had excess business holdings in 1989.)
13 Taxes on investments that jeopardize charitable purposes (section 4944):
13a Did you invest during the year any amount in a manner that would jeopardize your charitable purposes?
13b Did you make any investment in a prior year (but after December 31, 1969) that could jeopardize your charitable purpose that you had not removed from jeopardy on the first day of your tax year beginning in 1989?
14 Taxes on taxable expenditures (section 4945) and political expenditures (section 4955):
a During the year did you pay or incur any amount to:
(1) Carry on propaganda, or otherwise attempt to influence legislation by attempting to affect the opinion of the general public or any segment thereof, or by communicating with any member or employee of a legislative body, or by communicating with any other government official or employee who may participate in the formulation of legislation?
(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive?
(3) Provide a grant to an individual for travel, study, or other similar purposes?
(4) Provide a grant to an organization, other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)?
(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals?
b If you answered "Yes" to any of questions 14a(1) through 14a(5), were all such transactions excepted transactions as described in Regulations section 53.4945?
c If you answered "Yes" to question 14a(4), do you claim exemption from the tax because you maintained expenditure responsibility for the grant?
15 Did any persons become substantial contributors during the tax year? If "Yes," attach a schedule listing their names and addresses.
16 During this tax year did you maintain any part of your accounting/tax records on a computerized system?
17a Did anyone request to see either your annual return or exemption application (or both)?
17b If "Yes," did you comply pursuant to the instructions? (See General Instruction T.)
18 The books are in care of: Telephone no.: Located at:
19 Section 4947(a)(2) trusts filing Form 990-PF in lieu of Form 1041, U.S. Fiduciary Income Tax Return, and enter the amount of tax-exempt interest received or accrued during the year. Check here: []

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

Table with 5 columns: (A) Name and address, (B) Title and average hours per week devoted to position, (C) Contributions to employee benefit plans, (D) Expense account, other allowances, (E) Compensation (if not paid, enter zero). Total

Part VI Excise Tax on Investment Income (Section 4940(a), 4940(b), 4940(e), or 4948—see instructions)

1a Exempt operating foundations described in section 4940(d)(2), check here [] and enter "N/A" on line 1. Give date of ruling letter: (attach copy of ruling letter if necessary—see instructions)
b Domestic organizations that meet the section 4940(e) requirements in Part V, check here [] and enter 1% of Part I, line 27b
c All other domestic organizations enter 2% of line 27b. Exempt foreign organizations enter 4% of line 27b
2 Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)
3 Add lines 1 and 2
4 Tax under subtitle A (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)
5 Tax on investment income (line 3 minus line 4 (but not less than -0-))
6 Credits/Payments:
6a 1989 estimated tax payments and 1988 overpayment credited to 1989
6b Exempt foreign organizations—tax withheld at source
6c Tax paid with application for extension of time to file (Form 2758)
6d Backup withholding erroneously withheld
7 Total credits and payments (add lines 6a through d)
8 Enter any PENALTY for underpayment of estimated tax. Check here [] if Form 2220 is attached
9 TAX DUE. If the total of lines 5 and 8 is more than line 7, enter AMOUNT OWED
10 OVERPAYMENT. If line 7 is more than the total of lines 5 and 8, enter the AMOUNT OVERPAID
11 Enter the amount of line 10 you want credited to 1990 estimated tax: Refunded: []

Part VII Statements Regarding Activities

File Form 4720 if you answer "No" to question 10a, 11b, or 14b or "Yes" to question 10c, 12b, 13a, 13b, or 14a(2), unless an exception applies.

1a During the tax year, did you attempt to influence any national, state, or local legislation or did you participate or intervene in any political campaign?
b Did you spend more than \$100 during the year (either directly or indirectly) for political purposes (see instructions for definition)? If you answered "Yes" to 1a or 1b, attach a detailed description of the activities and copies of any materials published or distributed by the organization in connection with the activities.
1c Did you file Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations, for this year?
2 Have you engaged in any activities that have not previously been reported to the Internal Revenue Service? If "Yes," attach a detailed description of the activities.
3 Have you made any changes, not previously reported to the IRS, in your governing instrument, articles of incorporation, or bylaws, or other similar instruments? If "Yes," attach a conforming copy of the changes.
4a Did you have unrelated business gross income of \$1,000 or more during the year?
4b If "Yes," have you filed a tax return on Form 990-T, Exempt Organization Business Income Tax Return, for this year?
5 Was there a liquidation, termination, dissolution, or substantial contraction during the year? If "Yes," attach the schedule required by General Instruction N.
6 Are the requirements of section 508(a) (relating to sections 4941 through 4945) satisfied either:
• by language written into the governing instrument, or
• by state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?
7 Did you have at least \$5,000 in assets at any time during the year? If "Yes," complete Part II, column (c), and Part XVI.
8a Enter the states to which the foundation reports or with which it is registered (see instructions)
b If you answered "Yes" to 7, have you furnished a copy of Form 990-PF to the Attorney General (or his or her designate) of each state as required by the General Instructions? If "No," attach explanation
9 Are you claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 1989 or fiscal year beginning in 1989 (see instructions for Part XV)? If "Yes," complete Part XV.
10 Self-dealing (section 4941):
a During the year did you (either directly or indirectly):
(1) Engage in the sale or exchange, or leasing of property with a disqualified person?
(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person?
(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person?
(4) Pay compensation to or pay or reimburse the expenses of a disqualified person?
(5) Transfer any of your income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)?
(6) Agree to pay money or property to a government official? (Exception: Check "No" if you agreed to make a grant to or to employ the official for a period after he or she terminates government service, if he or she is terminating within 90 days.)

Part VIII Information About Officers, Directors, Trustees, etc. (continued)

2 Compensation of five highest paid employees (other than those included on line 1—see instructions). If none, enter "NONE."

(A) Name and address of employees paid more than \$30,000	(B) Title and time devoted to position	(C) Contributions to employee benefit plans	(D) Expense account, other allowances	(E) Compensation

Total number of other employees paid over \$30,000 ▶

3 Five highest paid persons for professional services—(see instructions). If none, enter "NONE."

(A) Name and address of persons paid more than \$30,000	(B) Type of service	(C) Compensation

Total number of others receiving over \$30,000 for professional services ▶

Part IX Minimum Investment Return (All organizations must complete this part.)

1 Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:	
a Average monthly fair market value of securities	1a
b Average of monthly cash balances	1b
c Fair market value of all other assets (see instructions)	1c
d Total (add lines a, b, and c)	1d
e Reduction claimed for blockage or other factors (attach detailed explanation) ▶	1e
2 Acquisition indebtedness applicable to line 1 assets	2
3 Line 1d minus line 2	3
4 Cash deemed held for charitable activities—Enter 1½% of line 3 (for greater amount, see instructions)	4
5 Line 3 minus line 4	5
6 Minimum investment return (enter 5% of line 5)	6

Part X Computation of Distributable Amount (see instructions) (Section 4942(f)(3) and (j)(5) private operating foundations check here and do not complete this part.)

1 Minimum investment return from Part IX, line 6		1
2 Total of:		
a Tax on investment income for 1989 from Part VI, line 5	2a	
b Income tax under subtitle A, for 1989	2b	2c
3 Distributable amount before adjustments (line 1 minus line 2c)		3
4 Additions to distributable amount:		
a Recoveries of amounts treated as qualifying distributions	4a	
b Income distributions from section 4947(a)(2) trusts	4b	4c
5 Line 3 plus line 4c		5
6 Deduction from distributable amount (see instructions)		6
7 Distributable amount as adjusted (line 5 minus line 6) (Also enter in Part XIV, line 1.)		7

Part XI Limitation on Grant Administrative Expenses

Calendar year (or fiscal year beginning in):	(a) 1989	(b) 1988	(c) 1987	(d) Total
1 Net value of noncharitable-use assets (see instructions)				
2 Multiply line 1 by .0065				
3 Grant administrative expenses treated as qualifying distributions (from Part XI, line 7, from the Form 990-PF for each of the two prior years)				
4 Grant administrative expenses for 1989 (from Part XI, line 13)				
5 Maximum amount of 1989 grant administrative expenses that may be treated as qualifying distributions (line 2, column (c), minus line 3, column (d))				
6 Excess grant administrative expenses for 1989 (line 4 minus line 5; if negative, enter -0-; enter result in Part XIII, line 5)				
7 Grant administrative expenses treated as qualifying distributions in 1989 (line 4 minus line 6)				

Note: The amount on line 7 will be used in completing the schedule for 1990.

Part XII Schedule of Grant Administrative Expenses (see instructions)

1 Compensation of officers, directors, trustees, etc.	1
2 Other employee salaries and wages	2
3 Pension plans, employee benefits	3
4 Legal fees	4
5 Accounting fees	5
6 Other professional fees	6
7 Interest	7
8 Taxes	8
9 Occupancy	9
10 Travel, conferences, and meetings	10
11 Printing and publications	11
12 Other expenses	12
13 Total (add lines 1 through 12)	13

Part XIII Qualifying Distributions (see instructions)

1 Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:	
a Expenses, contributions, gifts, etc.—total from Part I, column (d), line 26	1a
b Program-related investments	1b
2 Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	2
3 Amounts set aside for specific charitable projects that satisfy the:	
a Suitability test (prior IRS approval required)	3a
b Cash distribution test (attach the required schedule)	3b
4 Total (add lines 1a through 3b)	4
5 Enter excess grant administrative expenses from Part XI, line 6	5
6 Total qualifying distributions (line 4 minus line 5). Enter this amount in Part XIV, line 4	6
7 Organizations that qualify under section 4940(e) for the reduced rate of tax on net investment income—enter 1% of Part I, line 27b (see instructions)	7
8 Qualifying distributions (line 6 minus line 7)	8

Note: The amount on line 8 will be used in Part V, column (b), when calculating the section 4940(e) reduction of tax in subsequent years.

Part XIV Computation of Undistributed Income (see instructions)

	(a) Corpus	(b) Years prior to 1988	(c) 1988	(d) 1989
1 Distributable amount for 1989 from Part X				
2 Undistributed income, if any, as of the end of 1988				
a Enter amount for 1988 only				
b Total for prior years: 19 19 19				
3 Excess distributions carryover, if any, to 1989:				
a From 1984				
b From 1985				
c From 1986				
d From 1987				
e From 1988				
f Total of lines 3a through e				
4 Qualifying distributions for 1989:				
a Applied to 1988, but not more than line 2a				
b Applied to undistributed income of prior years (Election required—see instructions)				
c Treated as distributions out of corpus (Election required—see instructions)				
d Applied to 1989 distributable amount				
e Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 1989. (If an amount appears in column (d), the same amount must be shown in column (a))				
6 Enter the net total of each column as indicated below:				
a Corpus. Add lines 3f, 4c, and 4e. Subtract line 5				
b Prior years' undistributed income (line 2b minus line 4b)				
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed				
d Subtract line 6c from line 6b. Taxable amount—see instructions				
e Undistributed income for 1988 (line 2a minus line 4a). Taxable amount—see instructions				
f Undistributed income for 1989 (line 1 minus lines 4d and 5). This amount must be distributed in 1990				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(E) or 4942(g)(3) (see instructions)				
8 Excess distributions carryover from 1984 not applied on line 5 or line 7 (see instructions)				
9 Excess distributions carryover to 1990 (line 5a minus lines 7 and 8)				
10 Analysis of line 9:				
a Excess from 1985				
b Excess from 1986				
c Excess from 1987				
d Excess from 1988				
e Excess from 1989				

Part XV Private Operating Foundations (see instructions and Part VII, question 9)

1a If the foundation has received a ruling or determination letter that it is a private operating foundation, and the ruling is effective for 1989, enter the date of the ruling

b Check box to indicate whether you are a private operating foundation described in section 4942(j)(3) or 4942(j)(5)

2a Enter the lesser of the adjusted net income from Part I or the minimum investment return from Part IX for 1989, 1988, 1987, and 1986

Tax year	Prior 3 years			(e) Total
(a) 1989	(b) 1988	(c) 1987	(d) 1986	
b 85% of line 2a				
c Qualifying distributions from Part XIII, line 6, for 1989, 1988, 1987, and 1986				
d Amounts included in line 2c not used directly for active conduct of exempt activities				
e Qualifying distributions made directly for active conduct of exempt activities (line 2c minus line 2d)				

3 Complete 3a, b, or c for the alternative test on which you rely:

a "Assets" alternative test—enter:

(1) Value of all assets

(2) Value of assets qualifying under section 4942(j)(3)(B)(i)

b "Endowment" alternative test—Enter 3/5 of minimum investment return shown in Part IX, line 6, for 1989, 1988, 1987, and 1986

c "Support" alternative test—enter:

(1) Total support other than gross investment income (interest, dividends, rents, payments on securities loans (section 512(a)(5)), or royalties)

(2) Support from general public and 5 or more exempt organizations as provided in section 4942(j)(3)(B)(ii)

(3) Largest amount of support from an exempt organization

(4) Gross investment income

Part XVI Supplementary Information (Complete this part only if you had \$5,000 or more in assets at any time during the year—see instructions.)

1 Information Regarding Foundation Managers:

a List here any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than \$5,000). (See section 507(d)(2).)

b List here any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest.

2 Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:

Check here if you only make contributions to preselected charitable organizations and do not accept unsolicited requests for funds. If you make gifts, grants, etc., (see instructions) to individuals or organizations under other conditions, complete items a, b, c, and d.

a The name, address, and telephone number of the person to whom applications should be addressed.

b The form in which applications should be submitted and information and materials they should include.

c Any submission deadlines.

d Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors.

Form 990-PF (1989) Page 10

Part XVII Supplementary information (continued)
3 Grants and Contributions Paid During the Year or Approved for Future Payment

Recipient	Name and address (home or business)	Foundation status of grant or contribution recipient	Purpose of grant or contribution	Amount
<i>a</i>	<i>Fund during the year</i>			
Total ▶ 3b				
<i>b</i>	<i>Approved for future payment</i>			
Total ▶ 3b				

Part XVII A Summary of Grant Programs and Other Activities

1	2	3	4	5
Direct charitable activities (describe each):	Grants and program-related investments	Administrative expenses	(c) Total	
a				
b				
c				
d				
e				
Total ▶ 3b				

Part XVII B Supporting Data

1 For the foundation's principal direct charitable activities and program-related investments, provide a schedule of relevant statistical information, such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.

2 Attach a schedule for Part XVII-A, lines 2 and 3, setting forth for each activity or investment area the amount of any income produced by it.

Form 990-PF (1989) Page 11

Part XVIII Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.

1	Program service revenue:	Unrelated business income		Exclude by section 512, 513, or 514	
		(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount
(a)					(e) Rebled or exempt function income
(b)					
(c)					
(d)					
(e)					
(f)					
(g)	Fees from government agencies				
(h)	Membership dues and assessments				
(i)	Interest on savings and temporary cash investments				
(j)	Dividends and interest on securities				
(k)	Net rental income (loss) from real estate:				
(l)	(a) debt-financed property				
(m)	(b) not debt-financed property				
(n)	Net rental income (loss) from personal property				
(o)	Other investment income				
(p)	Gain (loss) from sales of assets other than inventory				
(q)	Net income from special fundraising events				
(r)	Gross profit (loss) from sales of inventory				
(s)	Other revenue: (a)				
(t)	(b)				
(u)	(c)				
(v)	(d)				
(w)	(e)				
12 Subtotal (add columns (b), (d), and (e))					
13 TOTAL (add line 12, columns (b), (c), and (e))					

Part XVIII B Relationship of Activities to the Accomplishment of Exempt Purposes

Line No. Explain below how each activity for which income is reported in column (e) of Part XVIII-A contributes importantly to the accomplishment of your exempt purposes (other than by providing funds for such purposes).

Part XXX Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

- 1 Did the organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?
a Transfers from the reporting organization to a noncharitable exempt organization of:
(i) Cash
(ii) Other assets
b Other Transactions:
(i) Sales of assets to a noncharitable exempt organization.
(ii) Purchases of assets from a noncharitable exempt organization
(iii) Rental of facilities or equipment
(iv) Reimbursement arrangements
(v) Loans or loan guarantees
(vi) Performance of services or membership or fundraising solicitations
c Sharing of facilities, equipment, mailing lists or other assets, or paid employees
d If answer to any of the above is "Yes", complete the following schedule. The "Amount involved" column below should always indicate the value of the goods, other assets, or services given by the reporting organization, if the organization received less than fair market value in any transaction or sharing arrangement, the column should also include the value of the goods, other assets, or services received.

Table with 5 columns: (a) Amount involved, (b) Name of noncharitable exempt organization, (c) Description of transfer, transaction, and sharing arrangement, (d) Date, (e) Yes/No. Includes 'Public Inspection' section with questions about notice of availability and newspaper publication.

Preparer's Signature and Date section. Fields for Preparer's name or title, signature, date, and firm's name (if self-employed).

Form 990EZ Return of Organization Exempt From Income Tax. Department of the Treasury Internal Revenue Service. For the calendar year 1989 or fiscal year beginning: BSSB and ending: 1989. Under section 501(c) (except black lung benefit trust or private foundation) of the Internal Revenue Code or section 4947(a)(1) trust. For organizations with gross receipts less than \$100,000 and total assets less than \$250,000 at end of year.

Part I Statement of Revenue, Expenses, and Changes in Net Assets or Fund Balances. Table with columns for Revenue and Expenses. Rows include: 1 Contributions, gifts, grants, and similar amounts received; 2 Program service revenue; 3 Membership dues and assessments; 4 Investment income; 5a Gross amount from sale of assets other than inventory; 5b Less: cost or other basis and sales expenses; 5c Gain or (loss) (attach schedule); 6 Special events and activities (attach schedule); 7a Gross sales less returns and allowances; 7b Less: cost of goods sold; 8 Gross profit or (loss); 9 Total revenue (add lines 1-2, 3-4, 5c, 6c, 7a, and 8); 10 Grants and similar amounts paid (attach schedule); 11 Benefits paid to or for members; 12 Salaries, other compensation, and employee benefits; 13 Professional fees and payments to other independent contractors; 14 Occupancy, rent, utilities, and maintenance; 15 Printing, publications, postage, and shipping; 16 Other expenses (describe); 17 Total expenses (add lines 10 through 15); 18 Excess or (deficit) for the year (line 9 less line 17); 19 Net assets or fund balances at beginning of year (from line 27, column (A)); 20 Other changes in net assets or fund balances (attach explanation); 21 Net assets or fund balances at end of year (add lines 18 through 20).

Part II Balance Sheets. Table with columns for (A) Total assets and (B) Total liabilities and fund balances. Rows include: 22 Cash, savings, and investments; 23 Land and buildings; 24 Other assets (describe); 25 Total assets; 26 Total liabilities (describe); 27 Net assets or fund balances (Column (B) must agree with line 21).

Form 990EZ (1989) Page 2

Part III Statement of Program Service Accomplishments—(See instructions.)

Describe what was achieved in carrying out your exempt purposes. Fully describe the services provided, the number of persons benefited, or other relevant information for each program title. Section 501(c)(3) and (4) organizations must also enter the amount of grants to others.

Part III		Expenses
Statement of Program Service Accomplishments		Required for section 501(c)(3) and (4) organizations; optional for other
28	(Grants \$)	
29	(Grants \$)	
30	(Grants \$)	
31	Other program services (attach schedule)	(Grants \$)
32	Total program service expenses (add lines 28 through 31)	

Part IV List of Officers, Directors, and Trustees (List each one even if not compensated. See instructions.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter zero)	(D) Contributions to employee benefit plans	(E) Expense account and other allowances

Part V Other Information—501(c)(3) organizations and 4947(a)(1) trusts must also complete and attach Schedule A (Form 990). (See instruction C1.)

	Yes	No
33 Did the organization engage in any activity not previously reported to the Internal Revenue Service? If "Yes," attach a detailed description of each activity.		
34 Were any changes made to the organizing or governing documents, but not reported to IRS? If "Yes," attach a conformed copy of the changes.		
35 If the organization had income from business activities, such as those reported on lines 2, 6, and 7 (among others), but NOT reported on Form 990-T, attach a statement explaining your reason for not reporting the income on Form 990-T.		
a Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?		
b If "Yes," have you filed a tax return on Form 990-T, Exempt Organization Business Income Tax Return, for this year?		
36 Was there a liquidation, dissolution, termination, or substantial contraction during the year? (See instructions.) If "Yes," attach a statement as described in the instructions.		
37a Enter amount of political expenditures, direct or indirect, as described in the instructions. 37a		
b Did you file Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations, for this year?		
38a Did you borrow from or make any loans to any officer, director, trustee, or key employee OR were any such loans made in a prior year and still unpaid at the start of the period covered by this return?		
b If "Yes," attach the schedule specified in the instructions and enter the amount involved. 38b		
39 Section 501(c)(7) organizations.—Enter:		
a Initiation fees and capital contributions included on line 9. 39a		
b Gross receipts, included on line 9, for public use of club facilities (see instructions). 39b		
c Does the club's governing instrument or any written policy statement provide for discrimination against any person because of race, color, or religion? (See instructions.)		
40 List the states with which a copy of this return is filed.		
41 The books are in care of Telephone no. Located at		
42 Section 4947(a)(1) trusts filing Form 990EZ in lieu of Form 1041, U.S. Fiduciary Income Tax Return.— Check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year. 42		

Please Sign Here: Signature of officer, Preparer's signature, Firm's name for use only, ZIP code. Check if self employed

SCHEDULE A Organization Exempt Under 501(c)(3)
(Form 990) (Except Private Foundation, 501(e), 501(f), 501(k), or Section 4947(a)(1) Trust) OMB No 1545-0047

Department of the Treasury 1989
Internal Revenue Service Supplementary Information
Name ▶ Attach to Form 990 (or Form 990EZ).

Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees (See specific instructions.) (List each one, if there are none, enter "None.")

(a) Name and address of employees paid more than \$30,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans	(e) Expense account and other allowances
Total number of other employees paid over \$30,000				

Part II Compensation of the Five Highest Paid Persons for Professional Services (See specific instructions.) (List each one, if there are none, enter "None.")

(a) Name and address of persons paid more than \$30,000	(b) Type of service	(c) Compensation
Total number of others receiving over \$30,000 for professional services		

Part III Statements About Activities

	Yes (1)	No (2)
1 During the year, have you attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the legislative activities. \$		
Complete Part VI of this form for organizations that made an election under section 501(h) on Form 5768 or other statement. For other organizations checking "Yes," attach a statement giving a detailed description of the legislative activities and a classified schedule of the expenses paid or incurred.		
2 During the year, have you, either directly or indirectly, engaged in any of the following acts with a trustee, director, principal officer, or creator of your organization, or any taxable organization or corporation with which such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:		
a Sale, exchange, or leasing of property?		
b Lending of money or other extension of credit?		
c Furnishing of goods, services, or facilities?		
d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?		
e Transfer of any part of your income or assets?		
If the answer to any question is "Yes," attach a detailed statement explaining the transactions.		
3 Do you make grants for scholarships, fellowships, student loans, etc.?		
4 Attach a statement explaining how you determine that individuals or organizations receiving disbursements from you in furtherance of your charitable programs qualify to receive payments. (See specific instructions.)		

For Paperwork Reduction Act Notice, see page 1 of the instructions to Form 990 (or Form 990EZ). Schedule A (Form 990) 1989

VR - 115-06-01 Department of Agriculture and Consumer Services

Proposed Regulations

Part IV Support Schedule (continued) (Complete only if you checked box 10, 11, or 12 on page 2.)

27 Organizations described in box 12, page 2.
 a Attach a list for amounts shown on lines 15, 16, and 17, showing the name of, and total amounts received in each year from, each "disqualified person," and enter the sum of such amounts for each year:
 (1986) (1987) (1988) (1989) (1990)

b Attach a list showing, for 1985 through 1989, the name and amount included in line 17 for each person (other than "disqualified persons") from whom the organization received more during that year than the larger of the amount on line 25 for the year or \$3,000; include organizations described in boxes 5 through 11 as well as individuals. Enter the sum of these excess amounts for each year:
 (1985) (1986) (1987) (1988) (1989)

Part V Private School Questionnaire (To be completed ONLY by schools that checked box 6 in Part IV)

28 For an organization described in box 10, 11, or 12, page 2, that received any unusual grants during 1985 through 1989, attach a list (not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15 above. (See specific instructions.)

29 Do you have a racially nondiscriminatory policy toward students by statement in your charter, bylaws, other governing instrument, or in a resolution of your governing body?
 Yes No
 () ()

30 Do you include a statement of your racially nondiscriminatory policy toward students in all your brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?
 Yes No
 () ()

31 Have you publicized your racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if you have no solicitation program, in a way that makes the policy known to all parts of the general community you serve?
 If "Yes," please describe: If "No," please explain. (If you need more space, attach a separate statement.)

32 Do you maintain the following:
 a Records indicating the racial composition of the student body, faculty, and administrative staff?
 b Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?
 c Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?
 d Copies of all material used by you or on your behalf to solicit contributions?
 If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)

33 Do you discriminate by race in any way with respect to:
 a Students' rights or privileges?
 b Admissions policies?
 c Employment of faculty or administrative staff?
 d Scholarships or other financial assistance? (See instructions.)
 e Educational policies?
 f Use of facilities?
 g Athletic programs?
 h Other extracurricular activities?
 If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)

34a Do you receive any financial aid or assistance from a governmental agency?
 b Has your right to such aid ever been revoked or suspended?
 If you answered "Yes" to either 34a or b, please explain using an attached separate statement.

Part IV Reason for Non-Private Foundation Status (See instructions for definitions.)
 The organization is not a private foundation because it is (please check only ONE applicable box):

- 5 A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- 6 A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 3.)
- 7 A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- 8 A Federal, State, or local government or governmental unit. Section 170(b)(1)(A)(iv).
- 9 A medical, research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(v) (i). Enter name, city, and state of hospital.
- 10 An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(vi).
- 11 An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vii). (Also complete Support Schedule.)
- 12 An organization that normally receives: (a) no more than 1/8 of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975, and (b) more than 1/8 of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions—subject to certain exceptions. See section 509(a)(2). (Also complete Support Schedule.)
- 13 An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) boxes 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). See section 509(a)(3).

Provide the following information about the supported organizations. (See instructions for Part IV, box 13.)

(a) Name of supported organizations	(b) Box number from above			
	(a)	(b)	(c)	(d)
	1988	1987	1986	1985
	Total			

14 An organization organized and operated to test for public safety. Section 509(b)(4). (See specific instructions.)

Support Schedule (Complete only if you checked box 10, 11, or 12 above.) Use cash method of accounting.

15 Gift, grant, and contributions received (Do not include unusual grants. See line 28.)

16 Membership fees received

17 Gross receipts from admissions, merchandise sold or services performed, or licensing of any activity that is not a business unrelated to the organization's charitable, etc., purposes

18 Gross income from interest, dividends, net asset sales, and other investments on securities (section 512(b)(5)), rents, royalties, and unrelated business taxable income less section 511 taxes from businesses acquired by the organization after June 30, 1975

19 Net income from unrelated business activities not included in line 18

20 Tax revenues levied for your benefit and either paid to you or expended on your behalf

21 This value of services or facilities furnished to you by a governmental unit entitles you to a credit against the value of services or facilities generally furnished to the public without charge

22 Other income (Attach schedule. Do not include gain or loss) from sale of capital assets

23 Total of lines 15 through 22

24 Line 23 minus line 17

25 Enter 1% of line 23

26 Organizations described in box 10 or 11:
 a Enter 2% of amount in column (e), line 24.
 b Enter 2% of amount in column (e), line 24, plus amount contributed by each person (other than a governmental unit or publicly supported organization) whose initials for 1985 through 1988

Proposed Regulations

STATE AIR POLLUTION CONTROL BOARD

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

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

Public Hearing Date: October 10, 1990 - 10 a.m. and 2 p.m.

(See Calendar of Events section for additional information)

Summary:

The regulation amendments concern provisions covering operating permits for stationary sources. The proposed regulation requires a permit to operate for all stationary sources with exemptions for some smaller facilities. The proposal will (i) enhance the department's ability to ensure compliance with emission standards, (ii) reduce the levels of allowable emissions for existing stationary sources to provide for growth of new emissions, and (iii) provide a mechanism to substitute for consent orders when necessary to enforce source specific requirements.

The major provisions of the proposal are summarized below:

1. **Applicability.** All stationary sources must get an operating permit except those new and existing sources that fall below the new source exemption levels in Appendix R of the current regulations.

2. **Phase-in of the program.** The program will be phased in slowly over its first four years. During this time operating permits will be issued only to major existing sources, those emitting 100 tons or more per year of volatile organic compounds, sulfur oxides, nitrogen oxides, particulate matter, or carbon monoxide, and any other sources that need to have operating permits issued to them in order to remedy a violation of the air quality standards. There are approximately 450 major stationary sources, of which about 350 are currently operating without a permit that covers the entire source. Many of these operating permits will be issued in conjunction with the issuance of new source construction permits as existing sources surrounding proposed new sources are evaluated. Following this initial phase a schedule will be set for the rest of the sources that will be required to get an operating permit, approximately 4,300 sources.

3. **Expiration and renewability.** Operating permits will be issued for a period not to exceed five years but will be renewed if the source meets the standards and conditions set out in the regulation.

4. **Standards and conditions for granting the permit.** To obtain the operating permit, each owner must be able to operate without violating any provisions of the

regulations applicable to the source; must be in compliance with all applicable emission standards; must not cause or contribute to violations of applicable air quality standards; and must not prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.

5. **Limits on emissions of sources.** Each operating permit will set out for the various facilities within each source the emission limits and other regulatory requirements to be met. Emission limits will be set to restrict the emissions allowed for each existing source to some level above the actual levels currently emitted by the source but below that allowed by regulations now in effect.

6. **Emission tests.** The owner may be required to conduct emission or other tests to determine if the source is meeting applicable emission limits.

7. **Monitoring requirements.** The owner may be required to install and operate emission monitoring or process parameter monitoring equipment so that it can be determined at regular intervals whether the source is meeting applicable emission limits on a continuous basis.

8. **Reporting requirements.** The owner may be required to maintain records and provide reports on emission levels or process parameters that are being monitored and the results of emission tests performed.

9. **Enforcement.** The department may revoke an operating permit if the permittee fails to comply with the terms or conditions of the permit or with the requirements of the regulations. Under the Administrative Process Act, appeals to the board and subsequent appeals to the judicial system are both available. The board has the authority to use these enforcement mechanisms now.

10. **Public participation.** To make the operating permits issued under this program federally enforceable, permit applications for major stationary sources will be subject to a public comment period of 30 days. During the public comment period, affected parties may request that a public hearing be held.

VR 120-01. Regulations for the Control and Abatement of Air Pollution.

PART VIII. PERMITS FOR STATIONARY SOURCES.

§ 120-08-04. Permits - operating.

A. Applicability.

1. Except as provided in subdivision A 3 of this section, the provisions of this section apply to the operation of any stationary source.

2. The provisions of this section apply throughout the Commonwealth of Virginia.

3. The provisions of this section shall not apply to the following:

a. Any source exempted by the new source exemption levels in Appendix R.

b. Any existing source that would be exempted by the new source exemption levels in Appendix R if the source were a new source.

4. Unless specified otherwise, the provisions of this section are applicable to various sources as follows:

a. Provisions referring to "sources" or "stationary sources" are applicable to the operation of all stationary sources.

b. Provisions referring to "major stationary sources" are applicable to the operation of all major stationary sources as may be defined by the applicable regulation.

B. Definitions.

1. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subdivision B 3 of this section.

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

3. Terms defined.

"Actual emissions" means the actual rate of emissions of a pollutant from any stationary source. In general, actual emissions as of a particular date shall equal the highest annual rate, in tons per year, at which the source actually emitted a pollutant during the consecutive five-year period which precedes the particular date and which is representative of normal source operation. The board may allow the use of a different historical time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"Allowable emissions" means the emission rates of a stationary source calculated by using the maximum rated capacity of the source (unless the source is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:

a. Applicable emission standards.

b. The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date.

c. Any other applicable emission limitation, including those with a future compliance date.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any air pollutant.

"Existing source" means any stationary source other than a new source.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to (i) 40 CFR 52.21; (ii) § 120-08-01, § 120-08-02, or § 120-08-03; or (iii) this section, provided the public participation requirements of subsection R of this section are met.

"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any air pollutant.

"New source" means any stationary source (or portion thereof), the construction or relocation of which commenced on or after March 17, 1972; and any stationary source (or portion thereof), the reconstruction of which commenced on or after December 10, 1976.

"Nonattainment condition" means a condition where any area is shown by air quality monitoring data or which is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or future emissions data.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a

Proposed Regulations

stationary source.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"State enforceable" means all limitations and conditions which are enforceable by the board, including those requirements developed pursuant to § 120-02-11, requirements within any applicable order or variance, and any permit requirements established pursuant to Part VIII.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see Appendix M).

C. General.

1. No owner or other person shall operate any stationary source without first obtaining from the board a permit to operate the source. The schedule of issuance of these permits shall be as follows:

a. No owner or other person shall operate any existing major stationary source after January 1, 1995, without first obtaining from the board a permit to operate the source. Permit applications to obtain these permits shall be submitted between January 1, 1991, and October 1, 1994, on a schedule to be determined by the board.

b. Permit applications for all other stationary sources shall be submitted on and permits shall be issued on a schedule to be approved by the board. The schedule shall be approved by the board by July 1, 1994. The provisions of this section are waived for such sources until such time as the board prescribes the required schedule.

2. The board may combine the requirements of and the permits for stationary sources subject to Part VIII

into one permit. The board may likewise combine the requirements of and applications for permits required by Part VIII into one application.

3. Permits issued under the provisions of § 120-08-01, § 120-08-02 or § 120-08-03 may be considered as having met the requirements of this section but shall be subject to the provisions of subsections P and Q of this section.

4. No provision of these regulations shall limit the power of the board to issue an operating permit pursuant to this section in order to remedy a condition that may cause or contribute to the endangerment of human health or welfare or to remedy a nonattainment condition or both.

5. Operating a stationary source without a permit issued under this section shall not constitute a violation of this section provided the failure to obtain a permit was due to the failure of the board to issue a permit without specific notice under subdivision G 4 or Q 6 of this section.

6. Any decisions of the board made pursuant to this section may be appealed pursuant to § 120-02-09 or section I B of Appendix F of these regulations.

D. Applications.

1. Applications for permits shall be signed by the corporate president or by another duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the owner; or, in the case of governmental entities, by the highest executive official of such entities. Such signature shall constitute personal affirmation that the statements made in the application are true and complete to the best of the knowledge and belief of the signer.

2. A single application is required identifying each emission unit subject to this section. The application shall be submitted according to procedures approved by the board. Where several units are included in one source, a single application covering all units in the source shall be submitted. A separate application is required for each location.

E. Information required.

1. Each application for a permit shall include such information as may be required by the board to determine the effect of the source on the ambient air quality and to determine compliance with applicable emission standards. The information required shall include, but is not limited to, the following:

a. All information specified on forms furnished by the board. Any calculations shall include sufficient detail to permit assessment of the validity of such

calculations.

b. Any information or analysis that the board deems necessary to review the air quality impact of the source.

c. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the source.

2. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.

F. Standards and conditions for granting permits.

1. No permit shall be granted pursuant to this section unless it is shown to the satisfaction of the board that the following standards and conditions will be met:

a. The source shall operate without causing a violation of the applicable provisions of these regulations.

b. The source shall be in compliance with all applicable emission standards or meet the provisions of any administrative enforcement mechanism issued pursuant to § 120-02-03 A 1.

c. The source shall not cause or contribute to a violation of any applicable ambient air quality standard.

d. The source shall operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted so as not to prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.

2. Permits may be granted to sources located in nonattainment areas provided the requirements of subdivisions F 1 a, b and d of this section are met.

3. To obtain a permit under this section, sources of non-criteria pollutants must be reviewed under Rule 4-3 or Rule 5-3, as may be applicable, for the noncriteria pollutants emitted. If the review has not been completed, the permit may be issued if the permit contains a schedule for the evaluation of the noncriteria pollutants emitted by the affected source.

4. No permit shall be granted pursuant to this section unless it contains emission standards for the source. The following criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are met permanently:

a. If a facility was subject to emission standards prescribed in these regulations prior to the date the

permit is issued, a standard covering the facility and pollutants subject to the emission standards shall be incorporated into the permit issued under this section.

b. A permit issued under this section may also contain emission standards for facilities or pollutants that were not subject to emission standards prescribed in these regulations prior to the issuance of the permit.

c. Each standard shall be based on averaging time periods for the standards as appropriate based on applicable air quality standards, any emission standard applicable to the source prior to the date the permit is issued, or the operation of the source, or any combination thereof. The emission standards may include the level, quantity, rate, or concentration or any combination thereof for each affected pollutant.

d. In no case shall a standard result in emissions which would exceed the lesser of the following:

(1) Allowable emissions for the emissions unit based on emission standards applicable prior to the date the permit is issued.

(2) The emissions level based on the potential to emit of the emissions unit.

e. The emission standards shall contain emission limitations based on the highest actual emissions documented over the five years prior to the permit application date, taking into account energy, environmental, health-related toxic and economic impacts, and other factors. Emission standards shall only include limitations that are determined by the board to be achievable through application of production processes or available methods, systems, and techniques, including, but not limited to, any of the following: fuel cleaning or treatment; fuel combustion techniques; or substitution of less toxic or nontoxic materials.

f. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination thereof.

5. In consideration of the factors specified below, the owner may propose and the board may establish an alternative emission standard provided the owner demonstrates to the satisfaction of the board that it meets the standards and conditions in subdivisions F 1 and F 4 a and d of this section.

a. The impact upon the ability of the source to operate in a competitive and efficient manner.

Proposed Regulations

b. The previous efforts to reduce actual emissions taken at the owner's initiative.

c. The technological and economic practicality of reducing emissions.

d. The impact upon the availability and cost of fuels and process materials.

6. An emissions standard may be changed to allow an increase in emissions level provided the amended standard meets the requirements of subdivisions F 1 and F 4 a and d of this section, and the increased emission levels would not make the source subject to § 120-08-01, § 120-08-02, or § 120-08-03, as appropriate.

7. Operating permits issued under this section shall contain, but not be limited to, the following elements:

a. Emission standards as set out in this subsection.

b. Conditions necessary to enforce emission standards. Conditions to provide enforceability may include, but not be limited to, the following:

(1) Limit on fuel sulfur content.

(2) Limit on production rates with time frames as appropriate to support the emission standards in this subsection.

(3) Limit on raw material usage rate.

(4) Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment.

c. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size.

d. Specifications for air pollution control equipment installed or to be installed and the circumstances under which such equipment shall be operated.

e. Specifications for air pollution control equipment operating parameters, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, the following:

(1) Pressure indicators and required pressure drop.

(2) Temperature indicators and required temperature.

(3) pH indicators and required pH.

(4) Flow indicators and required flow.

f. The expiration date of the permit.

g. Other requirements as may be necessary to ensure compliance with the applicable state and federal regulations.

8. Operating permits issued under this section may contain, but not be limited to, the following elements:

a. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.

b. Stack test requirements.

c. Reporting or recordkeeping requirements or both.

d. Continuous emission or air quality monitoring requirements or both.

G. Action on permit application.

1. After receipt of an application or any additional information, the board shall advise the applicant of any deficiency in such application or information.

2. When supported by justification which the board deems adequate, the board may, upon request by an owner, extend the expiration date of a permit by a period not to exceed 180 days for the purpose of allowing sufficient time for an owner to correct such deficiencies in the application as have been identified by the board and to allow completion of the application review by the board.

3. Processing time for a permit is normally 90 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to:

a. Completion of the preliminary review and analysis in accordance with subsection H of this section and the preliminary decision of the board.

b. Inspection of the source, provided an inspection has not been conducted within the last six months.

c. Public comment period, when required by subsection R of this section.

d. Completion of the final review and analysis and the final decision of the board.

4. The board normally will take action on all applications after completion of the review and analysis, unless more information is needed. The board shall issue the permit or notify the applicant in writing of its decision, with its reasons, not to issue the permit.

5. Within five days after receipt of the permit pursuant to subdivision G 4 of this section, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

H. Application review and analysis.

No permit shall be granted pursuant to this section unless compliance with the standards in subsection F of this section is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

1. Applications shall be subject to a control technology review to determine if such source is equipped to comply with all applicable emission standards.

2. Applications may be subject to an air quality analysis to determine the impact of pollutant emissions.

I. Compliance determination and verification by testing.

1. The board may require owners of sources subject to this section to conduct such tests as are necessary to determine the type or amount or both of the pollutants emitted from the source, whether the source will be in compliance with any provision of any regulation of the board, or for any other reason to carry out the air quality programs of the board. Such tests shall be conducted in a manner acceptable to the board.

2. The requirements under subdivision I 1 of this section shall be carried out in accordance with the provisions contained in Parts IV, V, and VI, as applicable, or by other means acceptable to the board.

J. Monitoring requirements.

1. The board may require owners of sources subject to this section to install, calibrate, operate and maintain such monitoring equipment, and establish and maintain records, and make periodic emission reports as the board may prescribe. These requirements shall be conducted in a manner acceptable to the board.

2. The requirements under subdivision J 1 of this section shall be carried out in accordance with the provisions contained in Parts IV, V, and VI, as applicable, or by other means acceptable to the board.

K. Reporting requirements.

1. The board may require owners of sources subject to this section to establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results in a manner and form and using procedures as the board may

prescribe. Any records, notifications, reports, or tests required under this section shall be retained by the owner for at least two years following the date of such records, notifications, reports or tests.

2. The requirements under subdivision K 1 of this section shall be carried out in accordance with the provisions contained in Parts IV, V, and VI, as applicable, or by other means acceptable to the board.

3. If a stationary source is shut down, the owner shall notify the board within six months of the date the source is shut down.

L. Existence of permit no defense.

The existence of a permit under this section shall not constitute a defense to a violation of the Virginia Air Pollution Control Law or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

M. Circumvention.

Regardless of the exemptions provided in this section, no owner or other person shall circumvent the requirements of this section by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

N. Compliance with local zoning requirements.

The owner shall comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located provided, however, that such compliance does not relieve the board of its duty under § 120-02-14 of these regulations and § 10.1-1307 E of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

O. Transfer of permits.

1. No person shall transfer a permit from one location to another, or from one piece of equipment to another.

2. In the case of a transfer of ownership or name change of a source, the new owner shall abide by any current permit issued to the previous owner or to the same owner under the previous source name. The new owner shall notify the board of the change in ownership or source name or both within 30 days of the transfer.

P. Expiration, extension and renewal of permits.

1. In cases where a stationary source is operational, a permit or any renewal thereof shall be valid for a period not to exceed five years from the date of

Proposed Regulations

issuance.

2. In cases where the stationary source has been issued a permit under § 120-08-01, § 120-08-02, or § 120-08-03 and is not operational, a permit or any renewal thereof shall be valid for a period not to exceed five years from the date the source or any portion thereof becomes operational.

3. Not less than 180 days prior to the expiration date of the permit, the applicant shall make application for renewal of the permit if the applicant desires to continue operation of that source.

4. The application for renewal of a permit shall be substantiated with current emissions data, test results, reports or other data as deemed necessary by the board.

5. Upon a final decision by the board that a stationary source is shut down permanently, the board shall revoke the permit by written notification to the owner and remove the source from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the source shall not commence operation without a permit being issued under the applicable provisions of Part VIII.

a. The final decision shall be rendered as follows:

(1) Upon a determination that the source has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the source is considered to be shut down permanently and (ii) that if the owner fails to provide within three months of the notice written response to the board that the shutdown is not to be considered permanent, the decision shall become final within six months of the notice. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart-up of the source.

(2) If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the decision to consider the shutdown permanent shall become final one year after the date of the notice of the tentative decision.

b. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a source is shutdown permanently prior to any final decision rendered under subdivision 5 a of this subsection.

Q. Enforcement.

1. Permits issued under this section shall be subject to such terms and conditions set forth in the permit as

the board may deem necessary to ensure compliance with all applicable standards.

2. Regardless of the provisions of subdivisions P 1 or 2 of this section, the board may revoke any permit prior to its expiration date if the permittee:

a. Willfully makes material misstatements in the permit application or any amendments thereto;

b. Fails to comply with the terms or conditions of the permit;

c. Fails to comply with any emission standards applicable to an affected facility included in the permit;

d. Causes emissions from the source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard;

e. Fails to comply with the provisions of §§ 120-08-01, 120-08-02 and 120-08-03.

3. The board may order appropriate changes to any permit whenever it finds that the conditions of the permit will not be sufficient to meet all of the standards and requirements contained in this section.

4. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation contained in subdivision Q 2 of this section or for any other violations of these regulations.

5. Violation of these regulations shall be grounds for revocation of permits issued under this section and are subject to the civil charges, penalties and all other relief contained in Part II of these regulations and §§ 10.1-1309, 10.1-1311 and 10.1-1316 of the Virginia Air Pollution Control Law.

6. The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit.

R. Public participation.

1. Prior to the decision of the board, permit applications for major stationary sources shall be subject to a public comment period of at least 30 days.

2. When a public comment period is required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment on the information available for public inspection under the provisions of subdivision 2 a of this subsection.

a. Information on the permit application (exclusive of confidential information under § 120-02-30), as well as the preliminary review and analysis and tentative determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

b. A copy of the notice shall be sent to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to reconsider the tentative determination of the board. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

a. The name, mailing address and telephone number of the requester.

b. The names and addresses of all persons for whom the requester is acting as a representative.

c. The reason why a hearing is requested.

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the decision of the board.

4. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper; and within 30 calendar days following the expiration of the public comment period shall grant a public hearing if it finds the following:

a. There is significant public interest in the permit application in question.

b. There are substantial, disputed issues relevant to the permit application in question.

5. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of procedures for the public hearing and for the final decision under this section.

6. If the board decides to hold a public hearing, the

hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required in subdivision R 5 of this section.

7. The procedures for notification to the public and availability of information used for the public comment period or provided in subdivision 2 of this subsection shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.

8. The requirements of this subsection that provide for a public hearing shall not apply to the renewal of permits provided the renewed permit does not allow an increase in any pollutant emissions.

COMMONWEALTH OF VIRGINIA
Department of Air Pollution Control

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR
POLLUTION CONTROL

PERSON COMPLETING FORM	DATE	REGISTRATION NO.
------------------------	------	------------------

SECTION 1 - GENERAL INFORMATION (cont.)

If this facility has been previously registered by the Department of Air Pollution Control, list the registration number assigned. _____

SECTION 1
GENERAL INFORMATION FOR PERMIT APPLICATIONS

REASON FOR SUBMITTAL:

NEW SOURCE

EXISTING SOURCE - new process or equipment

EXISTING SOURCE - Modification of existing process or equipment

CHANGE OF OWNERSHIP OR LOCATION

OPERATING PERMIT APPLICATION/RENEWAL

OTHER (specify) _____

FOR AGENCY USE ONLY

PLANT REGISTRATION NUMBER: MAJOR SIC CODE:

COUNTY: CITY: GRID NUMBER:

PLANT I.D.: HEIGHT ABOVE MSL (ft):

UTM COORDINATES:

LIST THE PRODUCTS MANUFACTURED AND/OR SERVICES PERFORMED AT THIS FACILITY:

LIST THE STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE(S) FOR YOUR FACILITY:

ZONING - is location zoned? Yes _____ No _____

- if yes, specify classification _____

COMPANY AND DIVISION NAME		
MAILING ADDRESS		
TELEPHONE NUMBER ()	NUMBER OF EMPLOYEES AT SITE	PROPERTY AREA AT SITE
EXACT SOURCE LOCATION - INCLUDE NAME OF LOCALITY (COUNTY) AND ATTACH MAP WITH PROPERTY BOUNDARIES		
PERSON TO CONTACT ON AIR POLLUTION MATTERS - TITLE		PHONE NUMBER ()
TYPE OR PRINT NAME OF OWNER OR CERTIFIED COMPANY OFFICIAL - TITLE		
SIGNATURE		DATE

MILESTONES	ESTIMATED STARTING DATE	ESTIMATED COMPLETING DATE
New source construction	_____	_____
New equipment installation	_____	_____
Modification of existing process or equipment	_____	_____
Transfer of ownership or location	_____	_____
Start Up	_____	_____

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

SECTION 2 - FUEL BURNING EQUIPMENT

COMPANY NAME		DATE	REGISTRATION NUMBER				
ADDRESS		PERSON COMPLETING FORM					
REF. NO.	EQUIPMENT MANUFACTURER AND MODEL NUMBER	* MAXIMUM RATED HEAT CAPACITY MILLION BTU/HR INPUT	TYPE OF EQUIPMENT (use Code A)	MAXIMUM RATED STEAM FLOW			USAGE (use Code B)
				QUANTITY (lb/hr)	PRESS. (psig)	TEMP. (,F)	

* FOR EACH FUEL

- | | | |
|--|---|--|
| <p>Code A - Equipment Type</p> <ol style="list-style-type: none"> 1. Pulverized Coal-Wet Bottom 2. Pulverized Coal-Dry Bottom 3. Pulverized Coal-Cyclone Furnace 4. Spreader Stoker 5. Chain or Traveling Grate Stoker 6. Underfeed Stoker 7. Hand Fired Coal | <ol style="list-style-type: none"> 8. Oil, Tangentially Fired 9. Oil, Horizontally Fired (except rotary cup) 10. Gas, Tangentially Fired 11. Gas, Horizontally Fired 12. Wood with Flyash Reinjection (specify %) 13. Wood without Flyash Reinjection 14. Combustion Turbine (specify type) 99. Other (specify) _____ | <p>Code B - Usage</p> <ol style="list-style-type: none"> 1. Boiler, Steam 2. Boiler, Other (specify) 3. Space Heating (air) 4. Process Heat (air) 99. Other (specify) _____ |
|--|---|--|

APC - FORM 7 (Section 2, Page 1A.1)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - FUEL BURNING EQUIPMENT

FUEL(S) DATA								
REF. NO.	*TYPE OF FUEL	** MAXIMUM EXPECTED BURNED/HOUR (specify units)	** MAXIMUM EXPECTED BURNED/DAY (specify units)	PAST FIVE YEARS	**HIGHEST ACTUAL BURNED/YEAR (specify units)	HIGHER HEATING VALUE (specify units)	MAX. % SULFUR	MAX. % ASH
				1985				
				1986				
				1987				
				1988				
				1989				
				1985				
				1986				
				1987				
				1988				
				1989				

* Identify All Types of Fuels (Including Auxiliary Fuels, In-Process Fuels) and Corresponding Data
 ** Use Tons for Solid Fuels, Thousands of Gallons for Liquids, Millions of Cubic Feet for Gaseous Fuels
 APC - FORM 7 (Section 2, Page 1A.2)

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

SECTION 2 - PROCESSING AND MANUFACTURING OPERATIONS

COMPANY NAME	DATE	REGISTRATION NUMBER
ADDRESS	PERSON COMPLETING FORM	

REF. NO.	* PROCESS OR OPERATION NAME	** MAX. RATED CAPACITY _____/HR	PAST FIVE YEARS	**HIGHEST ACTUAL FEED INPUT			**HIGHEST ACTUAL PROD. OUTPUT		
				_____/HR	_____/DAY	_____/YR	_____/HR	_____/DAY	_____/YR
			1985						
			1986						
			1987						
			1988						
			1989						
			1985						
			1986						
			1987						
			1988						
			1989						

* Include flow diagram (process schematic) relating process steps and a narrative description including feed materials, product materials, reaction intermediates and by-products; attach MSDS for raw materials used and products manufactured.

** Specify units for each operation in Tons, Pounds, Gallons, Etc...

APC - FORM 7 (Section 2, Page 1B)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

SECTION 2 - INCINERATORS

COMPANY NAME	DATE	REGISTRATION NUMBER
ADDRESS	PERSON COMPLETING FORM	

REF. NO.	* MANUFACTURER & MODEL NUMBER	WASTE TYPE (use Code C)	WASTE TYPE (use Code D)	INGIN. MAX. RATED CAP. LBS/HR	PAST FIVE YEARS	HIGHEST ACTUAL AMOUNT BURNED		BURNER RATED CAPACITY BTU/HR		MINIMUM CHAMBER TEMPERATURE (,F)		MINIMUM SECONDARY CHAMBER RETENTION TIME (sec)	BURN DOWN CYCLE TIME (hrs)
						LBS/DAY	TONS/YR	PRIM.	SECOND.	PRIM.	SECOND.		
					1985								
					1986								
					1987								
					1988								
					1989								
					1985								
					1986								
					1987								
					1988								
					1989								

Include diagram and special features of unit; if unit is used for heat recovery, provide information on page 1A (Fuel Burning Code C - Incinerator Type)

- | | | | |
|----------------------------------|---------------------------|--------------|---------------------------|
| 1. Rotary Kiln | 4. Single Chamber | 1. Paper | 5. Crematory |
| 2. Mass Burn/Refuse Derived Fuel | 5. Multiple Chamber | 2. Hospital | 6. Industrial |
| 3. Crematory | 99. Other (specify) _____ | 3. Municipal | 99. Other (specify) _____ |
| | | 4. Animal | |

APC - FORM 7 (Section 2, Page 1C)

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - STACK PARAMETERS

REF. NO.	VENT/STACK OR EXHAUST DATA						
	NUMBER OF EMISSION POINTS	*VENT/STACK HEIGHT (feet)	EXIT DIAMETER (ft.)	EXIT GAS VELOCITY (fpm)	EXIT GAS VOLUME (acfm)	EXIT GAS TEMPERATURE (°F)	MINIMUM DISTANCE TO PROPERTY LINE (feet)

* Above Ground Level - indicate if stack is not vertically oriented

PC -

FORM 7 (Section 2, Page 2)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - AIR POLLUTION CONTROL AND MONITORING EQUIPMENT

REF. NO.	POLLUTANT/ PARAMETER (See Instructions)	AIR POLLUTION CONTROL EQUIPMENT				MONITORING INSTRUMENTATION	
		MANUFACTURER AND MODEL NUMBER	TYPE (use Code E)	EFFICIENCY		MONITOR MANUFACTURER AND MODEL NUMBER	SPECIFY TYPE OF RECORDER TO BE USED
				DESIGN	ACTUAL		

Code E - Air Pollution Control Equipment Type

- | | | |
|--|---|--|
| <ul style="list-style-type: none"> 1. Settling Chamber 2. Cyclone 3. Multicyclone 4. Cyclone Scrubber 5. Orifice Scrubber 6. Mechanical Scrubber 7. Venturi Scrubber - <ul style="list-style-type: none"> (a) fixed throat (b) variable throat 8. Mist Eliminator | <ul style="list-style-type: none"> 9. Electrostatic Precipitator - <ul style="list-style-type: none"> (a) hot side (b) cold side (c) high voltage (d) low voltage (e) single stage (f) two stage (g) other (specify) _____ 10. Filter <ul style="list-style-type: none"> (a) baghouse (b) other (specify) _____ 11. Catalytic Afterburner 12. Direct Flame Afterburner | <ul style="list-style-type: none"> 13. Absorber - <ul style="list-style-type: none"> (a) packed tower (b) spray tower (c) tray tower (d) venturi (e) other (specify) _____ 14. Adsorber - <ul style="list-style-type: none"> (a) thermal regenerative (b) chemical regenerative (c) non-regenerative (d) recirculating (e) other (specify) _____ 15. Condenser (specify) _____ 99. Other (specify) _____ |
|--|---|--|

C - FORM 7 (Section 2, Page 3)
v. 9/89

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - AIR POLLUTION CONTROL EQUIPMENT - SUPPLEMENTAL INFORMATION

REF. NO.	TYPE (Use Code E)	LIQUID FLOW RATE (gpm)	LIQUID MEDIUM	CLEANING METHOD	NUMBER OF FIELDS	NUMBER OF SECTIONS	AIR TO CLOTH RATIO (fpm)	FILTER MATERIAL	INLET TEMP. (°F)	REGENERATION CYCLE TIME (sec)	CHAMBER TEMP. (°F)	RETENTION TIME (sec)	PRESSURE DROP (in H ₂ O)
		(Codes 4, 5, 6, 7, 13, 15)	(Codes 4, 5, 6, 7, 13, 15)	(Codes 9, 10, 13, 14)	(Code 9)	(Code 9, 10)	(Code 10)	(Code 10)	(Codes 9, 10, 11, 12, 13, 14, 15)	(Code 14)	(Codes 11, 12)	(Codes 11, 12)	(Codes 3, 4, 5, 6, 7, 10, 13, 14, 15)

Code E - Air Pollution Control Equipment Type

- | | | |
|------------------------|---------------------------------|-------------------------------|
| 1. Settling Chamber | 9. Electrostatic Precipitator - | 13. Absorber - |
| 2. Cyclone | (a) hot side | (a) packed tower |
| 3. Multicyclone | (b) cold side | (b) spray tower |
| 4. Cyclone Scrubber | (c) high voltage | (c) tray tower |
| 5. Orifice Scrubber | (d) low voltage | (d) venturi |
| 6. Mechanical Scrubber | (e) single stage | (e) other (specify) _____ |
| 7. Venturi Scrubber - | (f) two stage | 14. Adsorber - |
| (a) fixed throat | (g) other (specify) _____ | (a) thermal regenerative |
| (b) variable throat | 10. Filter | (b) chemical regenerative |
| 8. Mist Eliminator | (a) baghouse | (c) non-regenerative |
| | (b) other (specify) _____ | (d) recirculating |
| | 11. Catalytic Afterburner | (e) other (specify) _____ |
| | 12. Direct Flame Afterburner | 15. Condenser (specify) _____ |
| | | 99. Other (specify) _____ |

C - FORM 7 (Section 2, Page 4)
v. 9/89

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - EMISSIONS

REF. NO.	FAST FIVE YEARS	MAXIMUM EMISSION RATES TO ATMOSPHERE OF CRITERIA POLLUTANTS														BASIS OF EMISSION ESTIMATES (use Code F)	
		*TOTAL SUSP. PARTICULATE MATTER (TSP)		*PARTICULATE (PM 10)		SULFUR DIOXIDE (SO ₂)		NITROGEN OXIDES (NO _x)		CARBON MONOXIDE (CO)		*VOLATILE ORGANIC COMPOUNDS (VOC)		LEAD (Pb)			
		LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR		
	1985																
	1986																
	1987																
	1988																
	1989																
	1985																
	1986																
	1987																
	1988																
	1989																

* TSP, PM10 and VOC's should be split up by component and reported on Page 6 as NONCRITERIA POLLUTANTS

Code F - Emission Estimate Method

- | | |
|---|-------------------------------|
| 1. Stack Test (include a copy) | 3. Emission Factor (identify) |
| 2. Material Balance (show calculations) | 99. Other (describe) |

PC - FORM 7 (Section 2, Page 5)

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - EMISSIONS

REF. NO.	PAST FIVE YEARS	MAXIMUM EMISSION RATES TO ATMOSPHERE OF CRITERIA POLLUTANTS														BASIS OF EMISSION ESTIMATES (use Code F)	
		*TOTAL SUSP. PARTICULATE MATTER (TSP)		*PARTICULATE (PM 10)		SULFUR DIOXIDE (SO2)		NITROGEN OXIDES (NOX)		CARBON MONOXIDE (CO)		*VOLATILE ORGANIC COMPOUNDS (VOC)		LEAD (Pb)			
		LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR	LB/HR	T/YR		
	1985																
	1986																
	1987																
	1988																
	1989																
	1985																
	1986																
	1987																
	1988																
	1989																

* Specify which pollutants are also reported on Page 5 as TSP, PM10 or VOC's

Code F - EMISSION ESTIMATE METHOD

- | | |
|---|-------------------------------|
| 1. Stack Test (include a copy) | 3. Emission Factor (identify) |
| 2. Material Balance (show calculations) | 99. Other (describe) |

APC - FORM 7 (Section 2, Page 6)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 2 - OPERATING PERIODS

REF. NO.	PERCENT ANNUAL USE/THROUGHPUT BY SEASON				MAXIMUM EQUIPMENT/PROCESS OPERATING SCHEDULE			MAXIMUM FACILITY OPERATING SCHEDULE		
	DECEMBER ----	MARCH ----	JUNE ----	SEPTEMBER ----	HOURS PER DAY	DAYS PER WEEK	WEEKS PER YEAR	HOURS PER DAY	DAYS PER WEEK	WEEKS PER YEAR
	FEBRUARY	MAY	AUGUST	NOVEMBER						

APC - FORM 7 (Section 2, Page 7)
rev. 9/89

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

SECTION 3 - LIQUID STORAGE TANKS, LOADING RACKS, AND OIL-WATER SEPARATORS

COMPANY NAME	DATE	REGISTRATION NUMBER
ADDRESS	PERSON COMPLETING FORM	

STORAGE TANKS

REF. NO.	TANK TYPE (use Code G)	SOURCE OF TANK CONTENTS (use Code H)	MATERIAL STORED NAME AND CAS NUMBER (Include Reid Vapor Pressure for Gasoline)	MAX. TRUE VAPOR PRESS (psia)	VAPOR MOLECULAR WEIGHT	LIQUID DENSITY (lb/gal)	TANK DIAMETER (feet)	TANK CAPACITY (1000 gal)	HIGHEST ACTUAL ANNUAL THRUPT (1000 gal)	
									PAST FIVE YEARS	
									1985	
									1986	
									1987	
									1988	
									1989	

Code C - Storage Tank Type

1. Fixed Roof
2. (a) Floating Roof, Internal (welded deck)
- (b) Floating Roof, Internal (riveted deck)
- (c) Floating Roof, External (welded deck)
- (d) Floating Roof, External (riveted deck)
3. Variable Vapor Space

Code H - Source of Tank Contents

4. Pressure Tank (over 15 psig)
5. Underground Splash Loading
6. Underground Submerged Loading
7. Underground Submerged Loading, Balanced
99. Other (specify) _____
1. Pipeline
2. Rail Car
3. Tank Truck
4. Ship, Barge
99. Other (specify) _____

APC - FORM 7 (Section 3, Page 1)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 3 - LIQUID STORAGE TANKS, LOADING RACKS, AND OIL-WATER SEPARATORS (Cont.)
STORAGE TANKS (Cont.)

REF. NO.	FIXED ROOF ONLY				FLOATING ROOF ONLY			PAST FIVE YEARS	HIGHEST ACTUAL RATES TO ATMOSPHERE			BASIS OF EMISSION ESTIMATES (use Code J)	
	TANK COLOR		INTERNAL TANK HEIGHT (ft.)	MAXIMUM HOURLY FILLING (1000 gal.)	MAXIMUM DAILY FILLING (1000 gal.)	SEAL TYPE (use Code I)	MAXIMUM HOURLY WITHDRAWAL (1000 gal.)		MAXIMUM DAILY WITHDRAWAL (1000 gal.)	LB/HR	LB/DAY		TONS/YR
	SHELL	ROOF											
									1985				
									1986				
									1987				
									1988				
									1989				

Code I - Seal Type

- External Only
1. Metallic Shoe
 - (a) primary only
 - (b) shoe mounted secondary
 - (c) rim mounted secondary
 2. Liquid Mounted Resilient, weather shield
 3. Vapor Mounted Resilient, weather shield
- External or Internal
4. Liquid Mounted Resilient, primary only
 - (a) external
 - (b) internal
 5. Liquid Mounted Resilient, secondary
 - (a) external
 - (b) internal

APC - FORM 7 (Section 3, Page 2)

Code J - Emission Estimate Method

6. Vapor Mounted Resilient - Primary Only
 - (a) external
 - (b) internal
8. Vapor Mounted Resilient - Rim Mounted Secondary
 - (a) external
 - (b) internal
99. Other, (specify) _____
1. Compliance Test (include a copy)
2. Material Balance (show calculations)
3. Emission Factor (identify)
99. Other, (describe)

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 3 - LIQUID STORAGE TANKS, LOADING RACKS, AND OIL-WATER SEPARATORS (Cont.)
LOADING RACKS

REF. NO.	NAME OF PRODUCT LOADED FROM RACK	TYPE OF LOADING (use Code K)	TYPE OF HATCH VAPOR CLOSURE ON LOADING ARMS (use Code L)	MAX. GAL. LOADED PER HOUR (1000 gal.)	MAXIMUM EXPECTED GAL. LOADED PER DAY (1000 gal.)	PAST FIVE YEARS	HIGHEST ACTUAL GALLONS LOADED PER YEAR (1000 gal.)	TOTAL LOADING LOSSES (lb/1000 gal.)	BASIS OF LOSSES ESTIMATES (use Code J)
						1985			
						1986			
						1987			
						1988			
						1989			
						1985			
						1986			
						1987			
						1988			
						1989			

Code J - Emission Estimate Method

Code K - Type of Loading

Code L - Type of Hatch Vapor Closure on Loading Arms

1. Compliance Test (include a copy)
 2. Material Balance (show calculations)
 3. Emission Factor (identify)
 9. Other, (describe)
- APC - FORM 7 (Section 3, Page 3 A)

1. Overhead Loading - splash fill, normal service
2. Overhead Loading - submerged fill, normal service
3. Bottom Loading - normal service
4. Overhead Loading - splash fill, balanced service
5. Overhead Loading - submerged fill, balanced service
6. Bottom Loading - balanced service

5. None, Open to Air
6. Emco-Wheaton
7. OPW
8. Chiksan-LTV
99. Other (specify) _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 3 - LIQUID STORAGE TANKS, LOADING RACKS, AND OIL-WATER SEPARATORS (Cont.)

OIL-WATER SEPARATORS

REF. NO.	NAME OF PRODUCTS RECOVERED	TYPE OF ENCLOSURE				MAXIMUM AMOUNT OF EACH PRODUCT RECOVERED PER HOUR (1000 gal.)	PAST FIVE YEARS	AMOUNT OF EACH PRODUCT RECOVERED PER YEAR (1000 gal.)
		OPEN	PARTIALLY OPEN	FLOATING ROOF	SEALED COVER			
						1985		
						1986		
						1987		
						1988		
						1989		
						1985		
						1986		
						1987		
						1988		
						1989		

APC - FORM 7 (Section 3, Page 3B)

Proposed Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 3 - LIQUID STORAGE TANKS, LOADING RACKS, AND OIL-WATER SEPARATORS (Cont.)

REF. NO.	TANK VENT/STACK EXHAUST DATA						AIR POLLUTION CONTROL EQUIPMENT			
	INLET/STACK HEIGHT	INSIDE EXIT DIAMETER	EXIT GAS VELOCITY	EXIT GAS VOLUME	EXIT GAS TEMP.	MINIMUM DISTANCE TO PROPERTY LINE	MANUFACTURER AND MODEL NUMBER	TYPE (use Code H)	% EFFICIENCY	
	(feet)	(feet)	(ft/min)	(acfm)	(,F)	(feet)			DESIGN	ACTUAL

* Above Ground Level

- Code H - Air Pollution Control Equipment
- 1. Incineration
 - 2. Refrigerated Liquid Scrubber
 - 3. Refrigeration Condensation
 - 4. Charcoal Adsorption
 - 5. None
 - 6. Vapor Return Line System
 - 7. Catalytic Afterburner
 - 8. Direct Flame Afterburner
 - 9. Vapor Absorption System
 - 10. Vapor Adsorption System
 - 11. Vapor Compressor - Condenser System
 - 12. Hydrocarbon Vapor Combustion System
 - 99. Other (specify) _____

PC - FORM 7 (Section 3, Page 4)
rev. 9/89

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF AIR POLLUTION CONTROL

DATE	REGISTRATION NUMBER
------	---------------------

SECTION 3 - OPERATING PERIODS

REF. NO.	PERCENT ANNUAL USE/THROUGHPUT BY SEASON				MAXIMUM EQUIPMENT/PROCESS OPERATING SCHEDULE			MAXIMUM FACILITY OPERATING SCHEDULE		
	DECEMBER	MARCH	JUNE	SEPTEMBER	HOURS PER DAY	DAYS PER WEEK	WEEKS PER YEAR	HOURS PER DAY	DAYS PER WEEK	WEEKS PER YEAR
	---- FEBRUARY	----- MAY	---- AUGUST	---- NOVEMBER						

PC - FORM 7 (Section 3, Page 5)
v. 9/89

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.

Public Hearing Date: September 26, 1990 - 9 a.m.
(See Calendar of Events Section for additional information)

Summary:

Pursuant to revisions to the Code of Virginia, §§ 36-99.7, 54.1-500 through 54.1-517 regulations governing licensure of RFS inspectors, project monitors, asbestos analytical laboratories and conflict of interest within the asbestos industry and adjustments in all fees are added as amendments to the Virginia Asbestos Licensing Regulations.

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) , *subpart E* .

"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 analytical laboratory license" means an authorization by the department to perform phase contrast, polarized light, or transmission electron microscopy on material known or suspected to contain asbestos.

"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 project monitor license" means an authorization issued by the department permitting a person to monitor an asbestos project, subject to department regulations.

"Asbestos 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 RFS inspector's license" means an authorization issued by the department permitting a person to perform on site investigations to identify, classify, record, sample, and test 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.

"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

Proposed Regulations

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.

"NIOSH" means National Institute of Occupational Safety and Health.

"NIST" means National Institute of Standards and Technology.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"PCM" means phase contrast microscopy.

"PLM" means polarized light microscopy.

"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.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwelling consisting of four units or less which are currently in use or intended for use only for residential purposes. Demolitions of any of the above structures which are to be replaced by other than a residential building shall not fall within this definition.

"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.

"TEM" means transmission electron microscopy.

"USEPA" means United States Environmental Protection Agency.

Necessity for license: These regulations are promulgated to carry out the provisions of Title 54.1, Chapter 5, under § 54.1-500. Effective July 1, 1988, any person or entity

must fulfill the requirements and obtain the necessary license as an asbestos worker, contractor, RFS contractor, RFS inspector, supervisor, inspector, management planner or , project designer , project monitor or analytical laboratory prior to contracting with another person for compensation to perform an asbestos project or , develop a management plan or project design, or perform asbestos laboratory analysis . 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

B. Applicants will be required to provide proof of successful completion of an asbestos worker training course and examination approved by the Department of Commerce. 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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 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 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~~ \$25. The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as defined in Part II, § 2.1) 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 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~~ \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the required fee.

B. Only 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 Department of Commerce approved asbestos refresher training course. 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 the renewal 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~~ \$25 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 licensee shall notify the Department of Commerce immediately of any change of address.

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 (§ 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 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

Proposed Regulations

to the commencement of each asbestos project performed.

The 20-day notification form is 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.

The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

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.

Asbestos project postponements shall be reported to the Department of Labor and Industry. The amended notification process can be used if the new asbestos project date is known. If the new 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 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 removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each violation shall be referred to the Department of Commerce for enforcement action by the Department of Labor and Industry.

§ 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. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

It shall be a conflict of interest and a violation of these

regulations for an asbestos contractor or asbestos RFS contractor to have a proprietary or financial relationship with a laboratory utilized by the contractor for asbestos sample analysis.

It shall be a conflict of interest and a violation of these regulations for an asbestos contractor or asbestos RFS contractor to have an employee/employer relationship with an asbestos project monitor working on a project performed by that asbestos contractor or asbestos RFS contractor. An asbestos contractor or asbestos RFS contractor shall not have any proprietary or financial relationship with the firm of which the project monitor is an employee.

It shall be a violation of these regulations for an asbestos contractor or an asbestos RFS contractor to enter into an asbestos project if the asbestos inspection or project design were performed by individuals employed by, compensated, or financially affiliated with the asbestos contractor or RFS contractor.

§ ~~3.3~~. 3.4 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 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 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, 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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 3-4 3.5 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 3.6 . Fees.

A. The fee for an asbestos contractor license shall be ~~\$500.~~ \$250. The fee 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.

C. All fees are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 3-6 3.7 . 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 3.8 . 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~~ \$250 renewal fee. Should the licensee fail to receive a renewal notice, a copy of 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~~ \$250 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 3.5 of these regulations.

§ 3-8 3.9 . 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 3.10 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

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 (§ 54.1-517).

Licensed asbestos RFS contractors may also be required

Proposed Regulations

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 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.

The Department of Labor and Industry will not accept notifications received by methods other than certified mail, hand delivery or facsimile transmission.

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.

Asbestos RFS project postponements shall be reported to the Department of Labor and Industry. The amended notification process can be used if the new asbestos RFS project date is known. If the new 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 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 removed shall be considered a violation of § 54.1-507 of the Code of Virginia. Each violation shall be referred to the Department of Commerce for enforcement action 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 which includes the date of their RFS training. 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. Conflict of interest.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

It shall be a conflict of interest and a violation of these regulations for an asbestos contractor or asbestos RFS contractor to have a proprietary or financial relationship with a laboratory utilized by the contractor for asbestos sample analysis.

It shall be a conflict of interest and a violation of these regulations for an asbestos contractor or asbestos RFS contractor to have an employee/employer relationship with an asbestos project monitor working on a project performed by that asbestos contractor or asbestos RFS contractor. An asbestos contractor or asbestos RFS contractor shall not have any proprietary or financial relationship with the firm of which the project monitor is an employee.

It shall be a violation of these regulations for an asbestos contractor or an asbestos RFS contractor to enter into an asbestos project if the asbestos inspection or project design were performed by individuals employed by, compensated, or financially affiliated with the asbestos contractor or RFS contractor.

§ 4.3 4.4 . 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

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, 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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 4-4 4.5 . 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 4.6 . Fees.

A. The fee for an RFS contractor license shall be ~~\$500~~ \$250 . The fee 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 are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 4-6 4.7 . 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 4.8 . 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~~ \$250 renewal fee. Should the licensee fail to receive a renewal notice, a copy of 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~~ \$250 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 4.5 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 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.

§ 4-8 4.9 . License certification.

A copy of a current RFS contractors license certificate shall be available at all times for review at each asbestos RFS job site.

§ 4-9 4.10 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART V. RFS INSPECTOR LICENSING REQUIREMENTS.

§ 5.1. License application.

A. Each applicant is responsible for obtaining a current application. All requests for applications should be directed to:

Assistant Director

Proposed Regulations

Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230

B. Applicants shall provide proof of successful completion of an RFS inspector training course and examination approved by the Department of Commerce. Department of Commerce approval includes those courses approved by USEPA.

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 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 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.

§ 5.2. Qualifications for licensure.

Each individual applying to the Department of Commerce for licensing as an RFS inspector 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 preceding the date of the receipt of the application by the Department of Commerce.

§ 5.3. Fees.

A. The fee for an RFS inspector license shall be \$25.

The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as defined in Part V, § 5.1) 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 are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 5.4. Expiration.

RFS inspectors 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. 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 \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the required fee.

B. Only asbestos refresher training courses approved by the Department of Commerce will meet the retraining requirements for license renewal. Asbestos refresher courses approved by the USEPA under the AHERA regulations will not fulfill the renewal requirements unless the course is also a Department of Commerce approved asbestos refresher training course. Applicants shall forward proof that the annual retraining requirement of eight hours of instruction and an examination have been successfully completed. A copy of a certificate indicating the date and the location of training shall accompany the renewal 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 \$25 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 examination requirements as specified in Part V, § 5.1 of

these regulations.

§ 5.6. Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART V. VI. ASBESTOS SUPERVISOR 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

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. 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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however,

fees received are not refundable.

§ 5.2 6.2 . 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 preceding the date of the receipt of the application by the Department of Commerce.

§ 5.3 6.3 . Fees.

A. The fee for an asbestos supervisor license shall be ~~\$35~~ \$25 . The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part V VI , § 5.1 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 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 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.

§ 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 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~~ \$25 renewal fee. Should the licensee fail to receive a renewal notice, a copy of a current license may be submitted with the required fee.

B. Only 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 Department of Commerce approved

Proposed Regulations

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~~ \$25 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 V VI, § 5-1 6.1 of these regulations.

§ 5-6 6.6 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART VI VII .

ASBESTOS INSPECTOR LICENSING REQUIREMENTS.

§ 6-1 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

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. 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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 6-2 7.2 . 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 preceding the date of the receipt of the application by the Department of Commerce.

3. 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.

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:

a. Acting as an inspector accredited (after December 17, 1987) according to AHERA or the Virginia Asbestos Licensing Program;

b. Being in responsible charge of persons accredited as inspectors according to AHERA or the Virginia Asbestos Licensing Program;

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.

Proposed Regulations

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.

§ 6-3 7.3 . Fees.

A. The fee for an asbestos inspector shall be ~~35~~ \$25 . The amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VI VII , ~~6-1~~ 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 are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 6-4 7.4 . 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.

§ 6-5 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~~ \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the required fee.

B. Only 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 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 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~~ \$25 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 VI VII, § 7.2 of these regulations.

§ 6-6 7.6 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART VII VIII . ASBESTOS MANAGEMENT PLANNER LICENSING REQUIREMENTS.

§ 7-1 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 asbestos management planner training course and examination approved by the Department of Commerce. 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.

I. A complete list of all prior enforcement actions,

Proposed Regulations

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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 7-2 8.2 . 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 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 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.

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:

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

b. Experience gained as an inspector as outlined in Part VI VII , § 6-2 7.2 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 8.3 . Fees.

A. The fee for an asbestos management planner license shall be ~~\$35~~ \$25 . The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VII VIII , § 7-1 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 are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 7-4 8.4 . 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 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~~ \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the required fee.

B. Only 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

Proposed Regulations

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 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 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~~ \$25 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 VIII VIII, § 8.2 of these regulations.

§ 7-6 8.6 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART VIII IX . ASBESTOS PROJECT DESIGNER LICENSING REQUIREMENTS.

§ 8-1 9.1 . 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 a Virginia approved asbestos project designer training course and examination.

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 shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 8-2 9.2 . 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 preceding the date of the receipt of the application by the Department of Commerce.

§ 8-3 9.3 . Fees.

A. The fee for an asbestos project designer license shall be ~~\$35~~ \$25 . The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application (as required in Part VIII IX , § 8-1 9.1 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 are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 8-4 9.4 . 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.

Proposed Regulations

§ 8-5 9.5 . 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~~ \$25 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the required fee.

B. Only 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 Department of Commerce approved asbestos refresher training course. 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 the renewal 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~~ \$25 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 IX, § 9.2 of these regulations.

§ 8-6 9.6 . Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

PART X. ASBESTOS PROJECT MONITOR LICENSING REQUIREMENTS.

§ 10.1. Asbestos project monitor.

The duties and functions of a project monitor include but are not limited to observing and monitoring the activities of an asbestos abatement contractor or RFS contractor on asbestos projects to determine that proper work practices are used and compliance with all federal, state and local laws and regulations is maintained.

The licensed project monitor is authorized to collect environmental air samples during the asbestos project and to grant final clearance upon completion of the asbestos

project.

A project monitor is required on:

Asbestos projects performed in buildings that are occupied or intended to be occupied upon the completion of the asbestos project when the project exceeds 2,600 linear feet or 1,600 square feet.

or

Whenever the building or property owner deems it necessary to monitor asbestos projects performed on their property.

Exemptions:

Asbestos projects in residential buildings are exempt from the project monitor requirements.

§ 10.2. License application.

A. Each applicant is responsible for obtaining a current application. All requests for application should be directed to:

Assistant Director
Asbestos Licensing Program
Virginia Department of Commerce
3600 West Broad Street
5th Floor
Richmond, Virginia 23230

B. Applicants shall provide proof of successful completion of an asbestos project monitor 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 perform asbestos inspections or 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 inspection or abatement work activities conducted by the applicant that were terminated prior to completion, including the circumstances of the termination.

3. A copy of any reports compiled by an enforcement agency.

E. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, fees received are not refundable.

§ 10.3. Qualifications for licensure.

A. Each individual applying shall be at least 18 years of age.

B. The applicant must have a high school degree or an equivalent.

C. An applicant currently licensed by the Department of Commerce as a project designer or asbestos supervisor must successfully complete an asbestos project monitor training course of 16 hours and examination. Applicants shall provide evidence of having met the educational requirements as set forth in these regulations preceding the date of the receipt of the application by the Department of Commerce.

D. An applicant not currently licensed as a project designer or asbestos supervisor shall successfully complete a comprehensive asbestos project monitor training course of 40 hours and examination approved by the Department of Commerce.

E. The applicant shall be required to provide proof of performing 160 hours of asbestos project monitor training through field work on project sites including evaluating and monitoring the asbestos project work practices. The field work shall also include collecting environmental air samples during the abatement work and granting final clearance by performing a visual inspection and collecting aggressive environmental air samples.

1. Experience may be gained to qualify for licensure as follows:

a. Acting as a project monitor after becoming licensed by the Virginia Department of Commerce as a project designer or an asbestos supervisor.

b. Being under the direct charge of a person acting as a project monitor who is licensed by the Department of Commerce as a project designer, or an asbestos supervisor before January 1, 1991.

F. An applicant with a bachelor's degree in engineering, architecture, industrial hygiene, science or a related field must have at least 120 hours experience as described above.

§ 10.4. Fees.

A. The fee for an asbestos project monitor license shall be \$25. The amount is based on the administrative costs of

the asbestos licensing program.

B. A completed application (as required in Part X, § 10.2 of these regulations) shall be accompanied by the required fees. 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 are not refundable.

D. Receipt and deposit of fees submitted with the applications do not in any way indicate approval for licensure.

§ 10.5. Expiration.

Asbestos project monitor 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.

§ 10.6. 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 \$25 renewal fee. Should the licensee fail to receive a renewal notice, a copy of a current license may be submitted with the required fee.

B. The training requirement for license renewal may be met only by successfully completing a refresher training course approved by the Department of Commerce. Applicants shall forward proof that the annual retraining required 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 the renewal 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 \$25 will 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, shall apply as new applicants and shall meet all current education and examination requirements in § 10.2 of these regulations.

§ 10.7. Change of address.

The licensee shall notify the Department of Commerce immediately of any change of address.

Proposed Regulations

PART XI ASBESTOS ANALYTICAL LABORATORY LICENSE REQUIREMENTS.

Asbestos analytical laboratories are required to comply fully with all requirements, procedures, standards, and regulations covering all aspects of asbestos analytical services as established by these regulations.

§ 11.1. License application.

A. Each applicant is responsible for obtaining a current application. All requirements 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 an officer or a responsible party of the asbestos analytical laboratory company and shall include a certification by the applicant that within the last three years prior to the application date, his license, program accreditation rating or other authorization to analyze asbestos samples have not been suspended or revoked by any jurisdiction, and that no enforcement action is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos analytical laboratory might not perform its services in a manner that would protect the safety of its employees, or that the analytical testing results might lack credibility and reliability.

In order to make this determination, the following information will be required:

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 copy of any reports of enforcement actions compiled by an enforcement agency against the applicant.

D. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, the fees received are not refundable.

§ 11.2. Qualifications for licensure.

A. Each individual or business applying to the Department of Commerce for licensing as an asbestos analytical laboratory shall have the following qualifications:

1. Applicants shall have all occupational or

professional licenses necessary and required by state statute or local ordinance to transact the business of an asbestos analytical laboratory in addition to those requirements as set forth in these regulations.

2. A license issued by the Department of Commerce will authorize an asbestos analytical laboratory to perform analysis of bulk samples using PLM or TEM analysis, air samples using PCM or TEM analysis or both bulk and air sampling using PLM or PCM or TEM analysis.

B. Analysis of bulk materials.

1. For licensure to analyze bulk materials using Polarized Light Microscopy (PLM):

a. The applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Voluntary Laboratory Accreditation Program. The asbestos analytical laboratory shall participate in all rounds of the program.

b. The asbestos analytical laboratory using PLM to analyze bulk samples shall use the method in accordance with USEPA specifications defined in the Interim Method for the Determination of Asbestos in Bulk Insulation Samples, USEPA 40 CFR Part 763, Appendix A, Subpart F or NIOSH 9002.

2. For licensure to analyze asbestos bulk materials using Transmission Electron Microscopy:

a. The applicant shall adhere to the final rules pertaining to TEM proficiency certification of laboratories for asbestos analysis that are being developed by the National Institute of Standards and Technology (NIST). The department intends to incorporate these final rules pertaining to TEM asbestos analysis into the Virginia Asbestos Licensing Regulations. Once the NIST program is in place all laboratories will be required to provide proof of current NIST accreditation within 60 days to continue TEM analysis.

b. For license approval by the Department of Commerce, the applicant must submit the following:

(1) Names, employment dates and verification of training for those persons performing analysis of the site(s).

(2) Name of supervisor(s), employment dates, and verification of education, specific training and experience.

(3) Documentation of:

(a) Laboratory's chain-of-custody procedures.

- (b) Analytical quality assurance program.
 - (c) Equipment calibration and standardization programs.
 - (d) Laboratory standard procedures.
 - (e) Laboratory record keeping procedures.
 - (f) Asbestos analytical equipment inventory.
- (4) Complete disclosure form.

c. The applicant shall provide documentation that the individual who directly supervises the electron microscopy analysis has at least two years experience in materials analysis by electron microscopy.

d. The technique used for TEM analysis of bulk samples shall be in accordance with USEPA 40dCFR PART 763, Appendix A, Subpart E.

C. Analysis of airborne asbestos fibers.

1. For licensure to analyze airborne asbestos fiber counts using Phase Contrast Microscopy:

a. The applicant shall provide evidence that the National Institute for Occupational Safety and Health (NIOSH) has accredited the applicant's facility as "proficient" in the Proficiency Analytical Testing (PAT) Programs most recent round of asbestos evaluations or has been accredited by the American Industrial Hygiene Association for Asbestos Analytical Services. Each analyst must provide proof of successfully completing the NIOSH 582 Course or equivalent.

b. The laboratory using PCM to analyze air samples shall use the method in accordance with OSHA 29 CFR 1910.1001, Appendix A, FR No. 119, 22739, June 20, 1986, or NIOSH Method 7400 "A" counting rules.

2. For licensure to analyze airborne asbestos fiber counts using Transmission Electron Microscopy:

a. The applicant shall adhere to the final rules pertaining to TEM proficiency certification of laboratories for asbestos analysis that are being developed by the National Institute of Standards and Technology (NIST). The department intends to incorporate these final rules pertaining to TEM asbestos analysis into the Virginia Asbestos Licensing Regulations. Once the NIST program is in place all asbestos analytical laboratories will be required to provide proof of current NIST accreditation within 60 days to continue TEM analysis.

b. For license approval by the Department of Commerce, the applicant must submit the following:

(1) Names, employment dates and verification of training for those persons performing analysis at the site(s).

(2) Name of supervisor(s), employment, dates, and verification of education, specific training and experience.

(3) Documentation of:

(a) Laboratory's chain-of-custody procedures.

(b) Analytical quality assurance program.

(c) Equipment calibration and standardization programs.

(d) Laboratory standard procedures.

(e) Laboratory record keeping procedures.

(f) Asbestos analytical equipment inventory.

(4) Complete disclosure form.

c. The applicant shall provide documentation that the individual who directly supervises the electron microscopy analysis has at least two years experience in materials analysis by electron microscopy.

d. The technique used for TEM Analysis of airborne fiber counting shall be in accordance with USEPA 40 CFR PART 763, Appendix A, Subpart E or NIOSH Method 7402.

§ 11.3. Fees.

A. The fee for an asbestos analytical laboratory license shall be \$100. The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application(s) (as required in Part XI, § 11.1 of these regulations) shall be accompanied by the required fee(s). 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(s).

C. All fees are not refundable.

D. Receipt and deposit of fees submitted with applications do not in any way indicate approval for licensure.

§ 11.4. Expiration.

Asbestos analytical laboratory 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.

Proposed Regulations

§ 11.5. 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. At least 30 days 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, documentation of valid accreditations and the \$100 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the proper accreditation documentation and required fee(s).

B. If a licensee's renewal fee is received by the Department of Commerce more than 30 days after the expiration date noted on the license, then the licensee must pay a late fee of \$100 in addition to the renewal fee.

C. Licensees failing to renew their licenses within six months of the expiration date noted on the licenses shall apply as new applicants meeting all current application requirements in § 11.1 of these regulations.

§ 11.6. Change of status.

A. The licensee shall notify the Department of Commerce on a form provided by the department immediately of any addition or deletion regarding employment of trained and experienced supervisors, and any changes regarding the signing officers or responsible party's relationship with the company.

B. The licensee shall notify the Department of Commerce immediately upon the loss of accreditation by NVLAP, NIOSH Pat Proficiency Program or AIHA by any laboratory location.

C. The licensee shall notify the Department of Commerce in writing within 10 days of the receipt of their most recent accreditation evaluation results.

§ 11.7. License certificate.

A. The transfer of an asbestos analytical laboratory license is prohibited. Whenever there is any change in the controlling interest of the legal entity licensed, whether in proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

B. A copy of a current asbestos analytical laboratory license certificate shall be available at all times for review by the Department of Commerce at each laboratory site.

C. The director shall require asbestos analytical laboratories that wish to become or remain licensed in the Commonwealth to conform to any future additional

standards or regulations set forth by the USEPA and the National Institute of Standards and Technology.

D. The Department of Commerce shall conduct periodic on-site inspections and evaluations of any licensed asbestos analytical laboratory facility. The inspection shall include but not be limited to all equipment, procedure and protocol records, training and accreditation documentation and any other program's evaluation results on file.

PART IX PART XII . TRAINING COURSE REQUIREMENTS.

IN ALL OF THE FOLLOWING TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.

IN ALL REFRESHER TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS

§ ~~9-1~~ 12.1 . 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.
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:
- a. OSHA requirements for a pulmonary function test.
 - 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.
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.
11. Course review. A review of key aspects of the training course.
- § 0.2 12.2 . 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 certificate indicating successful completion of the course. The following are the requirements for examination:
- Asbestos abatement workers:
- 1. 50 multiple choice questions.
 - 2. Passing score: 70% correct.
- IN ALL REFRESHER TRAINING COURSE REQUIREMENTS ONE DAY SHALL BE EQUAL TO EIGHT HOURS.**
- § 0.3 12.3 . Refresher training course.
- 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

Proposed Regulations

Part IX, § 0-1 XII, § 12.1 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.

§ 0-4 12.4 . Supervisor training.

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.

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.

The supervisor's training course shall adequately address the following topics:

1. The physical characteristics of asbestos and asbestos-containing materials:
 - 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.
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 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:
- 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.
 - Scaffold and ladder hazards.
 - Slips, trips and falls.
 - 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:
- Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, sampling equipment and methods.
 - Reasons for air monitoring.
 - 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:
- Requirements of TSCA Title II.
 - 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standards for Asbestos).
 - OSHA Standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
 - OSHA Asbestos Construction Standard (29 CFR 1926.58).
 - EPA Worker Protection Rule, 40 CFR Part 763, Subpart G.
 - 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:
- Contractor issues, worker's compensation coverage, and exclusions.
 - Third-party liabilities and defenses.
 - Insurance coverage and exclusions.
12. Record keeping for asbestos abatement projects:
- Records required by federal, state, and local regulations.
 - 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.
- § 9-6 12.5 . 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:
- 100 multiple choice questions.
 - Passing score: 70% correct.
- § 9-6 12.6 . 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 IX, § 9-4 XII, § 12.4 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.
- § 9-7 12.7 . Inspector training.
- Asbestos inspectors shall complete a three day (24 hour) training course as outlined below. The course shall include

Proposed Regulations

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 the 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.
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 of 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.
- § 9.8 12.8 . 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.

Proposed Regulations

The following are the requirements for examination:

Asbestos inspectors:

1. 50 multiple choice questions.
2. Passing score: 70% correct.

§ ~~0-9~~ 12.9 . 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 IX, § 0-7 XII, § 12.7 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.

§ ~~0-10~~ 12.10 . 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.
 - 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 *management* 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.

§ ~~0.11~~ 12.11 . 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.

§ ~~0.12~~ 12.12 . 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 ~~IX~~ XII , §§ ~~0.10~~ 12.10 and ~~0.12~~ 12.12 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.

§ ~~0.13~~ 12.13 . 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 Part ~~IX~~ XII § ~~0.4~~ 12.4 . The three-day abatement project designer training program shall include lectures, demonstrations, a field trip, course review, and a written examination. The 3 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.

Proposed Regulations

- 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 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.

§ 0-14 12.14 . 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.

§ 0-15 12.15 . 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, 0-10 XII, § 12.10 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.

§ 12.16. Project monitor training.

Asbestos abatement project monitors shall complete a five day (40 hours) training course as outlined below. All training courses shall be approved by the 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 project monitors the experience of performing actual tasks associated with asbestos project monitoring. Those applicants who hold current supervisors or project designers licenses in Virginia need not complete the entire 40-hour training course but may complete the 16-hour portion of the course beginning at topic number 12 and take the examination. The comprehensive 40-hour

Proposed Regulations

project monitor training course shall adequately address the following topics:

1. *The physical characteristics of asbestos and asbestos-containing materials.*
 - a. *Identification of asbestos.*
 - b. *Typical uses and locations in buildings, physical appearance.*
 - c. *A review of hazard assessment control options.*
 - d. *A summary of abatement control options.*
2. *Potential health effects related to asbestos exposure.*
 - a. *The nature of asbestos-related diseases.*
 - b. *Route of exposure, dose-response relationships and the lack of safe exposure level.*
 - c. *Synergism between cigarette smoking and asbestos exposure.*
 - d. *Latency period for disease; a discussion of the relationship between asbestos exposure and asbestosis, lung cancer, mesothelioma, and cancer of the other organs.*
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 face piece-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 uses of personal protective clothing; use, storage, and handling of nondisposable clothing.*
 - i. *Regulations covering personal protection equipment.*
4. *State of the art work practices.*
 - a. *Proper work practices for asbestos abatement activities including description of proper construction*

and maintenance 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. Entry and exit procedures for work area.*
 - e. *Proper clean-up and disposal procedures.*
 - f. *Work practices for removal, encapsulation, enclosure and repair. Use of glove bags and a demonstration of glove bag use.*
 - g. *Emergency procedures for sudden release.*
 - 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 as covered in OSHA CFR 1926 and 1910 to include the following.*
 - a. *Hazards encountered during the 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. *Record keeping for asbestos abatement projects.*
 - a. *Records required by federal, state and local*

regulations.

b. Records recommended for legal and insurance purposes.

9. Respiratory protection programs and medical surveillance programs.

10. Insurance and liability issues.

a. Contractor issues, worker's compensation coverage, and exclusions.

b. Third-party liabilities and defenses.

c. Insurance coverage and exclusions.

d. Final clearance.

(1) Visual inspection and air monitoring.

(2) Sampling inside and outside containment area.

11. Relevant federal, state and local regulatory requirements, procedures and standards including the following.

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).

g. DOT 49 CFR 171 and 172.

h. Virginia asbestos regulations.

The material outlined below encompasses the 16-hour project monitor training course. Those applicants who hold current supervisors or project designers licenses in Virginia need only to successfully complete this 16-hour project monitors course and examination. The comprehensive 40-hour project monitor training program includes the preceding topics and continues below.

12. Air monitoring.

a. NIOSH asbestos monitoring procedure. Procedures to determine airborne concentration of asbestos fibers, including a description of an aggressive sampling, sampling equipment and methods.

(1) Explanation of analytical methods, measures of precision, control of errors, collecting measurement samples, fiber counts, sampling and calibration equipment, statistics, quality control techniques in sampling.

(2) Review of OSHA Asbestos Regulations 29 CFR 1926, Subpart F, 1-6.

b. Sampling strategy.

(1) Why samples are taken.

(2) Sampling inside and outside of containment area.

(3) Placement of pumps. -

c. Reasons for air monitoring.

d. Types of samples and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.

13. Overview of supervisory techniques for asbestos abatement activities to include the information covered in the asbestos supervisor's training course. A review of the required work practices and safety considerations.

14. 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.

15. 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.

16. Project specifications. Discussion of key elements that are included in contract specifications.

Proposed Regulations

- a. Means and methods specifications versus performance specifications.
- b. Considerations for design of abatement in occupied buildings.
- c. Worker and building occupant health/medical considerations.
- d. Replacement of ACM with nonasbestos substitutes.
- e. Clearance of work after abatement
- f. Use of as-built drawings.
- g. Use of inspection photographs and on-site reports.
- h. Particular problems in abatement drawings.

17. Role of project monitor in relation to:

- a. Building owner.
- b. Building occupants.
- c. Abatement contractor.
- d. Other consultants.

18. Occupied buildings.

- a. Special procedures recommended in occupied buildings.
- b. Extra monitoring recommendations.

19. A review of key aspects of the training course.

20. Examinations.

§ 12.17. Examination.

Upon the completion of an approved initial training course, a closed book examination will be administered. Demonstration testing will also be included as a part of examination. Each examination shall 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 Monitors:

- 1. 100 multiple choice questions
- 2. Passing score: 70% correct

§ 12.18. Refresher training course.

Refresher courses shall be one day (eight hours) in

length for project monitors. 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 XII, § 12.16 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.

§ 12.19 . 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.
 - 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 or 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.

Proposed Regulations

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 XIII.

RFS INSPECTOR TRAINING REQUIREMENTS.

§ 13.1. RFS inspector training.

Asbestos RFS inspectors shall complete a three day (24 hours) training course as outlined below or an individual who has successfully completed the RFS supervisor training course shall complete the one and one-half day (12 hours) of training found in Part II of the outline which follows. The course shall include lectures, demonstrations, four hours of hands-on training, course review and a written examination. The RFS inspector training course shall address the following topics:

PART I (minimum 12 hours)

1. Background information on asbestos.

a. Identification of asbestos, and examples and discussion of the uses and locations of asbestos in buildings.

b. Physical appearances 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 synergism 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. *Understanding of building systems.*
- a. *The interrelationship between RFS projects and other building systems, i.e., heating, ventilation and air conditioning systems.*
 - b. *Where asbestos is found in RFS components, where to look for ACM.*
 - c. *Identification of homogeneous areas.*
4. *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 of field testing of a facepiece-to-face seal (positive and negative pressure fitting tests): qualitative and quantitative fit testing procedures.*
5. *Regulations.*
- a. *Virginia regulations and statutes.*
 - b. *Differences in federal/state requirements where applicable and effect on RFS projects.*
- PART II (minimum 12 hours)*
6. *Functions/qualification and role of RFS inspectors.*
- a. *Discussions of prior experience and qualifications.*
 - b. *Discussions of the sanctions and purpose of licensure.*
 - c. *Discussion of the inspection process to include inventory of ACM and physical assessment of RFS materials.*
7. *Legal liability and defenses.*
- a. *Responsibilities of the RFS 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.*
8. *Pre-inspection planning.*
- a. *Employee/building occupant/building owner relations.*
 - b. *Building record review, identity of probable homogeneous areas.*
 - c. *Consultation with maintenance of building personnel.*
 - d. *Review of previous inspection, sampling and abatement records of a building.*
9. *Inspection for friable and nonfriable asbestos containing material 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.*
10. *Bulk sampling/documentation of ACM.*
- a. *Techniques to ensure sampling in a randomly distributed manner for other than friable surfacing material.*
 - b. *Techniques for bulk sampling.*
 - c. *Sampling equipment the inspector should use.*

Proposed Regulations

- d. Patching or repair of damage done in sampling; an inspector's repair kit.
 - e. Discussion of polarized light microscopy.
 - f. Choosing an accredited laboratory to analyze bulk samples.
 - g. Quality control and quality assurance procedures.
 - h. Variability between field and laboratory protection factors.
 - i. Factors that alter respirator fit (e.g., facial hair).
 - j. The components of a proper respiratory protection program.
 - k. Selection and use of personal protective clothing.
 - l. Use, storage, and handling of nondisposable clothing.
11. Record keeping 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.
12. Regulations.
- a. EPA Worker Protection Rule.
 - b. OSHA Asbestos Construction Standard (29 CFR 1926.58.)
 - c. OSHA Respirator Regulation (29 CFR 1910.134.).
 - d. Virginia asbestos regulations.
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.

15. Examination.

Upon completion of an approved RFS inspector training course, a closed book examination will be administered. Each examination shall adequately cover the topics included in the RFS inspector training course. Persons who pass the examination and fulfill course requirements will receive a written certification indicating successful completion of the RFS inspector training course. The following are the requirements for examination.

Asbestos RFS Inspectors:

- a. 50 multiple choice questions
- b. Passing Score: 70 % correct

§ 13.2. Expiration.

RFS 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.

§ 13.3. Refresher RFS inspector training course.

Refresher courses shall be one-half day (four hours) in length for RFS 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 RFS inspector training course as set forth in Part XIII, § 13.1 of these regulations. A written closed book examination will be administered covering the topics included in the asbestos RFS inspector refresher training course. Persons who pass the examination will receive some form of written certification indicating successful completion of the course.

PART X XIV . TRAINING COURSE APPROVAL.

§ ~~10.1~~ 14.1 . 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 40 CFR 763 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 XIV 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. Fee. (See the evaluation fee schedule attached.)

2 3 . The course curriculum.

3 4 . 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).
- d. Topics covered in the course.
- e. Assurances as to test security and how exams are administered.

4 5 . A copy of all course materials (student manuals, instructor notebooks, handouts, etc.).

5 6 . A detailed statement about the development of the examination used in the course.

6 7 . Names, qualifications (include education or experience, or both), and subject areas that each instructor will teach.

7 8 . Teacher-student ratio.

8 9 . Description and an example of numbered certificates that will be issued to students who successfully complete the course.

§ 10-2 14.2. Examination.

All courses approved by the Department of Commerce, 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 shall be retained by each institution for a period of three years.

§ 10-3 14.3 . 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.

§ 10-4 14.4 . 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. Fee. (See the evaluation fee schedule attached.)

2 3 . Topics covered in the course.

3 4 . A copy of all course materials.

4 5 . Names and qualifications of course instructors.

5 6 . An example of certificates issued to students who complete the refresher course.

6 7 . Location and dates the training course is to be held.

7 8 . A detailed statement about the development of the examination and assurances as to test security and how exams are administered.

8 9 . Description and an example of numbered certificates issued to students who successfully complete the course.

§ 10-5 14.5 . 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.

§ 10-6 14.6 . 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 X XIV , § 10-1 14.1 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 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

Proposed Regulations

revocation. In the case of a suspension, the necessary steps that shall be taken to comply with the requirements as set forth in Part X XIV 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 XI XV . EXEMPTIONS.

§ 11-1 15.1 . 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, in the event an emergency situation occurs that requires immediate removal, repair or encapsulation of asbestos containing materials and licensed 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 is approved by the director.

§ 11-2 15.2 . "BUSINESS NECESSITY" WILL NOT QUALIFY FOR EMERGENCY EXEMPTION FROM LICENSING REQUIREMENTS.

§ 11-3 15.3 . 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 X XII 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 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 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, 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 not be given.

§ 11-4 15.4 . 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 § 11-3 15.3 .

§ 11-5 15.5 . 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 \$ 250
Renewal	\$ 500 \$ 250
Asbestos RFS Contractor License	\$ 500 \$ 250
Renewal	\$ 500 \$ 250
<i>Asbestos Analytical Laboratory License</i>	\$ 100
<i>Renewal</i>	\$ 100
Asbestos Worker License	\$ 35 \$ 25
Renewal	\$ 35 \$ 25
Asbestos Supervisor License	\$ 35 \$ 25
Renewal	\$ 35 \$ 25
Asbestos Inspector License	\$ 35 \$ 25

Proposed Regulations

<p>Renewal \$ 35 \$ 25</p> <p><i>Asbestos RFS Inspector License</i> \$ 25</p> <p style="padding-left: 20px;"><i>Renewal</i> \$25</p> <p><i>Asbestos Management Planner License</i> \$ 35</p> <p style="padding-left: 20px;"><i>Renewal</i> \$ 35</p> <p><i>Asbestos Project Designer License</i> \$ 35</p> <p style="padding-left: 20px;"><i>Renewal</i> \$ 35</p> <p><i>Asbestos Project Monitor License</i> \$ 25</p> <p style="padding-left: 20px;"><i>Renewal</i> \$25</p> <p><i>Asbestos Worker Training Course</i> \$2100</p> <p style="padding-left: 40px;">(24 hours)</p> <p style="padding-left: 20px;"><i>Refresher Course (8 hours)</i> \$ 700</p> <p><i>Asbestos Supervisor Training Course</i> \$2800</p> <p style="padding-left: 40px;">(32 hours)</p> <p style="padding-left: 20px;"><i>Refresher Course (8 hours)</i> \$ 700</p> <p><i>RFS Worker Basic Module</i> \$ 350</p> <p><i>RFS Specialty Module</i> \$ 350</p> <p><i>RFS Supervisor Module</i> \$ 350</p> <p><i>Asbestos Inspector Training Course</i> \$2100</p> <p style="padding-left: 40px;">(24 hours)</p> <p style="padding-left: 20px;"><i>Refresher Course (4 hours)</i> \$ 700</p> <p><i>Asbestos Management Planner Training Course</i> \$1400</p> <p style="padding-left: 40px;">(16 hours)</p> <p style="padding-left: 20px;"><i>Refresher Course (8 hours)</i> \$ 700</p> <p><i>Asbestos Project Designer Training Course</i> \$2800</p> <p style="padding-left: 40px;">(32 hours)</p> <p style="padding-left: 20px;"><i>Refresher Course (8 hours)</i> \$ 700</p> <p><i>Asbestos Project Monitor Training Course</i> \$3500</p> <p style="padding-left: 40px;">(Comprehensive 40 hour course)</p> <p><i>Asbestos Project Monitor Training Course</i> \$1400</p> <p style="padding-left: 40px;">(16 hour course only)</p>	<p><i>Refresher Course (8 hours)</i> \$ 700</p> <p><i>RFS Worker Basic Module</i> \$ 350</p> <p><i>RFS Specialty Module</i> \$ 350</p> <p><i>RFS Supervisor Module</i> \$ 350</p> <p><i>RFS Inspector Training Course</i> \$2100</p> <p style="padding-left: 40px;">(24 hour comprehensive course)</p> <p><i>RFS Inspector Training Course</i> \$1050</p> <p style="padding-left: 40px;">(Inspector portion only)</p>
---	---

DO NOT USE THIS APPLICATION FORM TO RENEW A LICENSE



COMMONWEALTH OF VIRGINIA
Department of Commerce
Application for Asbestos Licensing

PLEASE PRINT

Date _____ 19____

1. Name _____ Phone No. (____) _____
Home
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: \$25. _____	Inspector (Reg. 7.3)	Fee: \$25. _____
Supervisor (Reg. 6.3)	Fee: \$25. _____	Management Planner (Reg. 8.3)	Fee: \$25. _____
Project Designer (Reg. 9.3)	Fee: \$25. _____	Project Monitor (Reg. 10.3)	Fee: \$25. _____
RFS Inspector (Reg. 5.3)	Fee: \$25. _____		

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.

8. 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 (Seal)

INDIVIDUAL LICENSE APPLICATION

VIRGINIA ASBESTOS LICENSING
Department of Commerce
Post Office Box 11066
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are not refundable.
5. Acceptance by the Department of Commerce of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed. Inspector and Management Planner applicants must complete Form A. (Enclosed).
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. Box 11066, RICHMOND, VIRGINIA 23230, IN THE PRE-ADDRESSED ENVELOPE.

INCLUDE THE FOLLOWING TO COMPLETE YOUR APPLICATION

1. A check or money order payable to "Treasurer of Virginia" in the amount of \$35.00.
2. A copy of a certificate indicating successful completion of a Virginia approved asbestos training course. (see sections 2.1, 5.1, 6.1, 7.1 and 8.1 of the regulations.)

OR

A copy of a certificate indicating successful completion of an EPA approved asbestos training course (see sections 2.7, 5.7, 6.7, 7.7 and 8.7 of the regulations.)

ALL APPLICANTS FOR INDIVIDUAL LICENSING MUST SUBMIT ONE OF THE CERTIFICATES MENTIONED ABOVE.

INDIVIDUAL LICENSE APPLICATION

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. In #1, provide your current home address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. Indicate the type of license requested in the space provided in #5.
4. In #2, provide date of birth; applicant must be at least 18 years of age.
5. Complete #4 by providing the name of the school, date of training, and location where approved asbestos training course was completed.
6. Complete #7 if your license or other authorization to perform asbestos abatement work has not been suspended or revoked by any jurisdiction and if no enforcement action by any jurisdiction is pending, sign in the space provided on the bottom of the first page.

OR

DO NOT complete and sign #7 if enforcement actions by any jurisdiction have been taken or are pending. Provide the information requested in #8 on the back of the application.

7. Complete #9, the affidavit portion of the application, and be sure it is notarized. The affidavit sections that appear at the end of the application must be completed by a Notary Public or the form will be returned.

PLEASE REMEMBER; ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER; FEES RECEIVED WILL NOT BE REFUNDED.

6/8/90



For Office Use Only
Lic # _____
Date _____
Code _____

Commonwealth of Virginia
Department of Commerce
Application for Asbestos Analytical Laboratory
License

PLEASE PRINT OR TYPE:

1) Name _____

Addresses of all laboratory site locations:

Mailing Address if different from above:
City _____ State _____ Zip Code _____

2) Type of laboratory analysis performed:
Please check the appropriate box(s)
Bulk _____ Air _____

Type of methodology used by the laboratory:
Please check the appropriate box(s)
PLM _____ PCM _____ TEM _____

3) Accreditations held:
Please check the appropriate box(s)
NVLAP _____ Locations _____

NIOSH Pat Proficiency Program _____ Locations _____

AIHA _____

Please enclose proof of current accreditation(s) with this application.

6/8/90

If the company does not hold any of the above accreditation(s), please enclose the following valid documentation:

1. Names, employment dates and verification of training for those persons performing analysis at the laboratory site(s).
2. Name of supervisor(s), employment dates and verification of education, specific training and experience.
3. Documentaion of:
 - a. Laboratory chain of custody procedures
 - b. Analytical quality assurance program
 - c. Equipement calibration and standardization program
 - d. Results of the last two (2) Pat or NVLAP rounds
 - e. Laboratory standard procedures
 - f. Laboratory record keeping procedures
 - g. Asbestos analitical equipment inventory
4. License Fee of \$ 100.00. ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.
- 5) Applicants signature below indicates that within the past 36 months license or authorization to perform asbestos analytical laboratory services has not been suspended or revoked by any federal, state or private accreditation program, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature

In the event that 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 analytical laboratory has not performed analytical services in a manner that would protect the safety of its employees, or the credibility and reliability of its analytical testing results.

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 copy of any reports compiled by an enforcement agency.

6/8/90

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS ANALYTICAL LABORATORIES.

AFFIDAVIT

6) THIS PORTION MUST BE COMPLETED BY AN OFFICER OF THE LABORATORY OR A RESPONSIBLE PARTY.

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 _____
Title _____
Date _____

7) THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

State of _____ City/County of _____
Subscribe and sworn 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 _____

(seal)

Notary Public

VIRGINIA ASBESTOS LICENSING
Department of Commerce
Post Office Box 11066
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM. DO NOT DUPLICATE THE APPLICATION FORM.
2. Applications may be filed at any time.
3. PRINT IN INK OR TYPE.
4. All application and renewal fees are non-refundable.
5. Acceptance by the Department of Commerce of an application fee does not indicate approval of an application nor connote eligibility for licensure.
6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
7. Please keep instructions for future reference, along with a copy of your application and related papers.
8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$100.00.
9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. Box 11066, RICHMOND, VIRGINIA 23230, IN THE PRE-ADDRESSED ENVELOPE.

FORM INSTRUCTIONS

1. Complete both sides of the application form.
2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
3. If your license or other authorization to perform asbestos analytical services has not been suspended or revoked by any jurisdiction and if no enforcement action by any jurisdiction is pending, sign in the space provided near the bottom of the first page.

OR

DO NOT sign in the space in the box on the first page if enforcement actions by any jurisdiction have been taken or are pending. Provide the information requested in 1, 2, and 3.

4. Please read the back page of the application carefully and complete the affidavit. The affidavit section that appears at the end of the application must be completed by a Notary Public or the form will be returned.

PLEASE REMEMBER; ALL APPLICATIONS SHOULD BE COMPLETED ACCORDING TO THESE INSTRUCTIONS. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT; HOWEVER; FEES RECEIVED WILL NOT BE REFUNDED.

DEPARTMENT OF GAME AND INLAND FISHERIES
(BOARD OF)

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

Title of Regulation:

VR 325-01. Definitions and Miscellaneous.

VR325-01-1. In General.

VR 325-02. Game.

VR 325-02-20. Skunk.

VR 325-02-24. Waterfowl and Waterfowl Blinds.

VR 325-02-28. Weasel.

VR 325-02-29. Woodchuck.

VR 325-03. Fish.

325-03-5. Minnows, Hellgrammites and Crayfish. Aquatic Invertebrates, Amphibians, Reptiles and Nongame Fish.

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

Proposed Effective Date: October 15, 1990.

Summary:

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

VR 325-01. DEFINITIONS AND MISCELLANEOUS.

VR 325-02-1. IN GENERAL.

§ 16. Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals:

- a. House mouse (*Mus musculus*).
- b. Norway rat (*Rattus norvegicus*).
- c. Black rat (*Rattus rattus*).
- d. Coyote (*Canis latrans*).

2. Birds:

- a. European starling (*Sturnus vulgaris*).
- b. English (house) sparrow (*Passer domesticus*).
- c. Pigeon (Rock Dove) (*Columba livia*).

B. All other wildlife species not classified as game, furbearer or nuisance, or otherwise specifically permitted

by law or regulation, are protected from taking, possession, transport or sale.

§ 17. Taking and possession of certain rodents for private use.

Except as otherwise provided for in the Code of Virginia and regulations of the board, it shall be lawful to take and possess no more than three individuals of any single species of rodents (order Rodentia) for private use than those listed below:

- 1. Those species listed as game or furbearers;
- 2. Those species listed as endangered or threatened; and
- 3. The following species listed for personal and public health or ecological reasons:
 - a. Allegheny woodrat (*Neotoma floridana*).
 - b. Pungo mouse (*Peromyscus leucopus easti*).
 - c. Rock vole (*Microtus chrotorrhinus carolinensis*).
 - d. Cotton mouse (*Peromyscus gossypinus gossypinus*).

§ 18. Taking of invertebrates.

A. Earthworms.

Earthworms may be taken at any time for private or commercial use.

B. Other invertebrates.

Except as otherwise provided for in §§ 3.1-1020 through 3.1-1030 and 29.1-418 of the Code of Virginia and in VR 325-01-1 § 14, invertebrates, other than those listed as endangered, threatened or of special concern, may be taken for private use.

VR 325-02-20. SKUNK.

§ 1. Continuous open season for taking striped skunks.

It shall be lawful to ~~kill~~ take striped skunks (*Mephitis mephitis*) at any time.

§ 2. Taking of spotted skunks.

A landowner or tenant may take, on his own land or land under his control, spotted skunks (*Spilogale putorius*) committing or about to commit depredation. However, the pelt of the spotted skunk may not be sold.

VR 325-02-24. WATERFOWL AND WATERFOWL BLINDS.

Proposed Regulations

§ 19. Great Hunting Creek and Dyke Marsh—No-hunting area established.

The waters of the Potomac River contained in the Great Hunting Creek embayment, to the North of Dyke Marsh, in the City of Alexandria, and in Fairfax County to within 1,000 feet of the Commonwealth of Virginia border with the State of Maryland, are hereby declared a no-hunting area. Within this area, it shall be unlawful to take or attempt to take waterfowl, except in the pursuit of wounded birds.

§ 20. Great Hunting Creek and Dyke Marsh—Floating blind area.

No license shall be issued for stationary waterfowl blinds on the Potomac River in Fairfax County adjacent to National Park Service Lands in the Great Hunting Creek and Dyke Marsh areas. Waterfowl hunting in Commonwealth waters adjacent to the above mentioned lands shall be by licensed floating blind only. Such floating blinds must be attached securely to a post or buoy affixed to the river bottom by the department, and are limited to one floating blind per post at any time. Hunters in licensed floating blinds may hunt from designated locations during legal shooting hours on Thanksgiving Day and on Mondays, Wednesdays and Fridays during the open seasons for hunting waterfowl in Virginia. Blind sites shall be occupied on a daily first-come basis, such sites to be occupied no earlier than 4 a.m. or later than one-half hour after sunset. All such blinds shall be removed each day.

Note: The board will also consider in this proposal whether there should be some stationary blinds permitted. The board will also consider in this proposal whether there will be some Saturday hunting permitted.

VR 325-02-28. WEASEL.

§ 1. Open season for long-tailed weasel.

It shall be lawful to take long-tailed weasels (*Mustela frenata*) from December 1 through the last day of February, both dates inclusive.

§ 2. Sale, etc., of pelts of least weasel.

It is unlawful to take or sell the pelt of the least weasel (*Mustela nivalis*).

§ 3. Taking of weasels committing depredation.

A landowner or tenant may take, on his own land or land under his control, weasels committing or about to commit depredation.

VR 325-02-29. WOODCHUCK.

§ 1. Continuous open season.

There shall be a continuous open season for the taking of woodchuck (*Marmota Monax*).

VR 325-03. FISH.

VR 325-03-5. AQUATIC INVERTEBRATES, AMPHIBIANS, REPTILES AND NONGAME FISH.

§ 1. Taking aquatic invertebrates, amphibians, reptiles and nongame fish for private use

A. Generally.

Except as otherwise provided for in § 29.1-418 of the Code of Virginia, VR 325-01-1, § 13, VR 325-01-1, § 14, VR 325-03-1, VR 325-03-2, VR 325-03-3, VR 325-03-4 and the sections of this regulation, it shall be lawful to take and possess no more than three individuals of any single species of amphibian and reptile or 20 individuals of any single species of aquatic invertebrates and nongame fish for private use.

B. "Fish bait."

"Fish bait," as used in this section, shall be defined as minnows and chubs (*Cyprinidae*), alewives, blueback herring, suckers, gizzard shad, salamanders, crayfish, mollusks or mussels, and hellgrammites. Except as provided for in VR 325-01-1, § 13, VR 325-03-1, VR 325-03-2, VR 325-03-3, VR 325-03-4 and VR 325-03-5, § 1, subsection A, and except in any waters where the use of nets is prohibited, it shall be lawful to take "fish bait" for private use, but not for commercial purposes. Possession limit shall be 50 individuals in aggregate, unless said person has purchased "fish bait" and has a receipt specifying the number of individuals by species purchased. "Fish bait" may only be taken with a seine not exceeding four feet in depth by 10 feet in length, an umbrella type net not exceeding five by five feet in diameter, small minnow traps with throat openings no larger than one inch in diameter, cast nets not to exceed four feet in radius and hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets, when so used, shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia).

C. Bullfrogs.

It shall be lawful to take bullfrogs for private use except from the banks or waters of designated trout waters. The daily limit for bullfrogs shall be 15.

D. Mollusks.

Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, the taking of mussels and the spinya riversnail (*Io fluviatilis*) is prohibited in the Tennessee drainage in Virginia (Clinch, Powell and the North, South

Proposed Regulations

and Middle Forks of the Holston Rivers and tributaries) and mussels in the James River and tributaries west of U.S. Route 29.

§ 2. Taking minnows and nongame fish for private use as bait.

Rescind this section in its entirety.

1. § 2. Taking minnows and chubs for sale.

A. Minnow "Haul seine" defined.

Minnow "Haul seine," as used in this section, when used in the public inland waters of the Commonwealth above where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 14 15 feet in length, and when used in the public inland waters below where the tide ebbs and flows, shall mean a haul seine not exceeding four feet in depth by 100 feet in length. Such a term shall be construed also to include umbrella type nets without limit as to size and also small minnow traps with throat openings no larger than one (1) inch in diameter.

B. Permit required.

It shall be unlawful to take minnows and chubs (*Cyprinidae*) for sale from the public inland waters of the Commonwealth without having a permit therefor as provided for in Code of Virginia § 29.1-416.

C. Permit holder to be present when seine operated; persons assisting.

The holder of a permit to seine for minnows and chubs (*Cyprinidae*) must be present at all times when the seine is being operated to catch minnows and chubs (*Cyprinidae*). Persons assisting in the operation of the haul seine need not obtain permits.

D. Records.

The holder of a permit to take minnows and chubs (*Cyprinidae*) for sale shall keep a record of the approximate number of minnows and chubs (*Cyprinidae*) caught taken by location (name and county of water body and sold, together with the amount received therefor.

§ 3. Taking of snapping turtles, crayfish and hellgrammites for sale.

It shall be lawful to take snapping turtles, crayfish and hellgrammites for sale.

§ 3. 4. Taking minnows where nets prohibited, Releasing game fish from nets, traps, etc.

It shall be unlawful to take minnows in any waters where the use of nets is prohibited. It shall be unlawful in the public inland waters of the Commonwealth to take game fish in a minnow seine, net pot or trap, and all

game fish caught in such minnow seines, nets, pots or traps shall immediately be returned without injury to the waters from which taken.

§ 4. Exporting from commonwealth prohibited where taken from public inland waters.

It shall be unlawful for any person to ship, transport or carry for sale any minnows, hellgrammites or crayfish taken from the public inland waters of this commonwealth beyond the boundaries of this commonwealth.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulations: VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 et seq. of the Code of Virginia.

Public Hearing Date: October 15, 1990 - 10 a.m.
(See Calendar of Events Section for additional information)

Summary:

The proposed amendments to Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations bring the regulations in compliance with recent amendments to the Virginia Medical Facilities Certificate of Public Need Law, and were first promulgated as emergency regulations effective July 5, 1990. The amendments extend the currently effective nursing home moratorium through June 30, 1991, and provide two additional exceptions to the moratorium for the filing of nursing home applications with the State Health Commissioner.

VR 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.

PART I. DEFINITIONS.

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

"Acquisition" means an expenditure of (i) \$700,000 or more that changes the ownership of a medical care facility or (ii) \$400,000 or more for the purchase of new major medical equipment. It shall also include the donation or lease of a medical care facility or new major medical equipment. An acquisition of a medical care facility shall not include a capital expenditure involving the purchase of stock.

"Amendment" means any modification to an application which is made following the public hearing and prior to

Proposed Regulations

the issuance of a certificate and includes those factors that constitute a significant change as defined in these regulations. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of person.

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See §§ 5.8 and 6.5

"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Informal fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facilities" means any institution, place, building, or agency, whether or not licensed or required to be licensed by the board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of these regulations,

only the following medical care facility classifications shall be subject to review:

A. "Medical care facility classifications" means the following:

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities.
5. Extended care facilities.
6. Mental hospitals.
7. Mental retardation facilities.
8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.
9. Specialized centers or clinics developed for the provision of out-patient or ambulatory surgery.
10. Rehabilitation hospitals.

B. "Exclusions" means that the following shall not be included as a medical care facility classification subject to review:

1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.
2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

"Medical service area" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"Modernization" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereto, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

"Operator" means any person having designated

responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"Operating expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"Other plans" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in these regulations.

"Owner" means any person which has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"Person" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the applicant for a certificate of public need; the regional health planning agency for the health planning region in which the proposed project is to be located; any resident of the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within the geographic area served or to be served by the applicant; any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. which is located in the health planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review; third party payors who provide health care insurance or prepaid coverage to 5% or more patients in the health planning region in which the project is proposed to be located; and any agency which reviews or establishes rates for health care facilities.

"Physician's office" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office.

"Planning district" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-1402 of the Code of Virginia.

"Predevelopment site work" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading,

Proposed Regulations

extension of utilities and power lines to the site.

"Progress" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See § 7.3 on Progress.

"Project" means:

A. The establishment of a medical care facility. See definition of medical care facility.

B. An increase in the total number of beds in an existing medical care facility.

C. Relocation of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

D. The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code.

E. The introduction into an existing medical care facility of any new open heart surgery, psychiatric, medical rehabilitation, or substance abuse treatment service which the facility has never provided or has not provided in the previous 12 months.

"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of § 5.4 or subsection B of § 6.6.

"Regional health plan" means the regional plan adopted by the regional health planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Registration" means the filing of information by the owner on affected new clinical health services established and major medical equipment acquired with an expenditure or expenditure value of \$400,000 or more on or after July 1, 1989, in a format prescribed by the Commissioner to satisfy the requirements of these regulations. For purposes of registration, affected clinical health services and major medical equipment shall include only the following:

1. Radiation therapy;
2. Cardiac catheterization;
3. Obstetrical;
4. Neonatal special care unit;
5. Lithotripsy;
6. Magnetic resonance imaging;
7. Position emission tomography (PET) scanning;
8. Computed tomography (CT) scanning;
9. Heart, lung and kidney transplants;
10. Other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the Commissioner.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;
2. Increases the capital expenditure amount approved for the project by 10% or more;
3. Changes the number or type of beds including the reclassification of beds from one medical care facility classification to another such as acute care to long term care except when such reclassification is allowable as provided for in these regulations. See definition of "medical care facility";
4. Changes the service(s) proposed to be offered; or
5. Extends the schedule for completion of the project for more than a 12-month period of time beyond that originally approved by the Commissioner. See § 3.4 under *Mandatory Requirements*.

"State health plan" means the document approved by the Virginia Health Planning Board which shall include, but not be limited to, analysis of priority health issues, policies, needs and methodologies for assessing statewide health care needs. The State Health Plan 1980-84 and all amendments thereto including all methodologies therein shall remain in force and effect until any such regulation is amended, modified or repealed by the Board of Health.

"State medical facilities plan" means the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. In developing the plan, the Board of Health shall take into consideration the policies and recommendations contained in the State Health Plan. The most recent applicable State Medical Facilities Plan shall remain in force until any such regulation is amended, modified or repealed by the Board of Health.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

**PART II.
GENERAL INFORMATION.**

§ 2.1. Authority for regulations.

The Virginia Medical Care Facilities Certificate of Public Need Law, which is codified as §§ 32.1-102.1 through 32.1-102.11 of the Code of Virginia, requires the owners or sponsors of medical care facility projects to secure a certificate of public need from the State Health Commissioner prior to initiating such projects. Sections 32.1-102.2 and 32.1-12 of the Code of Virginia direct the Board of Health to promulgate and prescribe such rules and regulations as are deemed necessary to effectuate the purposes of this statute.

§ 2.2. Purpose of rules and regulations.

The board has promulgated these rules and regulations to set forth an orderly administrative process for making public need decisions.

§ 2.3. Administration of rules and regulations.

These rules and regulations are administered by the following:

A. State Board of Health.

The Board of Health is the governing body of the State Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act.

B. State Health Commissioner.

The State Health Commissioner is the executive officer of the State Department of Health. The commissioner is

the designated decision maker in the process of determining public need under the Act.

§ 2.4. Public meetings and public hearings.

All meetings and hearings convened to consider any certificate of public need application shall be open to the public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.

§ 2.5. Official records.

Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.

§ 2.6. Application of rules and regulations.

These rules and regulations have general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1, et seq.) of the Code of Virginia apply to their promulgation.

§ 2.7. Effective date of rules and regulations.

These rules and regulations shall become effective ~~December 6, 1989~~

§ 2.8. Powers and procedures of regulations not exclusive.

The commissioner and the board reserve the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein and the provisions of § 32.1-102.1 et seq. of the Code of Virginia.

§ 2.9. Annual report.

The department shall prepare and shall distribute upon request an annual report on all certificate of public need applications considered by the State Health Commissioner. Such report shall include a general statement of the findings made in the course of each review, the status of applications for which there is a pending determination, an analysis of the consistency of the decisions with the recommendation made by the regional health planning agency and an analysis of the costs of authorized projects.

**PART III.
MANDATORY REQUIREMENTS.**

§ 3.1. Requirements for reviewable medical care facility projects.

Proposed Regulations

Prior to initiating a reviewable medical care facility project the owner or sponsor shall obtain a certificate of public need from the commissioner. In the case of an acquisition of an existing medical care facility, the notification requirement set forth in § 3.3 of these regulations shall be met.

§ 3.2. Requirements for registration of affected clinical health services and major medical equipment.

Within 30 days following operation, the owner of a new clinical health service established or major medical equipment with an expenditure or expenditure value of \$400,000 or more acquired on or after July 1, 1989, that is not defined as a project under these regulations and that has not been previously authorized by the State Health Commissioner prior to July 1, 1989, shall in writing register such service or equipment with the commissioner and copy the regional health planning agency. The format for registration shall be prescribed by the commissioner and shall include information concerning the owner and operator, description, site, capital, financing and lease costs, beginning date and hours of operation of clinical health service and major medical equipment. For purposes of registration, (i) owner shall include any person offering affected clinical health services and major medical equipment and (ii) affected clinical health services and major medical equipment shall include only the following:

1. Radiation therapy;
2. Cardiac catheterization;
3. Obstetrical;
4. Neonatal;
5. Lithotripsy;
6. Magnetic resonance imaging;
7. Positron emission tomography (PET) scanning;
8. Computed tomography (CT) scanning;
9. Heart, lung, and kidney transplants; and
10. Other specialized services or major medical equipment that evolves through changes in medical technology upon designation by the commissioner.

The commissioner shall acknowledge registration within 15 days of receipt.

§ 3.3. Requirement for notification of proposed acquisition of medical care facilities.

At least 30 days before any person is contractually obligated to acquire an existing medical care facility, the cost of which is \$700,000 or more, that person shall provide written notification to the commissioner and the

regional health planning agency that serves the area in which the facility is located. Such notification shall identify the name of the medical care facility, the current and proposed owner, the cost of the acquisition, the services to be added or deleted, the number of beds to be added or deleted, and the projected impact that the cost of the acquisition will have upon the charges of the services to be provided in the medical care facility. The commissioner shall provide written notification to the person who plans to acquire the medical care facility within 30 days of receipt of the required notification. If the commissioner finds that a reviewable clinical health service or beds are to be added as a result of the acquisition, the commissioner may require the proposed new owner to obtain a certificate prior to the acquisition. If such certificate is required, an application will be considered under an appropriate review procedure which will be identified at the time of written notification by the commissioner to the applicant for such acquisition.

§ 3.4. Significant change limitation.

No significant change in a project for which a certificate of public need has been issued shall be made without prior written approval of the commissioner. Such request for a significant change shall be made in writing by the owner to the commissioner with a copy to the appropriate regional health planning agency. The written request shall identify the nature and purpose of the change. The regional health planning agency shall review the proposed change and notify the commissioner of its recommendation with respect to the change within 30 days from receipt of the request by both the department and the regional health planning agency. Failure of the regional health planning agency to notify the commissioner within the 30-day period shall constitute a recommendation of approval. The commissioner shall act on the significant change request within 35 days of receipt. A public hearing during the review of a proposed significant change request is not required unless determined necessary by the commissioner.

§ 3.5. Requirements for health maintenance organizations.

An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if appropriate. See definition of "project" and § 3.3.

PART IV. DETERMINATION OF PUBLIC NEED (REQUIRED CONSIDERATIONS).

§ 4.1. In determining whether a public need exists for a proposed project, the following factors shall be taken into account when applicable:

- A. The recommendation and the reasons therefor of the appropriate regional health planning agency.
- B. The relationship of the project to the applicable

health plans of the regional health planning agency, and the Virginia Health Planning Board and the Board of Health.

C. The relationship of the project to the long-range development plan, if any, of the person applying for a certificate.

D. The need that the population served or to be served by the project has for the project.

E. The extent to which the project will be accessible to all residents of the area proposed to be served.

F. The area, population, topography, highway facilities and availability of the services to be provided by the project in the particular part of the health planning region in which the project is proposed.

G. Less costly or more effective alternate methods of reasonably meeting identified health service needs.

H. The immediate and long-term financial feasibility of the project.

I. The relationship of the project to the existing health care system of the area in which the project is proposed.

J. The availability of resources for the project.

K. The organizational relationship of the project to necessary ancillary and support services.

L. The relationship of the project to the clinical needs of health professional training programs in the area in which the project is proposed.

M. The special needs and circumstances of an applicant for a certificate, such as a medical school, hospital, multidisciplinary clinic, specialty center or regional health service provider, if a substantial portion of the applicant's services or resources or both is provided to individuals not residing in the health planning region in which the project is to be located.

N. The need and the availability in the health planning region for osteopathic and allopathic services and facilities and the impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

O. The special needs and circumstances of health maintenance organizations. When considering the special needs and circumstances of health maintenance organizations, the commissioner may grant a certificate for a project if the commissioner finds that the project is needed by the enrolled or reasonably anticipated new members of the health maintenance organizations or the beds or services to be provided are not available from providers which are not health maintenance organizations or from other maintenance organizations in a reasonable

and cost effective manner.

P. The special needs and circumstances for biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

Q. The costs and benefits of the construction associated with the proposed project.

R. The probable impact of the project on the costs of and charges for providing health services by the applicant for a certificate and on the costs and charges to the public for providing health services by other persons in the area.

S. Improvements or innovations in the financing and delivery of health services which foster competition and serve to promote quality assurance and cost effectiveness.

T. In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities in the area similar to those proposed.

PART V. ADMINISTRATIVE REVIEW PROCESS.

5.1. Applicability.

The administrative review procedure shall be applicable to projects involving (i) a capital expenditure of \$700,000 but not more than \$3 million which does not change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a clinical health service unless such service is determined to be exempt from review procedures by the commissioner or these regulations, or (ii) a capital expenditure of less than \$700,000 and which does change bed capacity or replace existing beds or relocate 10 beds or 10% of the beds whichever is less from one physical facility to another in any two year period or add a new clinical health service unless such service is determined to be exempt from review procedures by the commissioner and these regulations.

§ 5.2. Preconsultation.

Each regional health planning agency, in consultation with the department shall provide upon request, advice and assistance concerning community health resources needs to potential applicants submitting projects under the administrative review process. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the commissioner.

§ 5.3. Application forms.

A. Obtaining application forms.

Proposed Regulations

Applications forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. A copy of the request should also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

§ 5.4. Review of application.

A. Review cycle.

The department shall notify applicant(s) upon receipt of an application by the department and the regional health planning agency of the review schedule including the date, time and place for any informal fact-finding conference held. See §§ 5.9 and 6.6. The regional health planning agency shall within 30 days of the first day of the review cycle of the application and following the public hearing conducted in accordance with subsection B of § 6.6 of these regulations, notify the commissioner of its recommendation. Failure of the regional health planning agency to notify the commissioner within the 30 day time period shall constitute a recommendation of approval. The department shall transmit its report and the information transmitted to the commissioner by the regional health planning agency to the applicant(s) by the 30th day of the review cycle.

B. Ex parte contact.

After commencement of a public hearing and before a final decision is made there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte" contact.

§ 5.5. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the commissioner at appropriate times for consideration prior to their final action.

§ 5.6. Amendment to an application.

The applicant shall have the right to amend an application at any time. Any amendment which is made to an applicant following the public hearing specified in subsection A of § 6.4 and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part V of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of these regulations.

§ 5.7. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice, by written notification to the commissioner.

§ 5.8. Consideration of applications.

All competing applications shall be considered at the same time by the regional health planning agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate regional health planning agency.

§ 5.9. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificate of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 35th day of the review cycle unless an extension is agreed to by the applicant or an informal fact-finding conference described in § 6.6 is held. When an informal fact-finding conference is necessary, the review cycle shall automatically be extended to no more than 120 days unless otherwise agreed to by the parties to the conference. Such written notification shall reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The

commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant. See definition of "ex parte."

PART VI. STANDARD REVIEW PROCESS.

§ 6.1. Preconsultation.

Each regional health planning agency and the department shall provide upon request advice and assistance concerning community health resources needs to potential applicants. Such advice and assistance shall be advisory only and shall not be a commitment on behalf of the regional health planning agency or the commissioner.

§ 6.2. Application forms.

A. Obtaining application forms.

Application forms shall be available from the commissioner upon written request by the applicant. The request shall identify the owner, the type of project for which forms are requested and the proposed scope (size) and location of the proposed project. Such letter must be directed to the commissioner prior to the submission of the application. A copy of the request should also be submitted by the applicant to the appropriate regional health planning agency. The department shall transmit application forms to the applicant within 15 days of receipt of request.

B. Filing application forms.

All applications including required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency.

§ 6.3. Review for completeness.

The applicant shall be notified by the department within 15 days following receipt of the application if additional information is required to complete the application or the application is complete as submitted. No application shall be reviewed until the department has determined that it is complete. To be complete, all questions on the application must be answered to the satisfaction of the commissioner and all requested documents supplied, when applicable. Additional information required to complete an application should be submitted to the department and the appropriate regional health planning agency five days prior to the beginning of a review cycle in order to ensure review in the same review cycle. The review cycle for completed applications begins on the 10th day of each month or in

the event that the 10th day falls on the weekend, the next work day. See subsection A of § 6.6.

§ 6.4. One hundred twenty-day review cycle.

The review of a completed application for a certificate of public need shall be accomplished within 120 days of the beginning of the review cycle. See subsection A of § 6.6.

§ 6.5. Consideration of applications.

All competing applications shall be considered at the same time by the regional health planning agency and the commissioner. The commissioner shall determine if an application is competing and shall provide written notification to the competing applicants and appropriate regional health planning agency.

§ 6.6. Review of complete application.

A. Review cycle.

At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant(s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person opposed to a project seeking to demonstrate good cause at the conference. Any person seeking to demonstrate good cause shall file no later than seven days prior to the conference written notification to the commissioner, applicant(s) and other competing applicants and regional health planning agency stating the grounds for good cause.

For purposes of this section, good cause shall mean that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on

Proposed Regulations

the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia.

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications.

Upon notification of the acceptance date of a complete application as set forth in subsection A of § 6.6 of these regulations, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in these rules and regulations, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact.

After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

§ 6.7. Participation by other persons.

Any person affected by a proposed project under review may directly submit written opinions, data and other information to the appropriate regional health planning agency and the commissioner for consideration prior to their final action.

§ 6.8. Amendment to an application.

The applicant shall have the right to amend an

application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in these regulations shall constitute a new application and shall be subject to the review requirements set forth in Part VI of the regulations. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with § 3.4 of the regulations.

§ 6.9. Withdrawal of an application.

The applicant shall have the right to withdraw an application from consideration at any time, without prejudice by written notification to the commissioner.

§ 6.10. Action on an application.

A. Commissioner's responsibility.

Decisions as to approval or disapproval of applications or a portion thereof for certificates of public need shall be rendered by the commissioner. Any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of either such plan are inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan.

B. Notification process-extension of review time.

The commissioner shall make a final determination on an application for a certificate of public need and provide written notification detailing the reasons for such determination to the applicant with a copy to the regional health planning agency by the 120th day of the review cycles unless an extension is agreed to by the applicant and an informal fact-finding conference described in § 6.6 is held. When an informal fact-finding conference is held, the 120 day review cycle shall not be extended unless agreed to by the parties to the conference. Such written notification shall also reference the factors and bases considered in making a decision on the application and, if applicable, the remedies available for appeal of such decision and the progress reporting requirements. The commissioner may approve a portion of a project provided the portion to be approved is agreed to by the applicant following consultation, which may be subject to the ex parte provision of these regulations, between the commissioner and the applicant.

PART VII. DURATION/EXTENSION/REVOCATION OF CERTIFICATES.

§ 7.1. Duration.

A certificate of public need shall be valid for a period of 12 months and shall not be transferrable from the certificate holder to any other legal entity regardless of the relationship, under any circumstances.

§ 7.2. Extension.

A certificate of public need is valid for a 12-month period and may be extended by the commissioner for additional time periods which shall be specified at the time of the extension.

A. Basis for certificate extension within 24 months.

An extension of a certificate of public need beyond the expiration date may be granted by the commissioner by submission of evidence to demonstrate that progress is being made towards the completion of the authorized project as defined in § 7.3 of the regulations. Such request shall be submitted to the commissioner in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate or period of extension.

B. Basis for certificate extension beyond 24 months.

An extension of a certificate of public need beyond the two years following the date of issuance may be granted by the commissioner when substantial and continuing progress is being made towards the development of the authorized project. In making the determination, the commissioner shall consider whether: (i) delays in development of the project have been caused by events beyond the control of the owner; (ii) substantial delays in development of the project may not be attributed to the owner; and (iii) a revised schedule of completion has been provided and determined to be reasonable. Such request shall be submitted in writing with a copy to the appropriate regional health planning agency at least 30 days prior to the expiration date of the certificate of period of extension.

C. Basis for indefinite extension.

A certificate shall be considered for an indefinite extension by the commissioner when satisfactory completion of a project has been demonstrated as set forth in subsection C of § 7.3 and the definition of "Construction, initiation of."

D. Regional health planning agency review.

All requests for an extension of a certificate of public need shall be reviewed by the appropriate regional health planning agency within 30 days of receipt by the department and the regional health planning agency. The recommendations on the request by that agency shall be forwarded to the commissioner who shall act upon the progress report within 35 days of receipt by the department and the regional health planning agency. Failure of the regional health planning agency to notify

the commissioner within the time frame prescribed shall constitute a recommendation of approval by such regional health planning agency.

E. Notification of decision.

Extension of a certificate of public need by the commissioner shall be made in the form of a letter from the commissioner with a copy to the appropriate regional health planning agency and shall become part of the official project file.

§ 7.3. Demonstration of progress.

The applicant shall provide reports to demonstrate progress made towards the implementation of an authorized project in accordance with the schedule of development which shall be included in the application. Such progress reports shall be filed in accordance with the following intervals and contain such evidence as prescribed at each interval:

1. Twelve months following issuance. Documentation that shows: (i) proof of ownership or control of site; (ii) the site meets all zoning and land use requirements; (iii) architectural planning has been initiated; (iv) preliminary architectural drawings and working drawings have been submitted to appropriate state reviewing agencies and the State Fire Marshal; (v) construction financing has been completed or will be completed within two months and (vi) purchase orders of lease agreements exist for equipment and new service projects.

2. Twenty-four months following issuance. Documentation that shows that (i) all required financing is completed; (ii) preconstruction site work has been initiated; (iii) construction bids have been advertised and the construction contractor has been selected; (iv) the construction contract has been awarded and (v) construction has been initiated.

3. Upon completion of a project. Any documentation not previously provided which: (i) shows the final costs of the project, including the method(s) of financing; and (ii) shows that the project has been completed as proposed in accordance with the application originally submitted, including any subsequent approved changes.

§ 7.4. Revocation of certificate.

A. Lack of progress.

Failure of any project to meet the progress requirements stated in § 7.3 shall be cause for certificate revocation, unless the commissioner determines sufficient justification exists to permit variance, considering factors enumerated in § 7.3.

B. Failure to report progress.

Proposed Regulations

Failure of an applicant to file progress reports on an approved project in accordance with § 7.3 of these regulations shall be cause for revocation, unless due to extenuating circumstances the commissioner in accordance with subsection B of § 7.2 of these regulations.

C. Unapproved changes.

Exceeding a capital expenditure amount not authorized by the commissioner or not consistent with the schedule of completion. See definition of "significant change" and "schedule of completion." See definition of significant change and schedule of completion.

D. Failure to initiate construction.

Failure to initiate construction of the project within two years following the date of issuance of the certificate of public need shall be cause for revocation, unless due to extenuating circumstances the commissioner extends the certificate, in accordance with subsection B of § 7.2 of these regulations.

E. Misrepresentation.

Upon determination that an applicant has knowingly misrepresented or knowingly withheld relevant data or information prior to issuance of a certificate of public need, the commissioner may revoke said certificate.

F. Noncompliance with assurances.

Failure to comply with the assurances or intentions set forth in the application or written assurances provided at the time of issuance of a certificate of public need shall be cause for revocation.

PART VIII. APPEALS.

§ 8.1. Court review.

A. Appeal to circuit court. Appeals to a circuit court shall be governed by applicable provisions of Virginia's Administrative Process Act, § 9-6.14:15 et seq. of the Code.

Any applicant aggrieved by a final administrative decision on its application for a certificate, any third party payor providing health care insurance or prepaid coverage to 5.0% or more of the patients in the applicant's service area, a regional health planning agency operating in the applicant's service area or any person showing good cause or any person issued a certificate aggrieved by a final administrative decision to revoke said certificate, within 30 days after the decision, may obtain a review, as provided in § 9-6.14:17 of the Code of Virginia by the circuit court of the county or city where the project is intended to be or was constructed, located or undertaken. Notwithstanding the provisions of § 9-6.14:16 of the Administrative Process Act, no other person may obtain such review.

B. Designation of judge.

The judge of the court referred to in subsection A of § 8.1 of these regulations shall be designated by the Chief Justice of the Supreme Court from a circuit other than the circuit where the project is or will be under construction, located or undertaken.

C. Court review procedures.

Within five days after the receipt of notice of appeal, the department shall transmit to the appropriate court all of the original papers pertaining to the matter to be reviewed. The matter shall thereupon be reviewed by the court as promptly as circumstances will reasonably permit. The court review shall be upon the record so transmitted. The court may request and receive such additional evidence as it deems necessary in order to make a proper disposition of the appeal. The court shall take due account of the presumption of official regularity and the experience and specialized competence of the commissioner. The court may enter such orders pending the completion of the proceedings as are deemed necessary or proper. Upon conclusion of review, the court may affirm, vacate or modify the final administrative decision.

D. Further appeal.

Any party to the proceeding may appeal the decision of the circuit court in the same manner as appeals are taken and as provided by law.

PART IX. SANCTIONS.

§ 9.1. Violation of rules and regulations.

Commencing any project without a certificate required by this statute shall constitute grounds for refusing to issue a license for such project.

§ 9.2. Injunctive relief.

On petition of the commissioner, the Board of Health or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project.

PART X. OTHER.

§ 10.1. Certificate of public need moratorium.

Notwithstanding any law to the contrary, the Commissioner shall not approve, authorize or accept applications for the issuance of any certificate of public

need pursuant to the regulations for a medical care facility project which would increase the number of nursing home beds from the effective date of the regulations through ~~January 1, 1991~~ June 30, 1991 . However, the commissioner may approve or authorize the issuance of a certificate of public need for the following projects:

1. The renovation or replacement on site of a nursing home, intermediate care or extended care facility or any portion thereof or *replacement off-site of an existing facility at a location within the same city or county and within reasonable proximity to the current site when replacement on the current site is proven unfeasible* when a capital expenditure is required to comply with life safety codes, licensure, certification or accreditation standards. *Under no circumstances shall the State Health Commissioner approve, authorize, or accept an application for the issuance of a certificate for any project which would result in the continued use of the facility replaced as a nursing home.*

2. The conversion on site of existing licensed beds of a medical care facility other than a nursing home, extended care, or intermediate care facility to beds certified for skilled nursing services (SNF) when (i) the total number of beds to be converted does not exceed the lesser of 20 beds or 10% of the beds in the facility; (ii) the facility has demonstrated that the SNF beds are needed specifically to serve as specialty heavy care patient population, such as ventilator-dependent and AIDS patients and that such patients otherwise will not have reasonable access to such services in existing or approved facilities; and (iii) the facility further commits to admit such patients on a poverty basis once the SNF unit is certified and operational.

3. *The Commissioner of Health may approve or authorize the issuance of a certificate of public need for any project for the conversion on site of existing beds in a home for adults facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 as of March 1, 1990, to beds certified as nursing facility beds when (i) the total number of beds to be converted does not exceed the lesser of 30 beds or 25% of the beds in the home for adults facility; (ii) the home for adults facility has demonstrated that nursing facility beds are needed specifically to serve a patient population of AIDS, or ventilator-dependent, or head and spinal cord injured patients, or any combination of the three, and that such patients otherwise will not have reasonable access to such services in existing or approved nursing facilities; (iii) the home for adults facility further commits to admit such patients once the nursing facility beds are certified and operational; and (iv) the licensed home for adults facility otherwise meets the standards for nursing facility beds as set forth in the regulations of the Board of Health.*

4. *Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code, the state home for aged and infirm veterans authorized by Chapter 668, 1989 Acts of Assembly, shall be exempt from all certificates of public need review requirements as a medical care facility.*

§ 10.2. Expiration of requirements for general hospitals and outpatient or ambulatory surgery centers or clinics.

Notwithstanding any law to the contrary, as of July 1, 1991, general hospitals and specialized centers or clinics developed for the provision of outpatient or ambulatory surgery shall no longer be medical care facilities subject to review pursuant to these Regulations except with respect to the establishment of nursing home beds in general hospitals.

REGISTRATION FORM
FOR

NEW CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT ACQUISITION
ON OR AFTER JULY 1, 1989
PURSUANT TO SECTION 32.1-102.3:4, PART 1, OF THE CODE OF VIRGINIA

ALL QUESTIONS APPLY ONLY TO NEW CLINICAL HEALTH SERVICE OR MAJOR
MEDICAL EQUIPMENT BEING REGISTERED

1. BRIEFLY DESCRIBE CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT ACQUISITION INCLUDING THE NAME OF THE EQUIPMENT MANUFACTURER, IF APPLICABLE: (If clinical health service involves beds, identify the number of beds and the former use of beds)

2. NAME AND ADDRESS OF OWNER OF SERVICE OR EQUIPMENT:

TYPE OF CONTROL AND OWNERSHIP: (check one)

Proprietary Non-Profit Governmental

3. NAME AND ADDRESS OF OPERATOR OF SERVICE OR EQUIPMENT, IF DIFFERENT FROM THE OWNER:

4. SITE OF CLINICAL HEALTH SERVICE OR MAJOR MEDICAL EQUIPMENT (if mobile operation, identify name and location of all medical care facility or physician office sites):

5. Identify capital expenditure required to establish the service and equipment in terms of the following:

_____	=	_____	+	_____	+	_____	+	_____
Total capital costs		Major medical equipment costs (if equipment leased, fair market value)		Direct construction costs		Renovation Costs		Other capital costs

(Examples of other capital costs include site acquisition, site preparation and off-site costs; architectural and engineering and other consultant fees; taxes during construction; financing fees that are capitalized.)

6. If there are no capital costs associated with:
1) establishing the affected clinical health service or acquiring the major medical equipment and 2) space used to provide the affected service or equipment, identify annual lease payments for each applicable category.

7. Identify any financing costs associated with the clinical health service or major medical equipment in terms of the following:

Amount of Capital Costs Financed

Total Interest Costs Over the Life of the Loan

Financing Method Including Rate and Term (if variable rate, identify current rate)

8. Date on which clinical health service or major medical equipment became operational: _____

9. Scheduled Hours of Operation for clinical health service or major medical equipment per day: _____

Average Number of Hours of operation for clinical health service or major medical equipment per day:

Days of Week clinical health service or major medical equipment is operational:

ASSURANCE

I hereby assure and certify that:

-- The information included in this form is correct to the best of my knowledge and belief and that it is my intent to carry out the clinical health service or major medical equipment acquisition as described and, if significant changes are made to notify the State Health Commissioner as soon as known.

Signature of Authorizing Officer

Address

Telephone Number

Name and Title of Authorizing Officer

Date

BOARD OF NURSING

Title of Regulation: VR 495-01-01. Board of Nursing Regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

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

(See Calendar of Events Section for additional information)

Summary:

The Virginia General Assembly, at its 1990 session, amended §§ 54.1-3000 and 54.1-3005 of the Code of Virginia. The first change amended the definition of practical nursing to permit the teaching of those who are or will be nurse aides, subject to such regulations as the Board of Nursing may promulgate. The second change authorizes the Board of Nursing to promulgate regulations, which include standards for the authority of licensed practical nurses to teach nurse aides.

The Board of Nursing appointed an advisory committee, consisting of six representatives of groups having an interest in these regulations, to meet with representatives of the board. This group met twice and made recommendations to the board. Following publication of the Notice of Intended Regulatory Action on May 21, 1990, the board, at its regular meeting on July 26, 1990, considered four written comments and the recommendations from the advisory committee. The board then developed and adopted the proposed amended regulations and directed staff to proceed with the appropriate steps in the promulgation of regulations.

The proposed regulations amend or relocate some existing regulations and add some new regulations. These changes are outlined in the Index to the Existing and Proposed Regulations, which is incorporated by reference for the purpose of this summary. All relevant documents are available for inspection at the office of the Board of Nursing, 1601 Rolling Hills Drive, Richmond, Virginia 23229, telephone (804) 662-9909.

VR 495-01-1. Board of Nursing Regulations.

Preamble:

These regulations state the requirements for approval of nursing and nurse aide education programs, the licensing of registered nurses and practical nurses, the registration of clinical nurse specialists and the certification of nurse aides in the Commonwealth of Virginia. The regulations have been adopted by the Virginia State Board of Nursing under the authority of Chapter 24 (§ 54.1-2400) and Chapter 30 (§ 54.1-3000

et seq.) of Title 54.1 of the Code of Virginia.

The board believes that each practitioner of nursing is accountable to the Commonwealth and to the public to maintain high professional standards of practice in keeping with the ethics of the profession of nursing.

The registered nurse shall be responsible and accountable for making decisions that are based upon educational preparation and experience in nursing. The registered nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself or others who are under his supervision. The registered nurse who is a clinical nurse specialist is authorized to provide advanced nursing services consistent with the requirements of law and regulations.

The licensed practical nurse shall be held accountable for the quality and quantity of nursing care given to patients by himself based upon educational preparation and experience.

The certified nurse aide is required to meet standards consistent with federal and state law and regulations in employment settings receiving Medicare and Medicaid reimbursement for care rendered.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Approval" means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

"Associate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, State Council of Higher Education or an Act of the General Assembly.

"Baccalaureate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate degree with a major in nursing, provided that the institution is authorized to confer such degree by the State Board of Education, the State Council of Higher Education or an Act of the General Assembly.

"Board" means the State Board of Nursing.

Proposed Regulations

"Clinical nurse specialist" means a licensed registered nurse who holds:

1. A master's degree from a board approved program which prepares the nurse to provide advanced clinical nursing services; and
2. Specialty certification from a national certifying organization acceptable to the board or registration with the board pursuant to § 3.10 A 5 of these regulations.

"Conditional approval" means a time-limited status which results when an approved nursing education program has failed to maintain requirements as set forth in § 2.2 of these regulations.

"Cooperating agency" means an agency or institution that enters into a written agreement to provide learning experiences for a nursing education program.

"Diploma nursing program" means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

"National certifying organization" means an organization that has as one of its purposes the certification of a specialty in nursing based on an examination attesting to the knowledge of the nurse for practice in the specialty area.

"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma or certificate.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure, offered by a Virginia school, that leads to a diploma or certificate in practical nursing, provided the school is authorized by the appropriate governmental agency.

"Program director" means a registered nurse who has been designated by the controlling authority to administer the nursing education program.

"Provisional approval" means the initial status granted to a nursing education program which shall continue until the first class has graduated and the board has taken final action on the application for approval.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved.

§ 1.2. Delegation of authority.

A. The executive director of the board shall issue a certificate of registration to each person who meets the requirements for initial licensure under §§ 54.1-3017, 54.1-3018, 54.1-3020 and 54.1-3021 of the Code of Virginia. Such certificates of registration shall bear the signature of the president of the board, the executive director and the director of the Department of Health Regulatory Boards.

B. The executive director shall issue license to each applicant who qualifies for such license under § 54.1-3011 of the Code of Virginia. Such licenses shall bear the name of the executive director.

C. The executive director shall be delegated the authority to execute all notices, orders and official documents of the board unless the board directs otherwise.

§ 1.3. Fees.

Fees required in connection with the licensing of applicants by the board are:

1. Application for R.N. Licensure\$45
2. Application for L.P.N. Licensure\$35
3. Biennial Licensure Renewal\$28
4. Reinstatement Lapsed License\$50
5. Duplicate License\$10
6. Verification of License\$10
7. Transcript of Examination Scores\$5
8. Transcript of Applicant/Licensee Records\$10
9. Returned Check Charge\$15
10. Application for C.N.S. registration\$50
11. Biennial renewal of C.N.S. registration\$30
12. Reinstatement of lapsed C.N.S. registration\$25
13. Verification of C.N.S. registration\$25

§ 1.4. Public participation guidelines.

A. Mailing list.

The Virginia State Board of Nursing (board) will maintain a list of persons and organizations who will be mailed the following documents as they become available:

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

3. Final regulation adopted.

Any person wishing to be placed on the mailing list may do so by writing the board. In addition, the board, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons on the list will be provided all above-listed information. Individuals and organizations will be periodically requested to indicate their desire to continue to receive documents or be deleted from the list. Where mail is returned as undeliverable, individuals and organizations will be deleted from the list.

B. Notice of intent.

At least 30 days prior to publication of the notice to conduct an informational proceeding as required by § 9-6.14:1 of the Code of Virginia, the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation or the problem the regulation would address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

C. Public comment period.

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

D. Petitions to the board.

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

E. Publication in the Virginia Register of Regulations.

At any meeting of the board or any subcommittee or advisory committee, where the formulation or adoption of regulation occurs, the subject matter shall be transmitted to the Registrar of Regulations for inclusion in the Virginia Register of Regulations.

F. Advisory committee.

The board, in cooperation with the Council on Health Regulatory Boards, may appoint advisory committees as they deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption, and

review of regulations.

PART II. NURSING EDUCATION PROGRAMS.

§ 2.1. Establishing a nursing education program.

Phase I.

A. An institution wishing to establish a nursing education program shall:

1. Submit to the board, at least 15 months in advance of expected opening date, a statement of intent to establish a nursing education program;

2. Submit to the board, along with the statement of intent, a feasibility study to include the following information:

a. Studies documenting the need for the program;

b. Purpose and type of program;

c. Availability of qualified faculty;

d. Budgeted faculty positions;

e. Availability of clinical facilities for the program;

f. Availability of academic facilities for the program;

g. Evidence of financial resources for the planning, implementation and continuation of the program;

h. Anticipated student population;

i. Tentative time schedule for planning and initiating the program; and

j. Current catalog, if applicable.

3. Respond to the board's request for additional information.

B. A site visit shall be conducted by a representative of the board.

C. The board, after review and consideration, shall either approve or disapprove Phase I.

1. If Phase I is approved, the institution may apply for provisional approval of the nursing education program as set forth in these regulations.

2. If Phase I is disapproved, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

Phase II.

Proposed Regulations

D. The application for provisional approval shall be complete when the following conditions are met:

1. A program director has been appointed and there are sufficient faculty to initiate the program (§ 2.2.C of these regulations);
2. A tentative written curriculum plan developed in accordance with § 2.2.F of these regulations has been submitted; and

E. The board, after review and consideration, shall either grant or deny provisional approval.

1. If provisional approval is granted:
 - a. The admission of students is authorized; and
 - b. The program director shall submit quarterly progress reports to the board which shall include evidence of progress toward application for approval and other information as required by the board.
2. If provisional approval is denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

F. Following graduation of the first class, the institution shall apply for approval of the nursing education program.

Phase III.

G. The application for approval shall be complete when a self-evaluation report of compliance with § 2.2 of these regulations has been submitted and a survey visit has been made by a representative of the board.

H. The board will review and consider the self-evaluation and the survey reports at the next regularly scheduled meeting.

I. The board shall either grant or deny approval. If denied, the institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

§ 2.2. Requirements for approval.

A. Organization and administration.

1. The institution shall be authorized to conduct a nursing education program by charter or articles of incorporation of the controlling institution; by resolution of its board of control; or by the institution's own charter or articles of incorporation.
2. Universities, colleges, community or junior colleges, proprietary schools and public schools offering nursing education programs shall be accredited by the appropriate state agencies and the Southern

Association of Colleges and Schools.

3. Hospitals conducting a nursing education program shall be accredited by the Joint Commission on Accreditation of Healthcare Organizations.

4. Any agency or institution that is utilized by a nursing education program shall be one that is authorized to conduct business in the Commonwealth of Virginia, or in the state in which the agency or institution is located.

5. The authority and responsibility for the operation of the nursing education program shall be vested in a program director who is duly licensed to practice professional nursing in Virginia and who is responsible to the controlling board, either directly or through appropriate administrative channels.

6. A written organizational plan shall indicate the lines of authority and communication of the nursing education program to the controlling body; to other departments within the controlling institution; to the cooperating agencies; and to the advisory committee, if one exists.

7. Funds shall be allocated by the controlling agency to carry out the stated purposes of the program. The program director of the nursing education program shall be responsible for the budget recommendations and administration, consistent with the established policies of the controlling agency.

B. Philosophy and objectives.

Written statements of philosophy and objectives shall be:

1. Formulated and accepted by the faculty;
2. Directed toward achieving realistic goals;
3. Directed toward the meaning of education, nursing and the learning process;
4. Descriptive of the practitioner to be prepared; and
5. The basis for planning, implementing and evaluating the total program.

C. Faculty.

1. Qualifications.

- a. Every member of a nursing faculty, including the program director, shall hold a current license to practice as a registered nurse in Virginia.
- b. Every member of a nursing faculty responsible for teaching students in a cooperating agency located outside the jurisdictional limits of Virginia shall meet the licensure requirements of that

jurisdiction .

c. The program director and each member of the nursing faculty shall maintain professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects and professional writing.

d. For baccalaureate degree programs:

(1) The program director shall hold a doctoral degree.

(2) Every member of the nursing faculty shall hold a graduate degree. Faculty members without a graduate degree with a major in nursing shall have a baccalaureate degree with a major in nursing.

(3) At least one faculty member in each clinical area shall have master's preparation in specialty.

e. For associate degree and diploma programs:

(1) The program director shall hold a graduate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a graduate degree, preferably with a major in nursing.

(3) Other members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

f. For practical nursing programs.

(1) The program director shall hold a baccalaureate degree, preferably with a major in nursing.

(2) The majority of the members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

g. Exceptions to provisions of subparagraphs d, e, and f of this subsection shall be by board approval.

(1) Initial request for exception.

(a) The program director shall submit a request for initial exception in writing for considerations at a regular board meeting prior to the term during which the nursing faculty member is scheduled to teach.

(b) A description of teaching assignment, a curriculum vitae and a statement of intent, from the prospective faculty member, to pursue the required degree shall accompany each request.

(2) Request for continuing exception.

(a) Continuing exception will be based on the progress of the nursing faculty member toward meeting the degree required by these regulations during each year for which the exception is requested.

(b) The program director shall submit the request for continuing exception in writing for consideration at a regular board meeting prior to the next term during which the nursing faculty member is scheduled to teach.

(c) A list of courses required for the degree being pursued and college transcripts showing successful completion of a minimum of two of the courses during the past academic year shall accompany each request.

(3) The executive director of the board shall be authorized to make the initial decision on requests for exceptions. Any appeal of that decision shall be in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

2. Number.

a. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and such number shall be reasonably proportionate to:

(1) Number of students enrolled;

(2) Frequency of admissions;

(3) Education and experience of faculty members;

(4) Number and location of clinical facilities; and

(5) Total responsibilities of the faculty.

b. When students are giving direct care to patients, the ratio of students to faculty in clinical areas shall not exceed 10 students to one faculty member.

3. Conditions of employment.

a. Qualifications and responsibilities for faculty positions shall be defined in writing.

b. Faculty assignments shall allow time for class and laboratory preparation; teaching; program revision; improvement of teaching methods; academic advisement and counseling of students; participation in faculty organizations and committees; attendance at professional meetings; and participation in continuing education activities.

4. Functions.

The principal functions of the faculty shall be to:

Proposed Regulations

a. Develop, implement and evaluate the philosophy and objectives of the nursing education program;

b. Participate in designing, implementing, teaching, and evaluating and revising the curriculum;

c. Develop and evaluate student admission, progression, retention and graduation policies within the framework of the controlling institution;

d. Participate in academic advisement and counseling of students; and

e. Provide opportunities for student and graduate evaluation of curriculum and teaching and program effectiveness.

5. Organization.

a. The nursing faculty shall hold regular meetings for the purpose of developing, implementing and evaluating the nursing education program. Written rules shall govern the conduct of meetings.

b. All members of the faculty shall participate in the regular faculty meetings.

c. Committees shall be established to implement the functions of the faculty.

d. Minutes of faculty and committee meetings, including actions taken, shall be recorded and available for reference.

e. There shall be provision for student participation.

D. Students.

1. Admission, promotion and graduation.

a. Requirements for admission to the nursing education program shall not be less than the statutory requirements that will permit the graduate to be admitted to the appropriate licensing examination.

(EXPLANATORY NOTE: Reference subdivision 1 of subsection A of § 54.1-3017 of the Code of Virginia: The equivalent of a four-year high school course of study is considered to be:

(1) A General Educational Development (GED) certificate for high school equivalence; or

(2) Satisfactory completion of the college courses required by the nursing education program.)

b. Students shall be selected on the basis of established criteria and without regard to age, race, creed, sex or national origin.

c. Requirements for admission, readmission, advanced standing, progression, retention, dismissal and graduation shall be available to the students in written form.

E. Records.

1. School records.

A system of records shall be maintained and be made available to the board representative and shall include:

a. Data relating to accreditation by any agency or body,

b. Course outlines,

c. Minutes of faculty and committee meetings,

d. Reports of standardized tests,

e. Survey reports.

2. Student records.

a. A file shall be maintained for each student. Each file shall be available to the board representative and shall include:

(1) The student's application,

(2) High school transcript or copy of high school equivalence certificate,

(3) Current record of achievement.

b. A final transcript shall be retained in the permanent file of the institution.

c. Provision shall be made for the protection of student and graduate records against loss, destruction and unauthorized use.

3. School bulletin or catalogue.

Current information about the nursing education program shall be published periodically and distributed to students, applicants for admission and the board. Such information shall include:

a. Description of the program.

b. Philosophy and objectives of the controlling institution and of the nursing program.

c. Admission and graduation requirements.

d. Fees.

e. Expenses.

- f. Financial aid.
- g. Tuition refund policy.
- h. Education facilities.
- i. Living accommodations.
- j. Student activities and services.
- k. Curriculum plan.
- l. Course descriptions.
- m. Faculty-staff roster.
- n. School calender.

F. Curriculum.

1. Curriculum shall reflect the philosophy and objectives of the nursing education program, and shall be consistent with the law governing the practice of nursing.
2. The ratio between nursing and nonnursing credit shall be based on a rationale to ensure sufficient preparation for the safe and effective practice of nursing.
3. Learning experiences shall be selected to fulfill curriculum objectives.
4. Nursing education programs preparing for practical nursing licensure shall include:
 - a. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;
 - b. Basic concepts of the nursing process;
 - c. Basic concepts of anatomy, physiology, chemistry, physics and microbiology;
 - d. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;
 - e. Ethics, nursing history and trends, vocational and legal aspects of nursing, including regulations and sections of the Code of Virginia related to nursing; and
 - f. Basic concepts of pharmacology, nutrition and diet therapy.
5. Nursing education programs preparing for registered nurse licensure shall include:

- a. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness throughout the life cycle for individuals, groups and communities;
- b. Concepts of the nursing process;
- c. Concepts of anatomy, physiology, chemistry, microbiology and physics;
- d. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;
- e. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;
- f. Concepts of ethics, nursing history and trends, and the professional and legal aspects of nursing, including regulations and sections of the Code of Virginia related to nursing; and
- g. Concepts of leadership, management and patient education.

G. Resources, facilities and services.

1. Periodic evaluations of resources, facilities and services shall be conducted by the administration, faculty, students and graduates of the nursing education program.
2. Secretarial and other support services shall be provided.
3. Classrooms, conference rooms, laboratories, clinical facilities and offices shall be available to meet the objectives of the nursing education program and the needs of the students, faculty, administration and staff.
4. The library shall have holdings that are current, pertinent and accessible to students and faculty, and sufficient in number to meet the needs of the students and faculty.
5. Written agreements with cooperating agencies shall be developed, maintained and periodically reviewed. The agreement shall:
 - a. Ensure full control of student education by the faculty of the nursing education program, including the selection and supervision of learning experiences.
 - b. Provide that an instructor shall be present on the clinical unit(s) to which students are assigned for direct patient care.
 - c. Provide for cooperative planning with designated agency personnel.

Proposed Regulations

6. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives.

7. Cooperating agencies shall be approved by the appropriate accreditation, evaluation or licensing bodies, if such exist.

H. Program changes requiring board of nursing approval.

The following proposed changes require board approval prior to their implementation:

1. Proposed changes in the nursing education program's philosophy and objectives that result in program revision.

2. Proposed changes in the curriculum that result in alteration of the length of the nursing education program.

3. Proposed additions, deletions or major revisions of courses.

I. Procedure for approval of program change.

1. When a program change is contemplated, the program director shall inform the board or board representative.

2. When a program change is requested, a plan shall be submitted to the board including:

- a. Proposed change,
- b. Rationale for the change,
- c. Relationship of the proposed change to the present program.

3. Twelve copies of these materials shall be submitted to the board at least three weeks prior to the board meeting at which the request will be considered.

§ 2.3. Procedure for maintaining approval.

A. The program director of each nursing education program shall submit an annual report to the board.

B. Each nursing education program shall be reevaluated at least every eight years and shall require:

1. A comprehensive self-evaluation report based on § 2.2 of these regulations, and
2. A survey visit by a representative(s) of the board on dates mutually acceptable to the institution and the board.

C. The self-evaluation and survey visit reports shall be

presented to the board for consideration and action at a regularly scheduled board meeting. The reports and the action taken by the board shall be sent to the appropriate administrative officers of the institution. In addition, a copy shall be forwarded to the executive officer of the state agency or agencies having program approval authority or coordinating responsibilities for the governing institutions.

D. Interim visits shall be made to the institution by board representatives at any time within the eight-year period either by request or as deemed necessary by the board.

E. A nursing education program shall continue to be approved provided the requirements set forth in § 2.2 of these regulations are attained and maintained.

F. If the board determines that a nursing education program is not maintaining the requirements of § 2.2 of these regulations, the program shall be placed on conditional approval and the governing institution shall be given a reasonable period of time to correct the identified deficiencies. The institution may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

G. If the governing institution fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.) Sections 2.4. B and C of these regulations shall apply to any nursing education program whose approval has been withdrawn.

§ 2.4. Closing of an approved nursing education program.

A. Voluntary closing.

When the governing institution anticipates the closing of a nursing education program, it shall notify the board in writing, stating the reason, plan and date of intended closing. The governing institution shall choose one of the following closing procedures:

1. The program shall continue until the last class enrolled is graduated.

a. The program shall continue to meet the standards for approval until all of the enrolled students have graduated.

b. The date of closure is the date on the degree, diploma or certificate of the last graduate.

c. The governing institution shall notify the board of the closing date.

2. The program shall close after the governing institution has assisted in the transfer of students to other approved programs.

a. The program shall continue to meet the standards required for approval until all students are transferred.

b. A list of the names of students who have been transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

c. The date on which the last student was transferred shall be the closing date of the program.

B. Closing as a result of denial or withdrawal or approval.

When the board denies or withdraws approval of a program, the governing institution shall comply with the following procedures:

1. The program shall close after the institution has made a reasonable effort to assist in the transfer of students to other approved programs. A time frame for the transfer process shall be established by the board.

2. A list of the names of students who have transferred to approved programs and the date on which the last student was transferred shall be submitted to the board by the governing institution.

3. The date on which the last student was transferred shall be the closing date of the program.

C. Custody of records.

Provision shall be made for custody of records as follows:

1. If the governing institution continues to function, it shall assume responsibility for the records of the students and the graduates. The institution shall inform the board of the arrangements made to safeguard the records.

2. If the governing institution ceases to exist, the academic transcript of each student and graduate shall be transferred by the institution to the board for safekeeping.

§ 2.5. Clinical nurse specialist education program.

An approved program shall be offered by:

1. A nationally accredited school of nursing within a college or university that offers a master's degree in nursing designed to prepare a registered nurse for advanced practice in a clinical specialty in nursing; or

2. A college or university that offers a master's degree consistent with the requirements of a national certifying organization as defined in § 1.1 of these

regulations.

PART III. LICENSURE AND PRACTICE.

§ 3.1. Licensure by examination.

A. The board shall administer examinations for registered nurse licensure and examinations for practical nurse licensure no less than twice a year.

B. The minimum passing score on the examination for registered nurse licensure shall be determined by the board.

C. If a candidate does not take the examination when scheduled, the application shall be retained on file as required for audit and the candidate must file a new application and fee to be rescheduled.

D. Any applicant suspected of giving or receiving unauthorized assistance during the writing of the examination shall be noticed for a hearing before the board to determine whether the license shall be issued.

E. The board shall not release examination results of a candidate to any individual or agency without written authorization from the applicant or licensee.

F. An applicant for the licensing examination shall:

1. File the required application and fee no less than 60 days prior to the scheduled date of the examination.

2. Arrange for the board to receive the final certified transcript from the nursing education program at least 15 days prior to the examination date or as soon thereafter as possible. The transcript must be received prior to the reporting of the examination results to candidates.

G. Fifteen days prior to an examination date, all program directors shall submit a list of the names of those students who have completed or are expected to complete the requirements for graduation since the last examination. Any change in the status of a candidate within the above specified 15-day period shall be reported to the board immediately.

H. Practice of nursing pending receipt of examination results.

1. Graduates of approved nursing education programs may practice nursing in Virginia pending the results of the first licensing examination given by a board of nursing following their graduation, provided they have filed an application for licensure in Virginia. Candidates taking the examination in Virginia shall file the application for licensure by examination. Candidates taking the examination in other

Proposed Regulations

jurisdictions shall file the application for licensure by endorsement.

2. Candidates who practice nursing as provided in § 3.1 I 1 of these regulations shall use the designation "R.N. Applicant" or "L.P.N. Applicant" when signing official records.

3. The designations "R.N. Applicant" and "L.P.N. Applicant" shall not be used by applicants who do not take or who have failed the first examination for which they are eligible.

I. Applicants who fail the examination.

1. An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Virginia.

2. An applicant for reexamination shall file the required application and fee no less than 60 days prior to the scheduled date of the examination.

3. Applicants who have failed the licensing examination in another U.S. jurisdiction and who meet the qualifications for licensure in this jurisdiction may apply for licensure by examination in Virginia. Such applicants shall submit the required application and fee. Such applicants shall not, however, be permitted to practice nursing in Virginia until the requisite license has been issued.

§ 3.2. Licensure by endorsement.

A. A graduate of an approved nursing education program who has been licensed by examination in another U.S. jurisdiction and whose license is in good standing, or is eligible for reinstatement, if lapsed, shall be eligible for licensure by endorsement in Virginia, provided the applicant satisfies the requirements for registered nurse or practical nurse licensure.

B. An applicant for licensure by endorsement shall submit the required application and fee and submit the required form to the appropriate credentialing agency in the state of original licensure for verification of licensure. Applicants will be notified by the board after 30 days, if the completed verification form has not been received.

C. If the application is not completed within one year of the initial filing date, the application shall be retained on file by the board as required for audit.

§ 3.3. Licensure of applicants from other countries.

A. Applicants whose basic nursing education was received in, and who are duly licensed under the laws of another country, shall be scheduled to take the licensing examination provided they meet the statutory qualifications for licensure. Verification of qualification shall be based on documents submitted as required in § 3.3 B and C of

these regulations.

B. Such applicants for registered nurse licensure shall:

1. Submit evidence of a passing score on the Commission on Graduates of Foreign Nursing Schools Qualifying Examination; and

2. Submit the required application and fee for licensure by examination.

C. Such applicants for practical nurse licensure shall:

1. Request a transcript from the nursing education program to be submitted directly to the board office;

2. Provide evidence of secondary education to meet the statutory requirements;

3. Request that the credentialing agency, in the country where licensed, submit the verification of licensure; and

4. Submit the required application and fee for licensure by examination.

§ 3.4. Renewal of licenses.

A. Licensees born in even-numbered years shall renew their licenses by the last day of the birth month in even-numbered years. Licensees born in odd-numbered years shall renew their licenses by the last day of the birth month in odd-numbered years.

B. No less than 30 days prior to the last day of the licensee's birth month, an application for renewal of license shall be mailed by the board to the last known address of each licensee, who is currently licensed.

C. The licensee shall complete the application and return it with the required fee.

D. Failure to receive the application for renewal shall not relieve the licensee of the responsibility for renewing the license by the expiration date.

E. The license shall automatically lapse if the licensee fails to renew by the last day of the birth month.

F. Any person practicing nursing during the time a license has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

§ 3.5. Reinstatement of lapsed licenses.

A. A nurse whose license has lapsed shall file a reinstatement application and pay the current renewal fee and the reinstatement fee.

B. The board may request evidence that the nurse is

prepared to resume practice in a competent manner.

§ 3.6. Replacement of lost license.

A. The licensee shall report in writing the loss of the original certificate of registration or the current license.

B. A duplicate license for the current renewal period shall be issued by the board upon receipt of the required form and fee.

§ 3.7. Evidence of change of name.

A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.

§ 3.8. Requirements for current mailing address.

A. All notices, required by law and by these regulations to be mailed by the board to any licensee, shall be validly given when mailed to the latest address on file with the board.

B. Each licensee shall maintain a record of his current mailing address with the board.

C. Any change of address by a licensee shall be submitted in writing to the board within 30 days of such change.

§ 3.9. Licensed practical nursing is performed under the direction or supervision of a licensed medical practitioner, a registered nurse or a licensed dentist within the context of § 54.1-3408 of the Code of Virginia.

§ 3.10. Clinical nurse specialist registration.

A. Initial registration.

An applicant for initial registration as a clinical nurse specialist shall:

1. Be currently licensed as a registered nurse in Virginia;
2. Submit evidence of graduation from an approved program as defined in § 2.5 of these regulations;
3. Submit evidence of current specialty certification from a national certifying organization as defined in § 1.1 of these regulations; and
4. Submit the required application and fee.
5. EXCEPTION: An individual who has practiced as a clinical nurse specialist in Virginia within the 12 months immediately preceding the effective date of these regulations shall:

a. Be currently licensed as a registered nurse in Virginia;

b. File the required application and fee within 120 days of the effective date of these regulations;

c. Submit evidence of a master's degree acceptable to the board; and

d. Submit evidence of employment as a clinical nurse specialist in Virginia within the 12 months immediately preceding the effective date of these regulations.

B. Renewal of registration.

1. Registration as a clinical nurse specialist shall be renewed biennially at the same time the registered nurse license is renewed.

2. The clinical nurse specialist shall complete the renewal application and return it with the required fee and evidence of current specialty certification unless registered in accordance with § 3.10 A 5 of these regulations.

3. Registration as a clinical nurse specialist shall lapse if the registered nurse license is not renewed and may be reinstated as follows:

a. Reinstatement of R.N. license;

b. Payment of reinstatement and current renewal fees; and

c. Submission of evidence of continued specialty certification unless registered in accordance with § 3.10 A 5 of these regulations.

§ 3.11. Clinical nurse specialist practice.

A. The practice of clinical nurse specialists shall be consistent with the

1. Education required in § 2.5 of these regulations, and

2. Experience required for specialist certification.

B. The clinical nurse specialist shall provide those advanced nursing services that are consistent with the standards of specialist practice as established by a national certifying organization for the designated specialty and in accordance with the provisions of Title 54.1 of the Code of Virginia.

C. Advanced practice as a clinical nurse specialist shall include but shall not be limited to performance as an expert clinician to:

1. Provide direct care and counsel to individuals and

Proposed Regulations

groups;

2. Plan, evaluate and direct care given by others; and
3. Improve care by consultation, collaboration, teaching and the conduct of research.

PART IV. DISCIPLINARY PROVISIONS.

§ 4.1. The board has the authority to deny, revoke or suspend a license issued, or to otherwise discipline a licensee upon proof that the licensee has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

A. Fraud or deceit shall mean, but shall not be limited to:

1. Filing false credentials;
2. Falsely representing facts on an application for initial license, reinstatement or renewal of a license; or
3. Giving or receiving assistance in writing the licensing examination.

B. Unprofessional conduct shall mean, but shall not be limited to:

1. Performing acts beyond the limits of the practice of professional or practical nursing as defined in Chapter 30 of Title 54.1, or as provided by §§ 54.1-2901 and 54.1-2957 of the Code of Virginia;
2. Assuming duties and responsibilities within the practice of nursing without adequate training or when competency has not been maintained;
3. Obtaining supplies, equipment or drugs for personal or other unauthorized use;
4. Employing or assigning unqualified persons to perform functions that require a licensed practitioner of nursing;
5. Falsifying or otherwise altering patient or employer records;
6. Abusing, neglecting or abandoning patients or clients; or
7. Practice of a clinical nurse specialist beyond that defined in § 3.11. of these regulations.
8. Holding self out as or performing acts constituting the practice of a clinical nurse specialist unless so registered by the Board.

§ 4.2. Any sanction imposed on the registered nurse license of a clinical nurse specialist shall have the same effect on the clinical nurse specialist registration.

PART V. CERTIFIED NURSE AIDES.

§ 5.1. Definitions.

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

"Nurse aide education program" means a program designed to prepare nurse aides for certification.

"Nursing facility" means a licensed nursing home or a Medicare or Medicaid certified skilled or intermediate care facility or unit.

"Primary instructor" means a registered nurse who is responsible for teaching and evaluating the students enrolled in a nurse aide education program.

"Program coordinator" means a registered nurse who is administratively responsible and accountable for a nurse aide education program.

"Program provider" means an entity which conducts a nurse aide education program.

§ 5.2. Delegation of authority.

The executive director of the board shall issue a certificate as a certified nurse aide to each applicant who qualifies for such a certificate under §§ 54.1-3025, 54.1-3026 and 54.1-3028 of the Code of Virginia.

§ 5.3. Fees.

1. Application for nurse aide certification \$15
2. Biennial certificate renewal \$15
3. Duplicate license fee \$10
4. Return check charge \$15

§ 5.4. Nurse aide education programs.

A. Establishing a nurse aide education program.

1. A program provider wishing to establish a nurse aide education program shall submit an application to the board at least 90 days in advance of the expected opening date.

2. The application shall provide evidence of the ability of the institution to comply with § 5.4 B of these regulations.

3. The application shall be considered at a meeting of the board. The board shall, after review and consideration, either grant or deny approval.

4. If approval is denied the program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

B. Maintaining an approved nurse aide education program.

To maintain approval, the nurse aide education program shall demonstrate evidence of compliance with the following essential elements:

1. Curriculum content and length as set forth in §§ 5.4 D and 5.4 G of these regulations.
2. Maintenance of qualified instructional personnel as set forth in § 5.4 C of these regulations.
3. Classroom facilities that meet requirements set forth in § 5.4 H of these regulations.
4. Maintenance of records as set forth in § 5.4 E of these regulations.
5. Skills training experience in a nursing facility which was not terminated from the Medicare or Medicaid programs during the past two years.

C. Instructional personnel.

1. Program coordinator ~~/primary instructor~~ .

a. Nursing facility based programs.

~~(1)~~ a. The program coordinator in a nursing facility based program may be the director of nursing services. The director of nursing may assume the administrative responsibility and accountability for the nurse aide education program.*

b. The primary instructor may be the program coordinator in any nurse aide education program.

2. Primary instructor.

a. Qualifications.

(1) Nursing facility based programs.

~~(2)~~ (a) The primary instructor shall hold a current Virginia license as a registered nurse ; and

(b). ~~shall~~ Have at least one year of experience, within the preceding five years, in a nursing facility.

b (2) Programs other than those based in nursing facilities.

(a) The ~~program coordinator/~~ primary instructor, who does the actual teaching of the students, shall hold a current Virginia license as a registered nurse ; and

(b) Shall have two years of experience, within the preceding five years, in caring for the elderly or chronically ill of any age. Such experience may include, but not be limited to, employment in a nurse aide education program or employment in or supervision of nursing students in a nursing facility or unit, geriatrics department, chronic care hospital, home care or other long-term care setting. Experience should include varied responsibilities, such as direct resident care, supervision and education.

b. Responsibilities.

(1) Participate in the planning of each learning experience;

(2) Ensure that course objectives are accomplished;

(3) Ensure that the provisions of § 5.4 C 6 of these regulations are maintained;

(4) Maintain records as required by § 5.4 E of these regulations; and

(5) Perform other activities necessary to comply with § 5.4 B of these regulations.

3. Other instructional personnel.

a. Qualifications.

(1) A registered nurse shall:

(a) Hold a current Virginia license as a registered nurse; and

(b) Have had at least one year, within the preceding five years, of direct patient care experience as a registered nurse with the elderly or chronically ill, or both, of any age.

(2) A licensed practical nurse shall:

(a) Hold a current Virginia license as a practical nurse;

(b) Hold a high school diploma or equivalent;

(c) Have been graduated from a state-approved practical nursing program; and

(d) Have had at least two years, within the preceding five years, of direct patient care experience with the elderly or chronically ill, or both, of any age.

Proposed Regulations

b. Responsibilities.

Other instructional personnel shall provide skills laboratory or clinical instruction under the general supervision of the primary instructor.

e. 4. Prior to being assigned to teach the nurse aide education program, ~~the program coordinator/primary instructor~~ *all instructional personnel* shall demonstrate competence to teach adults by one of the following:

~~(1)~~ a. Complete satisfactorily a "train-the-trainer" program approved by the board ; ~~or~~ . *Such a program shall be approved by the board for five years, at which time the sponsor must request reapproval of the program. The content of the program must include:*

~~(2)~~ Complete satisfactorily a credit or noncredit course or courses approved by the board, the content of which must include

~~(a)~~ (1) Basic principles of adult learning;

~~(b)~~ (2) Teaching methods and tools for adult learners; and

~~(c)~~ (3) Evaluation strategies and measurement tools for assessing the learning outcomes; or

b. *Complete satisfactorily a credit or noncredit course or courses approved by the board. Such courses shall be evaluated for approval by the board upon request from the individual taking the course. The content of such credit or noncredit course shall be comparable to that described in § 5.4 C 3(a) of these regulations; or*

~~(3)~~ c. Provide evidence acceptable to the board of experience in teaching adult learners within the preceding five years.

2. ~~Each of the other instructional personnel responsible for clinical instruction shall hold a current Virginia license as a registered nurse and have had at least two years of direct patient care experience as a registered nurse.~~

3 5 . The program may utilize resource personnel to meet the planned program objectives for specific topics.

4 6 . When students are giving direct care to clients in clinical areas, instructional personnel must be on site and the ratio of students to each instructor shall not exceed ten students to one instructor.

D. Curriculum.

1. The objective of the nurse aide education program shall be to prepare a nurse aide to provide quality

services to clients under the supervision of licensed personnel. The graduate of the nurse aide education program shall be prepared to:

a. Communicate and interact competency on a one-to-one basis with the clients;

b. Demonstrate sensitivity to clients' emotional, social, and mental health needs through skillful directed interactions;

c. Assist clients in attaining and maintaining functional independence;

d. Exhibit behavior in support and promotion of clients' rights; and

e. Demonstrate skills in observation and documentation needed to participate in the assessment of clients' health, physical condition and well-being.

2. Content.

The curriculum shall include, but shall not be limited to, classroom and clinical instruction in the following:

a. Initial core curriculum (minimum 16 hours). The classroom instruction prior to the direct involvement of a student with a nursing facility client must include, at a minimum, the topics listed below:

(1) Communication and interpersonal skills,

(2) Infection control,

(3) Safety and emergency procedures,

(4) Promoting client independence, and

(5) Respecting clients' rights.

b. Basic skills.

(1) Recognizing abnormal signs and symptoms of common diseases and conditions (e.g., shortness of breath, rapid respirations, fever, coughs, chills, pains in chest, blue color to lips, pain in abdomen, nausea, vomiting, drowsiness, sweating, excessive thirst, pus, blood or sediment in urine, difficulty urinating, urinating in frequent small amounts, pain or burning on urination, urine with dark color or strong odor) which indicate that the licensed nurse should be notified.

(2) Measuring and recording routine vital signs.

(3) Measuring and recording height and weight.

(4) Caring for the clients' environment.

(5) Measuring and recording fluid and food intake and output.

(6) Performing basic emergency measures.

(7) Caring for client when death is imminent.

c. Personal care skills.

(1) Bathing and oral hygiene.

(2) Grooming.

(3) Dressing.

(4) Toileting.

(5) Assisting with eating and hydration including proper feeding techniques.

(6) Caring for skin.

d. Individual client's needs including mental health and social service needs and care of cognitively impaired clients.

(1) Identifying the psychosocial characteristics of the populations who reside in nursing homes.

(2) Modifying behavior in response to behavior of clients.

(3) Identifying developmental tasks associated with the aging process.

(4) Providing training in and the opportunity for self care according to clients' capabilities.

(5) Demonstrating principles of behavior management by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated.

(6) Demonstrating skills supporting age-appropriate behavior by allowing the client to make personal choices, providing and reinforcing other behavior consistent with clients' dignity.

(7) Utilizing client's family or concerned others as a source of emotional support.

e. Skills for basic restorative services.

(1) Using assistive devices in ambulation, eating and dressing.

(2) Maintaining range of motion.

(3) Turning and positioning, both in bed and chair.

(4) Transferring.

(5) Bowel and bladder training.

(6) Caring for and using prosthetic devices.

[]

f. Clients' rights.

(1) Providing privacy and maintaining confidentiality.

(2) Promoting the client's right to make personal choices to accommodate individual needs.

(3) Giving assistance in resolving grievances.

(4) Providing assistance necessary to participate in client and family groups and other activities.

(5) Maintaining care and security of the client's personal possessions.

(6) Providing care that maintains the client free from abuse, mistreatment or neglect and reporting improper care to appropriate persons.

(7) Maintaining the client's environment and care to minimize the need for physical and chemical restraints.

3. Unit objectives.

a. Objectives for each unit of instruction shall be stated in behavioral terms including measurable performance criteria.

b. Objectives shall be reviewed with the students at the beginning of each unit.

E. Records.

1. Each nurse aide education program shall develop an individual performance record of major duties and skills taught. This record will consist of, at a minimum, a listing of the duties and skills expected to be learned in the program, space to record when the nurse aide student performs this duty or skill, spaces to note satisfactory or unsatisfactory performance, the date of performance, and the instructor supervising the performance. At the completion of the nurse aide education program, the nurse aide and his employer must receive a copy of this record.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

F. Student identification.

Proposed Regulations

The nurse aide students shall wear identification that is clearly recognizable to clients, visitors and staff.

G. Length of program.

1. The program shall be at least 80 hours in length.
2. The program shall provide for at least 16 hours of instruction prior to direct involvement of a student with a nursing facility client.
3. Skills training in clinical settings shall be at least 40 hours. Five of the clinical hours may be in a setting other than a nursing home.
4. Employment orientation to facilities used in the education program must not be included in the 80 hours allotted for the program.

H. Classroom facilities.

The nurse aide education program shall provide facilities that meet federal and state requirements including

1. Comfortable temperatures.
2. Clean and safe conditions.
3. Adequate lighting.
4. Adequate space to accommodate all students.
5. All equipment needed, including audio-visual equipment and that needed for simulating resident care.

I. Program review.

1. Each nurse aide education program shall be reviewed on site by an agent of the board at least every two years following initial review.
2. The report of the site visit shall be presented to the board for consideration and action. The report and the action taken by the board shall be sent to the appropriate administrative officer of the program.
3. The program coordinator shall prepare and submit a program evaluation report on a form provided by the board in the intervening year that an on site review is not conducted.
4. A nurse aide education program shall continue to be approved provided the requirements set forth in subsections B through H of § 5.4 of these regulations are maintained.
5. If the board determines that a nurse aide education program is not maintaining the requirements of § 5.4 B-H of these regulations, the program shall be placed on conditional approval and be given a reasonable

period of time to correct the identified deficiencies. The program provider may request a hearing before the board and the provisions of the Administrative Process Act shall apply. (§ 9-6.14:1 et seq.)

6. If the program fails to correct the identified deficiencies within the time specified by the board, the board shall withdraw the approval following a hearing held pursuant to the provisions of the Administrative Process Act. (§ 9-6.14:1 et seq.)

J. Curriculum changes.

Changes in curriculum must be approved by the board prior to implementation and shall be submitted for approval at the time of a report of a site visit or the report submitted by the program coordinator in the intervening years.

K. Closing of a nurse education program.

When a nurse aide education program closes, the program provider shall:

1. Notify the board of the date of closing.
2. Submit to the board a list of all graduates with the date of graduation of each.

§ 5.5. Nurse aide competency evaluation.

A. The board may contract with a test service for the development and administration of a competency evaluation.

B. All individuals completing a nurse aide education program in Virginia shall successfully complete the competency evaluation required by the board prior to making application for certification and to using the title Certified Nurse Aide.

C. The board shall determine the minimum passing score on the competency evaluation.

§ 5.6. Nurse aide registry.

A. Initial certification by examination.

1. To be placed on the registry and certified, the nurse aide must:

- a. Satisfactorily complete a nurse aide education program approved by the board; or
- b. Be enrolled in a nursing education program preparing for registered nurse or practical nurse licensure, have completed at least one nursing course which includes clinical experience involving client care; or
- c. Have completed a nursing education program

preparing for registered nurse licensure or practical nurse licensure; and

d. Pass the competency evaluation required by the board; and

e. Submit the required application and fee to the board.

2. Initial certification by endorsement.

a. A graduate of a state approved nurse aide education program who has satisfactorily completed a competency evaluation program and been registered in another state may apply for certification in Virginia by endorsement.

b. An applicant for certification by endorsement shall submit the required application and fee and submit the required verification form to the credentialing agency in the state where registered, certified or licensed within the last two years.

3. Initial certification shall be for two years.

B. Renewal of certification.

1. No less than 30 days prior to the expiration date of the current certification, an application for renewal shall be mailed by the board to the last known address of each currently registered certified nurse aide.

2. The certified nurse aide shall return the completed application with the required fee and verification of performance of nursing-related activities for compensation within the preceding two years.

3. Failure to receive the application for renewal shall not relieve the certificate holder of the responsibility for renewing the certification by the expiration date.

4. A certified nurse aide who has not performed nursing-related activities for compensation during the two years preceding the expiration date of the certification shall repeat an approved nurse aide education program and the nurse aide competency evaluation prior to applying for recertification.

C. Reinstatement of lapsed certification.

An individual whose certification has lapsed shall file the required application and renewal fee and:

1. Verification of performance of nursing-related activities for compensation within the preceding two years; or

2. When nursing activities have not been performed during the preceding two years, evidence of having repeated an approved nurse aide education program

and the nurse aide competency evaluation.

D. Evidence of change of name.

A certificate holder who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order authorizing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence and the required fee.

E. Requirements for current mailing address.

1. All notices required by law and by these regulations to be mailed by the board to any certificate holder shall be validly given when mailed to the latest address on file with the board.

2. Each certificate holder shall maintain a record of his current mailing address with the board.

3. Any change of address by a certificate holder shall be submitted in writing to the board within 30 days of such change.

§ 5.7. The board has the authority to deny, revoke or suspend a certificate issued, or to otherwise discipline a certificate holder upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit shall mean, but shall not be limited to:

a. Filing false credentials;

b. Falsely representing facts on an application for initial certification, reinstatement or renewal of a certificate; or

c. Giving or receiving assistance in taking the competency evaluation.

2. Unprofessional conduct shall mean, but shall not be limited to:

a. Performing acts beyond those authorized for practice as a nurse aide as defined in Chapter 30 of Title 54.1;

b. Assuming duties and responsibilities within the practice of a nurse aide without adequate training or when competency has not been maintained;

c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

d. Falsifying or otherwise altering client or employer records;

Proposed Regulations

e. Abusing, neglecting or abandoning clients; or

f. Having been denied a license or having had a license issued by the board revoked or suspended.

.....

* Implementing instructions, dated April 1989, from the Health Care Financing Administration, of the U.S. Department of Health and Human Services, state that, "When the program coordinator is the director of nursing, qualified assistance must be available so that the nursing service responsibilities of the director of nursing are covered."

.....

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 FOR RIGHTS OF VIRGINIANS WITH DISABILITIES (BOARD FOR)

Title of Regulation: VR 602-01-2. Nondiscrimination Under State Grants and Programs.

Statutory Authority: §§ 51.5-33 and 51.5-40 of the Code of Virginia.

Effective Date: October 1, 1990.

Summary:

The board is required by § 51.5-40 of the Code of Virginia to issue regulations providing that no otherwise qualified person with a disability shall be excluded from or discriminated against under any program or activity receiving state funding. Such regulations shall be as consistent as feasible with federal regulations issued under the Federal Rehabilitation Act of 1973.

Very few substantive changes were made to the regulation after its publication in the Virginia Register in proposed form. The wording of the definition of "program or activity" in § 1.3 was simplified, but the entities covered remain the same. The definitions of "accessible," "accessible route," "adaptability," "dwelling unit," and "project" were deleted from § 1.3 because they were not used in the regulation. Secondly, language concerning the presumption of a \$500 cap on reasonable accommodations has been deleted because that reflected statutory language in § 51.5-41, rather than § 51.5-40. Finally, subsections A and B of § 3.2 (New Construction) were revised to follow more closely the federal § 504 regulations.

VR 602-01-2. Nondiscrimination Under State Grants and Programs.

PART I. GENERAL PROVISIONS.

§ 1.1. Purpose.

The purpose of these regulations is to implement § 51.5-40 of the Code of Virginia, which prohibits discrimination on the basis of disability in state and state assisted programs and activities.

§ 1.2. Application.

This regulation applies to any program or activity conducted by or on behalf of any state agency or any

program or activity that receives or benefits from state financial assistance.

§ 1.3. Definitions.

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

["Accessible," when used with respect to the design, construction, or alteration of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed or altered, can be approached, entered, and used by individuals with physical disabilities. "Accessible," when used with respect to the design, construction, or alteration of an individual dwelling unit means that the unit is located on an accessible route and when designed, constructed, altered or adapted can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in § 8.0 is "accessible" within the meaning of this paragraph. When a unit in an existing facility is being made accessible as a result of alterations intended for use by a specific qualified person with a disability (e.g., a current occupant of such unit or of another unit under the control of the same program or activity, or an applicant on a waiting list), the unit will be deemed accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by § 8.0.

"Adaptability" means the ability of certain elements of a dwelling unit, such as kitchen counters, sinks, toilets and grab bars, to be raised, lowered, added or otherwise altered, to accommodate the needs of a person with or without disabilities, or to accommodate the needs of persons with different types or degrees of disability. For example, in a unit adaptable for a person with a hearing impairment, the wiring for visible emergency alarms may be installed but the alarms need not be installed until such time as the unit is made ready for occupancy by persons who are hearing impaired.]

"Alteration" means any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs. It does not include normal

Final Regulations

maintenance or repairs, reroofing, interior decoration, or changes to mechanical systems.

"Auxiliary aids" include brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

["Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep, excluding college dormitories.]

"Facility" means all or any portion of buildings, structures, vehicles, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

"Health, welfare and social services" means any and all services offered to the public by any of the departments under the supervision of the Secretary of Health and Human Resources, and the Department of Corrections.

"Person with a disability" means:

1. Any person who has a physical or mental impairment which substantially limits one or more of his major life activities or has a record of such impairment.

2. As used in subdivision 1 of this section, the phrase:

a. "Physical impairment" means any physical condition, anatomic loss, or cosmetic disfigurement which is caused by bodily injury, birth defect, or illness.

b. "Mental impairment" means (i) a disability attributable to retardation, autism, or any other neurologically handicapping condition closely related to mental retardation and requiring treatment similar to that required by individuals with mental retardation; or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual or any mental or psychological disorder, such as organic brain syndrome, emotional or mental illness, and specific learning disabilities. (iii) For employment purposes the term "mental impairment" does not include active alcoholism or current drug addiction and does not include any mental impairment, disease or defect that has been successfully asserted by an individual as a defense to any criminal charge.

c. "Major life activities" means functions such as

caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working and leisure.

d. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

["Program or activity" means all of the operation(s) of:

1. a. A department, agency, special purpose district, or other instrumentality of the state or local government; or

b. The entity of state or local government that distributes state funds and each department, agency and entity to which the assistance is extended.

2. a. A college, university or other post-secondary institution, or a public system of higher education, or private school;

b. A local educational agency (as defined in § 108(a)(10) of the Elementary and Secondary Education Act of 1965); system of vocational education; or other school system;

3. a. An entire corporation, partnership, or other private organization, or an entire sole proprietorship (i) if state financial assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or (ii) which is principally engaged in the business of providing education, health care, housing, social services or parks and recreation; or

b. The entire plant or other comparable, geographically separate facility to which state financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

4. Any other entity which is established by two or more of the entities described in subdivision 1, 2, or 3; any part of which is extended state financial assistance.

"Project" means the whole of one or more residential structures and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract for state financial assistance or application for assistance, or are treated as a whole for processing purposes, whether or not located on a common site.]

["Program or activity" means all of the operations of any department, agency, special purpose district or other instrumentality or political subdivision of the state or local government, any public or private agency, institution, organization or other entity or any person to which state

financial assistance is extended directly or through another program or activity, including any successor, assignee or transferee of a program or activity, if any part of the program or activity is extended state financial assistance. Program or activity does not mean the ultimate beneficiary of the assistance.]

"Public body" means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter.

"Qualified person with a disability" means:

1. With respect to employment, a person with a disability who can perform the essential duties of the job in question;
2. With respect to preschool, elementary, secondary education services, a person with a disability is one to whom the local school divisions, the Department of Mental Health, Mental Retardation and Substance Abuse Services, [Department for the Visually Handicapped] , or the Department of Correctional Education are required to provide a free appropriate public education under Title 22.1 of the Code of Virginia.
3. With respect to post-secondary and vocational education services, a person with a disability who meets the academic and technical requirements for admission or participation in the education program or activity;
4. With respect to any other program or activity, a person with a disability who meets the essential eligibility requirements for participation in, or receipt from, that program or activity.

"State financial assistance" means any grant, loan, contract [(other than a procurement contract or a contract of insurance or guaranty)] or any other arrangement by which the state provides or otherwise makes available assistance in the form of:

1. Funds;
2. Services of state personnel; or
3. Real and personal property or any interest in or use of such property, including:
 - a. Transfers or leases of such property for less than fair market value or for reduced consideration; and
 - b. Proceeds from a subsequent transfer or lease of such property if the state share of its fair market value is not returned to the state government.

§ 1.4. Prohibited discrimination.

A. General.

No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from state financial assistance or under any program or activity conducted by or on behalf of any state agency.

B. Discriminatory actions prohibited.

1. A program or activity that receives or benefits from state financial assistance or any program or activity conducted by or on behalf of any state agency may not, directly or through contractual, licensing, or other arrangements, on the basis of disability (i) deny a qualified person with a disability the opportunity to participate in or benefit from aid, benefit, or services; (ii) afford a qualified person with disability an opportunity to participate in or benefit from the aid, benefit, or services that is not equal to that afforded others, except that greater aids, benefits or services may be provided where necessary to enable qualified persons with a disability to receive benefits and services that are as effective as those provided to others; (iii) provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others; (iv) provide different or separate aids, benefits, or services to persons with disabilities or to any class of persons with disabilities unless such action is necessary to provide persons with disabilities with aid, benefits, or services that are as effective as those provided to others; (v) aid or perpetuate discrimination against a qualified person with a disability by providing assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service; (vi) deny a qualified person with a disability the opportunity to participate as a member of governing, policy, planning or advisory boards; or (vii) otherwise limit a qualified person with a disability in the exercise of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

2. Despite the existence of separate or different programs or activities provided in accordance with these regulations, a program or activity may not deny a qualified person with a disability the opportunity to participate in any program or activity governed by these regulations.

3. Any program or activity governed by these regulations may not, directly or through contractual or other arrangements utilize criteria or methods of administration the purpose or effect of which would (i) subject qualified persons with a disability to discrimination on the basis of disability; or (ii) defeat or substantially impair accomplishment of the

Final Regulations

objectives of the program or activity with respect to persons with disabilities; or (iii) perpetuate discrimination by another program or activity.

4. Any program or activity governed by these regulations may not, in determining the [~~site of~~] location of a facility, make selections the purpose or effect of which would (i) exclude persons with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity governed by these regulations; (ii) defeat or substantially impair accomplishment of the objectives of the program or activity with respect to persons with disabilities; or (iii) perpetuate the discrimination of another program or activity.

5. Any program or activity governed by these regulations may not, in the selection of procurement contractors, use criteria that subject qualified persons with a disability to discrimination on the basis of disability.

6. No qualified person with a disability shall, because a program or activity's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity governed by these regulations. [~~For the purpose of this part a facility shall be deemed accessible if it is in compliance with Part III of these regulations.~~ A program or activity that is in compliance with Part III of these regulations will be deemed to be in compliance with this subsection.]

7. No qualified person with a disability shall, because a program or activity's facilities are inaccessible be excluded from participation in public hearings or public communications of any programs or activities governed by these regulations. To comply with this subsection, such programs and activities shall:

- a. Take the appropriate steps to ensure that public hearings are accessible to persons with a disability;
- b. Take the appropriate steps to ensure that notice of public hearings is made available to individuals with impaired vision and hearing, through means such as telecommunication devices, brailled or taped material, [open captioned] televised information, qualified sign language interpreters, other material or media;
- c. Take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are made available to individuals with impaired vision and hearing, through means such as telecommunication devices, brailled or taped material, [open captioned] televised information, qualified sign language interpreters, other material or media.

8. Any program or activity governed by these regulations shall administer programs and activities in the most integrated setting feasible to meet the needs of qualified persons with a disability.

§ 1.5. Notice.

A. Any program or activity governed by these regulations shall take appropriate initial and continuing steps to notify participants, applicants, and employees, and unions or professional organizations holding collective bargaining or professional agreements with the program or activity that it does not discriminate on the basis of disability. The notification shall state, where appropriate, that the program or activity does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 1.8. A program or activity shall make the initial notification required by this subsection within 90 days of the effective date of these regulations. Methods of written or oral initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written, oral or taped communications.

B. If any program or activity governed by these regulations publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in subsection A of this section. A program or activity may meet the requirement of this subsection either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 1.6. Voluntary action.

A program or activity governed by these regulations may take actions to remedy past discrimination and affirmative steps in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified persons with a disability.

§ 1.7. Self evaluation.

A. A program or activity governed by these regulations shall within one year of the effective date of this part:

1. Evaluate, with the assistance of interested persons, including persons with a disability and organizations representing persons with a disability, its current policies and practices to determine compliance with the requirements of these regulations;
2. Modify, after consultation with interested persons, including persons with a disability and organizations

representing persons with a disability, any policies and practices that do not meet the requirements of these regulations; and

3. Take, after consultation with interested persons, including persons with a disability or organizations representing persons with a disability, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to [these such] policies and practices.

B. A program or activity shall maintain on file, make available for public inspection, and provide to the Department for Rights of [the Disabled Virginians with Disabilities] upon request (i) a list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

C. A program or activity that receives both state and federal funds need not perform a separate self-evaluation to comply with this section, but shall update within one year the self evaluation required under federal regulations promulgated under § 504 of the Rehabilitation Act (29 USC 794).

§ 1.8. Designation of responsible employee and adoption of grievance procedures.

A. Designation of responsible employee.

A program or activity shall designate at least one person to coordinate its efforts to comply with this part. The designated person may be the same person as designated under § 504 of the Rehabilitation Act. (29 USC 794)

B. Adoption of grievance procedures.

A program or activity shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by these regulations. Such procedures need not be established with respect to complaints from applicants for employment or admission to post-secondary institutions.

PART II. EMPLOYMENT PRACTICES.

§ 2.1. Discrimination prohibited.

A. General.

1. No qualified person with a disability shall, on the basis of disability, be subjected to discrimination in employment under any program or activity to which these regulations apply.

2. All decisions concerning employment under any program or activity to which these regulations apply shall be made so as to prevent discrimination on the

basis of disability and shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of disability.

B. Specific activities.

The provisions of this part apply to:

1. Recruitment, advertising, and [the] processing [of] applications for employment;

2. Hiring, upgrading, promoting, awarding of tenure, retirement, demoting, transferring, laying off, terminating, right of returning from layoff and rehiring;

3. Rates of pay or any other form of compensation and changes in compensation;

4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

5. Leaves of absence, sick leave, or any other leave;

6. Fringe benefits available by virtue of employment, whether or not administered by the program or activity;

7. Selection and financial support for training, including [apprenticeship apprenticeships] , professional meetings, conferences, [and other] related activities, and [selection for] leaves of absence to pursue training;

8. Employer sponsored activities, including social or recreational programs; and

9. Any other term, condition, or privilege of employment.

C. A program or activity governed by these regulations may not participate in a contractual or other relationship that has the effect of subjecting qualified applicants or employees with a disability to discrimination prohibited by these regulations. The relationships referred to in this subsection include relationships with employment and referral agencies, [with] labor unions, [with] organizations providing or administering fringe benefits to employees of the program or activity, and [with] organizations providing training and apprenticeship programs.

D. A recipient's obligation to comply with this part is not affected by any inconsistent term of any agreement to which it is a party except as is authorized by § 51.5-41(C)(4) of the Code of Virginia.

§ 2.2. Reasonable accommodation.

Final Regulations

A. A program or activity governed by these regulations shall make reasonable accommodation to the known physical or mental [~~limitations~~ impairment] of an otherwise qualified person with a disability unless the program or activity can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

B. Reasonable accommodation may include:

1. Making facilities used by employees readily accessible to and usable by persons with disabilities, and

2. Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or qualified sign language interpreters, and other similar actions.

C. A program or activity governed by these regulations may not deny any employment opportunity to a qualified person with a disability or applicant if the basis of denial is the need to make reasonable accommodation to the physical or mental [~~limitations~~ impairment] of the employee or applicant.

[~~D. Employers may request that the Department for Rehabilitative Services, the Department for the Visually Handicapped, and the Department for the Deaf and Hard-of-Hearing provide technical assistance to employers in making reasonable accommodations.~~]

[~~E D.~~] In determining pursuant to subsection A of this section whether an accommodation would impose an undue burden on the operation of a program or activity, factors to be considered include:

1. Hardship on the conduct of the employer's business, considering the nature of the employer's operation, including composition and structure of the employer's work force;

2. Size of the facility where employment occurs;

3. The nature and cost of the accommodations needed, taking into account alternate sources of funding or technical assistance included under §§ 51.5-18 and 51.5-26 of the Code of Virginia.

4. The possibility that the same accommodations may be used by other prospective employees;

5. Safety and health considerations of the person with a disability, other employees and the public;

[~~F. Notwithstanding the foregoing, any accommodation which would exceed \$500 in cost shall be rebuttably presumed to impose an undue burden upon any employer with fewer than 50 employees.~~]

§ 2.3. Employment criteria.

A. A program or activity governed by these regulations may not use any employment test or other selection criterion that screens out or tends to screen out persons with a disability or any class of persons with a disability unless:

1. The test score or other selection criterion, as used by the program or activity, is shown to be job-related for the position in question, and

2. Alternative job-related tests or criteria that tend to screen out fewer persons with disabilities are not available.

B. A program or activity governed by these regulations shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or [~~whatever~~] other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills, except where those skills are the factors that the test purports to measure.

C. A program or activity governed by these regulations shall select and administer tests using procedures (e.g., auxiliary aids such as readers for persons who are visually impaired or qualified sign language interpreters for persons who are hearing impaired) that accommodate the special problems of persons with a disability.

§ 2.4. Preemployment inquiries.

A. Except as provided in subsections B and C of this section, a program or activity governed by these regulations may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a person with a disability or [inquiry] as to the nature or severity of a disability. A program or activity may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

B. When a program or activity is taking remedial action to correct the effects of past discrimination, [~~when a program or activity~~] is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its assisted program or activity pursuant to § 1.6, or [~~when a program or activity~~] is taking affirmative action, the program or activity may invite applicants for employment to indicate whether and to what extent they are disabled, provided, that:

1. The program or activity states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

2. The program or activity states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in subsection D of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

C. Nothing in this section shall prohibit a program or activity from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, provided, that:

1. All entering employees are subjected to such an examination regardless of disability, and
2. The results of such an examination are used only in accordance with the requirements of this section.

D. Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

1. Supervisors and managers may be informed after the employment decisions are made regarding restrictions on the work or duties of persons with a disability and regarding necessary accommodations;
2. First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and
3. Government officials investigating compliance with these regulations shall be provided relevant information upon request.

PART III. PROGRAM ACCESSIBILITY.

§ 3.1. Accessibility.

A. General.

Each program or activity governed by these regulations shall operate so that the program or activity when viewed in its entirety is accessible. This subsection does not (i) necessarily require the program or activity to make each of its existing facilities accessible, or (ii) require the program or activity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or an undue financial and administrative burden. In those circumstances where program or activity personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burden, the program or activity has the burden of proving that compliance with subsection A of this section would result in such alteration or burden. The decision must be made by an agency head or his designee after considering

all resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or [such] burden, the program or activity shall take any other action that would not result in such [an] alteration or [such] burden but would nevertheless ensure that persons with a disability receive the benefits and services of the program or activity.

B. Methods.

A program or activity may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternative accessible [sites locations] , alteration of existing facilities [and ,] construction of new facilities; use of accessible facilities; or any other methods that result in making its programs or activities readily accessible to and usable by persons with a disability. A program or activity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. In choosing among available methods for meeting the requirements of this section, [priority preference] shall be given to those methods that offer program and activities to qualified persons with a disability in the most integrated setting feasible.

C. Time period for compliance.

The program or activity shall comply with the obligations established under this section within 60 days of the effective date of these regulations, except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of these regulations but in any event as expeditiously as possible.

D. Transition plan.

In the event that structural changes to facilities will be undertaken to achieve program accessibility, a program or activity shall develop within six months of the effective date of these regulations, a transition plan setting forth the steps necessary to complete such changes. A program or activity which also receives federal funds may use [its the] transition plan required under federal regulations promulgated under 29 USC 794 to comply with this subsection. The program or activity shall provide an opportunity to interested persons, including persons with disabilities and organizations representing persons with disabilities, to participate in the development of the transition plan by inviting public comment. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

1. Identify physical obstacles in the facilities that limit the accessibility of its program or activities to persons with a disability;

Final Regulations

2. Describe in detail the methods that will be used to make the facilities accessible;

3. Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

4. Indicate the official responsible for implementation of the plan.

E. Notice.

The program or activity shall adopt and implement procedures to ensure that all interested persons with disabilities can obtain information as to the existence and location of services, activities, and facilities that are accessible.

§ 3.2. New construction.

A. Design and construction.

Each new facility [or part of a facility] constructed by, on behalf of, or for the use of a program or activity governed by these regulations shall be designed and constructed in such a manner that the facility [is accessible as prescribed by the Uniform Statewide Building Code or part of the facility is readily accessible to and usable by persons with disabilities, if the construction is commenced after October 1, 1990].

B. Alteration.

Each facility or part of a facility which is altered by, on behalf of, or for the use of a program or activity after the effective date of these regulations in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is [accessible readily accessible to and usable by persons with disabilities.

C. Compliance.

Compliance with the most stringent of the following standards applicable to the design, construction or alteration of a particular facility shall constitute compliance with subsections A and B of this section: ANSI A117.1: § 512 of the Uniform Statewide Building Code; or any requirements of the Department of General Services applicable to state buildings or capital outlay projects.]

§ 3.3. Auxiliary aids.

A. [Programs or activities governed by these regulations A program or activity] shall take appropriate steps to ensure effective communication with applicants, participants, personnel and members of the public.

1. [Programs or activities governed by these regulations A program or activity] shall furnish appropriate auxiliary aids to afford a person with a disability an equal opportunity to participate in and enjoy the benefits of a program or activity.

a. In determining what type of auxiliary aid is necessary, [programs or activities governed by these regulations a program or activity] shall give consideration to the requests of the person with a disability.

b. [Programs or activities governed by these regulations A program or activity] need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature, except where those aids are required for employment or to complete a preschool, primary or secondary educational program.

[2. Where state-operated programs or activities governed by these regulations communicate with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.]

B. [Programs or activities governed by these regulations A program or activity] shall ensure that interested persons, including persons with sensory or cognitive impairments can obtain information as to the existence and location of accessible services, activities and facilities.

[C. Programs or activities governed by these regulations shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for access shall be used at each primary entrance of an accessible facility.

PART IV. PRESCHOOL, ELEMENTARY, AND SECONDARY EDUCATION.

§ 4.1. Application of this part.

Part IV applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from state financial assistance and to recipients that operate, or that receive or benefit from state financial assistance for the operation of, such programs or activities.

§ 4.2. Location and notification.

A program or activity that operates an elementary or secondary education program shall annually:

1. Undertake to identify and locate every qualified person with a disability residing in the recipient's jurisdiction who is not receiving a public education; and

2. Take appropriate steps to notify persons with a disability and their parents or guardians of the recipient's duty under this part. Compliance with the procedural safeguards of "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia" is one means of meeting this requirement.

§ 4.3. Free appropriate public education.

A. General.

A program or activity that operates an elementary or secondary education program shall provide [and] a free appropriate public education to each qualified person with a disability who is in the recipient's jurisdiction, regardless of the nature or severity of the person's disability,

B. Appropriate education.

1. For the purpose of this part, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet the individual educational needs of a person with a disability as adequately as the needs of persons without disabilities are met, and (ii) are based upon adherence to procedures that satisfy the requirements of this part.

2. Implementation of an individualized education program developed in accordance with § 22.1-214 of the Code of Virginia is one of the means of meeting the standard established in subdivision B 1 a of this section.

3. A program or activity may place a person with a disability in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this part. If so, the program or activity remains responsible for ensuring that the requirements of this part are met with respect to any person with a disability so placed or referred.

C. Free education.

1. General. For the purpose of this section, the provision of a free education is the provision of educational and related services provided at public expense, under public supervision and direction, and without charge, except where a charge is imposed on persons without a disability, and that meet the standards of the Board of Education. It may consist either of the provision of free services or, if a program or activity places a person with a disability in or refers such person to a service not operated by the program or activity as its means of carrying out the requirements of this part, of payment for the costs of the service. Funds available from any public or private agency may be used to meet the requirements of this part. Nothing in this section shall be construed to relieve an insurer or similar third party from an

otherwise valid obligation to provide or pay for services provided to a person with a disability.

2. Transportation. If a program or activity places a person with a disability in or refers such a person to a service not operated by itself as its means of carrying out the requirements of this part, the program or activity shall ensure that adequate transportation to and from the service is provided at no greater cost than would be incurred by the person or his parents or guardian if the person were placed in the service operated by the program or activity.

3. Residential placement. If placement in a public or private residential program is necessary to provide a free appropriate public education to a person with a disability because of his disability, the program, including nonmedical care [and ,] room and board, shall be provided at no cost to the person or his parents or guardian.

4. Placement of persons with a disability by parents. If a program or activity has made available, in conformance with the requirements of this section, a free appropriate public education to a person with a disability and the person's parents or guardian choose to place the person in a private school, the program or activity is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a program or activity regarding whether the program or activity has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures in the "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia." [~~(Department of Education):~~]

§ 4.4. Education setting.

A. Academic setting.

A program or activity to which this part applies shall educate, or shall provide for the education of, qualified persons with [~~disabilities~~ a disability] in its jurisdiction with persons who are not disabled to the maximum extent appropriate to the needs of each person with a disability. A program or activity shall place a person with a disability in the regular educational environment operated by the program or activity unless it is demonstrated by the program or activity that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a program or activity places a person in a setting other than the regular educational environment pursuant to this subsection, it shall take into account the proximity of the alternate setting to the person's home.

B. Nonacademic settings.

In providing or arranging for the provision of

Final Regulations

nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 4.7 A 2, a program or activity shall ensure that persons with a disability participate with persons without disabilities in such activities and services to the maximum extent appropriate to the needs of the person with a disability.

C. Comparable facilities.

If a program or activity, in compliance with [~~subsection A of this section~~ §4.4 A] , operates a facility that is identifiable as being for persons with a disability, the program or activity shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the program or activity.

§ 4.5. Evaluation and placement.

A. Preplacement evaluation.

A program or activity that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of subsection B of this section of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program or any subsequent significant change in placement.

B. Evaluation procedures.

A program or activity to which this part applies shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education or related services which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a person with suspected or a diagnosed learning disability, [or] impaired sensory, manual, or speaking skills, the test results accurately reflect the person's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the person's suspected or diagnosed learning disability, [or] impaired sensory, manual, or speaking skills, except where those skills are the factors that the test

purports to measure.

C. Placement procedures.

In interpreting evaluation data and in making placement decisions, a program or activity shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher or other professional recommendations, physical condition, social or cultural background and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the person, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with § 4.4.

D. Reevaluation.

A program or activity to which this section applies shall establish procedures, in accordance with subsection B of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia" [~~(Department of Education)~~] shall be deemed to comply with this subsection.

§ 4.6. Procedural safeguards.

A program or activity that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and the person when appropriate [and ,] representation by counsel, and a review procedure. Compliance with the procedural safeguards [of in the] "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia" [~~(Department of Education)~~] is one means of meeting this requirement.

§ 4.7. Nonacademic services.

A. General.

1. A program or activity to which this part applies shall provide nonacademic and extracurricular services

and activities in such manner as is necessary to afford persons with a disability an equal opportunity for participation in such services and activities.

2. Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs [sponsored by the recipients], referrals to agencies which provide assistance to persons with a disability, and employment of students, including both employment by the program or activity and assistance in making available outside employment.

B. Counseling services.

A program or activity to which this part applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of disability. The program or activity shall ensure that qualified persons with a disability are not counseled toward more restrictive career objectives than are students without disabilities with similar interests and abilities.

C. Physical education and athletics.

1. In providing physical education courses and athletics and similar programs and activities to any of its students, a program or activity to which this part applies may not discriminate on the basis of disability. A program or activity that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified persons with disabilities an equal opportunity for participation in these activities.

2. A program or activity may offer to persons with a disability physical education and athletic activities that are separate or different from those offered to students without disabilities only if [separate separation] or differentiation is consistent with the requirements of § 4.4 and only if qualified persons with disabilities are not denied the opportunity to compete for teams or to participate in courses that are not separate or different.

§ 4.8. Preschool and adult education programs.

A program or activity to which this part applies that operates a preschool education or day care program or activity or an adult education program or activity may not, on the basis of disability, exclude qualified persons with a disability from the program or activity and shall take into account the needs of such students in determining the aid, benefits, or services to be provided under the program or activity.

§ 4.9. Private education programs.

A. A program or activity that operates a private

elementary or secondary education program may not, on the basis of disability, exclude a qualified person with a disability from such program if the person can, with [minor adjustments accommodation], be provided an appropriate education, as defined in § 4.3 B 1 [within the recipient's program] .

B. A program or activity to which this section applies may not charge more for the provision of an appropriate education to persons with a disability than to persons without disabilities except to the extent that any additional charge is justified by a substantial increase in cost to the program or activity.

C. A program or activity to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of §§ 4.5 and 4.6. Each program or activity to which this section applies is subject to the provisions of §§ 4.4, 4.7, and 4.8.

PART V. POST-SECONDARY EDUCATION.

§ 5.1. General.

This part applies to post-secondary education programs [and] activities, including post-secondary vocational education program and activities, that receive or benefit from state financial assistance and [to recipients] that operate, or that receive or benefit from state financial assistance for the operation of such programs or activities, or that are conducted by or on behalf of any state agency.

§ 5.2. Admissions and recruitment.

A. General.

Qualified persons with a disability may not, on the basis of disability, be denied admission to the educational program or activity.

B. Admissions.

In administering its admission policies, a program or activity to which this part applies:

1. May not apply limitations upon the number or proportion of persons with a disability who may be admitted;

2. May not make use of any test or criterion for admission that has a disproportionate, adverse effect on persons with a disability or any class of persons with a disability unless (i) the test or criterion, as used by the program or activity, has been validated as a predictor of success in the education program or activity in question, and (ii) alternative tests or criteria that have a less disproportionate adverse effect are not shown to be available.

3. Shall assure itself that (i) admissions tests are

Final Regulations

selected and administered so as best to ensure that, when a test is administered to an applicant who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills, except where those skills are the factors that the test purports to measure; (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to persons with disabilities; and

4. Except as provided in subsection C of this section, may not make preadmission inquiry as to whether an applicant for admission is a person with a disability but, after admission, may make inquiries on a confidential basis as to disabilities that may require accommodation.

C. Preadmission inquiry exception.

When a program or activity is taking remedial action to correct the effects of past discrimination or when a program or activity is taking voluntary action to overcome the effects of conditions that resulted in limited participation [~~in its state assisted program or activity~~] pursuant to § 1.6, the program or activity may invite applicants for admission to indicate whether and to what extent they are disabled provided that:

1. The program or activity states clearly on any written questionnaire used for this purpose, or makes clear orally if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

2. The program or activity states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

D. Validity studies.

For the purpose of subdivision B 2 of this section, a program or activity may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 5.3. Treatment of students.

A. No qualified person with a disability shall, on the basis of disability, be denied full and equal access to and

enjoyment of any of an educational institution's educational or extracurricular programs or activities or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, or other post-secondary education program or activity to which this part applies.

B. An educational program or activity governed by these regulations that considers participation by students in education programs or activities not operated wholly by itself as part of, or equivalent to, an education program or activity operated by itself shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified persons with a disability.

C. An educational program or activity governed by these regulations may not, on the basis of disability, exclude any qualified person with a disability from any course, course of study, or other part of its education program or activity.

D. A program or activity to which this part applies shall operate its programs and activities in the most integrated setting appropriate.

§ 5.4. Academic adjustments.

A. Academic requirements.

An educational program or activity governed by these regulations shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with a disability. Academic requirements that the program or activity can demonstrate are essential to the integrity of the program of instruction being pursued by such student will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and [~~adaptation~~ adaption] of the manner in which specific courses are conducted.

B. Other rules.

An educational program or activity governed by these regulations may not impose upon persons with a disability other rules, such as the prohibition of tape recorders or personal assistants in classrooms, or of guide or service dogs in campus buildings, that have the effect of limiting the participation of persons with a disability in the recipient's education program or activity.

C. Course examination.

In its course examination or other procedures for evaluating students' academic achievement in its program,

an education program or activity to which this part applies shall provide such methods for evaluating the achievement of students who have a disability that impairs [cognitive,] sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired [cognitive,] sensory, manual, or speaking skills, except where such skills are the factors that the test purports to measure.

D. Auxiliary aids.

[1.] An educational program or activity to which this part applies shall take such steps as are necessary to ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity because of the absence of educational auxiliary aids for students with impaired [cognitive,] sensory, manual, or speaking skills.

[2.] Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Educational institutions need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 5.5. Housing.

A. Housing provided by educational institutions.

An educational institution that provides housing to its nondisabled students shall provide comparable, convenient, and accessible housing, including accommodations to persons with disabilities at the same cost as to others. Such housing shall be available in sufficient quantity and variety so that the scope of choices of living accommodations for persons with disabilities is, as a whole, comparable to that of students who are not disabled. An educational institution may comply with this subsection by developing a transition plan which complies with § 3.1 D within one year.

B. Other housing.

An educational institution that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of disability.

§ 5.6. Transportation services.

A. Full and equal access.

An educational institution that provides transportation services to its students who are not disabled shall operate such services so that when viewed in its entirety, the program is accessible. The services shall:

1. Provide to persons with a disability transportation that is comparable to that available to students who are not disabled in terms of geographic range and hours of operation, trip decision time, fares, convenience, and the lack of restrictions on trip purpose and eligibility.

2. Ensure that persons with a disability have access to provided transportation where needed by either:

a. Use of the same transportation facilities or carriers available to students who are not disabled; or

b. [Provision of transportation services for persons with disabilities that meet the requirements of § 7.4 B. Use of specialized transportation services for persons with disabilities which are as effective as those provided to other students] .

B. New procurement.

An educational institution that provides bus transportation to its students who are not disabled may procure new buses or vans only if such buses or vans:

1. Contain a ramp or lift for boarding and exiting;

2. Provide wheelchair accessibility for persons with a disability. The term "wheelchair accessibility" means a level change mechanism (e.g., lift or ramp), sufficient clearances to permit a person in a wheelchair to reach a secure location, and at least one wheelchair securement device.

§ 5.7. Financial and employment assistance to students.

A. Provision of financial assistance.

1. In providing financial assistance to qualified persons with [disabilities a disability] , an educational institution to which this part applies may not (i) on the basis of disability, provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate, or (ii) assist any entity or person that provides assistance to any students in a manner that discriminates against qualified persons with a disability on the basis of disability.

2. An educational institution to which this part applies may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have

Final Regulations

the effect of discriminating on the basis of disability only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of disability.

B. Assistance in making available outside employment.

A program or activity to which this part applies that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that does not violate Part II if they were provided by the program or activity.

C. Employment of students.

A program or activity to which this part applies that employs any of its students may not do so in a manner that violates Part II.

§ 5.8. Nonacademic services.

A. Physical education and athletics.

1. In providing physical education courses and athletics and similar programs and activities to any of its students, an educational institution to which this part applies may not discriminate on the basis of disability. A program that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified persons with disabilities an equal opportunity for participation in these activities.

2. An educational institution may offer persons with a disability physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 4.3 D and only if qualified persons with disabilities are not denied the opportunity to compete for teams or to participate in courses that are not separate or different.

B. Counseling and placement services.

An educational institution to which this part applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of disability. The educational institution shall ensure that qualified persons with a disability are not counseled toward more restrictive career objectives than are students who are not disabled with similar interests and abilities. This requirement does not preclude an institution from providing factual information about licensing and certification requirements that may present obstacles to persons with a disability in their pursuit of particular careers.

C. Social organizations.

An educational institution that provides assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination prohibited by this part.

PART VI. HEALTH, WELFARE, AND SOCIAL SERVICES.

§ 6.1. Application of this part.

Part VI applies to health, welfare, and other social service programs and activities that receive or benefit from state financial assistance and to recipients that operate, or that receive or benefit from state financial assistance for the operation of, such programs or activities.

§ 6.2. Health, welfare, and other social services.

A. General.

In providing health, welfare, or other social services or benefits, a program or activity may not, on the basis of disability:

1. Deny a qualified person with a disability these benefits or services;
2. Afford a qualified person with a disability an opportunity to receive benefits or services that is not equal to that offered [students persons] who are not disabled;
3. Provide a qualified person with a disability with benefits or services that are not as effective (as defined in § 1.4 B) as the benefits or services provided to others;
4. Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified persons with a disability; or
5. Provide different or separate benefits or services to persons with a disability except where necessary to provide qualified persons with a disability with benefits and services that are as effective as those provided to others.

B. Notice.

A program or activity that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified persons with a disability, including those with impaired cognitive, sensory or speaking skills, are not denied effective notice because of their disability.

C. Emergency treatment for [the hearing impaired persons with hearing impairments] .

A [hospital that provides provider of] health services

or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

D. Auxillary aids.

A program or activity to which this part applies shall provide appropriate auxillary aids to persons with impaired [cognitive,] sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question. A program or activity with 15 or fewer employees may be required to comply with this subsection unless it can demonstrate that to do so would impose an undue burden.

§ 6.3. Drug and alcohol abusers.

A program or activity to which this part applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser who is suffering from a medical condition, because of the person's drug or alcohol abuse.

§ 6.4. Education of persons who are in institutions.

A program or activity to which this part applies and that operates or supervises a program or activity for persons who are institutionalized because of disability shall assure that each qualified person with a disability in its program or activity is provided an appropriate education, as defined in § 4.3 B. Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Part IV.

PART VII ENFORCEMENT.

§ 7.1. Any individual alleging violation of these regulations is authorized to bring a private civil action under § 51.5-46 of the Code of Virginia. [Concurrent with the 180 day notice required by § 51.5-46 B, the individual shall also give notice to the state agency which provided services or was the source of the state financial assistance.]

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.

Effective Date: October 1, 1990.

Summary:

The final regulations apply directly to approximately 5,779 licensed CPAs, 4,115 certificate maintenance holders and 288 registered professional corporations. Regulations currently in effect have been repealed, and the proposed regulations adopted, in order to

accommodate format changes developed by the Department of Commerce. Substantive changes found in the final 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 eligible for licensure and 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 [Part II 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,

Final Regulations

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 practice public accounting~~]. 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~~]. [A person who holds a valid certificate granted to him by the board may refer to himself as a certified public accountant or CPA but is not empowered to practice public accountancy until he obtains a valid license to do so.]

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

"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 [by a regulant] 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~~ 13.1] 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 [application to sit for the basic examination or 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

<p><i>Principles of Management</i> 3</p> <p><i>Principles of Marketing</i> 3</p> <p><i>Business Finance</i> 3</p> <p style="padding-left: 40px;">Total 42</p>	<p><i>Taxation</i> 3</p> <p><i>Commercial Law (not to exceed six semester hours)</i> ... 3</p> <p><i>Business Electives</i> 15</p> <p style="padding-left: 40px;">Total 60</p>
--	---

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 following business related courses, or their equivalent:

	Semester Hours
<i>Principles of Accounting</i>	6
<i>Principles of Economics</i>	3
<i>Principles of Marketing</i>	3
<i>Principles of Management</i>	3
<i>Finance</i>	3
<i>Information Systems</i>	3
<i>Statistics</i>	3
<i>Business Policy</i>	3
<i>Financial Accounting and Accounting Theory</i>	6
<i>Cost/Managerial Accounting</i>	3
<i>Auditing</i>	3

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. [Applicants who have no unexpired examination credits must sit for all parts of the basic examination.] 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 [out-of-state candidates] 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

Final Regulations

is earned, provided that:

- a. No credit will be allowed until [either] 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 carryover examination credits] 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 [whichever is later] .

4. **Conduct in basic examination.** Each applicant shall follow all [rules and] 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.

5. **Loss of credit or eligibility.** Any applicant found to be in violation of the [rules and] regulations governing conduct in the basic examination may lose established eligibility to [be ~~admitted~~ sit for the examination] 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~~ performance of accounting services] within the 10 years prior to application, or

b. The applicant has five years of experience in the [~~practice of accountancy~~ performance of accounting services] , one year of which was immediately prior to application [and] , within the 10 years prior to application [and has , had] 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 [in Virginia] 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 [who are eligible for licensure as set forth in § 2.7] 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 [Virginia] 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 [and compilation services] 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 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 [in the performing of accounting services] 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 the giving of assurances and compilation services constituting not less than 800 hours of that experience 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

Final Regulations

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, [and for just cause,] may deny renewal of a license, registration or certificate maintenance. Upon such denial, the applicant for renewal may request that a hearing be held [in accordance with the provisions of the Administrative Process Act] .

§ 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. 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, [and for just cause,] may deny reinstatement of a license, registration or certificate maintenance. Upon such denial, the applicant for reinstatement may request that a hearing be held [in accordance with the provisions of the Administrative Process Act] .

PART IV.

STANDARDS OF PRACTICE.

§ 4.1. [Notification of change of address or name. Regulant accountable for service rendered.

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

Whenever a regulant offers or performs any services in Virginia related to the performance of accounting services 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 in the performance of accounting services.]

§ 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. Notification of change of address or name.

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.

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

§ 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 [or retirement] 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 approves], 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 have] 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 [trust or] estate [,] if such trust or estate [is had or was] 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.

Final Regulations

§ 4.14. Contingent fees.

A regulant shall not [~~perform or offer to perform professional services in connection with his practice of accounting~~ engage or offer to engage in the performance of accounting services] 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 the performance of accounting 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~~ performance of accounting services] .

§ 4.16. Competence.

A regulant shall not undertake performance of [~~professional accounting~~] 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 [~~certified~~] 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 [~~such~~] 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~~ of] any forecast or projection.

§ 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 performance~~] of accounting [~~services~~] , 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 for the performance of accounting~~] 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 performance of accounting services~~] or for violation of any of [~~the board's~~] 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 [, or who has been subjected to any penalty] 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, performance of accounting services~~] 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, [to anyone other than a regulant] 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.

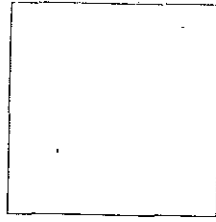
Evidence of the commission of a single act prohibited by these regulations shall be sufficient to justify a finding of violation, without evidence of a general course of conduct.

17. EDUCATION (See information sheet for educational requirements.)
Check one: Education is complete Education is in progress
A transcript(s) is/are required if your education is complete. If education is not complete, all transcript(s) and a Certificate of Enrollment must be attached.

NAME OF COLLEGE OR UNIVERSITY	DATES ENROLLED	DEGREE (MAJOR & MINOR)	DATE OF DEGREE

18. References (Five names are required.) Each of the undersigned certifies to be personally acquainted with, but not related to, the applicant, believes the applicant to be of good moral character, and unreservedly recommends the applicant to the Virginia Board of Accountancy.

PRINT NAME	SIGNATURE	ADDRESS (INCLUDING STREET & CITY)	KNOWN SINCE



19. Give or staple one recent passport type photograph (within three months) approximately 2" x 2" head and shoulders only (not a photocopy) in the space provided at the right.

Sign your name at the bottom of the photograph, not across the face. Place a duplicate of that photograph to be affixed to your application card. Put your name on the back of the duplicate photograph.

20. Under penalty of perjury, I certify that I am of good moral character; that the picture of me attached to this application is recent; that I have read the full text of the Virginia CPA Statute and the Rules and Regulations of the Virginia Board of Accountancy and agree to abide by them. I agree that in the event my examination papers are lost, they can only be replaced by me.

Affidavit:
State of _____ City/County of _____ day of _____ 19____
The statement was signed and sworn to before me this _____ day of _____ 19____

Signature of Applicant _____ Date _____
Notary Public _____
Date of Expiration _____

Signed caption must be mailed by the deponent. The envelope must bear a U.S. Postal Service airmail stamp no other than the first Friday in March for the May examination and the first Friday in September for the November examination. Mail the caption, fee, transcript(s) and Certificate of Enrollment, if applicable, photographs and questionnaire to:
CPA Examination Service, Virginia Board of Accountancy, P.O. Box 19120, Richmond, VA 23216

VIRGINIA APPLICATION FOR UNIFORM CPA EXAMINATION

Read "Information for Applicants" which you received with the application before completing both sides of 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 w/e other punctuation, abbreviation, as necessary.

1. NAME FIRST [] [] [] [] [] [] [] [] MIDDLE [] [] [] [] [] [] [] [] LAST [] [] [] [] [] [] [] []

MARRIED M Ms Mrs

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

ADDRESS (Do not use a post office box) _____

CITY _____ STATE _____ ZIP _____ AREA CODE-TELEPHONE NUMBER _____

3. BUSINESS ADDRESS AND TELEPHONE: _____

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
If no, indicate the most recent date you took the examination: _____ month/year

5. Have you ever applied for the Uniform CPA Examination in any other state? YES NO
If yes, what state? _____

6. Are you requesting credit from that state? YES NO
If credit is requested, a form for this purpose should be obtained from CPA Examination Service.

7. Have you ever been granted permission to take the Uniform CPA Examination for a reason other than not meeting the educational requirements? YES NO (If yes, attach detailed information)

8. I hereby request permission to take the Uniform CPA Examination on the basis of: (check one)
a. A baccalaureate degree with a major in accounting (Virginia Rules and Regulations Section 2.31)
b. 120 semester hours of college credit in specified courses (Virginia Rules and Regulations Section 2.32)
c. A baccalaureate or higher degree with 27 semester hours of accounting (Virginia Rules and Regulations Section 2.34)

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

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

11. SOCIAL SECURITY NUMBER [] [] [] [] [] [] [] [] [] [] [] []

12. DATE OF BIRTH Month [] [] Day [] [] Year [] [] [] []

13. EXAMINATION LOCATION REQUEST
 Norfolk OO1
 Northern Virginia OO3
 Other State OO7
City/State _____

14. DATE OF EXAMINATION: May _____ year _____ November _____ year _____
If you request "other states" you are responsible for meeting the applicable and fee requirements for practicing in that state.

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

FOUR OFFICE USE ONLY

DATE	[] [] [] []	BY	[] [] [] []	DATE	[] [] [] []
USE ONLY	[] [] [] []	TRANSFER	[] [] [] []	O/S	[] [] [] []

VIRGINIA REEXAMINATION APPLICATION FOR UNIFORM CPA EXAMINATION

Read "Information for Applicants" which you received with the application before completing this form.

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...

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

5. Have you ever been denied permission to take the Uniform CPA Examination for a reason other than not meeting the educational requirements? YES NO

6. SUBJECTS TO BE TAKEN: Auditing, Law, Theory, Practice

7. FEE: \$100. Make check or money order payable to CPA Examination Services.

8. SOCIAL SECURITY NUMBER, 9. EXAMINATION LOCATION REQUEST

10. DATE OF EXAMINATION: May, November

11. Have you ever been convicted of a misdemeanor? YES NO

12. Have you ever been convicted of a felony? 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...

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

FOR OFFICE USE ONLY: Fee, transfer, O/S, Other

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

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

APPLICATION FOR ORIGINAL CPA CERTIFICATE

PLEASE TYPE OR PRINT NAME (Use name as you wish it to appear on certificate)

Social Security Number

Home Address: Street Number and Name, Telephone Number, City, State, Zip Code

Employer's Name: Telephone Number, City, State, Zip Code

Business Address: Street Number and Name, City, State, Zip Code

Date of completion of Uniform CPA Examination Give Month/Year

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

Have you ever been convicted of a felony? YES NO

Have you ever been convicted of a 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 in Virginia and that I will not practice in Virginia without first securing a license.

AFFIDAVIT: Date, Signature

State of, City/County of, This statement was signed and sworn to before me this day of 19

My Commission Expires: Notary Public

FOR BOARD USE ONLY

Certificate Number, Staff approval, Board approval

Date, Date, Date

Revised 8/6/90

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

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

APPLICATION FOR LICENSE TO PRACTICE PUBLIC ACCOUNTANCY 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

CPA Certificate Number _____ Date of Issuance _____

(Name on certificate if different from above _____)

Date of Completion of CPA Examination _____ Month/Year

Date of Completion of the AICPA Ethics Examination _____ Month/Year

Have you ever been convicted of a felony? Yes ___ No ___
 Have you ever been convicted of a misdemeanor? Yes ___ No ___
 (If answer to either question is yes, attach full details)

FOR BOARD USE ONLY
 Certificate Number _____ Board Approval _____ Conditions, if any: _____

Date _____ Date: _____

Reviewed for Completeness _____ Member _____

By _____ on _____ Member _____

By _____ on _____

VSBA-5
 Revised 8/6/90

RECORD OF EXPERIENCE

(Refer to § 2.7 of the Rules and Regulations on Experience Requirements)

A. ATTEST AND REVIEW 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
_____	_____	to _____

D. DIVERSIFIED ACCOUNTING EXPERIENCE:

EMPLOYER _____	LOCATION _____	EXACT DATES
_____	_____	_____

E. Credit under § 2.7(5) requested? Yes ___ No ___
 Document with official transcripts submitted directly from the institution to the Board showing master's degree.

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 Board for 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/County _____
 Subscribed and sworn to before me this _____ day of _____, 19__.

My commission expires _____
 Notary Public _____

TO: Department of Commerce
Board For Accountancy
3600 West Broad Street
Richmond, VA 23230-4917

FROM: _____
NAME OF FIRM OR EMPLOYER

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

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

6. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes _____ No _____
7. What were the applicant's job titles while with your organization?

Title	Time Period
_____	_____
_____	_____
_____	_____

VSBA-6
Revised 8/6/90

(over)

8. 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?

Please refer to § 2.7 of the Rules and Regulations on experience requirements. If the experience of the applicant with you is:

- 2 years with attest and review experience with licensed CPA complete Question #9
- 3 years general auditing experience complete Question #10
- 4 years teaching experience complete Question #11
- 4 years Diversified Accounting Experience complete Question #12

9. 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: _____

10. Did the applicant's experience in (a) applying a variety of auditing procedures and techniques to usual and customary financial transactions, (b) preparation of auditing working papers (c) planning the program of audit work including the selection of the procedures to be followed, (d) preparation of written explanations and comments on the findings of the examinations and on the accounting records, or (e) preparation and analysis of financial statements together with explanations and notes thereon? Yes _____ No _____

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

Describe the type of work assigned to the applicant: _____

Final Regulations

10. continued- _____

Do Not Write
 % of Time in This Column

A. continued-

- Application of analytical review procedures.
- Testing of revenue and purchase cut-off.
- Review of significant subsequent events.
- Review of pertinent legal documents.
- Design and use of computer audit tools.
- Compilation of financial statements.
- Review of financial statements.
- Drafting of financial statements.
- Preparation of financial statements in accordance with GAAP.
- Preparation of financial plans, budgets or projections in accordance with GAAP.
- Taking and evaluating physical inventories.
- Preparation of trial balances, adjusting journal entries and analysis of accounts.
- Maintaining books of original entry, including general ledger and subsidiary ledgers.

B. Tax Services

- Preparation of income tax returns.
- Preparation of payroll tax returns.
- Review of financial statement tax provisions and tax accruals.
- Research in tax law, tax planning for clients.

C. Management services

- Design and installation of accounting, cost and other computer systems.
- Other management advisory services.

11. _____

Teaching Experience
 Name of Institution

Classes Taught (with dates taught)

12. DIVERSIFIED ACCOUNTING EXPERIENCE

Check each of the following items in the appropriate box, also set forth the approximate percentage of time the applicant spent in each category (i.e., Auditing & Accounting, etc.). Experience obtained by the applicant must demonstrate intensive, diversified application of accounting and auditing principles and procedures.

Do Not Write
 % of Time in This Column

A. Auditing & Accounting

- Review and testing of internal accounting controls.
- Verification of accounts receivable.
- Review of inventory procedures & verification of physical inventory.
- Testing inventory valuation and pricing.
- Review of client bank reconciliations.
- Testing fixed asset cost and depreciation.
- Testing prepaid, intangible & deferred charges.
- Review and verification of accounts payable and accruals.
- Search for unrecorded liabilities.
- Analysis and verification of changes in equity accounts or fund balances.

G. continued-

<p>D. Bookkeeping Services</p> <p>() Maintaining books of original entry.</p> <p>() Preparation of payroll tax returns.</p> <p>() Posting of general and subsidiary ledgers.</p> <p>E. Other Services</p> <p>Attach detailed description of work performed.</p> <p>F. Government</p> <p>() General accounting, including preparation of trial balances, analysis of accounts and preparation of financial statements.</p> <p>() Employment with a Government Auditor's office or internal auditing unit which includes:</p> <p>() Application of auditing procedures and techniques in accordance with general accepted auditing standards.</p> <p>() Experience in preparation of audit work papers.</p> <p>() Experience in developing audit programs and procedures.</p> <p>() Field auditor for state tax returns.</p> <p>() Other-Attach detailed explanation of work performed.</p> <p>G. Internal Revenue Service</p> <p>() Employment as field agent</p> <p>() Other-Attach detailed explanation of work performed</p>	<p>Do Not Write In This Column</p> <p>% of Time _____</p> <p>Months employed at this level _____</p> <p>Grade Level _____</p> <p>Signature of Employer _____</p> <p>Title _____</p> <p>Firm or Agency Name _____</p> <p>Address _____</p> <p>Zip _____</p> <p>Telephone Number _____</p> <p>Affidavit:</p> <p>State of _____</p> <p>City/County of _____</p> <p>This statement was signed and sworn before me this _____ day of _____ 19____.</p> <p>My Commission expires _____</p> <p>Notary Public _____</p>
--	---

Please indicate the following information:

Months employed at this level _____

Grade Level _____

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

APPLICATION FOR A VIRGINIA CPA CERTIFICATE BY ENDORSEMENT

MUST BE TYPED OR PRINTED

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

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.

Original Certificate Number Issued by Jurisdiction on Date

Date of Completion of CPA Examination Month/Year

Have you completed an AICPA Ethics Examination? Yes No; if "yes" provide answer sheet or certificate; if "no" see order form.

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 8/6/90

If you are applying for certification by endorsement under Section 2.3(C), 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 in Virginia and that I will not practice 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

MILTON K. BROWN, JR.
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23220-4917

RONALD K. LAYNE
Senior Deputy Director

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

FROM: Roberta L. Banning, Assistant Director
Virginia Board for 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 if you would provide us with the following
information:

1. Certification Number _____ was issued on _____
2. The basis for certification were those checked below:
 a written examination prepared by this Board
 grades reported by the Advisory Grading Service for the California
 CPA Examination.
 Other _____
3. This certification is _____, or is not _____ in good standing. If not,
 please provide details.

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 R-2

TELEPHONE (804) 367-4500
TDD (804) 367-8703



COMMONWEALTH of VIRGINIA
Department of Commerce

MILTON K. BROWN, JR.
Director

3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23220-4917

RONALD K. LAYNE
Senior Deputy Director

TO: Roberta L. Banning, Assistant Director
Virginia Board for 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:

<u>DATE</u>	<u>I.D.NO.</u>	<u>AUDITING</u>	<u>LAW</u>	<u>THEORY</u>	<u>PRACTICE</u>

These grades were furnished by the Advisory Grading Service of the AICPA 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

TELEPHONE (804) 367-4500
TDD (804) 367-8753

VIRGINIA BOARD FOR ACCOUNTANCY

Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 367-8505
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 Board for 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 _____

VSBA R-3

VIRGINIA BOARD FOR ACCOUNTANCY

Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 367-8505
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 Board for 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 _____

VSBA R-3

VIRGINIA BOARD FOR ACCOUNTANCY

Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230
(804) 367-8505
Toll Free: 1-800-552-3016

TO: Department of Commerce
Board for Accountancy
3600 West Broad Street
Richmond, VA 23230-4917

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 Board for 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

VSBA R-3

FROM: NAME OF FIRM OR EMPLOYER

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. Please describe the supervision provided the applicant. (Was the supervisor a CPA?) Yes No
5. Please evaluate the quality of the applicant's performance:
6. Do you consider the applicant qualified by experience and demonstrated competence to become a CPA and to independently exercise the attest function? Yes No
7. What were the applicant's job titles while with your organization?

Table with 2 columns: Title, Time Period

VSBA-o
Revised 8/6/90

(over)

8. 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?

Please refer to § 2.7 of the Rules and Regulations on experience requirements. If the experience of the applicant with you is:

- | | |
|--|-----------------------|
| <u>2 years with attest and review experience with licensed CPA</u> | complete Question #9 |
| <u>3 years general auditing experience</u> | complete Question #10 |
| <u>4 years teaching experience</u> | complete Question #11 |
| <u>4 years Diversified Accounting Experience</u> | complete Question #12 |

9. 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: _____

10. Did the applicant's experience in (a) applying a variety of auditing procedures and techniques to usual and customary financial transactions, (b) preparation of auditing working papers (c) planning the program of audit work including the selection of the procedures to be followed, (d) preparation of written explanations and comments on the findings of the examinations and on the accounting records, or (e) preparation and analysis of financial statements together with explanations and notes thereon? Yes ___ No ___

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

Describe the type of work assigned to the applicant: _____

10. continued-

11. Teaching Experience

<u>Name of Institution</u>	<u>Classes Taught (with dates taught)</u>
----------------------------	---

12. DIVERSIFIED ACCOUNTING EXPERIENCE

Check each of the following items in the appropriate box, also set forth the approximate percentage of time the applicant spent in each category (i.e. Auditing & Accounting, etc.). Experience obtained by the applicant must demonstrate intensive, diversified application of accounting and auditing principles and procedures.

Do Not Write
% of Time in This Column

A. Auditing & Accounting

- () Review and testing of internal accounting controls.
- () Verification of accounts receivable.
- () Review of inventory procedures & verification of physical inventory.
- () Testing inventory valuation and pricing.
- () Review of client bank reconciliations.
- () Testing fixed asset cost and depreciation.
- () Testing prepaid, intangible & deferred charges.
- () Review and verification of accounts payable and accruals.
- () Search for unrecorded liabilities.
- () Analysis and verification of changes in equity accounts or fund balances.

A. continued-

- () Application of analytical review procedures.
- () Testing of revenue and purchase cut-off.
- () Review of significant subsequent events.
- () Review of pertinent legal documents.
- () Design and use of computer audit tools.
- () Compilation of financial statements.
- () Review of financial statements.
- () Drafting of financial statements.
- () Preparation of financial statements in accordance with GAAP.
- () Preparation of financial plans, budgets or projections in accordance with GAAP.
- () Taking and evaluating physical inventories.
- () Preparation of trial balances, adjusting journal entries and analysis of accounts.
- () Maintaining books of original entry, including general ledger and subsidiary ledgers.

B. Tax Services

- () Preparation of income tax returns.
- () Preparation of payroll tax returns.
- () Review of financial statement tax provisions and tax accruals.
- () Research in tax law, tax planning for clients.

C. Management services

- () Design and installation of accounting, cost and other computer systems.
- () Other management advisory services.

Do Not Write
in This Column

% of Time %

D. Bookkeeping Services

- () Maintaining books of original entry.
- () Preparation of payroll tax returns.
- () Posting of general and subsidiary ledgers.

E. Other Services

Attach detailed description of work performed.

Total 100%

F. Government

- () General accounting, including preparation of trial balances, analysis of accounts and preparation of financial statements.
- () Employment with a Government Auditor's office or internal auditing unit which includes:
- () Application of auditing procedures and techniques in accordance with general accepted auditing standards.
- () Experience in preparation of audit work papers.
- () Experience in developing audit programs and procedures.
- () Field auditor for state tax returns.
- () Other-Attach detailed explanation of work performed.

Total 100%

G. Internal Revenue Service

- () Employment as field agent
- () Other-Attach detailed explanation of work performed

Please indicate the following information:

Grade Level	Months employed at this level
_____	_____
_____	_____

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 8/6/90

G. continued-

Grade Level	Months employed at this level
_____	_____
_____	_____

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 _____

Refer to Chapter 20 of Title 54.1 (Section 54.1-2005) and Chapter 7 of Title 13.1 (Section 13.1-556) of the Code of Virginia, as amended and to the Board's Rules and Regulations dealing with individual and corporate professional practice.

CERTIFICATION

Does each shareholder practicing public accounting in Virginia hold a Virginia license? Yes ___ No ___ (If answer is no, attach explanation)

I, _____, President of the aforementioned corporation, do solemnly swear and affirm that the answers herein are true to the best of my knowledge and belief, that Chapter 20 of Title 54.1 and Chapter 7 of Title 13.1, of the Code of Virginia, as amended, and all applicable rules and regulations have been adhered to, and that this application is made for the purpose of securing the authority to practice public accountancy as a corporation under the designation "Certified Public Accountant(s)" or Public Accountant(s)."

President

Attested to before me, the secretary of the corporation, this _____ day of _____, 19__.

Secretary

AFFIDAVIT

State of _____

City/County _____

Sworn and subscribed to before me at _____ this _____ day of _____, 19__.

Notary Public

My Commission expires _____

FOR BOARD FOR ACCOUNTANCY USE ONLY

Corporation organized under Virginia Law? _____

Do all shareholders who will practice in Virginia hold a valid Virginia license? _____

FEES: COMMONWEALTH OF VIRGINIA
Reinstatement of: DEPARTMENT OF COMMERCE
CPA Certificate = \$50.00 Board for Accountancy
CPA Certificate and Post Office Box 11066
License = \$150.00 Richmond, Virginia 23230-1066
P.C. Registration = \$100.00 (804) 367-8505

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

Section 2.2 of the Board's Rules and Regulations state that if you fail to renew your license, maintain your certificate or renew your professional corporation 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 for reinstatement 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__

My Commission expires _____
Notary Public

FOR OFFICE USE ONLY

Board Approval _____ Date _____

Virginia State Board of Accountancy
Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230

APPLICATION FOR LICENSING OF A VIRGINIA CPA
Current Biennium (or any part thereof)

NAME _____ Social Security No. _____

ADDRESS _____

()
Telephone No. _____

Certificate Number: _____ Date of Issuance _____

Are you engaged in the practice of public accountancy? Yes _____ No _____
If answer is yes, please provide the following information:

1. Firm: _____
Address: _____

()
Telephone No. _____

2. Your status: Employee _____ Sole Proprietor _____ Partner _____ Shareholder _____
Branch Manager _____

3. Do you presently hold a valid CPA Certificate? Yes _____ No _____
(If no, when did you complete the CPA examination.) Date _____

If the CPA examination was completed more than four years prior to the application date, please provide documentation of 40 hours of CPE within the last two years.

FEE: \$75.00 per biennium or any part thereof (Make check payable to Treasurer of Virginia)

NOTE: The biennial periods applicable to registration or licensing requirements commence on October 1 of every even-numbered year and expire on September 30 of the following even-numbered year.

VSBA-9
3/22/90

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.

Statutory Authority: § 32.1-246 of the Code of Virginia.

Effective Date: October 1, 1990.

Summary:

The proposed amendments to this regulation recommended that the use of alternative pump-out service be limited to marinas which have 25 or fewer boats of 25 feet or more in length and to marinas which have 10 boats of 40 feet or more in length. The regulations were changed so that the use of alternative pump-out service be extended to marinas which have 20 boats of 40 feet or more in length. When boaters make frequent use of the pump-out service, a marina operation will be able to justify the cost of providing the equipment required to render the service. However, at the present time, boaters do not make frequent use of the pump-out service. It is anticipated that, at a later date when all owners of boats with installed toilets make use of the pump-out service, that more marinas will be able to justify the costs of providing the service.

VR 355-17-01. Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. As used in these regulations, the words and terms hereinafter set forth shall have the following meanings respectively, unless the context clearly requires a different meaning.

"Board" means the State Board of Health.

"Boat" means any vessel or other watercraft, privately owned or owned by the Commonwealth or any political subdivision thereof, whether moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any other vessel or structure floating on water in the Commonwealth of Virginia, whether or not capable of self-locomotion, including but not limited to cruisers, cabin cruisers, runabouts, houseboats and barges. Excluded from this definition are commercial, passenger and cargo carrying vessels subject to the Quarantine Regulation of the United States Public Health Service adopted pursuant to Title 42 of the United States Code and ships or vessels of the U.S. Government and boats which are tenders to larger boats moored or stored at the same facility.

"Bureau" means the Bureau of Wastewater Engineering, Department of Health.

"Certificate" means a written approval from the Commissioner of Health or his designated representative indicating that plans for sanitary facilities and sewage facilities meet or satisfy the minimum requirements of these regulations and § 32.1-246 of the Code of Virginia.

"Commissioner" means the State Health Commissioner whose duties are prescribed in § 32.1-19 of the Code of Virginia.

"Division" means the Division of Wastewater Engineering, Department of Health.

"Dry storage" means a boat storage or parking space, whether covered or uncovered, at a marina or other place where boats are moored for the purpose of storing boats on land between use.

"Marina" means any installation, operating under public or private ownership, which provides dockage or moorage for boats (exclusive of paddle or rowboats) and provides, through sale, rental or fee basis, any equipment, supply or service (fuel, electricity or water) for the convenience of the public or its lessee, renters or users of its facilities.

"Marine sanitation device" means any equipment, piping and appurtenances such as holding tanks for installation on board a boat which is designed to receive, retain, treat or discharge sewage and any process to treat such sewage.

"Other places where boats are moored" means any installation operating under public or private ownership, which provides dockage, moorage or mooring for boats (exclusive of paddle or rowboats) either on a free, rental or fee basis or for the convenience of the public.

"Owner" means the Commonwealth or any of its political subdivisions and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or county, or any person or group of persons acting individually or as a group who owns a marina or other place where boats are moored.

"Pump-out facilities" means any device, equipment or method of removing sewage from a marine sanitation device. Also, it shall include any holding tanks either portable, movable or permanently installed, and any sewage treatment method or disposable equipment used to treat, or ultimately dispose of, sewage removed from boats.

"Sanitary facilities" means bathrooms, toilets, closets and other enclosures where commodes, stools, water closets, lavatories, showers, urinals, sinks or other such plumbing fixtures are installed.

"Sanitary or domestic sewage" means the spent water or

Final Regulations

wastewater containing human excrement coming from the toilets, bathrooms, commodes and holding tanks.

"Seasonal slips" means any slip which is used, rented, leased or otherwise made available for mooring or docking of boats during the normal boating season, usually from April through September, or for any period greater than 30 days.

"Sewage from boats" includes the wastewater removed from holding tanks.

"Sewage" means the spent water or wastewater containing human excrement coming from toilets, bathrooms, commodes and holding tanks.

"Sewage treatment or disposal systems" means device, process or plant designed to treat sewage and remove solids and other objectionable constituents which will permit the discharge to another approved system, or an approved discharge to state waters or disposal through an approved subsurface drainfield or other acceptable method, such as incineration.

"Sewerage facilities" means entire sewage collection and disposal system including commodes, toilets, lavatories, showers, sinks and all other plumbing fixtures which are connected to a collection system consisting of sewer pipe, conduit, holding tanks, pumps and all appurtenances, including the sewage treatment or disposal system.

"Transient slips" means temporary docking or mooring space which may be used for short periods of time, including overnight, days, or weeks, but less than 30 days.

Article 2. General Information.

§ 1.2. Authority for regulations.

Section 32.1-246 of the Code of Virginia provides that the State Board of Health is empowered and directed to promulgate all necessary rules and regulations establishing minimum requirements as to adequacy of sewerage facilities at marinas and other places where boats are moored. These facilities should be sufficient to serve the number of boat slips or persons such marinas and places are designed to accommodate, regardless of whether such establishments serve food.

§ 1.3. Purpose of regulations.

These regulations have been promulgated by the State Board of Health to:

1. ~~insure~~ *Ensure* adequate sanitary facilities and pump-out facilities, as defined in § 1.1 and required by § 2.2 of this regulation, are provided at all marinas and other places where boats are moored;
2. Establish minimum requirements as to the adequacy

of sewerage facilities at marinas and other places where boats are moored;

3. Guide the State Board of Health in its determination of the adequacy of the sewerage facilities to serve marinas and places where boats are moored;

4. Guide the State Board of Health in its approval of plans and other data and the issuance of a certificate as to the adequacy of sanitary and sewerage facilities.

5. Notify the Marine Resources Commission that a certificate has been issued; and

6. Assist the owner or his authorized engineer in the preparation of an application and supporting data, as may be required. (See § 1.7)

§ 1.4. Administration of regulations.

These regulations are administered by the following parties:

1. The State Board of Health has responsibility for promulgating, amending and repealing regulations which ~~insure~~ *ensure* minimum requirements as to adequacy of sewerage facilities at marinas and other places where boats are moored.

2. The State Health Commissioner.

3. The ~~Bureau~~ *Division* of Wastewater Engineering is designated as the primary reviewing agent of the board for the purpose of administering these regulations. It examines and passes upon the technical aspects of all applications, plans and specifications for sewerage facilities to serve marinas and other places where boats are moored. It issues all certificates attesting to the adequacy of the sewerage facilities and notifies the Marine Resources Commission when a certificate is issued or denied.

4. The ~~Office~~ *Management Deputy Commissioner* for Community Health Services directs and supervises the activities of the local health departments in the administration of assigned duties and responsibilities under the regulations.

5. The local health department in each jurisdiction, city, town or county in which there exists, or is proposed, a marina or other place where boats are moored shall (i) be responsible for the processing of all applications submitted by owners, (ii) inspect sites and facilities provided, (iii) issue such permits as required by law, rules or regulations for sewerage facilities and, (iv) lacking in authority to issue a permit, will process such applications in accordance with the policies and procedures of the department. The local health department shall conduct a surveillance program and enforce the provisions of

these regulations to ~~insure~~ ensure proper sanitation and cleanliness of the facilities provided.

6. The ~~Division~~ Office of Water Programs of the Department of Health of the Commonwealth of Virginia is responsible for the review and approval of sewage treatment works where there is a discharge to state waters, in accordance with the regulations, policies and procedures of the Health Department and the State Water Control Law, §§ 62.1-44.2 through 62.1-44.34 of the Code of Virginia.

§ 1.5. Application of regulations to marinas and other places where boats are moored.

A. Marinas or other places where boats are moored which are not in compliance with the Rules and Regulations of the Board of Health Governing Sanitary and Sewerage Facilities at Marinas and Other Places Where Boats Are Moored which became effective November 15, 1975, shall comply with these regulations.

B. All planned or new marinas or other places where boats are moored which do not exist on the effective date of this regulation shall comply with all provisions of this regulation prior to commencing operation.

C. All sanitary or sewerage facilities shall conform to the requirements of this regulation when the marina or other place where boats are moored are either expanded, altered or modified.

Article 3. Procedure.

§ 1.6. Certification general.

No owner shall operate a marina or other place where boats are moored unless he complies with the provisions of § 32.1-246 of the Code of Virginia and these regulations. Owners shall have in their possession a permit from the Marine Resources Commission to operate a marina or place where boats are moored when so required by § 62.1-3 of the Code of Virginia. Where state-owned bottom lands are involved, a plan approved by the department shall be issued prior to construction and the issuance of a certificate to operate.

§ 1.7. Application for certificate.

Any owner, or his duly authorized representative, may make application for a certificate of approval of sanitary or sewerage facilities by applying to the local health department in the jurisdiction where the proposed marina or other place where boats are moored is to be located. The application shall be made on a form supplied by the local health department. The application shall consist of the following:

1. A completed application form which shall set forth the essential data to determine the sewerage facilities necessary to serve the proposed installation;

2. Maps, plans and specifications of the sanitary and sewerage facilities describing how and what facilities will be provided. The plans shall establish the location of the sanitary facilities in relation to other facilities;

3. A description of the proposed method of sewage treatment or disposal. Approval of the treatment works or disposal system must be applied for and obtained under other sections of the Code of Virginia and other regulations; and

4. Any other data as may be pertinent to show the adequacy of sanitary or sewerage facilities to be provided.

§ 1.8. Receipt of data.

Upon receipt of the data set forth in § 1.7 of these regulations in sufficient detail and clarity so as to show that the sewerage facilities meet requirements of these regulations, a plan approval or disapproval will be issued by the Department of Health.

A. Construction.

Upon completion of construction of the sanitary and sewerage facilities at marinas and other places where boats are moored, the owner of the facility, or his duly authorized representative, shall notify the local health department. A certificate to operate shall be issued by the Health Department when it has been determined that construction is in compliance with the approved plan.

B. Operation.

All marinas and other places where boats are moored shall hold a valid certificate to operate in the Commonwealth of Virginia.

§ 1.9. Variances.

The commissioner may grant a variance to any requirement of this regulation if, after investigation, it is determined that the hardship imposed upon the owner or the public by compliance with these regulations outweigh the benefits that the regulations confer, or that there is no potential or actual public health hazard.

A. Effect of variance.

A variance is a conditional waiver of a specific regulation which is granted to a particular or designated marina or other place where boats are moored. It is nontransferrable and it shall be attached to the certificate of the marina or other place where boats are moored to which it was granted. The variance is a condition of the certificate which is revoked if the certificate is revoked.

B. Application for a variance.

Any owner of a marina or other place where boats are

Final Regulations

moored may apply in writing for a variance. This application shall be submitted to the local health department in the jurisdiction in which the marina or other place where boats are moored is located. This application shall include:

1. A citation to the regulation from which a variance is requested;
2. A statement of reasons why the public health and environment would not be detrimentally affected if a variance is granted, and a list of suggested measures that would be implemented to prevent any potential detrimental impacts; and
3. Facts supporting the need and justification for the variance.

§ 1.10. Suspension or revocation of a certificate.

The board may revoke or suspend a certificate for failure to construct and operate the sewerage facilities in accordance with the conditions of the application and certificate issued or for any violation of this regulation.

§ 1.11. Administration appeals.

Any applicant or certificate holder who is aggrieved by an adverse decision of the commissioner may appeal in writing within 30 days after the notification of the adverse decision and request a fair hearing. Within 30 days of receipt of notification of appeal, the commissioner shall set a date and place for such hearing. Not later than 30 days following the hearing, the commissioner shall issue a final order with respect to the disposition of the appeal. Such hearing, notice and proceedings shall be conducted pursuant to the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

PART II. REQUIRED FACILITIES FOR MARINAS AND OTHER PLACES WHERE BOATS ARE MOORED AND THEIR OPERATION.

§ 2.1. General.

A. All marinas or other places where boats are moored shall provide the minimum number of sanitary facilities for their patrons. These facilities shall be maintained in a clean and sanitary condition. They shall be equipped with toilet tissue, lights *where electricity is available* and soap and towels where handwashing facilities are required; soap and towels. These facilities shall be available to patrons and users of these facilities at all times during the normal boating season.

B. Marinas which are operated as part of residential developments, overnight lodging facilities, restaurants or commercial establishments, which are located within 1,000 feet of the shore end of the pier, are exempted from providing separate sanitary facilities, as long as the

sanitary facilities at the residence, lodging establishment, restaurant or commercial establishment are available to all users of the marina. This exception does not apply to (i) marinas associated with restaurants or commercial establishments which allow overnight occupancy of boats and (ii) marinas associated with overnight lodging establishments where overnight occupancy of boats is permitted by persons not registered at the overnight lodging establishment.

C. Exempt from the requirements of subsection A are other places where boats are moored which serve residents of homes (houses, condominiums, apartments or mobile homes), their bonafide house guests, or registered guests of tourist establishments which provide adequate sanitary facilities that are located within 1,000 feet of the shore end of the pier.

D. In order to qualify for an exemption under subsections B or C, the owner of such marinas or other places where boats are moored shall provide to the department a signed, notarized statement that all conditions set forth in the aforementioned sections will be complied with by users of the facilities.

§ 2.2. Location.

Adequate sanitary facilities shall be conveniently located within 500 feet walking distance from the shore end of any dock they are intended to serve or within a reasonable distance under unusual circumstances as determined by the *bureau division*. It may be necessary to provide sanitary facilities in more than one location in order to meet the needs of the particular site developed.

§ 2.3. Availability and marking of sanitary facilities.

The sanitary facilities shall be available and readily accessible to users. They shall be appropriately marked with signs readily identifiable to all personnel who might desire to use the facilities.

§ 2.4. Marinas.

A. Minimum number of fixtures to be provided in sanitary facilities.

It shall be understood that in many instances the site layout and the use of the marina may require more fixtures than are shown in the table below. If the board, after observation and study, determines that additional fixtures or buildings housing sanitary facilities are necessary, the owner shall provide the additional fixtures so determined. *The Table No. 1 below shows the minimum number of fixtures to be provided Where dry storage space is provided, each dry storage space is equivalent to one-third of a seasonal slip. The minimum number of fixtures required is contained in Table No. 1 and is based upon the total number of seasonal slips or their equivalent. Separate facilities for male and female personnel shall be provided in a structure or structures.*

Table No. 1

Number of Seasonal Slips	Commodes		Urinals	Lavatories		Showers	
	Male	Female	Male	Male	Female	Male	Female
0-49	1	1	0	1	1	0	0
50-99	1	2	1	1	1	0	0
100-149	2	3	1	2	2	1	1
150-199	2	4	2	3	3	2	2
200-249	3	5	2	4	4	2	2

When the number of seasonal slips exceeds those above on Table No. 1 additional fixtures shall be provided. One commode, lavatory and shower will be provided for each sex for each 100 additional seasonal slips. A urinal may be substituted for a commode when the number of seasonal slips exceeds 100 of the Table No. 1 values. Showers are not required for dry storage boat usage.

B. Transient slip.

When transient slips are available additional sanitary facilities shall be provided. Table No. 2 below shows the minimum number of additional fixtures required. These fixtures may be included in a structure or structures with those fixtures provided for the seasonal slip, provided the accessibility and convenience standards of §§ 2.2 and 2.3 of these regulations are met.

Table No. 2

Number of Transient Slips	Commodes		Urinals	Lavatories		Showers	
	Male	Female	Male	Male	Female	Male	Female
0-24	1	1	1	1	1	1	1
25-49	1	2	1	2	2	2	2
50-74	2	3	1	2	2	2	2
75-100	2	4	2	3	3	3	3

For each 24 or fraction thereof of transient slips or moorings in excess of those shown in Table No. 2 above, one commode, lavatory and shower shall be provided for each sex. In addition, one urinal shall be provided for each 50 of fractions or fraction thereof transient slips in excess of the number shown in Table No. 2.

§ 2.5. Sanitary facilities at other places where boats are moored.

Where piped water is available, sanitary facilities shall consist of a minimum of one commode and one lavatory for females and one commode and one lavatory for males for each 100 seasonal slips or fraction thereof and each 50 transient slips or fraction thereof. Requirements for dry storage boat usage shall be identical to those specified in § 2.4 for marinas. Sanitary facilities may consist of pit privies where piped water is not available. Walking distance to these facilities shall comply with § 2.2.

§ 2.6. Sewage treatment.

Public or municipal sewage treatment facilities shall be used if there is reasonable access to sewers. When such municipal means of disposal is not available, the owner shall have designed and installed an approved method of sewage treatment. Approved methods of sewage treatment are set forth in the Sewerage Regulations (1977) or the Sewage Handling and Disposal Regulations (1982, as

amended). If permanent water conservation devices are provided, the sewage flow requirements specified in subsections A and B of this section may be reduced upon written approval of the division.

A. The following shall be used to determine the amount of sewage flow.

It is assumed that each slip or dry storage space represents two persons. At marinas providing toilet facilities only, the flow figure shall be 10 gallons per person per day. At marinas providing toilet and shower facilities, the flow figure shall be 16 gallons per person per day except at marinas with only seasonal slips, where the flow figure shall be 10 gallons per person per day for the first 99 slips, regardless of whether showers are available, and 16 gallons per person per day for all slips above the 99 slips. For both wet and dry storage facilities it is assumed that each boat trailer parking space represents two persons. The sewage flow will be five gallons per person per day. The sewage flow shall be calculated using one-third the number of dry storage spaces. In addition, for marinas or other places where boats are moored which have a boat launching ramp and provide boat trailer parking spaces only while the boat is in use, the design sewage flow shall be increased by 10 gallons per day per boat trailer parking space.

B. Where restaurants or motels are operated in connection with a marina or place where boats are moored the following shall be used as a basis for determining the amount of sewage flow:

Motels - 65 gallons per person per day or a minimum of 130 gallons per room per day.

Restaurant - 50 to 180 gallons per seat per day. Each installation will be evaluated according to conditions.

C. The occupancy level of boats used for design of sewage treatment or disposal facilities will be those levels listed in § 2.6 A of these regulations. It is recognized that the type of activity and utilization of marina or places where boats are moored varies and, therefore, additional facilities to provide capacity up to maximum may be required if the need arises. The local health director serving the area in which the marina is located shall make such determination.

§ 2.7. All marinas and Other places where boats are moored which allow overnight docking or mooring of boats and all marinas, regardless of size or number of boat moorings, shall have means of provide pump-out facilities for pumping or removing sewage from boats. These pump-out facilities shall include all the equipment, structures and treatment or disposal facilities necessary to ultimately discharge or dispose of this boat sewage in an efficient and sanitary manner without causing an actual or potential public health hazard. Exempt from this requirement are marinas and other places where boats are moored which do not allow boats with an installed toilet

Final Regulations

with a discharge overboard or sewage holding tank to use any of the services provided, including moorage, except in an emergency. In order to qualify for this exemption, the owner of such marina or other place where boats are moored shall provide the department with a signed notarized statement that boats with installed toilets with overboard discharges or sewage holding tanks shall not be permitted to use the marina or other places facilities.

A. Availability and operation.

Where pump-out facilities are required, the owner shall install, maintain in good operating condition and provide pump-out during normal working hours to users of the marina or other places where boats are moored *except in those cases where adequate facilities are provided in accordance with subsection B of this section, then, the normal working hours requirement will apply to the facility using the agreement, as well as the facility with the alternate pump-out service.*

B. Alternate pump-out service.

Marinas and other places where boats are moored which provide less than [25 50] seasonal (or transient) slips for boats of 26 feet or more in length and less than [40 20] seasonal (or transient) slips for boats of 40 feet or more in length may be exempted from the requirement to install pump-out facilities. Such exemption will be granted by the director of the division whenever alternate pump-out service is provided at a nearby marina or other place where boats are moored, and is evidenced by an agreement signed and notarized by both parties in accordance with the requirements of this section, and filed with the division. Such alternate pump-out service will only be approved by the division when the following criteria are met:

1. That the alternate pump-out service will not require more than 20 minutes to complete from the time a boater [requests has the boat ready to receive the service and has previously requested] to have [his the boat] sewage holding tank pumped [and has his boat in place ready to receive the service]. The pump-out service for holding tanks of 50-gallon capacity or more (sewage holding) may exceed twenty minutes;

2. That the alternate pump-out service shall be located within three miles, as measured along the water route, of the facility using the agreement unless the alternate pump-out service is located along the normal travel route to open water, in which case the facility using the agreement shall be within five miles of the alternate pump-out service;

3. That the alternate pump-out service capacity is sufficient to handle the demand for pump-out service, in accordance with subsection C of this section, that is expected for all of the marinas or other places where boats are moored entering into the

above-mentioned agreement;

4. That a notice shall be posted in a conspicuous location, at the marina or other place where boats are moored not installing pump-out service, that specifies the location of the alternate pump-out service; and

5. The terms of the agreement provide:

a. That the alternate pump-out service will be available to all boats moored at each facility and it will state that the alternate pump-out facility will furnish pump-out services to anybody referred to it by the establishment using the agreement to provide pump-out service, as specified by these regulations; and

b. That the agreement will be valid for one year and will be automatically renewable on the anniversary date, unless either party gives at least a 60-day termination notice to the other and to the director of the division prior to the renewal date.

6. If a termination notice is issued to a facility using an agreement to provide alternate pump-out service, in accordance with § 2.7 B, then that facility shall either provide pump-out service or obtain a new written agreement, in accordance with § 2.7 B, by the effective date of the termination of alternate pump-out service.

B. C. Minimum design criteria for pump-out facilities.

The purpose of these minimum design criteria is to provide the owner and the Department of Health with acceptable methods for pumping, storing, conveying and treatment of the contents from boat holding tanks. The owner shall furnish the following information for each proposed pump-out facility:

1. Pumping equipment - pump equipment may be fixed or portable ; however, this equipment shall be conveniently located for usage and clearly identified or placarded by signs or other notices, indicating any fees, restrictions or other operating instructions, as necessary . A minimum pump capacity of 10 gpm ~~will~~ *be permitted is acceptable at the operating head required to transport the flow to the proper collection or treatment location with such residual head as may be required ; however, at marinas with 51 or more slips, greater pumping capacity may be required. Pumps shall be of a macerator type or have sufficient size suction and discharge openings to prevent clogging. Manually operated pumps are not permitted. Pump data from the manufacturer shall include:*

a. The type of pump (diaphragm or centrifugal, and power);

b. Rated capacity (gpm, hp. and head);

c. Motor type (electric or gas) ; if power operated ; and

d. Suction and discharge opening size.

2. Location schematic - if fixed pump-out equipment is proposed, a schematic of the location with elevations for items a, b, c, d and e, as described below, shall be included, or if portable pump-out equipment is proposed, a schematic shall indicate elevations for items a, c, f and g, as described below:

- a. Mean low water level;
- b. Elevation of dock;
- c. Greatest elevation of suction center line of pump;
- d. Elevation of discharge point;
- e. Highest point in discharge line;
- f. Type of dock (floating or stationary); and
- g. Greatest elevation of any dock.

All elevations shall be measured with respect to mean low water. If the elevation of mean low water is not known, assume it to be zero.

3. Fittings and hose (piping) - fittings and hoses (piping) which are used in operation of a pump-out facility shall meet the following:

a. Suction hose.

(1) A friction nozzle (right angle preferred) or wand-type attachment is to be provided on the end of the suction hose. Adapters shall be provided to fit any discharge connection from 1.5 to 4 inches in diameter.

(2) A check valve shall be provided on the suction hose at the nozzle.

(3) The hose shall be made of flexible, heavy-duty material that will be noncollapsing and nonkinking. The length of this line shall be determined on an individual case basis.

(4) If the suction line is to be installed in such a manner that sewage would discharge from the line when the pump is removed for service, a gate valve shall be provided on the pump end of the suction line.

b. Discharge hose and piping.

(1) The discharge hose or piping shall be equipped with watertight, permanent or positive locking type fittings and connections.

(2) Where flexible discharge hose is used, the hose shall be made of heavy-duty material and be nonkinking and noncollapsing.

c. Discharge line.

(1) A gate valve shall be provided on the discharge line at the pump;

(2) Suitable connections on the end of the discharge line shall be provided to prevent it from coming loose during discharge; all nozzles and fittings are to be positive locking, male and female.

(3) The discharge line must not be subject to freezing or leaking into the water course.

(4) Sewer lines on piers shall be located below water distribution lines. Water and sewer line separation and sewer line, water source separation requirements are set forth in the Waterworks Regulations and the Sewage Handling and Disposal Regulations.

(5) The discharge line connection to the pump-out receiving facility shall be fixed in place in such a manner as to prevent it from coming loose during discharge.

d. Pump-out facilities shall include equipment for rinsing the boats' holding tanks. Where potable water will be used for rinsing the holding tank, a backflow prevention device shall be installed on the water service line. A minimum of a hose bib type vacuum breaker shall be provided.

4. Other devices or methods of removal. Other devices or methods of removal of contents from boat holding tanks may be approved by the Commissioner on an individual case basis.

5. Onshore facilities. Contents from boat holding tanks shall be discharged to (i) a public wastewater collection system in which sewage is conveyed to an approved treatment facility; (ii) a holding tank whereby sewage may be stored until it is taken in an approved manner to an approved treatment facility; or (iii) directly to an approved sewage treatment facility.

a. For discharge to a public wastewater collection system, the following will be required: The owner of the marina or other place where boats are moored shall submit evidence, in writing, (i) of consent from the owner of the system, (ii) from the owner of any conveyance systems located downstream, which may be affected, and (iii) from the owner of the ultimate treatment facility. Verification shall be given that there are satisfactory provisions for emptying the contents from portable toilets in a sanitary manner.

Final Regulations

b. If sewage is to be stored in a holding tank, the holding tanks shall be sized, constructed and located to meet the criteria.

(1) Size of holding tank.

Marinas or other places where boats are moored shall size the holding tanks based upon the following tabulations:

Total Number of Boats Served with Holding Tanks	Required Onshore Holding Tank - Volume (gallons) Minimum
1 - 20	250
21 - 40	500
41 - 60	725
61 - 80	1000
81 - 100	1200
100+	2000

(2) Construction of holding tank.

(a) The holding tank shall be designed so that it is watertight and not subject to any infiltration or any leakage.

(b) When holding tanks are made of material other than concrete, the internal surface of the holding tank shall be protected from corrosion. Materials used in the manufacture and installation of holding tanks shall be resistant to deterioration by prolonged or frequent contact with deodorizing chemicals, sewage decomposing chemicals, sewage, freshwater and saltwater.

(c) When holding tanks are made of material other than concrete, the outside surface of the holding tank shall be protected from corrosion.

(d) The holding tank shall be constructed of materials capable of withstanding the forces exerted on its walls.

(e) The holding tank shall be fixed in place unless it is part of an approved mobile pump-out unit.

(f) Provisions shall be made to assure that the holding tank can be completely emptied. The tank shall be essentially emptied when pumped out.

(g) The holding tank shall be adequately vented. Screened, elbows down vents installed at the top of the tank will serve this requirement.

(h) The inlet/outlet of the holding tank shall be compatible with the proposed method of removal.

(i) There shall be satisfactory provisions for emptying the contents from portable toilets in a sanitary manner.

(3) Holding tank location.

Separate distance between holding tank and various structures and features are contained in Table 4.4 of the Sewage Handling and Disposal Regulations.

(4) Any person who removes, or contracts to remove, and transport by vehicle, the contents of a holding tank shall have a written sewage handling permit issued by the Commissioner (see the Sewage Handling and Disposal Regulations).

c. Sewage treatment plant. Disposal of holding tank wastes shall not be allowed at small sewage treatment plants where shock loading may result or disinfectants and odor inhibitors will affect the operation of the treatment facility. Whenever feasible, the collected sewage shall be discharged directly to the sewer system of a large sewage treatment facility or transported for eventual treatment at a large plant.

§ 2.8. Sewage dump station.

A. All marinas and other places where boats are moored, regardless of size or number of boat moorings, shall have an acceptable receiving station for sewage from portable toilets used on boats. The owner shall install, maintain in good operating condition and provide a sewage dump station to users of the marina or other places where boats are moored. Exempt from this provision are marinas or other places where boats are moored, which also qualify for the § 2.1 B or § 2.1 C exemption, provided the owner of the sanitary facility will allow the dumping of the contents of portable toilets into the sanitary facilities.

B. Availability and operation.

Where a sewage dump station is required, the owner shall install, maintain in good operating condition and provide the facilities to users of the marina or other places where boats are moored.

C. Minimum design criteria for a sewage dump station.

The purpose of these minimum design criteria is to provide the owner and the Department of Health with acceptable methods of discharging sewage from a portable container into a sewage holding tank or a sewage treatment system. The same criteria as set forth in § 2.7 B5 for contents from boat holding tanks will apply for sewage dump stations. The sewage dump station receiving unit shall be a minimum of 12 inches in diameter and be equipped with a cover that has a lip of sufficient size to prevent it from accidentally being removed. If the unit is designed to drain, the drain shall be a minimum of four inches in diameter and equipped with a fly tight cover.

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.

Effective Date: October 1, 1990.

Summary:

This regulation governs the maintenance of fire protection equipment and the safe use of buildings and structures to protect the public from the hazards of fire and explosions. The proposed amendments to this regulation require the fire official to enforce those provisions of Volume II of the USBC for requiring sprinkler systems in existing institutional buildings. The final amendments contain no substantial changes, however, a new section has been created to reference the fire official's responsibilities.

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.

Effective Date: October 1, 1990.

Summary:

This regulation governs the construction of new buildings and structures and provides for enforcement by local governments. The technical provisions of the regulation are adopted by reference from the BOCA National Building Code/1987, and an administrative

appeals system is provided for resolution of disagreements between building officials and building owners or their agents.

The proposed amendments to this regulation required all new Use Group I buildings to be sprinklered, except for one-story child care facilities where each room has an exit door directly to the exterior. The definition of the Use Group I-1 classification was changed to be consistent with the BOCA text, and the automatic fire detection system requirements were amended to permit single station smoke detectors in patient sleeping rooms where protected with quick response sprinklers.

Final amendments to this regulation require quick response sprinklers in patient sleeping rooms of Use Group I-2 (§ 1004.2.1), and delete the requirement for smoke detectors in those areas (§ 610.6). Two changes were made to be consistent with the current text of BOCA (§§ 610.4.1 and 1019.3.4).

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.

Effective Date: October 1, 1990.

Summary:

This regulation governs the maintenance and use of existing buildings and structures, provides enforcement procedures to be used by local governments who choose to enforce it, and contains an administrative appeals system for resolution of disagreements.

Proposed amendments to this regulation required all existing hospitals, nursing homes, and homes for adults to install automatic sprinkler and fire detection systems by August 1, 1994.

Final amendments require only nursing homes to install automatic sprinkler systems, by January 1, 1993, and smoke detectors and fire protection signaling and detection systems in nursing homes and homes for adults, to be installed by August 1, 1994. These systems shall meet the requirements of Volume I of the USBC for the applicable use group.

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

Article 1.

Adoption, Administration and Enforcement.

Final Regulations

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~~ 100.6.] 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.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of § 111.0.

100.6.2. Nursing homes and Homes for Adults: Pre-USBC nursing homes licensed by the Virginia Department of Health, and pre-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of § 110.0.]

[~~100.5.2~~ 100.7.] 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.

100.7.1. Hotels and motels: Post-USBC hotels and motels shall also comply with applicable provisions of § 111.0.

100.7.2. Nursing homes and Homes for Adults: Post-USBC nursing homes licensed by the Virginia Department of Health, and post-USBC Homes for Adults licensed by the Virginia Department of Social Services shall also comply with applicable provisions of § 111.0.]

100.5.2. Fire protection systems for existing buildings: Existing buildings and structures of Use Group R-1 shall comply with provisions of Sections 100.5.2.1 and 100.5.2.2.

100.5.2.1. 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, 1987, 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 § 1010.1 through 1010.3 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 protective 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. [100.11 100.8.] 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 [100.12 100.9.] 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. [100.13 100.10.] Purpose: The purpose of the Building Maintenance Code is to ensure public safety, health and welfare through proper building maintenance and use and 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. [100.14 100.11.] 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

Final Regulations

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 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

Final Regulations

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.

[SECTION 111.0 SPECIAL PROVISIONS.]

[111.1. General: The provisions of this section contain requirements for improving the safety of certain buildings by requiring the installation of materials or equipment not originally required. Unless otherwise noted, these provisions shall apply equally to both pre- and post-USBC buildings.

111.2. Hotels and motels: Existing hotels and motels shall comply with the provisions of this section.

111.2.1. Fire sprinkler system: An automatic sprinkler system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment (effective date March 1, 1990), for Use Group R-1, shall be installed throughout existing hotels and motels 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.

Exceptions:

1. Hotels and motels that are equipped throughout with an automatic sprinkler system.

2. Hotels and motels which are three stories or less in height.

111.2.2. Single and multiple station smoke detectors: Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group R-1, shall be installed in existing hotels and motels by March 1, 1993.

Exception: Hotels and motels that are equipped throughout with single and multiple station smoke detectors.

111.3. Nursing homes and nursing facilities: Existing nursing homes and nursing facilities licensed by the Virginia Department of Health shall comply with the provisions of this section.

111.3.1. Automatic sprinkler system: An automatic

Final Regulations

sprinkler system meeting the requirements of the USBC, Volume 1, 1987 Edition, Third Amendment (effective date October 1, 1990), for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by January 1, 1993, as follows:

1. NFIPA 13D Standard for one story buildings.
2. NFIPA 13R Standard for buildings two or three stories in height.
3. NFIPA 13 Standard for buildings four or more stories in height.

Exceptions:

1. Nursing homes and nursing facilities which are equipped throughout with an automatic sprinkler system.
2. Nursing facilities consisting of certified long-term care beds located on the ground floor of general hospitals.

111.3.1.1. Quick response sprinklers; Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to § 111.3.1.

111.3.1.2. Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFIPA 13 shall be permitted to use the exceptions provided in the USBC, Volume 1, 1987 Edition, Third Amendment including, but 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)

111.3.2. Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume 1, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

Exception: Nursing homes and nursing facilities that are equipped throughout with an automatic fire protective

signaling system.

111.3.3. Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume 1, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

111.3.3.1. Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from § 111.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume 1, 1987 Edition, Second Amendment, for Use Group I-2.

111.4. Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

111.4.1. Fire protective signaling system and fire detection system: A fire protective signaling system and an automatic fire detection system meeting the requirements of the USBC, Volume 1, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with a fire protective signaling system and an automatic fire detection system.

111.4.2. Single and multiple station smoke detectors meeting the requirements of the USBC, Volume 1, 1987 Edition, Third Amendment, shall be installed in Homes for Adults by August 1, 1994.

Exception: Homes for Adults that are equipped throughout with single and multiple station smoke detectors.]

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.

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.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulations: VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

VR 460-03-3.1310. Nursing Facility and MR Criteria.

VR 460-03-4.1940. Nursing Home Payment System (REPEALED).

VR 460-03-4.1940:1. Nursing Home Payment System: Patient Intensity Rating System.

VR 460-03-4.1941. Uniform Expense Classification.

VR 460-03-4.1942. Leasing of Facilities.

VR 460-03-4.1943. Cost Reimbursement Limitations.

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate of Adjustments to the Prospective Direct Patient Care Operating Cost Rate—Allowance for Inflation Methodology Base "Current" Operating Rate.

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

Final Regulations

Effective Date: October 1, 1990.

Summary:

The Department of Medical Assistance Services will be repealing its currently effective Nursing Home Payment System effective October 1, 1990. The Patient Intensity Rating System (PIRS) will replace it in order to determine nursing home reimbursement. Each nursing home will have a service intensity index based on the numbers of patients who are classified in one of three groups based on similar functional characteristics and service needs.

Nursing home reimbursement will be subject to peer groups and operating ceilings which will be modified over the current system. The Virginia Health Services Cost Review Council filing fees are being incorporated into the new system. The Virginia specific inflation factor mandated by the 1989 General Assembly is also being carried forward. In addition, the 1990 General Assembly mandate establishing the average rate on certain U.S. Treasury notes and bonds plus two percentage points as the new upper limit for interest expense for debt financing is included. Consistent with the federal government's reinterpretation of the 1989 OBRA mandates, costs to nursing facilities for nurse aide training and competency evaluation programs must be reimbursed separately under PIRS and cannot be included within a nursing facilities operating rate. Insignificant corrections to the payment system's format and style have been made also.

Modifications are also proposed for the Plan section concerning the Methods and Standards used to Assure High Quality of Care (Attachment 3.1 C) in that a new Supplement 1 is proposed. This Plan section contains DMAS criteria used or determining individuals' appropriate placement in nursing home care.

A new supplement (VR 460-03-3.1310) to the Plan section concerning the Methods and Standards Used to Assure High Quality of Care (VR 460-02-3.1300, Attachment 3.1 C) is also being proposed. This Plan section contains DMAS criteria used for determining individuals' appropriate placement in nursing home care.

VR 460-02-4.1940. Methods and Standards for Establishing Payment Rates - Long-Term Care.

The policy and the method to be used in establishing payment rates for skilled and intermediate care nursing homes facilities listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs.

a. Reimbursement and payment criteria will be established which are designed to enlist participation

of a sufficient number of providers of services in the Program so that eligible persons can receive the medical care and services included in the Plan to the extent these are available to the general population.

b. Participation in the Program will be limited to providers of services who accept, as payment in full, the amounts so paid.

c. Payment for care of service will not exceed the amounts indicated to be reimbursed in accord with the policy and the methods described in the Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.253(b)(2). The state agency has continuing access to data identifying the maximum charges allowed. Such data will be made available to the Secretary, HHS, upon request.

d. Payments for services to skilled and intermediate nursing homes nursing facilities shall be on the basis of reasonable cost in accordance with the standards and principles set forth in 42 CFR 447.252 as follows:

(1) A uniform annual cost report which itemizes allowable cost will be required to be filed within 90 days of each provider's fiscal year end. The effective date of this requirement was July 1, 1972, for intermediate care facilities.

(2) The determination of allowable costs will be in accordance with Medicare principles as established in the Provider Reimbursement Manual (~~HIM-15 PRM-15~~) except where otherwise noted in this Plan. For hospital based, skilled, and combined skilled and intermediate care facilities, the cost finding method will be in accordance with Medicare principles. For free-standing intermediate care facilities, a simplified method not requiring a step-down of indirect costs will be substituted by the Program.

(3) Field audits will be conducted on the cost data submitted by the provider to verify the accuracy and reasonableness of such data. Audits will be conducted for each facility on a periodic basis as determined from internal desk audits and more often as required. Audit procedures are in conformance with SSA standards set forth in ~~HIM-13-2 PRM-13-2~~ . Internal desk audits are conducted annually within six months of receipt of a completed cost report from the provider.

(4) Reports of field audits are retained by the state agency for at least three years following submission of the report.

(5) (Reserved.)

(6) Facilities are paid on a cost-related basis in accordance with the methodology described in the Plan.

(7) Modifications to the Plan for reimbursement will be submitted as Plan amendments.

(8) Covered cost will include such items as:

(a) Cost of meeting certification standards.

(b) Routine services which include items expense providers normally incur in the provision of services.

(c) The cost of such services provided by related organizations except as modified in the payment system supplement 4.19-D.

(9) Bad debts, charity and courtesy allowances shall be excluded from allowable cost.

(10) Effective for facility cost reporting periods beginning on or after October 1, 1978, the reimbursable amount will be determined prospectively on a facility by facility basis, except that mental institutions and mental retardation facilities shall continue to be reimbursed retrospectively. The prospective rate will be based on the prior period's actual cost (as determined by an annual cost report and verified by audit as set forth in section d(3) above) plus an inflation factor. Payments will be made to facilities no less than monthly.

(11) The payment level calculated by the prospective rate will be adequate to reimburse in full such actual allowable costs that an economically and efficiently operated facility must incur. In addition, an incentive plan will be established as described in the payment system supplement 4.19-D.

(12) Upper limits for payment within the prospective payment system shall be as follows:

(a) Allowable cost shall be determined in accordance with Medicare principles as defined in ~~HIM-15~~ *PRM-15*, except as may be modified in this Plan.

(b) Reimbursement for operating costs will be limited to regional ceilings calculated for all nursing homes in the Northern Virginia area and a ceiling calculated for the rest of the Commonwealth plus annual escalators.

(c) Reimbursement, in no instance, will exceed the charges for private patients receiving the same services. [*In accordance with § 1903(a)(2)(B) of the Social Security Act, nursing facility costs incurred in relation to training and competency evaluation of nurse aides will be considered as state administrative expenses and, as such, shall be exempted from this provision.*]

(13) In accordance with 42 CFR 447.205, an

opportunity for public comment was permitted before final implementation of rate setting processes.

(14) A detailed description of the prospective reimbursement formula is attached for supporting detail.

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

e. Reimbursement of nonenrolled long-term care facilities.

(1) Nonenrolled providers of institutional long-term care services shall be reimbursed based upon the average per diem cost, updated annually, reimbursed to enrolled intermediate or skilled care nursing facility providers.

(2) Prior approval must be received from the DMAS Medical Social Services Division for recipients to receive institutional services from nonenrolled long-term care facilities. Prior approval can only be granted:

(a) When the nonenrolled long-term care facility with an available bed is closer to the recipient's Virginia residence than the closest facility located in Virginia with an available bed, or

(b) When long-term care special services, such as intensive rehabilitation services, are not available in Virginia, or

(c) If there are no available beds in Virginia facilities.

(3) Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

VR 460-03-3.1310. Nursing Facility and MR Criteria.

§ 1. Nursing facility criteria introduction.

A. Traditionally, the model for nursing facility care has been facility or institutionally based; however, it is important to recognize that nursing facility care services can be delivered outside a nursing home. Nursing facility care is the provision of services regardless of the specific setting. It is the care rather than the setting in which it is rendered that is significant. The criteria for assessing nursing facility care are divided into two areas: (i) functional capacity (the degree of assistance an individual requires to complete activities of daily living) and (ii) nursing needs.

Final Regulations

B. The preadmission screening process marks the beginning of a continuum of long-term care services available to an individual under the Virginia Medical Assistance Program. Nursing facility care services are covered by the program for individuals whose needs meet the criteria established by program regulations.

C. Nursing facilities must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than four days after the date of admission and promptly after a significant change in the resident's physical or mental condition. The Department of Medical Assistance Services shall conduct a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided.

D. The criteria for nursing facility care under the Virginia Medical Assistance Program are contained herein. An individual's need for care must meet this criteria before any authorization for payment by Medicaid will be made for either institutional or noninstitutional long-term care services. Reimbursement to nursing facilities for residents requiring specialized care shall only be made on a contractual basis.

§ 2. Criteria for nursing facility care.

A. Nursing facility care shall be the provision of services for persons whose health needs require medical and nursing supervision or care. These services may be provided in various settings, institutional and noninstitutional. Both the functional capacity of the individual and his nursing needs must be considered in determining the appropriateness of care.

B. Individuals may be considered appropriate for nursing facility care when one of the following describes their functional capacity:

1. Rated dependent in two to four of the Activities of Daily Living (Items 1-7), and also rated semi-dependent or dependent in Behavior Pattern and Orientation (Item 8), and semi-dependent in Medication Administration (Item 10).

2. Rated dependent in two to four of the Activities of Daily Living (Items 1-7), and also rated semi-dependent or dependent in Behavior Pattern and Orientation (Item 8), and semi-dependent in Joint Motion (Item 11).

3. Rated dependent in five to seven of the Activities of Daily Living (Items 1-7), and also rated dependent in Mobility (Item 9).

4. Rated semi-dependent in two to seven of the Activities of Daily Living (Items 1-7) and also rated dependent in Mobility (Item 9), and Behavior Pattern

and Orientation (Item 8). An individual in this category will not be appropriate for nursing facility care unless he also has a medical condition requiring treatment or observation by a nurse.

C. Placement in a noninstitutional setting should be considered before nursing home placement is sought.

§ 3. Functional status.

The following abbreviations shall mean:

I = independent; d = semi-dependent; D = dependent; MH = mechanical help; HH = human help.

A. Bathing

1. Without help (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Is bathed (D)

B. Dressing

1. Without help (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Is dressed (D)
6. Is not dressed (D)

C. Toileting

1. Without help day and night (I)
2. MH only (d)
3. HH only (D)
4. MH and HH (D)
5. Does not use toilet room (D)

D. Transferring

1. Without help (I)
2. MH only (d)
3. HH only (D)

4. *MH and HH (D)*
 5. *Is transferred (D)*
 6. *Is not transferred (D)*
- E. Bowel Function**
1. *Continent (I)*
 2. *Incontinent less than weekly (d)*
 3. *Ostomy - self care (d)*
 4. *Incontinent weekly or more (D)*
 5. *Ostomy - not self care (D)*
- F. Bladder Function**
1. *Continent (I)*
 2. *Incontinent less than weekly (d)*
 3. *External device - self care (d)*
 4. *Indwelling catheter - self care (d)*
 5. *Ostomy - self care (d)*
 6. *Incontinent weekly or more (D)*
 7. *External device - not self care (D)*
 8. *Indwelling catheter - not self care (D)*
 9. *Ostomy - not self care (D)*
- G. Eating/Feeding**
1. *Without help (I)*
 2. *MH only (d)*
 3. *HH only (D)*
 4. *MH and HH (D)*
 5. *Spoon fed (D)*
 6. *Syringe or tube fed (D)*
 7. *Fed by IV or clysis (D)*
- H. Behavior Pattern and Orientation**
1. *Appropriate or Wandering/
Passive less than weekly + Oriented (I)*
 2. *Appropriate or Wandering/
Passive less than weekly + Disoriented - Some*
- Spheres (I)*
3. *Wandering/Passive Weekly
or More + Oriented (I)*
 4. *Appropriate or Wandering/
Passive less than weekly + Disoriented - All
Spheres (d)*
 5. *Wandering/Passive Weekly
or more + Disoriented - Some or All Spheres (d)*
 6. *Abusive/Aggressive/
Disruptive less than weekly + Oriented or
Disoriented (d)*
 7. *Abusive/Aggressive/
Disruptive weekly or more + Oriented (d)*
 8. *Abusive/Aggressive/
Disruptive weekly or more + Disoriented (D)*
- 9. Mobility**
- a. *Goes outside without help (I)*
 - b. *Goes outside MH only (d)*
 - c. *Goes outside HH only (D)*
 - d. *Goes outside MH and HH (D)*
 - e. *Confined - moves about (D)*
 - f. *Confined - does not move about (D)*
- 10. Medication Administration**
- a. *No medications (I)*
 - b. *Self administered - monitored less than weekly (I)*
 - c. *By lay persons, monitored less than weekly (I)*
 - d. *By Licensed/Professional nurse and/or monitored
weekly or more (D)*
 - e. *Some or all by Professional nurse (D)*
- 11. Joint Motion**
- a. *Within normal limits (I)*
 - b. *Limited motion (d)*
 - c. *Instability - corrected (I)*
 - d. *Instability - uncorrected (D)*
 - e. *Immobility (D)*

Final Regulations

§ 4. Nursing needs.

A. Following are examples of services provided or supervised by licensed nursing and professional personnel; however, no single service necessarily indicates a need for nursing facility care:

1. Application of aseptic dressings;
2. Routine catheter care;
3. Inhalation therapy after the regimen has been established;
4. Supervision for adequate nutrition and hydration for patients who, due to physical or mental impairments, are subject to malnourishment or dehydration;
5. Routine care in connection with plaster casts, braces, or similar devices;
6. Physical, occupational, speech, or other therapy;
7. Therapies, exercise and positioning to maintain or strengthen muscle tone, to prevent contractures, decubiti, and deterioration;
8. Routine care of colostomy or ileostomy;
9. Use of restraints including bedrails, soft binders, and wheelchair supports;
10. Routine skin care to prevent decubiti;
11. Care of small uncomplicated decubiti, and local skin rashes; or
12. Observation of those with sensory, metabolic, and circulatory impairment for potential medical complications.

B. Services requiring more intensive nursing care, such as wounds or lesions requiring daily care, nutritional deficiencies leading to specialized feeding, and paralysis or paresis benefitting from rehabilitation, shall be reimbursed at a higher rate.

C. The final determination for nursing facility care shall be based on the individual's need for medical and nursing management. Nursing facility care criteria are intended only as guidelines. Professional judgment must always be used to assure appropriateness of care.

§ 5. Specific services which do not meet the criteria for nursing facility care.

A. Care needs that do not meet the criteria for nursing facility care include, but are not limited to, the following:

1. Minimal assistance with activities of daily living;

2. Independent use of mechanical devices such as a wheelchair, walker, crutch, or cane;

3. Limited diets such as mechanically altered, low salt, low residue, diabetic, reducing, and other restrictive diets;

4. Medications that can be independently self-administered or administered by the individual with minimal supervision;

5. The protection of the patient to prevent him from obtaining alcohol or drugs, or from confronting an unpleasant situation; or

6. Minimal observation or assistance by staff for confusion, memory impairment, or poor judgment.

B. Special attention shall be given to individuals who receive psychiatric treatment. These individuals must also have care needs that meet the criteria for nursing facility care.

§ 6. Summary.

In patient placement, all available resources must be explored, i.e., the immediate family, other relatives, home health services, and other community resources. When applying the criteria, primary consideration is to be given to the utilization of available community/family resources.

§ 7. Adult specialized care criteria.

A. General description.

The resident must have long-term health conditions requiring close medical supervision, 24 hours licensed nursing care, and specialized services or equipment.

B. Targeted population.

1. Individuals requiring mechanical ventilation;
2. Individuals with communicable diseases requiring universal or respiratory precautions;
3. Individuals requiring ongoing intravenous medication or nutrition administration; or
4. Individuals requiring comprehensive rehabilitative therapy services.

C. Criteria.

1. The individual must require at a minimum:
 - a. Physician visits at least once weekly;
 - b. Skilled nursing services 24 hours a day (a registered nurse must be on the nursing unit on which the resident resides, 24 hours a day, whose

sole responsibility is the designated unit); and

c. Coordinated multidisciplinary team approach to meet needs.

2. In addition, the individual must meet one of the following requirements:

a. Must require two out of three of the following rehabilitative services: Physical Therapy, Occupational Therapy, Speech-pathology services; therapy must be provided at a minimum of 4 therapy sessions (minimum of 30 minutes per session) per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

c. Individuals that require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only);

(3) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a skilled nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed, second or third degree burns covering more than 10% of the body);

(6) Multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.).

§ 8. Pediatric/adolescent specialized care criteria.

A. General description.

The child must have ongoing health conditions requiring close medical supervision, 24 hours licensed nursing supervision, and specialized services or equipment. The recipient must be age 21 or under.

B. Targeted population.

1. Children requiring mechanical ventilation;

2. Children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.);

3. Children requiring ongoing intravenous medication or nutrition administration;

4. Children requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.);

5. Children requiring comprehensive rehabilitative therapy services;

6. Children with terminal illness.

B. Criteria.

1. The child must require at a minimum:

a. Physician visits at least once weekly;

b. Skilled nursing services 24 hours a day (a registered nurse must be on the nursing unit on which the child is residing, 24 hours a day, whose sole responsibility is that nursing unit);

c. Coordinated multidisciplinary team approach to meet needs;

d. The nursing facility must provide for the educational and habilitative needs of the child. These services must be age appropriate and appropriate to the cognitive level of the child. Services must also be individualized to meet the specific needs of the child and must be provided in an organized and proactive manner. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. The services must be provided for a total of 2 hours per day, minimum.

2. In addition, the child must meet one of the following requirements:

a. Must require two out of three of the following physical rehabilitative services: Physical therapy, Occupational therapy, Speech-pathology services; therapy must be provided at a minimum of six therapy sessions (minimum of 15 minutes per session) per day, five days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as

Final Regulations

mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc.; or

c. Children that require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(3) Dialysis treatment that is provided within the facility (i.e., peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body);

(6) Ostomy care requiring services by a licensed nurse;

(7) [Care for] terminal illness.

§ 9. Criteria for care in facilities for mentally retarded persons.

A. Definitions.

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

"No assistance" means no help is needed.

"Prompting/structuring" means prior to the functioning, some verbal direction or some rearrangement of the environment is needed.

"Supervision" means that a helper must be present during the function and provide only verbal direction, gestural prompts, or guidance.

"Some direct assistance" means that a helper must be present and provide some physical guidance/support (with or without verbal direction).

"Total care" means that a helper must perform all or nearly all of the functions.

"Rarely" means that a behavior occurs quarterly or less.

"Sometimes" means that a behavior occurs once a month or less.

"Often" means that a behavior occurs two to three times a month.

"Regularly" means that a behavior occurs weekly or more.

B. Utilization control regulations require that criteria be formulated for guidance for appropriate levels of services. Traditionally, care for the mentally retarded has been institutionally based; however, this level of care need not be confined to a specific setting. The habilitative and health needs of the client are the determining issues.

C. The purpose of these regulations is to establish standard criteria to measure eligibility for Medicaid payment. Medicaid can pay for care only when the client is receiving appropriate services and when "active treatment" is being provided. An individual's need for care must meet these criteria before any authorization for payment by Medicaid will be made for either institutional or waived rehabilitative services for the mentally retarded.

D. Care in facilities for the mentally retarded requires planned programs for habilitative needs or health related services which exceed the level of room, board, and supervision of daily activities.

Such care shall be a combination of habilitative, rehabilitative, and health services directed toward increasing the functional capacity of the retarded person. Examples of services shall include training in the activities of daily living, task-learning skills, socially acceptable behaviors, basic community living programming, or health care and health maintenance. The overall objective of programming shall be the attainment of the optimal physical, intellectual, social, or task learning level which the person can presently or potentially achieve.

E. The evaluation and re-evaluation for care in a facility for the mentally retarded shall be based on the needs of the person, the reasonable expectations of the resident's capabilities, the appropriateness of programming, and whether progress is demonstrated from the training and, in an institution, whether the services could reasonably be provided in a less restrictive environment.

§ 10. Patient assessment criteria.

A. The patient assessment criteria are divided into broad categories of needs, or services provided. These must be evaluated in detail to determine the abilities/skills which will be the basis for the development of a plan of

care. The evaluation process will demonstrate a need for programming an array of skills and abilities or health care services. These have been organized into seven major categories. Level of functioning in each category is graded from the most dependent to the least dependent. In some categories, the dependency status is rated by the degree of assistance required. In other categories, the dependency is established by the frequency of a behavior or ability to perform a given task.

B. The resident must meet the indicated dependency level in two or more of categories 1 through 7.

1. Health Status - To meet this category:

a. Two or more questions must be answered with a 4, or

b. Question [~~10~~ "f"] must be answered "yes."

2. Communication Skills - To meet this category:

Three or more questions must be answered with a 3 or a 4.

3. Task Learning Skills - To meet this category:

Three or more questions must be answered with a 3 or a 4.

4. Personal Care - To meet this category:

a. Question [~~#1~~ "a"] must be answered with a 4 or a 5, or

b. Question [~~#2~~ "b"] must be answered with a 4 or a 5, or

c. [Question ~~#3~~ and #4 Questions "c" and "d"] must be answered with a 4 or a 5.

5. Mobility - To meet this category:

Any one question must be answered with a 4 or a 5.

6. Behavior - To meet this category:

Any one question must be answered with a 3 or a 4.

7. Community Living - To meet this category:

a. Any two of the questions [~~#2, #5, or #7~~ "b," "e," or "g"] must be answered with a 4 or a 5, or

b. Three or more questions [~~#1-#8~~] must be answered with a 4 or a 5.

LEVEL OF FUNCTIONING SURVEY

1. Health status.

How often is nursing care or nursing supervision by a licensed nurse required for the following? (Key: 1=Rarely, 2=Sometimes, 3=Often, and 4=Regularly)

a. Medication administration and/or evaluation for effectiveness of a medication regimen? 1...2...3...4

b. Direct services: i.e. care for lesions, dressings, treatments (other than shampoos, foot power, etc.) 1...2...3...4

c. Seizures control 1...2...3...4

d. Teaching diagnosed disease control and care, including diabetes 1...2...3...4

e. Management of care of diagnosed circulatory or respiratory problems 1...2...3...4

f. Motor disabilities which interfere with all activities of Daily Living - Bathing, Dressing, Mobility, Toileting, etc. 1...2...3...4

g. Observation for choking/aspiration while eating, drinking? 1...2...3...4

h. Supervision of use of adaptive equipment, i.e., special spoon, braces, etc. 1...2...3...4

i. Observation for nutritional problems (i.e., undernourishment, swallowing difficulties, obesity) 1...2...3...4

j. Is age 55 or older, has a diagnosis of a chronic disease and has been in an institution 20 years or more 1...2...3...4

2. Communication.

Using the key 1=regularly, 2=often, 3=sometimes, 4=rarely, how often does this person

a. Indicate wants by pointing, vocal noises, or signs? 1...2...3...4

b. Use simple words, phrases, short sentences? 1...2...3...4

c. Ask for at least ten things using appropriate names? 1...2...3...4

d. Understand simple words, phrases or instructions containing prepositions: i.e., "on" "in" "behind"? 1...2...3...4

e. Speak in an easily understood manner? .. 1...2...3...4

f. Identify self, place of residence, and significant others? 1...2...3...4

Final Regulations

3. Task learning skills.

How often does this person perform the following activities (Key: 1=regularly, 2=often, 3=sometimes, 4=rarely)

- a. Pay attention to purposeful activities for 5 minutes? 1...2...3...4
- b. Stay with a 3 step task for more than 15 minutes? 1...2...3...4
- c. Tell time to the hour and understand time intervals? 1...2...3...4
- d. Count more than 10 objects? 1...2...3...4
- e. Do simple addition, subtraction? 1...2...3...4
- f. Write or print ten words? 1...2...3...4
- g. Discriminate shapes, sizes, or colors? 1...2...3...4
- h. Name people or objects when describing pictures? 1...2...3...4
- i. Discriminate between "one," "many," "lot"? 1...2...3...4

4. Personal/self care.

With what type of assistance can this person currently (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Perform toileting functions: i.e., maintain bladder and bowel continence, clean self, etc.? 1...2...3...4...5
- b. Perform eating/feeding functions: i.e., drinks liquids and eats with spoon or fork, etc.? 1...2...3...4...5
- c. Perform bathing function (i.e., bathe, runs bath, dry self, etc.)? 1...2...3...4...5

5. Mobility.

With what type of assistance can this person currently (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Move (walking, wheeling) around environment? 1...2...3...4...5
- b. Rise from lying down to sitting positions, sits without support? 1...2...3...4...5
- c. Turn and position in bed, roll over? .. 1...2...3...4...5

6. Behavior.

How often does this person (Key: 1=Rarely, 2=Sometimes, 3=Often, 4=Regularly)

- a. Engage in self destructive behavior? 1...2...3...4
- b. Threaten or do physical violence to others? 1...2...3...4
- c. Throw things, damage property, have temper outbursts? 1...2...3...4
- d. Respond to others in a socially unacceptable manner - (without undue anger, frustration or hostility) 1...2...3...4

7. Community living skills.

With what type of assistance would this person currently be able to (Key: 1=No Assistance, 2=Prompting/Structuring, 3=Supervision, 4=Some Direct Assistance, 5=Total Care)

- a. Prepare simple foods requiring no mixing or cooking? 1...2...3...4...5
- b. Take care of personal belongings, room (excluding vacuuming, ironing, clothes washing/drying, wet mopping)? 1...2...3...4...5
- c. Add coins of various denominations up to one dollar? 1...2...3...4...5
- d. Use the telephone to call home, doctor, fire, police? 1...2...3...4...5
- e. Recognize survival signs/words: i.e., stop, go, traffic lights, police, men, women, restrooms, danger, etc.? 1...2...3...4...5
- f. Refrain from exhibiting unacceptable sexual behavior in public? 1...2...3...4...5
- g. Go around cottage, ward, building, without running away, wandering off, or becoming lost? . 1...2...3...4...5
- h. Make minor purchases i.e., candy, soft drink, etc.? 1...2...3...4...5

VR 460-03-4.1940:1. Nursing Home Payment System: Patient Intensity Rating System.

PART I. INTRODUCTION.

§ 1.1. Effective October 1, 1990, the payment methodology for Nursing Facility (NF) reimbursement by the Virginia Department of Medical Assistance Services (DMAS) is set forth in the following document. The formula provides for incentive payments to efficiently operated NFs and contains payment limitations for those NFs operating less efficiently. A cost efficiency incentive encourages cost

containment by allowing the provider to retain a percentage of the difference between the prospectively determined operating cost rate and the ceiling.

§ 1.2. [Two Three] separate cost components are used: plant cost [and ,] operating cost [and nurse aide training and competency evaluation program and competency evaluation program (NATCEPs) costs] . The rates, which are determined on a facility-by-facility basis, shall be based on annual cost reports filed by each provider.

§ 1.3. In determining the ceiling limitations, there shall be direct patient care medians established for NFs in [Northern Virginia the Virginia portion of the Washington DC-MD-VA Metropolitan Statistical Area (MSA)] , the Richmond [-Petersburg] Metropolitan Statistical Area (MSA), and in the rest of the state. There shall be indirect patient care medians established for NFs in [Northern Virginia the Virginia portion of the Washington DC-MD-VA MSA,] and in the rest of the state. [The Richmond MSA shall include the cities of Richmond, Colonial Heights, Hopewell and Petersburg and the counties of Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, New Kent, Powhatan, and Prince George. Northern Virginia shall include the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the counties of Fairfax, Loudoun, Arlington, and Prince William. The Washington DC-MD-VA MSA and the Richmond-Petersburg MSA shall include those cities and counties as listed and changed from time to time by the Health Care Financing Administration (HCFA). A NF located in a jurisdiction which HCFA adds to or removes from the Washington DC-MD-VA MSA or the Richmond-Petersburg MSA shall be placed in its new peer group, for purposes of reimbursement, at the beginning of its next fiscal year following the effective date of HCFA's final rule.]

§ 1.4. Institutions for mental diseases providing nursing services for individuals age 65 and older shall be exempt from the prospective payment system as defined in §§ 2.6, 2.7, [2.8,] 2.19, and 2.25, as are mental retardation facilities. All other sections of this payment system relating to reimbursable cost limitations shall apply. These facilities shall continue to be reimbursed retrospectively on the basis of reasonable costs in accordance with Medicare and Medicaid principles of reimbursement. Reimbursement to Intermediate Care Facilities for the Mentally Retarded (ICF/MR) shall be limited to the highest rate paid to a state ICF/MR institution, approved each July 1 by DMAS.

§ 1.5. [Except as specifically modified herein,] Medicare principles of reimbursement, as amended from time to time, shall be used to establish the allowable costs in the rate calculations [; except as specifically modified herein which are . Allowable costs must be] classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification) and [which may be identified must be identifiable] and verified

by contemporaneous documentation.

All matters of reimbursement which are part of the DMAS reimbursement system shall supercede Medicare principles of reimbursement. Wherever the DMAS reimbursement system conflicts with Medicare principles of reimbursement, the DMAS reimbursement system shall take precedence. Appendices are a part of the DMAS reimbursement system.

PART II. RATE DETERMINATION PROCEDURES.

Article I. Plant Cost Component.

§ 2.1. Plant cost.

A. Plant cost shall include actual allowable depreciation, interest, rent or lease payments for buildings and equipment as well as property insurance, property taxes and debt financing costs allowable under Medicare principles of reimbursement or as defined herein.

B. [To calculate the reimbursement rate,] plant cost shall be converted to a per diem amount by dividing it by the greater of actual patient days or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

C. For NFs of 30 beds or less, [to calculate the reimbursement rate,] the number of patient days will be computed as not less than 85% of the daily licensed bed complement.

D. Costs related to equipment and portions of a building/facility not available for patient care related activities are nonreimbursable plant costs.

§ 2.2. New nursing facilities and bed additions.

A. 1. Providers shall be required to obtain three competitive bids when (i) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (ii) purchasing fixed equipment or major movable equipment related to such [a] projects.

2. All bids must be obtained in an open competitive market manner, and subject to disclosure to DMAS prior to initial rate setting. (Related parties see § 2.10.)

B. Reimbursable costs for building and fixed equipment shall be based upon the [high average 3/4 (25% of the surveyed projects with costs above the median, 75% with costs below the median)] square foot costs for NFs published annually in [the R.S. Means] Building Construction Cost Data [by R.S. Means & Co.] as adjusted by the appropriate R.S. Means [City Cost Index Square Foot Costs "Location Factor" for Virginia] for the

Final Regulations

locality in which the NF is located. [Where the specific location is not listed in the R.S. Means Square Foot Costs "Location Factor" for Virginia, the facility's zip code shall be used to determine the appropriate locality factor from the U.S. Postal Services National Five Digit Zip Code for Virginia and the R.S. Means Square Foot Costs "Location Factors."] The provider shall have the option of selecting the construction cost limit which is effective on the date the Certificate of Public Need (COPN) is issued or the date the NF is licensed. Total cost shall be calculated by multiplying the [~~high average per~~ above 3/4] square foot cost by 385 square feet (the average per bed square footage). Total costs for [building] additions shall be calculated by multiplying the square footage of the [addition project] by the applicable components of the construction cost [limit in the R.S. Means Square Foot Costs] , not to exceed the total per bed cost for a new NF. [Reasonable limits for renovations shall be determined by the appropriate costs in the R.S. Means Repair and Remodeling Cost Data, not to exceed the total R.S. Means Building Construction Cost Data 3/4 square foot costs for nursing homes.]

C. New NFs and bed additions to existing NFs must have prior approval under the state's Certificate of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

D. However in no case shall allowable reimbursed costs exceed 110% of the amounts approved in the original COPN, or 100% of the amounts approved in the original COPN as modified by any "significant change" COPN, where a provider has satisfied the requirements of the State Department of Health with respect to obtaining prior written approval for a "significant change" to a COPN which has previously been issued.

§ 2.3. Major capital expenditures.

A. Major capital expenditures include, but are not limited to, major renovations (without bed increase), additions, modernization, other renovations, upgrading to new standards, and equipment purchases. Major capital expenditures shall be any capital expenditures costing \$100,000 or more each, in aggregate for like items, or in aggregate for a particular project. These include purchases of similar type equipment or like items within a one calendar year period (not necessarily the provider's reporting period).

B. Providers (including related organizations as defined in § 2.10) shall be required to obtain three competitive bids and if applicable, a Certificate of Public Need before initiating any major capital expenditures. All bids must be obtained in an open competitive manner, and subject to disclosure to the DMAS prior to initial rate setting. (Related parties see § 2.10.)

C. Useful life shall be determined by the American Hospital Association's [~~(A-H-A)~~] Estimated Useful Lives of Depreciable Hospital Assets [(AHA)] . If the item is

not included [~~here~~, in the AHA guidelines,] reasonableness shall be applied to determine useful life.

D. Major capital additions, modernization, renovations, and costs associated with upgrading the NF to new standards shall be subject to cost limitations based upon the applicable components of the construction cost limits determined in accordance with § 2.2 B.

§ 2.4. Financing.

A. The DMAS shall continue its policy to disallow cost increases due to the refinancing of a mortgage debt, except when required by the mortgage holder to finance expansions or renovations. Refinancing shall also be permitted in cases where refinancing would produce a lower interest rate and result in a cost savings. The total net aggregate allowable costs incurred for all cost reporting periods related to the refinancing cannot exceed the total net aggregate costs that would have been allowable had the refinancing not occurred.

B. Interest rate upper limit.

Financing for all NFs and expansions which require a COPN and all renovations and purchases shall be subject to the following limitations:

1. Interest expenses for debt financing which is exempt from federal income taxes shall be limited to:

The average weekly rates for Baa municipal rated bonds as published in Cragie Incorporated Municipal Finance Newsletter as published weekly (Representative reoffering from general obligation bonds), plus one percentage point [(100 basis points)] , during the week in which commitment for construction financing or closing for permanent financing takes place.

2. a. Effective on and after July 1, 1990, the interest rate upper limit for debt financing by NFs that are subject to prospective reimbursement shall be the average of the rate for 10-year and 30-year U.S. Treasury Constant Maturities, as published in the weekly Federal Reserve Statistical Release (H.15), plus two percentage points [(200 basis points)] .

This limit (i) shall apply only to debt financing which is not exempt from federal income tax, and (ii) shall not be available [to NF's which are eligible for such tax exempt financing] unless and until a NF has demonstrated to the DMAS that the NF failed, in a good faith effort, to obtain any available debt financing which is exempt from federal income tax. [For construction financing,] the limit shall be determined as of the date on which commitment [~~for construction financing or closing for permanent financing~~] takes place [; and . For permanent financing, the limit shall be determined as of the date of closing. The limit]

shall apply to allowable interest expenses during the term of the financing.

b. The new interest rate upper limit shall also apply, effective July 1, 1990, to construction financing committed to or permanent financing closed after December 31, 1986, but before July 1, 1990, which is not exempt from federal income tax. The limit shall be determined as of July 1, 1990, and shall apply to allowable interest expenses for the term of the financing remaining on or after July 1, 1990.

[3. Variable interest rate upper limit.

a. The limitation set forth in §§ 2.4 B 1 and 2.4 B 2 shall be applied to debt financing which bears a variable interest rate as follows. The interest rate upper limit shall be determined on the date on which commitment for construction financing or closing for permanent financing takes place, and shall apply to allowable interest expenses during the term of such financing as if a fixed interest rate for the financing period had been obtained. A "fixed rate loan amortization schedule" shall be created for the loan period, using the interest rate cap in effect on the date of commitment for construction financing or date of closing for permanent financing.

b. If the interest rate for any cost reporting period is below the limit determined in subdivision 3 a above, no adjustment will be made to the providers interest expense for that period, and a "carryover credit" to the extent of the amount allowable under the "fixed rate loan amortization schedule" will be created, but not paid. If the interest rate in a future cost reporting period is above the limit determined in subdivision 3 a above, the provider will be paid this "carryover credit" from prior period(s), not to exceed the cumulative carryover credit or his actual cost, whichever is less.

c. The provider shall be responsible for preparing a verifiable and auditable schedule to support cumulative computations of interest claimed under the "carryover credit," and shall submit such a schedule with each cost report.]

[2. 4.] The limitation set forth in § 2.4 B 1 [and ,] 2 [, and 3] shall be applicable to financing for land, buildings, fixed equipment, major movable equipment, working capital for construction and permanent financing.

[4. 5.] Where bond issues are used as a source of financing, the date of sale shall be considered as the date of closing.

[5. 6.] The aggregate of the following costs shall be limited to 5.0% of the total allowable project costs:

a. Examination Fees

b. Guarantee Fees

c. Financing Expenses (service fees, placement fees, feasibility studies, etc.)

d. Underwriters Discounts

e. Loan Points

[6. 7.] The aggregate of the following financing costs shall be limited to 2.0% of the total allowable project costs:

a. Legal Fees

b. Cost Certification Fees

c. Title and Recording Costs

d. Printing and Engraving Costs

e. Rating Agency Fees

C. DMAS shall allow costs associated with mortgage life insurance premiums in accordance with § 2130 of the HCFA-Pub. 15, Provider Reimbursement Manual (PRM-15).

D. Interest expense on a debt service reserve fund is an allowable expense if required by the terms of the financing agreement. However, interest income resulting from such fund shall be used by DMAS to offset interest expense.

§ 2.5. Purchases of nursing facilities (NF).

A. In the event of a sale of a NF, the purchaser must have a current license and certification to receive DMAS reimbursement as a provider.

B. The following reimbursement principles shall apply to the purchase of a NF:

1. The allowable cost of a bona fide sale of a facility (whether or not the parties to the sale were, are, or will be providers of Medicaid services) shall be the lowest of the sales price, the replacement cost value determined by independent appraisal, or the limitations of Part XVI - Revaluation of Assets. Revaluation of assets shall be permitted only when a bona fide sale of assets occurs.

2. Notwithstanding the provisions of § 2.10, where there is a sale between related parties (whether or not they were, are or will be providers of Medicaid services), the buyer's allowable cost basis for the nursing facility shall be the seller's allowable depreciated historical cost (net book value), as determined for Medicaid reimbursement.

Final Regulations

3. For purposes of Medicaid reimbursement, a "bona fide" sale shall mean a transfer of title and possession for consideration between parties which are not related. Parties shall be deemed to be "related" if they are related by reasons of common ownership or control. If the parties are members of an immediate family, the sale shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control." See § 2.10 C for definitions of "common ownership," "control," "immediate family," and "significant ownership or control."

4. The useful life of the fixed assets of the facility shall be determined by [~~using American Hospital Association~~ () AHA ()] guidelines.

5. The buyer's basis in the purchased assets shall be reduced by the value of the depreciation recapture due the state by the provider-seller, until arrangements for repayment have been agreed upon by DMAS.

6. In the event the NF is owned by the seller for less than five years, the reimbursable cost basis of the purchased NF to the buyer, shall be the seller's [~~net book value~~ allowable historical cost] as determined by DMAS.

C. An appraisal expert shall be defined as an individual or a firm that is experienced and specializes in multi-purpose appraisals of plant assets involving the establishing or reconstructing of the historical cost of such assets. Such an appraisal expert employs a specially trained and supervised staff with a complete range of appraisal and cost construction techniques; is experienced in appraisals of plant assets used by providers, and demonstrates a knowledge and understanding of the regulations involving applicable reimbursement principles, particularly those pertinent to depreciation; and is unrelated to either the buyer or seller.

D. At a minimum, appraisals must include a breakdown by cost category as follows:

1. Building; fixed equipment; movable equipment; land; land improvements.

2. The estimated useful [~~economic~~] life [computed in accordance with AHA guidelines] of the three categories, building, fixed equipment, and movable equipment must be included in the appraisal. This information shall be utilized to compute depreciation schedules.

E. Depreciation recapture.

1. The provider-seller of the facility shall make a retrospective settlement with DMAS in instances where a gain was made on disposition. The

department shall recapture the depreciation paid to the provider by Medicaid for the period of participation in the Program to the extent there is gain realized on the sale of the depreciable assets. A final cost report and refund of depreciation expense, where applicable, shall be due within 30 days from the transfer of title (as defined below).

2. No depreciation adjustment shall be made in the event of a loss or abandonment.

F. Reimbursable depreciation.

1. For the purpose of this section, "sale or transfer" shall mean any agreement between the transferor and the transferee by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and possession of the property.

2. Upon the sale or transfer of the real and tangible personal property comprising a licensed nursing facility certified to provide services to DMAS, the transferor or other person liable therein shall reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing such services and subject to recapture under the provisions of the State Plan for Medical Assistance. The amount of reimbursable depreciation shall be paid to the Commonwealth within 30 days of the sale or transfer of the real property unless an alternative form of repayment, the term of which shall not exceed one year, is approved by the director.

3. Prior to the transfer, the transferor shall file a written request by certified or registered mail to the director for a letter of verification that he either does not owe the Commonwealth any amount for reimbursable depreciation or that he has repaid any amount owed the Commonwealth for reimbursable depreciation or that an alternative form of repayment has been approved by the director. The request for a letter of verification shall state:

a. That a sale or transfer is about to be made;

b. The location and general description of the property to be sold or transferred;

c. The names and addresses of the transferee and transferor and all such business names and addresses of the transferor for the last three years; and

d. Whether or not there is a debt owing to the Commonwealth for the amount of depreciation charges previously allowed and reimbursed as a reasonable cost to the transferor under the Virginia Medical Assistance Program.

4. Within 90 days after receipt of the request, the director shall determine whether or not there is an amount due to the Commonwealth by the nursing facility by reason of depreciation charges previously allowed and reimbursed as a reasonable cost under DMAS and shall notify the transferor of such sum, if any.

5. The transferor shall provide a copy of this section and a copy of his request for a letter of verification to the prospective transferee via certified mail at least 30 days prior to the transfer. However, whether or not the transferor provides a copy of this section and his request for verification to the prospective transferee as required herein, the transferee shall be deemed to be notified of the requirements of this law.

6. After the transferor has made arrangements satisfactory to the director to repay the amount due or if there is no amount due, the director shall issue a letter of verification to the transferor in recordable form stating that the transferor has complied with the provisions of this section and setting forth the term of any alternative repayment agreement. The failure of the transferor to reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing service to DMAS in a timely manner renders the transfer of the nursing facility ineffective as to the Commonwealth.

7. Upon a finding by the director that such sale or transfer is ineffective as to the Commonwealth, DMAS may collect any sum owing by any means available by law, including devising a schedule for reducing the Medicaid reimbursement to the transferee up to the amount owed the Commonwealth for reimbursable depreciation by the transferor or other person liable therein. Medicaid reimbursement to the transferee shall continue to be so reduced until repayment is made in full or the terms of the repayment are agreed to by the transferor or person liable therein.

8. In the event the transferor or other person liable therein defaults on any such repayment agreement the reductions of Medicaid reimbursement to the transferee may resume.

An action brought or initiated to reduce the transferee's Medicaid reimbursement or an action for attachment or levy shall not be brought or initiated more than six months after the date on which the sale or transfer has taken place unless the sale or transfer has been concealed or a letter of verification has not been obtained by the transferor or the transferor defaults on a repayment agreement approved by the director.

Article 2. Operating Cost Component.

§ 2.6. Operating cost.

A. Operating cost shall be the total allowable inpatient cost less plant cost [and NATCEPs costs] . [See Part VII for rate determination procedures for NATCEPs costs. To calculate the reimbursement rate,] operating cost shall be converted to a per diem amount by dividing it by the greater of actual patient days, or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

B. For NFs of 30 beds or less, [to calculate the reimbursement rate] the number of patient days will continue to be computed as not less than 85% of the daily licensed bed complement.

§ 2.7. Nursing facility reimbursement formula.

A. Effective on and after October 1, 1990, all NFs subject to the prospective payment system shall be reimbursed under a revised formula entitled "The Patient Intensity Rating System (PIRS)." PIRS is a patient based methodology which links NF's per diem rates to the intensity of services required by a NF's patient mix. Three classes were developed which group patients together based on similar functional characteristics and service needs.

1. Any NF receiving Medicaid payments on or after October 1, 1990, shall satisfy all the requirements of § 1919(b) through (d) of the Social Security Act as they relate to provision of services, residents' rights and administration and other matters.

2. In accordance with § 1.3, direct patient care operating cost peer groups shall be established for [Northern Virginia the Virginia portion of the Washington DC-MD-VA MSA] , the [Richmond Richmond-Petersburg] MSA and the rest of the state. Direct patient care operating costs shall [include only nursing costs, nursing administration costs and ancillary costs, as defined in § 2-0 be as defined in VR 460-03-1491] . Indirect patient care operating cost peer groups shall be established for [Northern the] Virginia [portion of the Washington DC-MD-VA MSA] and for the rest of the state. Indirect patient care operating costs shall include all other operating costs [, not defined in VR 460-03-4.1941 as direct patient care operating costs and NATCEPs costs] .

3. Each NF's Service Intensity Index (SII) shall be calculated [one for] each [quarter semiannual period of a NF's fiscal year] based upon data reported by that NF and entered into DMAS' Long Term Care Information System (LTCIS). Data will be reported on the multidimensional assessment form [prescribed by DMAS] ([now] DMAS-95) [that is currently in use,] at the time of admission and then twice a year for every Medicaid recipient in a NF. The NF's SII, derived from the assessment data, will be normalized by dividing it by the average for all NF's in the state.

Final Regulations

[See VR 460-03-4.1944 for the PIRS class structure, the relative resource cost assigned to each class, the method of computing each NF's facility score and the methodology of computing the NF's semiannual SII.]

4. The normalized SII shall be used to calculate the initial direct patient care operating cost peer group medians. It shall also be used to calculate the direct patient care operating cost prospective ceilings and direct [patient] care operating cost prospective rates for each [quarter semiannual period] of a NF's subsequent fiscal years.

a. The normalized SII, as determined [in July 1990, during the quarter ended September 30, 1990,] shall be used to calculate the initial direct patient care operating cost peer group medians.

b. [A normalized SII, as determined during each quarter, shall be used to calculate a NF's direct patient care operating cost prospective ceiling for the following quarter of its fiscal year. A NF's direct patient care operating cost prospective ceiling shall be the product of the NF's peer group direct patient care ceiling and the NF's normalized SII for the previous semiannual period. A NF's direct patient care operating cost prospective ceiling will be calculated semiannually.]

[e. A normalized SII, as determined during the first, second and third quarter of the NF's fiscal year, shall be used to adjust the NF's prospective direct patient care operating cost base rate for the second, third and fourth quarters of its fiscal year. An SSI rate adjustment, if any, shall be applied to a NF's prospective direct patient care operating cost base rate for each semiannual period of a NF's fiscal year. The SII determined in the second semiannual period of the previous fiscal year shall be divided by the average of the previous fiscal year's SII's to determine the SII rate adjustment, if any, to the first semiannual period of the subsequent fiscal year's prospective direct patient care operating cost base rate. The SII determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's SII's to determine the SII rate adjustment, if any, to the second semiannual period of the subsequent fiscal year's prospective direct patient care operating cost base rate.

d. See VR 460-03-4.1944 for an illustration of how the SII is used to adjust direct patient care operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.]

5. An adjustment factor shall be applied to both the direct patient care and indirect patient care peer group medians to determine the appropriate initial peer group ceilings.

a. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during fiscal year 1991 under the prospective payment system in effect through September 30, 1990, as modified to incorporate the estimated additional NF reimbursement mandated by the provisions of § 1902(a)(13)(A) of the Social Security Act as amended by § 4211(b)(1) of the Omnibus Budget Reconciliation Act of 1987.

b. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during FY 1991 under the PIRS prospective payment system.

c. The DMAS shall determine the differential between a and b above and shall adjust the peer group medians within the PIRS as appropriate to reduce the differential to zero.

d. The adjusted PIRS peer group medians shall become the initial peer group ceilings.

B. The allowance for inflation shall be based on the percentage of change in the moving average of the Skilled Nursing Facility Market basket of Routine Service Costs, as developed by Data Resources, Incorporated, adjusted for Virginia, determined in the quarter in which the NF's [new most recent] fiscal year [begins ended] . NF's shall have their prospective operating cost ceilings and prospective operating cost rates established in accordance with the following methodology:

1. The initial peer group ceilings established under § 2.7 A shall be the final peer group ceilings for a NF's first full or partial fiscal year under PIRS and shall be considered as the initial "interim ceilings" for calculating the subsequent fiscal year's peer group ceilings. Peer group ceilings for subsequent fiscal years shall be calculated by adjusting the most recent "interim" ceilings for 100% of historical inflation, from the effective date of such "interim" ceilings to the beginning of the NF's next fiscal year to obtain new "interim" ceilings, and 50% of the forecasted inflation to the end of the NF's [next] fiscal year.

2. A NF's average allowable operating cost rates, as determined from its most recent fiscal year's cost report, shall be adjusted by 50% of historical inflation and 50% of the forecasted inflation to calculate its prospective operating cost base rates.

C. The PIRS method shall still require comparison of the prospective operating cost rates to the prospective operating ceilings. The provider shall be reimbursed the lower of the prospective operating cost rates or prospective operating ceilings.

D. [Nonoperating costs.

1.] Allowable plant costs shall be reimbursed in

accordance with Part II, Article 1. Plant costs shall not include the component of cost related to making or producing a supply or service.

[2. NATCEPs cost shall be reimbursed in accordance with Part VII.]

E. The prospective rate for each NF shall be based upon operating cost and plant cost components or charges, whichever is lower [, plus NATCEPs costs]. The disallowance of nonreimbursable operating costs in any current fiscal year shall be reflected in a subsequent year's prospective rate determination. Disallowances of nonreimbursable plant costs [and NATCEPs costs] shall be reflected in the year in which the nonreimbursable costs are included.

F. For those NFs whose operating cost rates are below the ceilings, an incentive plan shall be established whereby a NF shall be paid, on a sliding scale, up to 25% of the difference between its allowable operating cost rates and the peer group ceilings under the PIRS.

1. The table below presents four incentive examples under the PIRS:

Peer Group Ceilings	Allowable Cost Per Day		Difference % of Ceiling		Scale Sliding Scale % Dif ference	
	\$30.00	\$27.00	\$3.00	10%	\$.30	10%
30.00	22.50	7.50	25%	1.88	25%	
30.00	20.00	10.00	33%	2.50	25%	
30.00	30.00	0		0		

2. Separate efficiency incentives shall be calculated for both the direct and indirect patient care operating ceilings and costs.

G. Quality of care requirement.

A cost efficiency incentive shall not be paid to a NF for the prorated period of time that it is not in conformance with substantive, nonwaived life, safety, or quality of care standards.

H. Sale of facility.

In the event of the sale of a NF, the prospective base operating cost rates for the new owner's first fiscal period shall be the seller's prospective base operating cost rates before the sale.

I. Public notice.

To comply with the requirements of § 1902(a)(28)(c) of the Social Security Act, DMAS shall make available to the public the data and methodology used in establishing Medicaid payment rates for nursing facilities. Copies may be obtained by request under the existing procedures of the Virginia Freedom of Information Act.

§ 2.8. Phase-in period.

A. To assist NFs in converting to the PIRS methodology, a phase-in period shall be provided until [September June] 30, 1992.

B. [During the first year of phase-in period From October 1, 1990, through June 30, 1991], a NF's prospective operating cost rate shall be a blended rate calculated at [50% 33%] of the PIRS operating cost rates determined by § 2.7 above and [50% 67%] of the "current" operating [cost] rate determined by subsection D below.

C. [During the second year of the phase-in period From July 1, 1991, through June 30, 1992], a NF's prospective operating cost rate shall be a blended rate calculated at [75% 67%] of the PIRS operating cost rates determined by § 2.7 above and [25% 33%] of the "current" operating [cost] rate determined by subsection D below.

D. The following methodology shall be applied to calculate a NF's "current" operating rate:

1. Each NF shall receive as its base [total "current"] operating [cost per diem rate], the [weighted average] prospective operating cost per [diem diems and efficiency incentive per diems if applicable,] calculated by DMAS to be effective September 30, 1990.

2. [The base total operating cost per diem, as determined above, shall be defined as the NF's average allowable operating cost per diem and shall be adjusted for inflation by the methodology contained in § 2.7 B to determine the NF's prospective "current" operating cost rate. The base "current" operating rate established above shall be the "current" operating rate for the NF's first partial fiscal year under PIRS. The base "current" operating rate shall be adjusted by appropriate allowance for historical inflation and 50% of the forecasted inflation based on the methodology contained in § 2.7 B at the beginning of each of the NF's fiscal years which starts during the phase-in period, October 1, 1990, through June 30, 1992, to determine the NF's prospective "current" operating rate. See VR 460-03-4.1944 for example calculations.]

Article 3. Allowable Cost Identification.

§ 2.9. Allowable costs.

Costs which are included in rate determination procedures and final settlement shall be only those allowable, reasonable costs which are acceptable under the Medicare principles of reimbursement, except as specifically modified in the Plan and as may be subject to individual or ceiling cost limitations and which are classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification).

Final Regulations

A. Certification.

The cost of meeting all certification standards for NF requirements as required by the appropriate state agencies, by state laws, or by federal legislation or regulations.

B. Operating costs.

1. Direct patient care operating costs shall [include the following; be defined in VR 460-03-4.1941.]

[a. Nursing costs. Salary and related employee benefits of nursing administration, registered nurses, licensed practical nurses and certified nurse aides; contract costs for temporary services for registered nurses, licensed practical nurses and certified nurse aides; training costs associated with required certifications for registered nurses, licensed practical nurses and certified nurse aides; nursing departmental supplies; minor medical and surgical supplies; pharmacy consultant fees; and medical directors' fees.

b. Ancillary costs. Gross salary and related employee benefits of employees, cost of contracted services, cost of all supplies and all other cost allocated to the ancillary cost centers in accordance with Medicare principles of reimbursement used in providing covered ancillary services. Covered ancillary services are Radiology, Inhalation Therapy, Physical Therapy, Occupational Therapy, Speech Therapy, Laboratory Tests, Electrocardiology, Electroencephalography and Medical Supplies Charged to Patients. Medical supplies purchased from an outside pharmacy may be treated as an ancillary charge by the NF.]

2. Excluded from allowable direct [patient] care operating costs shall be personal physician fees and prescribed legend and nonlegend drugs. These excluded services shall be billed directly to DMAS by the provider of these services.

3. Indirect patient care operating costs include all other operating costs [, not identified as direct patient care operating costs and NATCEPs costs in VR 460-03-4.1941,] which are allowable under the Medicare principles of reimbursement, except as specifically modified herein and as may be subject to individual cost or ceiling limitations.

C. Allowances/Goodwill.

Bad Debts, goodwill, charity, courtesy, and all other contractual allowances shall not be recognized as an allowable cost.

§ 2.10. Purchases/related organizations.

A. Costs applicable to services, facilities, and supplies

furnished to the provider by organizations related to the provider by common ownership or control shall be included in the allowable cost of the provider at the cost to the related organization, provided that such costs do not exceed the price of comparable services, facilities or supplies. Purchases of existing NFs by related parties shall be governed by the provisions of § 2.5 B 2.

B. Related to the provider shall mean that the provider is related by reasons of common ownership or control by the organization furnishing the services, facilities, or supplies.

C. Common ownership exists when an individual or individuals or entity or entities possess significant ownership or equity in the parties to the transaction. Control exists where an individual or individuals or entity or entities have the power, directly or indirectly, significantly to influence or direct the actions or policies of the parties to the transaction. Significant ownership or control shall be deemed to exist where an individual is a "person with an ownership or control interest" within the meaning of 42 CFR 455.101. If the parties to the transaction are members of an immediate family, as defined below, the transaction shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control," as set forth above. Immediate family shall be defined to include, but not be limited to, the following: (i) husband and wife, (ii) natural parent, child and sibling, (iii) adopted child and adoptive parent, (iv) step-parent, step-child, step-sister, and step-brother, (v) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law and daughter-in-law, and (vi) grandparent and grandchild.

D. Exception to the related organization principle.

1. Effective with cost reports having fiscal years beginning on or after July 1, 1986, an exception to the related organization principle shall be allowed. Under this exception, charges by a related organization to a provider for goods or services shall be allowable cost to the provider if all four of the conditions set out below are met.

2. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of DMAS that the following criteria have been met:

a. The supplying organization is a bona fide separate organization. This means that the supplier is a separate sole proprietorship, partnership, joint venture, association or corporation and not merely an operating division of the provider organization.

b. A substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open,

competitive market for the type of goods or services furnished by the organization. In determining whether the activities are of similar type, it is important to also consider the scope of the activity.

For example, a full service management contract would not be considered the same type of business activity as a minor data processing contract. The requirement that there be an open, competitive market is merely intended to assure that the item supplied has a readily discernible price that is established through arms-length bargaining by well informed buyers and sellers.

c. The goods or services shall be those which commonly are obtained by institutions such as the provider from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by such institutions. This requirement means that institutions such as the provider typically obtain the good or services from outside sources rather than producing the item internally.

d. The charge to the provider is in line with the charge for such services, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such goods or services. The phrase "open market" takes the same meaning as "open, competitive market" in subdivision b above.

3. Where all of the conditions of this exception are met, the charges by the supplier to the provider for such goods or services shall be allowable as costs.

4. This exception does not apply to the purchase, lease or construction of assets such as property, buildings, fixed equipment or major movable equipment. The terms "goods and services" may not be interpreted or construed to mean capital costs associated with such purchases, leases, or construction.

E. Three competitive bids shall not be required for the building and fixed equipment components of a construction project outlined in § 2.2. Reimbursement shall be in accordance with § 2.10 A with the limitations stated in § 2.2 B.

§ 2.11. Administrator/owner compensation.

A. Administrators' compensation, whether administrators are owners or non-owners, shall be based on a schedule adopted by DMAS and varied according to facility bed size. The compensation schedule shall be adjusted annually to reflect cost-of-living increases and shall be published and distributed to providers annually. The administrator's compensation schedule covers only the position of administrator and assistants and does not

include the compensation of owners employed in capacities other than the NF administrator (see VR 460-03-4.1943, Cost Reimbursement Limitations).

B. Administrator compensation shall mean remuneration paid regardless of the form in which it is paid. This includes, but shall not be limited to, salaries, professional fees, insurance premiums (if the benefits accrue to the employer/owner or his beneficiary) director fees, personal use of automobiles, consultant fees, management fees, travel allowances, relocation expenses in excess of IRS guidelines, meal allowances, bonuses, pension plan costs, and deferred compensation plans. Management fees, consulting fees, and other services performed by owners shall be included in the total compensation if they are performing administrative duties regardless of how such services may be classified by the provider.

C. Compensation for all administrators (owner and nonowner) shall be based upon a 40 hour week to determine reasonableness of compensation.

D. Owner/administrator employment documentation.

1. Owners who perform services for a NF as an administrator and also perform additional duties must maintain adequate documentation to show that the additional duties were performed beyond the normal 40 hour week as an administrator. The additional duties must be necessary for the operation of the NF and related to patient care.

2. Services provided by owners, whether in employee capacity, through management contracts, or through home office relationships shall be compared to the cost and services provided in arms-length transactions.

3. Compensation for such services shall be adjusted where such compensation exceeds that paid in such arms-length transaction or where there is a duplication of duties normally rendered by an administrator. No reimbursement shall be allowed for compensation where owner services cannot be documented and audited.

§ 2.12. Depreciation.

The allowance for depreciation shall be restricted to the straight line method with a useful life in compliance with [American Hospital Association life AHA] guidelines. [If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.]

§ 2.13. Rent/Leases.

Rent or lease expenses shall be limited by the provisions of VR 460-03-4.1942, Leasing of Facilities.

§ 2.14. Provider payments.

A. Limitations.

Final Regulations

1. Payments to providers, shall not exceed charges for covered services except for (i) public providers furnishing services free of charge or at a nominal charge (ii) nonpublic provider whose charges are 60% or less of the allowable reimbursement represented by the charges and that demonstrates its charges are less than allowable reimbursement because its customary practice is to charge patients based on their ability to pay. Nominal charge shall be defined as total charges that are 60% or less of the allowable reimbursement of services represented by these charges. Providers qualifying in this section shall receive allowable reimbursement as determined in this Plan.

2. Allowable reimbursement in excess of charges may be carried forward for payment in the two succeeding cost reporting periods. A new provider may carry forward unreimbursed allowable reimbursement in the five succeeding cost reporting periods.

3. Providers may be reimbursed the carry forward to a succeeding cost reporting period (i) if total charges for the services provided in that subsequent period exceed the total allowable reimbursement in that period (ii) to the extent that the accumulation of the carry forward and the allowable reimbursement in that subsequent period do not exceed the providers' direct and indirect care operating ceilings plus allowable plant cost.

B. Payment for service shall be based upon the rate in effect when the service was rendered.

C. An interim settlement shall be made by DMAS within 90 days after receipt and review of the cost report. The word "review," for purposes of interim settlement, shall include verification that all financial and other data specifically requested by DMAS is submitted with the cost report. Review shall also mean examination of the cost report and other required submission for obvious errors, inconsistency, inclusion of past disallowed costs, unresolved prior year cost adjustments and a complete signed cost report that conforms to the current DMAS requirements herein.

However, an interim settlement shall not be made when one of the following conditions exists.

1. Cost report filed by a terminated provider;
2. Insolvency of the provider at the time the cost report is submitted;
3. Lack of a valid provider agreement and decertification;
4. Moneys owed to DMAS;
5. Errors or inconsistencies in the cost report; or
6. Incomplete/nonacceptable cost report.

§ 2.15. Legal fees/accounting.

A. Costs claimed for legal/accounting fees shall be limited to reasonable and customary fees for specific services rendered. Such costs must be related to patient care as defined by Medicare principles of reimbursement and subject to applicable regulations herein. Documentation for legal costs must be available at the time of audit.

B. Retainer fees shall be considered an allowable cost up to the limits established in VR 460-03-4.1943, Cost Reimbursement Limitations.

§ 2.16. Documentation.

Adequate documentation supporting cost claims must be provided at the time of interim settlement, cost settlement, audit, and final settlement.

§ 2.17. Fraud and abuse.

Previously disallowed costs which are under appeal and affect more than one cost reporting period shall be disclosed in subsequent cost reports if the provider wishes to reserve appeal rights for such subsequent cost reports. The reimbursement effect of such appealed costs shall be computed by the provider and submitted to DMAS with the cost report. Where such disclosure is not made to DMAS, the inclusion of previously disallowed costs may be referred to the Medicaid Fraud Control Unit of the Office of the Attorney General.

Article 4. New Nursing Facilities.

§ 2.18. Interim rate.

A. For all new or expanded NFs the 95% occupancy requirement shall be waived for establishing the first cost reporting period interim rate. This first cost reporting period shall not exceed 12 months from the date of the NF's certification.

B. Upon a showing of good cause, and approval of the DMAS, an existing NF that expands its bed capacity by 50% or more shall have the option of retaining its prospective rate, or being treated as a new NF.

C. The 95% occupancy requirement shall be applied to the first and subsequent cost reporting periods' actual costs for establishing such NF's second and future cost reporting periods' prospective reimbursement rates. The 95% occupancy requirement shall be considered as having been satisfied if the new NF achieved a 95% occupancy at any point in time during the first cost reporting period.

D. A new NF's interim rate for the first cost reporting period shall be determined based upon the lower of its anticipated allowable cost determined from a detailed budget (or pro forma cost report) prepared by the

provider and accepted by the DMAS, or the appropriate operating ceilings or charges.

E. Any NF receiving reimbursement under new NF status shall not be eligible to receive the blended phase-in period rate under § 2.8.

F. During its first [~~fiscal quarter~~ semiannual period] of operation, a newly constructed or newly enrolled NF shall have an assigned SII based upon its peer group's average SII for direct patient care. An expanded NF receiving new NF treatment, shall receive the SII calculated for its last [~~fiscal quarter~~ semiannual period] prior to obtaining new NF status.

§ 2.19. Final rate.

The DMAS shall reimburse the lower of the appropriate operating ceilings, charges or actual allowable cost for a new NF's first cost reporting period of operation, subject to the procedures outlined above in § 2.18 A, C, E, and F.

[Upon determination of the actual allowable operating cost for direct patient care and indirect patient care the per diem amounts shall be used to determine if the provider is below the peer group ceiling used to set its interim rate. If costs are below those ceilings, an efficiency incentive shall be paid at settlement of the first year cost report.

This incentive will allow a NF to be paid up to 25% of the difference between its actual allowable operating cost and the peer group ceiling used to set the interim rate. (Refer to § 2.7 F.)

Article 5. Cost Reports.

§ 2.20. Cost report submission.

A. Cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, it is considered delinquent. [~~DMAS shall take action to assure that an overpayment is not being made.~~] The cost report shall be deemed complete when DMAS has received all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of [~~changes in financial position~~, cash flows. Multi-facility providers not having individual facility financial statements shall submit the "G" series schedules from the cost

report plus a statement of changes in cash flow and corporate consolidated financial statements;]

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

5. Depreciation schedule or summary;

6. Home office cost report, if applicable; and

7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

B. When cost reports are delinquent, the provider's interim rate shall be reduced by 20% the first month and an additional 20% [of the original interim rate] for each [subsequent] month the report has not been submitted. DMAS shall notify the provider of the schedule of reductions which shall start on the first day of the following month. For example, for a September 30 fiscal year end, notification will be mailed in early January stating that payments will be reduced starting with the first payment in February.

C. After the overdue cost report is received, desk reviewed, and a new prospective rate established, the amounts withheld shall be computed and paid. If the provider fails to submit a complete cost report within 180 days after the fiscal year end, a penalty in the amount of 10% of the balance withheld shall be forfeited to DMAS.

§ 2.21. Reporting form.

All cost reports shall be submitted on uniform reporting forms provided by the DMAS, or by Medicare if applicable. Such cost reports, subsequent to the initial cost report period, shall cover a 12-month period. Any exceptions must be approved by the DMAS.

§ 2.22. Accounting method.

The accrual method of accounting and cost reporting is mandated for all providers.

§ 2.23. Cost report extensions.

A. Extension for submission of a cost report may be granted if the provider can document extraordinary circumstances beyond its control.

B. Extraordinary circumstances do not include:

1. Absence or changes of chief finance officer, controller or bookkeeper;
2. Financial statements not completed;
3. Office or building renovations;
4. Home office cost report not completed;

Final Regulations

5. Change of stock ownership;

6. Change of intermediary;

7. Conversion to computer; or

8. Use of reimbursement specialist.

§ 2.24. Fiscal year changes.

All fiscal year end changes must be approved 90 days prior to the beginning of a new fiscal year.

Article 6. Prospective Rates.

§ 2.25. Time frames.

A. A prospective rate shall be determined by DMAS within 90 days of the receipt of a complete cost report. (See § 2.20 A.) Rate adjustments shall be made retroactive to the first day of the provider's new cost reporting year. Where a field audit is necessary to set a prospective rate, the DMAS shall have an additional 90 days to determine any appropriate adjustments to the prospective rate as a result of such field audit. This time period shall be extended if delays are attributed to the provider.

B. Subsequent to establishing the prospective rate DMAS shall conclude the desk audit of a providers' cost report and determine if further field audit activity is necessary. The DMAS will seek repayment or make retroactive settlements when audit adjustments are made to costs claimed for reimbursement.

Article 7. Retrospective rates.

§ 2.26. The retrospective method of reimbursement shall be used for Mental Health/Mental Retardation facilities.

§ 2.27. (reserved)

Article 8. Record Retention.

§ 2.28. Time frames.

A. All of the NF's accounting and related records, including the general ledger, books of original entry, and statistical data must be maintained for a minimum of five years, or until all affected cost reports are final settled.

B. Certain information must be maintained for the duration of the provider's participation in the DMAS and until such time as all cost reports are settled. Examples of such information are set forth in § 2.29.

§ 2.29. Types of records to be maintained.

Information which must be maintained for the duration

of the provider's participation in the DMAS includes, but is not limited to:

1. Real and tangible property records, including leases and the underlying cost of ownership;

2. Itemized depreciation schedules;

3. Mortgage documents, loan agreements, and amortization schedules;

4. Copies of all cost reports filed with the DMAS together with supporting financial statements.

§ 2.30. Record availability.

The records must be available for audits by DMAS staff. Where such records are not available, costs shall be disallowed.

Article 9. Audits.

§ 2.31. Audit overview.

Desk audits shall be performed to verify the completeness and accuracy of the cost report, and reasonableness of costs claimed for reimbursement. Field audits, as determined necessary by the DMAS, shall be performed on the records of each participating provider to determine that costs included for reimbursement were accurately determined and reasonable, and do not exceed the ceilings or other reimbursement limitations established by the DMAS.

§ 2.32. Scope of audit.

The scope of the audit includes, but shall not be limited to: trial balance verification, analysis of fixed assets, indebtedness, selected revenues, leases and the underlying cost of ownership, rentals and other contractual obligations, and costs to related organizations. The audit scope may also include various other analyses and studies relating to issues and questions unique to the NF and identified by the DMAS. Census and related statistics, patient trust funds, and billing procedures are also subject to audit.

§ 2.33. Field audit requirements.

Field audits shall be required as follows:

1. For the first cost report on all new NF's.
2. For the first cost report in which costs for bed additions or other expansions are included.
3. When a NF is sold, purchased, or leased.
4. As determined by DMAS desk audit.

§ 2.34. Provider notification.

The provider shall be notified [in writing] of all adjustments to be made to a cost report [resulting from desk or field audit] with stated reasons and references to the appropriate [principles of reimbursement or other appropriate] regulatory cites.

§ 2.35. [Field audit] exit conference.

A. The provider shall be offered an exit conference to be executed within 15 days following completion of the on-site audit activities, unless other time frames are mutually agreed to by the DMAS and provider. Where two or more providers are part of a chain organization or under common ownership, DMAS shall have up to 90 days after completion of all related on-site audit activities to offer an exit conference for all such NFs. [The exit conference shall be conducted at the site of the audit or at a location mutually agreeable to the DMAS and the provider.]

B. The purpose of the exit conference shall be to enable the [DMAS] auditor to [discuss such matters as the auditor deems necessary, to] review the [proposed field audit] adjustments, [and] to present supportive references [; and to allow .] The provider [will be given] an opportunity [during the exit conference] to present [additional] documentation [that may affect and agreement or disagreement with] the audit adjustments.

C. [The provider shall be requested to sign an exit conference form that acknowledges the review of proposed adjustments. The provider shall have an opportunity at such exit conference to present additional documentation, and agreement or disagreement with the adjustments.] All remaining adjustments, including those for which additional documentation is insufficient or not accepted by the DMAS, shall be applied to the applicable cost report(s) regardless of the provider's approval or disapproval.

D. [The exit conference shall be conducted at the site of the audit or at a location mutually agreeable to DMAS and provider. The provider shall sign an exit conference form that acknowledges the review of proposed adjustments.

E. After the exit conference the DMAS shall perform a review of all remaining field audit adjustments. Within a reasonable time and after all documents have been submitted by the provider, the DMAS shall transmit in writing to the provider a final field audit adjustment report (FAAR), which will include all remaining adjustments not resolved during the exit conference. The provider shall have 15 days from the date of the letter which transmits the FAAR, to submit any additional documentation which may affect adjustments in the FAAR.]

§ 2.36. Audit delay.

In the event the provider delays or refuses to permit an audit to occur or to continue or otherwise interferes with the audit process, payments to the provider shall be reduced as stated in § 2.20 B.

§ 2.37. Field audit time frames.

A. If a field audit is necessary after receipt of a complete cost report, such audit shall be initiated within three years following the date of the last notification of program reimbursement and [the on site activities, including exit conferences, shall be] concluded within 180 days from the date the field audit begins. [~~Concluded is interpreted to mean completion of the on-site audit activities and exit conference.~~] Where audits are performed on cost reports for multiple years or providers, the time frames shall be reasonably extended for the benefit of the DMAS [and subject to the provisions of § 2.35] .

B. Documented delays on the part of the provider will automatically extend the above time frames to the extent of the time delayed.

[C.] Extensions of the time frames shall be granted to the department for good cause shown.

[D. Disputes relating to the timeliness established in §§ 2.35 and 2.37, or to the grant of extensions to the DMAS, shall be resolved by application to the Director of the DMAS or his designee.]

PART III. APPEALS.

§ 3.1. General.

A. NF's have the right to appeal the DMAS's interpretation and application of state and federal Medicaid and applicable Medicare principles of reimbursement in accordance with the Administrative Process Act, § 9-6.14.1 et seq. and § 32.1-325.1 of the Code of Virginia.

B. Nonappealable issues.

1. The use of state and federal Medicaid and applicable Medicare principles of reimbursement.

2. The organization of participating NF's into peer groups according to location as a proxy for cost variation across facilities with similar operating characteristics. The use of individual ceilings as a proxy for determining efficient operation within each peer group.

3. Calculation of the initial peer group ceilings using the most recent cost settled data available to DMAS that reflects NF operating costs inflated to [October + September 30] , 1990.

Final Regulations

4. The use of the moving average of the Skilled Nursing Facility market basket of routine service costs, as developed by Data Resources, Incorporated, adjusted for Virginia, as the prospective escalator.

5. The establishment of separate ceilings for direct operating costs and indirect operating costs.

6. The use of Service Intensity Indexes to identify the resource needs of given NFs patient mix relative to the needs present in other NFs.

7. The development of Service Intensity Indexes based on:

a. Determination of resource indexes for each patient class that measures relative resource cost.

b. Determination of each NF's average relative resource cost index across all patients.

c. Standardizing the average relative resource cost indexes of each NF across all NF's.

8. The use of the DMAS Long Term Care Information System (LTCIS), [~~DMAS-95~~] assessment form [(currently DMAS-95)], Virginia Center on Aging Study, the State of Maryland Time and Motion Study of the Provision of Nursing Service in Long Term Care Facilities, and the KPMG Peat Marwick Survey of Virginia long-term care NF's nursing wages to determine the patient class system and resource indexes for each patient class.

9. The establishment of payment rates based on service intensity indexes.

§ 3.2. Conditions for appeal.

A. An appeal shall not be [~~accepted~~ heard] until the following conditions are met:

1. Where appeals result from desk or field audit adjustments, the provider shall have received a notification of program reimbursement (NPR) in writing from the DMAS.

2. Any and all moneys due to DMAS shall be paid in full, unless a repayment plan has been agreed to by the Director of the Division of Cost Settlement and Audit.

3. All first level appeal requests shall be filed in writing with the DMAS within 90 days following the receipt of a DMAS notice of program reimbursement that adjustments have been made to a specific cost report.

§ 3.3. Appeal procedure.

A. There shall be two levels of administrative appeal.

B. Informal appeals shall be decided by the Director of the Division of Cost Settlement and Audit after an informal fact finding conference is held. The decision of the Director of Cost Settlement and Audit shall be sent in writing to the provider within 30 days following conclusion of the informal fact finding conference.

C. If the provider disagrees with such initial decision the provider may, at its discretion, file a notice of appeal to the Director of the DMAS. Such notice shall be in writing and filed within 30 days of receipt of the initial decision.

D. Within 30 days of the receipt of such notice of appeal, the director shall appoint a hearing officer to conduct the proceedings, to review the issues and the evidence presented, and to make a written recommendation.

E. The director shall notify the provider of his final decision within 45 days of receipt of the appointed hearing officer's written recommendation, or after the parties have filed exceptions to the recommendations, whichever is later.

F. The director's final written decision shall conclude the provider's administrative appeal.

§ 3.4. Formal hearing procedures.

Formal hearing procedures, as developed by DMAS, shall control the conduct of the formal administrative proceedings.

§ 3.5. Appeals time frames.

Appeal time frames noted throughout this section may be extended for the following reasons;

A. The provider submits a written request prior to the due date requesting an extension for good cause and the DMAS approves the extension.

B. Delays on the part of the NF documented by the DMAS shall automatically extend DMAS's time frame to the extent of the time delayed.

C. Extensions of time frames shall be granted to the DMAS for good cause shown.

D. When appeals for multiple years are submitted by a NF or a chain organization or common owners are coordinating appeals for more than one NF, the time frames shall be reasonably extended for the benefit of the DMAS.

[E. Disputes relating to the time lines established in § 3.3 B or to the grant of extensions to the DMAS shall be resolved by application to the Director of the DMAS or his designee.]

**PART IV.
INDIVIDUAL EXPENSE LIMITATION.**

In addition to operating costs being subject to peer group ceilings, costs are further subject to maximum limitations as defined in VR 460-03-4.1943, Cost Reimbursement Limitations.

**PART V.
COST REPORT PREPARATION INSTRUCTIONS.**

Instructions for preparing NF cost reports will be provided by the DMAS.

**PART VI.
STOCK TRANSACTIONS.**

§ 6.1. Stock acquisition.

The acquisition of the capital stock of a provider does not constitute a basis for revaluation of the provider's assets. [Any interest expense incurred as a result of Any cost associated with] such an acquisition shall not be an allowable cost [; since it is not incurred on a loan made for a purpose related to patient care] . The provider selling its stock continues as a provider after the sale, and the purchaser is only a stockholder of the provider.

§ 6.2. Merger of unrelated parties.

A. In the case of a merger which combines two or more unrelated corporations under the regulations of the Code of Virginia, there will be only one surviving corporation. If the surviving corporation, which will own the assets and liabilities of the merged corporation, is not a provider, a Certificate of Public Need, if applicable, must be issued to the surviving corporation.

B. The nonsurviving corporation shall be subject to the policies applicable to terminated providers, including those relating to gain or loss on sales of NFs.

§ 6.3. Merger of related parties.

The statutory merger of two or more related parties or the consolidation of two or more related providers resulting in a new corporate entity shall be treated as a transaction between related parties. No revaluation shall be permitted for the surviving corporation.

**PART VII.
[(Reserved)]
NURSE AIDE TRAINING AND COMPETENCY
EVALUATION PROGRAM AND COMPETENCY
EVALUATION PROGRAMS (NATCEPs).**

§ 7.1. The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) amended § 1903(a)(2)(B) of the Social Security Act to fund actual NATCEPs costs incurred by NFs separately from the NF's medical assistance services reimbursement rates.

§ 7.2. NATCEPs costs.

A. NATCEPs costs shall be as defined in VR 460-03-4.1941.

B. To calculate the reimbursement rate, NATCEPs costs contained in the most recently filed cost report shall be converted to a per diem amount by dividing allowable NATCEPs costs by the actual number of NF's patient days.

C. The NATCEPs interim reimbursement rate determined in § 7.2 B shall be added to the prospective operating cost and plant cost components or charges, whichever is lower, to determine the NF's prospective rate. The NATCEPs interim reimbursement rate shall not be adjusted for inflation.

D. Reimbursement of NF costs for training and competency evaluation of nurse aides must take into account the NF's use of trained nurse aides in caring for Medicaid, Medicare and private pay patients. Medicaid shall not be charged for that portion of NATCEPs costs which are properly charged to Medicare or private pay services. The final retrospective reimbursement for NATCEPs costs shall be the reimbursement rate as calculated from the most recently filed cost report by the methodology in § 7.2 B times the Medicaid patient days from the DMAS MMR-240.

E. Disallowance of nonreimbursable NATCEPs costs shall be reflected in the year in which the nonreimbursable costs were claimed.

F. Payments to providers for allowable NATCEPs costs shall not be considered in the comparison of the lower allowable reimbursement or charges for covered services, as outlined in § 2.14 A.]

**PART VIII.
(Reserved)**

**PART IX.
USE OF MMR-240.**

All providers must use the data from computer printout MMR-240 based upon a 60-day accrual period.

**PART X.
COMMINGLED INVESTMENT INCOME.**

DMAS shall treat funds commingled for investment purposes in accordance with PRM-15, § 202.6.

**PART XI.
PROVIDER NOTIFICATION.**

DMAS shall notify providers of State Plan changes affecting reimbursement 30 days prior to the enactment of such changes.

Final Regulations

PART XII.

START-UP COSTS AND ORGANIZATIONAL COSTS.

§ 12.1. Start-up costs.

A. In the period of developing a provider's ability to furnish patient care services, certain costs are incurred. The costs incurred during this time of preparation are referred to as start-up costs. Since these costs are related to patient care services rendered after the time of preparation, they shall be capitalized as deferred charges and amortized over a 60-month time frame.

B. Start-up costs may include, but are not limited to, administrative and nursing salaries; heat, gas, and electricity; taxes, insurance; employee training costs; repairs and maintenance; housekeeping; and any other allowable costs incident to the start-up period. However, any costs that are properly identifiable as operating costs must be appropriately classified as such and excluded from start-up costs.

C. Start-up costs that are incurred immediately before a provider enters the Program and that are determined by [~~DMAS~~ the provider, subject to the DMAS approval,] to be immaterial need not be capitalized but rather may be charged to operations in the first cost reporting period.

D. Where a provider incurs start-up costs while in the Program and these costs are determined [by the provider, subject to the DMAS approval,] to be immaterial [~~by the DMAS~~], these costs [~~need shall~~] not be capitalized but shall be charged to operations in the periods incurred.

§ 12.2. Applicability.

A. Start-up cost time frames.

1. Start-up costs are incurred from the time preparation begins on a newly constructed or purchased building, wing, floor, unit, or expansion thereof to the time the first patient (whether Medicaid or non-Medicaid) is admitted for treatment, or where the start-up costs apply only to nonrevenue producing patient care functions or nonallowable functions, to the time the areas are used for their intended purposes.

2. If a provider intends to prepare all portions of its entire facility at the same time, start-up costs for all portions of the facility shall be accumulated in a single deferred charge account and shall be amortized when the first patient is admitted for treatment.

3. If a provider intends to prepare portions of its facility on a piecemeal basis (i.e., preparation of a floor or wing of a provider's facility is delayed), start-up costs shall be capitalized and amortized separately for the portion or portions of the provider's facility prepared during different time periods.

4. Moreover, if a provider expands its NF by constructing or purchasing additional buildings or wings, start-up costs shall be capitalized and amortized separately for these areas.

B. Depreciation time frames.

1. Costs of the provider's facility and building equipment shall be depreciated using the straight line method over the lives of these assets starting with the month the first patient is admitted for treatment.

2. Where portions of the provider's NF are prepared for patient care services after the initial start-up period, those asset costs applicable to each portion shall be depreciated over the remaining lives of the applicable assets. If the portion of the NF is a nonrevenue-producing patient care area or nonallowable area, depreciation shall begin when the area is opened for its intended purpose. Costs of major movable equipment, however, shall be depreciated over the useful life of each item starting with the month the item is placed into operation.

§ 12.3. Organizational costs.

A. Organizational costs are those costs directly incident to the creation of a corporation or other form of business. These costs are an intangible asset in that they represent expenditures for rights and privileges which have a value to the enterprise. The services inherent in organizational costs extend over more than one accounting period and thus affect the costs of future periods of operations.

B. Allowable organizational costs shall include, but not be limited to, legal fees incurred in establishing the corporation or other organization (such as drafting the corporate charter and by-laws, legal agreements, minutes of organizational meeting, terms of original stock certificates), necessary accounting fees, expenses of temporary directors and organizational meetings of directors and stockholders and fees paid to states for incorporation.

C. The following types of costs shall not be considered allowable organizational costs: costs relating to the issuance and sale of shares of capital stock or other securities, such as underwriters fees and commissions, accountant's or lawyer's fees, cost of qualifying the issues with the appropriate state or federal authorities, stamp taxes, etc.

D. Allowable organization costs shall generally be capitalized by the organization. However, if DMAS concludes that these costs are not material when compared to total allowable costs, they may be included in allowable indirect operating costs for the initial cost reporting period. In all other circumstances, allowable organization costs shall be amortized ratably over a period of 60 months starting with the month the first patient is admitted for treatment.

PART XIII. DMAS AUTHORIZATION.

§ 13.1 Access to records.

A. DMAS shall be authorized to request and review, either through a desk or field audit, all information related to the provider's cost report that is necessary to ascertain the propriety and allocation of costs (in accordance with Medicare and Medicaid rules, regulations, and limitations) to patient care and nonpatient care activities.

B. Examples of such information shall include, but not be limited to, all accounting records, mortgages, deeds, contracts, meeting minutes, salary schedules, home office services, cost reports, and financial statements.

C. This access also applies to related organizations as defined in § 2.10 who provide assets and other goods and services to the provider.

PART XIV. HOME OFFICE COSTS.

§ 14.1. General.

Home office costs shall be allowable to the extent they are reasonable, relate to patient care, and provide cost savings to the provider.

§ 14.2. Purchases.

Provider purchases from related organizations, whether for services, or supplies, shall be limited to the lower of the related organizations actual cost or the price of comparable purchases made elsewhere.

§ 14.3. Allocation of home office costs.

Home office costs shall be allocated in accordance with § 2150.3, PRM-15.

§ 14.4. Nonrelated management services.

Home office costs associated with providing management services to nonrelated entities shall not be recognized as allowable reimburseable cost.

§ 14.5. Allowable and nonallowable home office costs.

Allowable and nonallowable home office costs shall be recognized in accordance with § 2150.2, PRM-15.

§ 14.6. Equity capital.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers for periods or portions thereof on or after July 1, 1987.

PART XV. REFUND OF OVERPAYMENTS.

§ 15.1. Lump sum payment.

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

§ 15.2. Offset.

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

§ 15.3. Payment schedule.

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

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

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

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

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

§ 15.4. Extension request documentation.

Final Regulations

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

§ 15.5. Interest charge on extended repayment.

A. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

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

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

PART XVI. REVALUATION OF ASSETS.

§ 16.1. Change of ownership.

A. Under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, [and effective October 1, 1986,] reimbursement for capital upon the change of ownership of a NF is restricted to the lesser of [; acquisition cost of the previous owner increased by one-half the percentage increase in the Dodge Construction Index for NFs applied in the aggregate to NFs that have changed ownership or one-half the percentage increase in the CPI, whichever is lower, or the purchase price. :

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge

Construction Cost Index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year, or

2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U) applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year.

B. To comply with the provisions of COBRA 1985, effective October 1, 1986, the DMAS shall separately apply the following computations to the capital assets of each facility which has undergone a change of ownership:

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge Construction Cost Index, or

2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U).]

[B. C.] Change of ownership is deemed to have occurred only when there has been a bona fide sale of assets of a NF (See § 2.5 B 3 for the definition of "bona fide" sale).

[D. Reimbursement for capital assets which have been revalued when a facility has undergone a change of ownership shall be limited to the lesser of:

1. The amounts computed in subsection B above;
2. Appraised replacement cost value; or
3. Purchase price.]

VR 460-03-4.1941. Uniform Expense Classification.

§ 1. Foreword.

The attached is the classification of expenses applicable to the Nursing Facility Payment System.

Allowable expenses shall meet all of the following requirements; necessity, reasonableness, nonduplication, related to patient care, not exceeding the limits or ceilings established in the Payment System and meet applicable Medicare principles of reimbursement.

§ 2. Direct patient care operating costs.

A. Nursing service expenses.

1. Salary-Nursing Administration. Gross salary (includes sick pay, holiday pay, vacation pay, staff

development pay [and overtime pay]) of all [registered licensed] nurses in supervisory positions [defined as follows (Director of Nursing, Assistant Director of Nursing, nursing unit supervisors and patient care coordinators)] .

2. Salaries - RNs. Gross salary of registered nurses.

3. Salaries - LPNs. Gross salary of licensed practical nurses.

4. Salaries - Nurse Aides. Gross salary of certified nurse aides.

5. Nursing Employee Benefits. Benefits related to registered nurses, licensed practical nurses [and ,] certified nurse aides [and nursing administration personnel as defined in subdivision A 1 of this section] . See § 3 B for description of employee benefits.

6. Contract Nursing Services. Cost of registered nurses, licensed practical nurses and certified nurse aides on a contract basis.

[7. Training. Costs of training associated with required certification for registered nurses, licensed practical nurses and certified nurse aides.]

[& 7.] Supplies. Cost of supplies, including nursing and charting forms, medication and treatment records, physician order forms.

[& 8.] Professional Fees. Medical director [fees] and pharmacy consultant fees.

B. Minor medical and surgical supplies.

[1. Salaries - Medical Supply. Gross salary of personnel responsible for procurement, inventory and distribution of minor medical and surgical supplies.

2. Medical Supply Employee Benefits. Benefits related to medical supply personnel. See § 3 B for description of employee benefits.]

[& 3.] Supplies. Cost of items for which a separate identifiable charge is not customarily made, including but not limited to, colostomy bags; dressings; chux; rubbing alcohol; syringes; patient gowns; basins; bed pans; ice-bags and canes, crutches, walkers, wheelchairs, traction equipment and other durable medical equipment for multi-patient use.

[& 4.] Oxygen. Cost of oxygen for which a separate charge is not customarily made.

[5. Nutrient/Tube Feedings. Cost of nutrients for tube feedings.]

C. Ancillary service cost.

Allowable ancillary service costs represents gross salary and related employee benefits of those employees engaged in covered ancillary services to Medicaid recipients, cost of all supplies used by the respective ancillary service departments, cost of ancillary services performed on a contract basis by other than employees and all other costs allocated to the ancillary service cost centers in accordance with Medicare principles of reimbursement. Following is a listing of all covered ancillary services:

1. Radiology

2. Laboratory

3. Inhalation Therapy

4. Physical Therapy

5. Occupational Therapy

6. Speech Therapy

7. EKG

8. EEG

9. Medical Supplies Charged to Patient

§ 3. Indirect patient [care] operating costs.

A. Administrative and general.

1. Administrator/Owner Assistant Administrator. Compensation of individuals responsible for administering the operations of the nursing facility. (See § 2.11 of VR 460-03-4.1940:1, Nursing Home Payment System, and VR 460-03-4.1943, Cost Reimbursement Limitations, for limitations).

2. Other Administrative and Fiscal Services. Gross salaries of all personnel in administrative, personnel, fiscal, billing and admitting, communications and purchasing departments.

3. Management Fees. Cost of fees for providing necessary management services related to nursing facility operations. (See VR 460-03-4.1943, Cost Reimbursement Limitations, for limitations).

4. Professional Fees - Accounting. Fees paid to independent outside auditors and accountants.

5. Professional Fees - Legal. Fees paid to attorneys (See VR 460-03-4.1943, Cost Reimbursement Limitations, for limitations).

6. Professional Fees - Other. Fees, other than accounting or legal, for professional services related to nursing facility patient care.

7. Director's Fees. Fees paid for attendance at

Final Regulations

scheduled meetings which serve as reimbursement for time, travel, and services provided. (See VR 460-03-4.1943, *Cost Reimbursement Limitations, for limitations*.)

8. *Membership Fees.* Fees related to membership in health care organizations which promote objectives in the providers' field of health care activities (See VR 460-03-4.1943, *Cost Reimbursement Limitations, for limitations*).

9. *Advertising (Classified).* Cost of advertising to recruit new employees and yellow page advertising.

10. *Public Relations.* Cost of promotional expenses including brochures and other informational documents regarding the nursing facility.

11. *Telephone.* Cost of telephone service used by employees of the nursing facility.

12. *Subscriptions.* Cost of subscribing to newspapers, magazines and periodicals.

13. *Office Supplies.* Cost of supplies used in administrative departments (e.g., pencils, papers, erasers, staples).

14. *Minor furniture and equipment.* Cost of furniture and equipment which does not qualify as a capital asset.

15. *Printing and Postage.* Cost of reproducing documents which are reasonable, necessary and related to nursing facility patient care and cost of postage and freight charges.

16. *Travel.* Cost of travel (airfare, auto mileage, lodging, meals, etc. by administrator or other authorized personnel on official nursing facility business). (See VR 460-03-4.1943, *Cost Reimbursement Limitations, for limitations*).

17. *Auto.* All costs of maintaining nursing facility vehicles, including gas, oil, tires, licenses, maintenance of such vehicles.

18. *License Fees.* Fees for licenses, including state, county, and local business licenses, and VHSCRC filing fees.

19. *Liability Insurance.* Cost of insuring the facility against liability claims.

20. *Interest.* Other than mortgage and equipment.

21. *Amortization/Start-Up Costs.* Amortization of allowable Start-Up Costs (See § 12.1 of the Nursing Home Payment System).

22. *Amortization/Organizational Costs.* Amortization of

allowable organization costs (see § 12.3 of the Nursing Home Payment System).

B. Employee benefits.

1. *FICA (Social Security).* Cost of employer's portion of Social Security Tax.

2. *State Unemployment.* State Unemployment Insurance Costs.

3. *Federal Unemployment.* Federal Unemployment Insurance Costs.

4. *Workers' Compensation.* Cost of Workers' Compensation Insurance.

5. *Health Insurance.* Cost of employer's contribution to employee health insurance.

6. *Group Life Insurance.* Cost of employer's contribution to employee Group Life Insurance.

7. *Pension Plan.* Employer's cost of providing pension program for employees.

[8. *Other employee benefits.* Cost of awards and recognition ceremonies for recognition and incentive programs, disability insurance, child care, and other commonly offered employee benefits which are nondiscriminatory.]

C. Dietary expenses.

1. *Salaries.* Gross salary of kitchen personnel, including dietary supervisor, cooks, helpers, and dishwashers.

2. *Supplies.* Cost of items such as soap, detergent, napkins, paper cups, and straws.

3. *Dishes and Utensils.* Cost of knives, forks, spoons, plates, cups, saucers, bowls and glasses.

4. *Consultants.* Fees paid to consulting dietitians.

5. *Purchased Services.* Costs of dietary services performed on a contract basis.

6. *Food.* Cost of raw food.

7. *Nutrient [~~Tube~~ Oral] Feedings.* Cost of nutrients in oral [~~or tube~~] feedings.

D. Housekeeping expenses. [(See § 6.)]

1. *Salaries.* Gross salary of housekeeping personnel, including housekeepers, maids and janitors.

2. *Supplies.* Cost of cleaners, soap, detergents, brooms and lavatory supplies.

3. *Purchased Services. Cost of housekeeping services performed on a contract basis.*

E. Laundry expenses.

1. *Salaries. Gross salary of laundry personnel.*
2. *Linen. Cost of sheets, blankets and pillows.*
3. *Supplies. Cost of such items as soap, detergent, starch and bleach.*
4. *Purchased Services. Cost of other services, including commercial laundry service.*

F. Maintenance and Operation of Plant. [(See § 6.)]

1. *Salaries. Gross salary of personnel involved in operating and maintaining the physical plant, including maintenance men or plant engineer and security services.*
2. *Supplies. Cost of supplies used in maintaining the physical plant, including light bulbs, nails, lumber, glass.*
3. *Painting. Supplies and contract services.*
4. *Gardening. Supplies and contract services.*
5. *Heating. Cost of heating oil, natural gas, or coal.*
6. *Electricity. Self-explanatory.*
7. *Water, Sewer, and trash removal. Self-explanatory.*
8. *Purchased Services. Cost of maintaining the physical plant, fixed equipment, moveable equipment and furniture and fixtures on a contract basis.*
9. *Repairs and Maintenance. Supplies and contract services involved with repairing the facility's capital assets.*

G. Medical records expenses.

1. *Salaries-Medical Records. Gross salary of licensed medical records personnel and other department personnel.*
2. *Utilization Review. Fees paid to physicians attending utilization review committee meetings.*
3. *Supplies. All supplies used in the department.*
- [4. *Purchased Services. Medical records services provided on a contract basis.*

H. Quality Assurance Expenses.

1. *Salaries. Gross salary of personnel providing quality*

assessment and assurance activities.

2. *Purchased Services. Cost of quality assessment and assurance services provided on a contract basis.*

3. *Supplies. Cost of all supplies used in the department or activity.]*

[H. I.] Social services expenses.

1. *Salaries. Salary of personnel providing medically-related social services. A facility with more than 120 beds must employ a full-time qualified social worker.*
2. *Purchased Services. Cost of medically-related social services provided on a contract basis.*

3. *Supplies. Cost of all supplies used in the department.*

[H. J.] Patient activity expenses.

1. *Salaries. Gross salary of personnel providing recreational programs to patients, such as arts and crafts, church services and other social activities*
2. *Supplies. Cost of items used in the activities program (i.e., games, art and craft supplies and puzzles).*
3. *Purchased Service. Cost of services provided on a contract basis.*

[H. K.] Educational activities expenses.

1. *Salaries. Gross salaries of training personnel.*
2. *Supplies. Cost of all supplies used in this activity.*
3. *Purchased Services. Cost of training programs provided on a contract basis.*

[L. Other nursing administrative costs.

1. *Salaries - Other Nursing Administration. Gross salaries of ward clerks and nursing administration support staff.*
2. *Subscriptions. Cost of subscribing to newspapers, magazines and periodicals.*
3. *Office Supplies. Cost of supplies used in nursing administrative departments (e.g., pencils, papers, erasers, staples).*
4. *Purchased Services. Cost of nursing administrative consultants, ward clerks, nursing administration support staff performed on a contract basis.*
5. *Advertising (Classified). Cost of advertising to*

Final Regulations

recruit all nursing service personnel.]

[~~K.~~ M.] *Home Office Costs.* Allowable operating costs incurred by a home office which are directly assigned to the nursing facility or pooled operating costs that are allocated to the nursing facility in accordance with § 14.3 of the Nursing Home Payment System.

§ 4. Plant costs.

A. Interest.

1. *Building Interest.* Interest paid or accrued on notes, mortgages and other loans, the proceeds of which were used to purchase the nursing facility's real property. (See § 2.4 of the Nursing Home Payment System for Limitations)

2. *Equipment Interest.* Interest paid or accrued on notes, chattel mortgages and other loans, the proceeds of which were used to purchase the nursing facility's equipment. (See § 2.4 of the Nursing Home Payment System for limitations)

B. Depreciation (See § 2.12 of the Nursing Home Payment System).

1. *Building Depreciation.* Depreciation on the nursing facility's building.

2. *Building Improvement Depreciation.* Depreciation on major additions or improvements to the nursing facility (i.e., new laundry or dining room).

3. *Land Improvement Depreciation.* Depreciation of improvements made to the land occupied by the facility (i.e., paving, landscaping).

4. *Fixed and movable equipment depreciation.* Depreciation on capital equipment depreciation assets classified as fixed and moveable equipment in compliance with American Hospital Association Guidelines.

5. *Leasehold Improvement Depreciation.* Depreciation on major additions or improvements to building or plant where the facility is leased and the costs are incurred by the lessee (tenant).

6. *Automobile Depreciation.* Depreciation of those vehicles utilized solely for facility/patient services.

C. Lease/Rental.

1. *Building Rental.* Rental amounts paid by the provider on all rented or leased real property (land and building).

2. *Equipment Rental.* Rental amounts paid by the provider on leased or rented furniture and equipment.

D. Taxes.

Property Taxes. Amount of taxes paid on the facility's property, plant and equipment.

E. Insurance.

1. *Property Insurance.* Cost of fire and casualty insurance on buildings and equipment.

2. *Mortgage Insurance.* Premiums required by the lending institution, if the lending institution is made a direct beneficiary and if premiums meet Medicare principles of reimbursement criteria for allowability.

F. Amortization-Deferred Financing Costs.

Amortization of Deferred Financing Costs (those costs directly incident to obtaining financing of allowable capital costs related to patient care services such as legal fees; guarantee fees; service fees; feasibility studies; loan points; printing and engraving costs; rating agency fees). These deferred financing costs should be capitalized and amortized over the life of the mortgage.

G. Home office capital costs.

Allowable plant costs incurred by a home office which are directly identified to the nursing facility or pooled capital costs that are allocated to the nursing facility in accordance with § 14.3 of the Nursing Home Payment System.

§ 5. Nonallowable expenses.

Nonallowable expenses include but are not limited to the following:

1. *Barber and Beautician.* Direct and indirect operating and capital costs related to the provision of beauty and barber services to patients.

2. *Personal Items.* Cost of personal items, such as cigarettes, toothpaste, and shaving cream sold to patients.

3. *Vending Machines.* Cost of items sold to employees and patients including candy bars and soft drinks.

4. *Television/Telephones.* Cost of television sets and telephones used in patient rooms.

5. *Gift Shop.* Direct and indirect operating and capital cost related to the provision of operating a gift shop.

6. *Insurance - Officers.* Cost of life insurance on officers, owners and key employees where the provider is a direct or indirect beneficiary.

7. *Income Taxes.* Taxes on net income levied or expected to be levied by any governmental entity.

8. *Contributions.* Amounts donated to charitable or other organizations which have no direct effect on patient care.

9. *Deductions from Revenue.* Accounts receivable written off as bad debts, charity, courtesy or from contractual agreements are nonallowable expenses.

10. *Advertising.* The cost of advertisements in magazines, newspapers, trade publications, radio, and television and certain home office expenses as defined in PRM-15.

11. *Cafeteria.* Cost of meals to other than patients.

12. *Pharmacy.* Cost of all prescribed legend and nonlegend drugs.

13. *Medical Supplies.* Cost of medical supplies to other than patients.

14. *Plant Costs.* All plant costs not available for nursing facility patient care related activities are nonreimbursable plant costs.

[§ 6. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEPs) costs.

A. Facility-based NATCEPs costs.

1. *Salary - Staff Development.* Gross salary of personnel conducting the nurse aide training and competency evaluation programs.

2. *Employee Benefits.* Benefits related to personnel conducting the nurse aide training and competency evaluation programs. See § 3 B for description of employee benefits.

3. *Contract Services.* Cost of state qualified nurse aide instructors paid on a contract basis.

4. *Supplies.* Cost of supplies used in conducting NATCEPs (e.g., pencils, papers, erasers, staples, textbooks and other required course materials).

5. *License Fees.* Cost of nurse aide registry application fees and competency evaluation testing fees paid by the NFs in behalf of the certified nurse aides.

6. *Housekeeping Expenses.* Housekeeping expense as defined in § 3 D for NFs which dedicate space in the facility to NATCEPs activities 100%. Housekeeping expenses shall be allocated to the NATCEPs operations in accordance with Medicare Principles of Reimbursement.

7. *Maintenance and Operation of Plant.* Maintenance and operation of plant as defined in § 3 F for NFs

which dedicate space in the facility to NATCEPs activities 100%. Maintenance and operation of plant expense shall be allocated to the NATCEPs operations in accordance with Medicare Principles of Reimbursement.

8. *Other Direct Expenses.* Any other direct costs associated with the operation of the NATCEPs. There shall be no allocation of indirect patient care operating costs as defined in § 3, except housekeeping and maintenance and operation of plant expenses.

B. Nonfacility-based NATCEPs costs.

1. *Contract Services.* Cost of training and competency evaluation of nurse aides paid to an outside state-approved nurse aide education program.

2. *Supplies.* Cost of supplies of textbooks and other required course materials provided during the nurse aide education programs by the NF.

3. *License Fees.* Cost of nurse aide registry application fees and competency evaluation testing fee paid by the NF on behalf of the certified nurse aides.

4. *Travel.* Cost for transportation provided to the nurse aides to the training or competency evaluation testing site.]

VR 460-03-4.1942. Leasing of Facilities.

§ 1. Determination of allowable lease costs.

A. [Reimbursement of lease costs shall be limited to the lesser of the actual lease payments or the DMAS allowable cost of ownership. The computation of the allowable lease expense shall be subject to DMAS audit. The lesser of actual lease payments or the DMAS allowable cost of ownership computed for each fiscal year for a provider shall be used to limit reimbursement for that cost reporting period. The provisions of this regulation shall apply to all lease agreements, including sales and leaseback agreements and lease purchase agreements, and including whether or not such agreements are between parties which are related (as defined in § 2.10 of the Nursing Home Payment System (NHPS)).]

B. [The provisions of this regulation shall apply to all lease agreements, including sales and leaseback agreements and lease purchase agreements, unless such are leases are between related parties. If a related party relationship exists, the provisions of § 2.10 of the Nursing Home Payment System will apply. Reimbursement of lease costs pursuant to a lease between parties which are not related shall be limited to the DMAS allowable cost of ownership as determined in subsection E of this section. Reimbursement of lease costs pursuant to a lease between parties which are related (as defined in § 2.10 of VR 460-03-4.1940:1, Nursing Home Payment System) shall be

Final Regulations

limited to the DMAS allowable cost of ownership. Whether the lease is between parties which are or are not related, the computation of the allowable annual lease expense shall be subject to DMAS audit.]

C. The DMAS allowable cost of ownership shall be determined by the historical cost of the facility to the owner of record at the date the lease becomes effective. When a lease agreement is in effect, whether during the original term or a subsequent renewal, no increase in the reimbursement shall be allowed as a result of a subsequent sale of the facility.

D. When a bona fide sale has taken place, the facility must have been held by the seller for a period of no less than five years for a lease effected subsequent to the sale date to be compared to the buyer's cost of ownership. Where the facility has been held for less than 5 years, the allowable lease cost shall be computed using the seller's historical cost.

[E. Reimbursement of lease costs pursuant to a lease between parties which are not related (as defined in § 2.10 of VR 460-03-4.1940:1, Nursing Home Payment System) shall be limited to the DMAS allowable cost of ownership. The following reimbursement principles shall apply to leases, other than those covered in § 2.10 of VR 460-03-4.1940:1 and § 4 of VR 460-03-4.1942, entered into on or after October 1, 1990:

1. An "Allowable Cost of Ownership" schedule shall be created for the lease period to compare the total lease expense to the allowable cost of ownership.

2. If the lease cost for any cost reporting period is below the cost of ownership for that period, no adjustment shall be made to the lease cost, and a "carryover credit" to the extent of the amount allowable for that period under the "Allowable Cost of Ownership" schedule shall be created but not paid.

3. If the lease cost for a future cost reporting period is greater than the "Cost of Ownership" for that period, the provider shall be paid this "carryover credit" from prior period(s), not to exceed the cumulative carryover credit or his actual lease cost, whichever is less. At no time during the term of the lease, which includes any renewals or extensions, shall DMAS reimbursement exceed the actual cumulative "Cost of Ownership."

4. Once DMAS has determined the allowable cost of ownership, the provider shall be responsible for preparing a verifiable and auditable schedule to support cumulative computations of cost of ownership versus lease cost to support the "carryover credit" as reported in the "Allowable Cost of Ownership" schedule, and shall submit such a schedule with each cost report.]

§ 2. Documentation of costs of ownership.

A. Leases shall provide that the lessee or DMAS shall have access to any and all documents required to establish the underlying cost of ownership.

B. In those instances where the lessor will not share this information with the lessee, the lessor can forward the information direct to DMAS for confidential review.

§ 3. Computation of cost of ownership.

A. Before any rate determination for allowable lease costs is made, the lessee must supply a schedule comparing lease expense to the underlying cost of ownership for the life of the lease. Supporting documentation, including but not limited to, the lease and the actual cost of ownership (mortgage instruments, financial statements, purchase agreements, etc.) must be included with this schedule.

B. The underlying straight-line depreciation, interest, property taxes, insurance, and amortization of legal and commitment fees shall be used to determine the cost of ownership for comparison to the lease costs. Any cost associated with the acquisition of a lease other than those outlined herein shall not be considered allowable unless specifically approved by the Department of Medical Assistance Services.

1. Straight line depreciation.

[a.] Depreciation shall be computed on a straight line basis only.

[b.] New [or additions to] facilities shall be depreciated [~~for a life of 40 years~~ in accordance with AHA Guidelines] .

[c.] Allowable depreciation for on-going facilities shall be computed on the historical cost of the facility determined in accordance with limits on allowable building and fixed equipment cost [; and useful lives stated in the these regulations] .

[d.] The limits [contained in §§ 2.2, 2.3, 2.5 A, 2.5 B 1, 2.5 C, and Part VI of VR 460-03-4.1940:1, Nursing Home Payment System] shall apply [, as appropriate,] whether the facility is newly constructed or an ongoing facility.

2. Interest. Interest expense shall be limited to actual expense incurred by the owner of the facility in servicing long-term debt and shall be subject to the interest rate limitations stated in [~~these regulations~~ § 2.4 of VR 460-03-4.1940:1, Nursing Home Payment System] .

3. Taxes [and insurance] . Taxes are limited to actual incurred real estate and property taxes. [Insurance is limited to the actual cost of mortgage insurance, fire and property liability insurance.] When included in the lease as the direct responsibility

of the lessee, such taxes [and insurance] shall not be a part of the computation of the cost of ownership.

4. *Legal and commitment fees.* Amortization of actual incurred closing costs paid by the owner, such as attorney's fees, recording fees, transfer taxes and service or "finance" charges from the lending institution may be included in the comparison of the cost of ownership computation. Such fees shall be subject to limitations and tests of reasonableness stated in these regulations. These costs shall be amortized over the life of the mortgage.

[5. *Return on equity.*

a. *Return on equity will be limited to the equity of the facility's owner when determining allowable lease expense. Return on equity will be limited to 10%. For the purpose of determining allowable lease expense, equity will be computed in accordance with PRM-15 principles. The allowable base will be determined by monthly averaging of the annual equity balances. The base will be increased by the amount of paid up principal in a period but will be reduced by depreciation expense in that period.*

b. *Item 398D of the 1987 Appropriations Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers for periods or portions thereof on or after July 1, 1987.]*

§ 4. *Leases approved prior to August 18, 1975.*

A. *Leases approved prior to August 18, 1975, shall have the terms of those leases honored for reimbursement throughout the duration of the lease.*

B. *Renewals and extensions to these leases shall be honored for reimbursement purposes only when the dollar amount negotiated at the time of renewal does not exceed the amount in effect at the termination date of the existing lease. No escalation clauses shall be approved.*

C. *Payments of rental costs for leases reimbursed pursuant to subsection A of this section shall be allowed whether the provider occupies the premises as a lessee, sublessee, assignee, or otherwise. Regardless of the terms of any present or future document creating a provider's tenancy or right of possession, and regardless of whether the terms thereof or the parties thereto may change from time to time, future reimbursement shall be limited to the lesser of (i) the amount actually paid by the provider, or (ii) the amount reimbursable by DMAS under these regulations as of the effective date this amendment. In the event extensions or renewals are approved pursuant to subsection B of this section, no escalation clauses shall be approved or honored for reimbursement purposes.*

§ 5. *Nothing in this section shall be construed as assuring*

providers that reimbursement for rental costs will continue to be reimbursable under any further revisions of or amendments to these regulations.

VR 460-03-4.1943. Cost Reimbursement Limitations.

§ 1. *Foreword.*

A. *The attached information outlines operating [, NATCEPs] and plant cost limitations that are not referenced in other regulations.*

B. *All of the operating cost limitations are further subject to the applicable operating ceilings.*

§ 2. *Fees.*

A. *Directors' fees.*

1. *Although Medicaid does not require a board of directors (Medicare requires only an annual stockholders' meeting), the Program will recognize reasonable costs for directors' meetings related to patient care.*

2. *It is not the intent of DMAS to reimburse a facility for the conduct of business related to owner's investments, nor is it the intent of the Program to recognize such costs in a closely held corporation where one person owns all stock, maintains all control, and approves all decisions.*

3. *To receive reimbursement for directors' meetings, the written minutes must reflect the name of the facility for which the meeting is called, the content and purpose of the meeting, members in attendance, the time the meeting began and ended, and the date. If multiple facilities are discussed during a meeting, total allowable director fees, as limited herein, shall be prorated between such facilities.*

4. *Bona fide directors may be paid an hourly rate of [\$100 \$125] up to a maximum of four hours per month. These fees include reimbursement for time, travel, and services performed.*

5. *Compensation to owner/administrators who also serve as directors, shall include any and all director's fees paid, subject to the above-referenced limit those set forth in these regulations.*

B. *Membership fees.*

1. *These allowable costs will be restricted to membership in health care organizations which promote objectives in the provider's field of health care activities.*

2. *Membership fees in health care organizations [and appropriate professional societies] will be allowed for the administrator, owner, and home office personnel.*

Final Regulations

3. Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

C. Management fees.

1. External management services shall only be reimbursed if they are necessary, cost effective, and nonduplicative of existing NF internal management services.

2. Costs to the provider, based upon a percentage of net or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. If allowed, management fees must be reasonable and based upon rates related to services provided.

3. Management fees paid to a related party may be recognized by the Program as the owner's compensation subject to administrator compensation guidelines.

4. A management fees service agreement exists when the contractor provides nonduplicative personnel, equipment, services, and supervision.

5. A consulting service agreement exists when the contractor provides nonduplicative supervisory or management services only.

6. Limits will be based upon comparisons with other similar size facilities or other DMAS guidelines and information.

D. Pharmacy consultants fees.

Costs will be allowed to the extent they are reasonable and necessary.

E. Physical therapy fees (for outside services).

Limits are based upon current PRM-15 guidelines.

F. Inhalation therapy fees (for outside services).

Limits are based upon current PRM-15 guidelines.

G. Medical directors' fees.

Costs will be allowed up to the established limit per year to the extent that such fees are determined to be reasonable and proper. This limit will be escalated annually by a [~~CPI~~ the CPI-U] effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually. The following limitations apply to the time periods as indicated:

Jan. 1, 1988 - Dec. 31, 1988 - \$6,204

Jan. 1, 1989 - Dec. 31, 1989 - \$6,625

§ 3. Personal automobile.

A. Use of personal automobiles when related to patient care will be reimbursed at the maximum of the allowable IRS mileage rate when travel is documented.

B. Flat rates for use of personal automobiles will not be reimbursed.

§ 4. Seminar expenses.

These expenses will be treated as allowable costs, if the following criteria are met:

1. Seminar must be related to patient care activities, rather than promoting the interest of the owner or organization.

2. Expenses must be supported by:

a. Seminar brochure,

b. Receipts for room, board, travel, registration, and educational material

3. Only the cost of two persons per facility will be accepted as an allowable cost for seminars which involve room, board, and travel.

§ 5. Legal retainer fees.

DMAS will recognize legal retainer fees if such fees do not exceed the following:

BED SIZE LIMITATIONS

0 - 50	\$100 per month
51 - 100	150 per month
101 - 200	200 per month
201 - 300	300 per month
301 - 400	400 per month

The expense to be allowed by DMAS shall be supported by an invoice and evidence of payment.

§ 6. Architect fees.

Architect fees will be limited to the amounts and standards as published by the Virginia Department of General Services.

§ 7. Administrator/owner compensation.

DMAS ADMINISTRATOR/OWNER COMPENSATION SCHEDULE

JANUARY 1, 1989 - DECEMBER 31, 1989

NORMAL ALLOWABLE

MAXIMUM FOR 2 OR

BED SIZE	FOR ONE ADMINISTRATOR	MORE ADMINISTRATOR
1-75	32,708	49,063
76-100	35,470	53,201
101-125	40,788	61,181
126-150	46,107	69,160
151-175	51,623	77,436
176-200	56,946	85,415
201-225	60,936	91,399
226-250	64,924	97,388
251-275	68,915	103,370
276-300	72,906	108,375
301-325	76,894	115,344
326-350	80,885	121,330
351-375	84,929	127,394
376 & over	89,175	133,763

These limits will be escalated annually by [a CPI the CPI-U] effective January 1 of each calendar year to be effective for all provider's cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

VR 460-03-4.1944. Class Resource Cost Assignment, Computation of Service Intensity Index and Ceiling and Rate Adjustments to the Prospective Direct Patient Care Operating Cost Rate—Allowance for Inflation Methodology Base “Current” Operating Rate.

[§ 1. Effective October 1, 1990, the Virginia Medicaid Program reimbursement system for nursing facilities is the Patient Intensity Rating System.

§ 2. Patient Intensity Rating System (PIRS).

A. PIRS is a patient-based reimbursement system which links a facility's per diem rate to the level of services required by its patient mix. This methodology uses classes that group patients together based on similar functional characteristics and service needs.

B. PIRS recognizes four classes of patients:

1. **Class A—Routine I:** Patients are classified by their functioning status. Routine I classification includes care for patients with a 0 to 6 Activity of Daily Living (ADL) impairment score.
2. **Class B—Routine II:** Patients are classified by their functioning status. Routine II classification includes care for patients with moderate or greater ADL impairment. A moderate or greater ADL score ranges from 7 to 12.
3. **Class C—Heavy Care:** Patients are classified by their high impairment score on functioning status and the need for specialized nursing care. These patients have an ADL impairment score of 9 or more and one or more of the following:

- a. Wound/lesions requiring daily care;
- b. Nutritional deficiencies leading to specialized feeding;

c. Paralysis or paresis and benefiting from rehabilitation; or

d. Quadriplegia/paresis, bilateral hemiplegia/paresis, multiple sclerosis.

4. **Special Care:** This class includes patients who have needs that are so intensive or nontraditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients. Special care reimbursement is based on selective contracting with facilities capable of providing intensive care.

C. Patients in each class require similar intensities of nursing and other skilled services. Across classes, however, service intensities are quite different. Since treatment cost depends on overall service need, the patient class system has a direct correlation to nursing and therapy costs.

§ 3. Service Intensity Index (SII).

A. The function of a service intensity index is to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes. If the SII value equals 1.20, it indicates that the patient mix in that facility is 20% more resource-intensive than the patient mix in the average Virginia nursing facility.

B. The SII is used to adjust direct patient care cost ceilings and rates for application to individual nursing facilities. Indirect patient care cost ceilings and rates are not adjusted since these costs are not influenced by patient service needs.

C. To calculate the service intensity index:

1. Develop a relative resource costs for patient classes.

a. Average daily nursing resource costs per day for patients in each patient class were determined by using data obtained from (i) the Commonwealth's Long-Term Care Information System (LTCIS) identifying estimates of service needs, (ii) data from a 1987 Maryland time and motion study to derive nursing time requirements for each service, and (iii) KPGM Peat Marwick Survey of Virginia Long-term Care NF's Nursing Wages to determine the resource indexes for each patient class.

b. The average daily nursing costs per day for patients (see subdivision a above) were divided by a state average daily nursing resource cost to obtain a relative cost index.

c. Patients were grouped in three classes and the average relative cost by class is as follows:

Class A—Routine I: .67
Class B—Routine II: 1.09

Final Regulations

Class C—Heavy Care: 1.64

The cost for caring for a Class A patient is on the average equal to 67% of the daily nursing costs for the average Virginia nursing facility patient. Class B and C patients are respectively 9.0% and 64% more costly to treat in terms of nursing resources than the average nursing facility patient.

These resource cost values will remain the same until a new time and motion study conducted.

2. Develop an average relative resource cost of all patients in a facility. The result is called a facility score.

a. The number of patients in each class within a facility is multiplied by the relative resource cost value of that class.

b. These amounts are totaled and divided by the number of patients in a facility. For example:

Facility 1:

40 Class A patients x	.....	.67 =	26.8
40 Class B patients x	.....	1.09 =	43.6
20 Class C patients x	.....	1.64 =	32.8
100 Patients	.....		103.2
Divided by number of Patients	.....		100.0
Facility Score	.....		1.03

The Facility Score for Facility 1 is 1.03.

3. Finally, the service intensity index for a facility is calculated by standardizing the average resource cost measure, across nursing facilities. The resource values up to this point are standardized or normalized across Virginia nursing facility patients but not across Virginia nursing facilities. To accomplish this step, the mean for the relative resource measure across all Virginia facilities is determined and the facility-specific value is divided by this mean.

For example: If the state's mean relative resource measure was .92 across all Virginia facilities, the Service Intensity Index for Facility 1 identified above would be 1.12, which equals 1.03 divided by .92. The 1.12 value indicates that patients in Facility 1 are 12% (1.12-1.00) more costly to treat than patients in the average Virginia nursing facility.

4. The Service Intensity Index will be calculated quarterly, and is used to derive the direct patient care cost ceiling and rate components of the facility's payment rate which will be adjusted semiannually. A semiannual SII is calculated by averaging appropriate quarterly SII values for the respective reporting period.

§ 4. Following is an illustration of how a NF's Service

Intensity Index is used to adjust direct patient care prospective operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

A. Assumptions.

1. The NF's fiscal years are December 31, 1991, and December 31, 1992.
2. The average allowable direct patient care operating base rate for December 31, 1991, is \$25.
3. The allowance for inflation is 6.0% for the fiscal year end beginning January 1, 1992.
4. The NF's peer group ceiling for the fiscal year end beginning January 1, 1992, is \$30.
5. The NF's semiannual normalized SIIs are as follows:

1991 First Semiannual SII -	.....	.98
1991 Second Semiannual SII -	.....	.99
1992 First Semiannual SII -	.....	1.00

B. Calculation of NF's Direct Patient Care Prospective Ceiling.

1. PIRS adjusted ceiling for the period January 1, 1992, through June 30, 1992:

FYE 1992 Peer Group Ceiling	.....	\$30.00
FYE 1991 Second Semiannual SII	.....	x .99
Facility Ceiling	.....	\$29.70

2. PIRS adjusted ceiling for the period July 1, 1992, through December 31, 1992:

FYE 1992 Peer Group Ceiling	.....	\$30.00
1992 First Semiannual SII	.....	x 1.00
Facility Ceiling	.....	\$30.00

C. Calculation of NF's Prospective Direct Patient Care Operating Cost Rate.

1. Prospective Direct Patient Care Operating Cost Base Rate:

FYE 1991 Average Allowable Direct Patient Care Operating Base Rate	.....	\$25.00
Allowance For Inflation - FYE 1992	.....	x1.06
	.....	\$26.50

2. Calculation of FYE 1991 Average SII:

First Semiannual Period SII	.....	.98
Second Semiannual Period SII	.....	.99
Average FYE 1991 SII	.....	.985

3. Calculation of FYE 1992 SII Rate Adjustments:

a. Rate adjustment for the period January 1, 1992, through June 30, 1992:

1991 Second Semiannual SII99
 1991 Average SII (From C.2.)985
 Calculation:99 / .985
 Rate Adjustment Factor =1.0051
 Prospective Direct Patient Care
 Operating Cost Base Rate (From C.1.) \$26.50
 Calculation: \$26.50 x 1.0051
 Prospective Direct Patient Care
 Operating Cost Rate \$26.64

b. Rate adjustment for the period July 1, 1992, through December 31, 1992:

1992 First Semiannual SII 1.000
 1991 Average SII (From C.2.)985
 Calculation: 1.00 / .985
 Rate Adjustment Factor =1.0152
 Prospective Direct Patient Care
 Operating Cost Base Rate \$26.50
 (From C.1.)
 Calculation \$26.50 x 1.0152
 Prospective Direct Patient Care
 Operating Cost Rate = \$26.90

D. In this illustration the NF's PIRS Direct Patient Care Operating Reimbursement Rate for FYE 1992 would be as follows:

1. For the period January 1, 1992, through June 30, 1992, the reimbursement rate would be \$26.64 since the rate is lower than the NF's PIRS adjusted ceiling of \$29.70 (From B.1.).
2. For the period July 1, 1992, through December 31, 1992, the reimbursement rate would be \$26.90 since the rate is lower than the NF's PIRS adjusted ceiling of \$30.00 (From B.2.).

§ 5. The methodology for applying the allowance for inflation to the NF's base "current" operating rate during the phase-in period as outlined in § 2.8 of the Nursing Home Payment System (VR 460-03-4.1940:1) is as follows:

A. In the following methodology, 1st Q is defined as the first calendar quarter, 2nd Q is defined as the second calendar quarter, 3rd Q is defined as the third calendar quarter, and 4th Q is defined as the fourth calendar quarter.

B. NF's with fiscal years ending in the 4th quarter of 1990 shall have, in effect from October 1, 1990, through the end of the provider's 1990 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1990 and 50% of the forecasted

inflation from the 4th Q of 1990 through the 4th Q of 1991, to determine the prospective "current" operating rate for the provider's 1991 FY.

The base "current" operating rate, shall be adjusted for 100% of the historical inflation from the 2nd Q of 1990 through the 4th Q of 1991 and 50% of the forecasted inflation from the 4th Q of 1991 through the 4th Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

C. NF's with fiscal years ending in the 1st Q of 1991 shall have, in effect from October 1, 1990 through the end of the provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1991 and 50% of the forecasted inflation from the 1st Q of 1991 through the 1st Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 3rd Q of 1990 through the 1st Q of 1992 and 50% of the forecasted inflation from the 1st Q of 1992 through the 1st Q of 1993, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

D. NF's with fiscal years ending in the 2nd Q of 1991 shall have, in effect from October 1, 1990 through the end of the Provider's 1991 fiscal year, as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 4th Q of 1990 through the 2nd Q of 1991 and 50% of the forecasted inflation from the 2nd Q of 1991 through the 2nd Q of 1992, to determine the prospective "current" operating rate for the provider's 1992 FY or until June 30, 1992 which ever is later.

E. NF's with fiscal year's ending in the 3rd Q of 1990 shall have as the base "current" operating rate, the rate calculated by DMAS to be effective September 30, 1990.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1990 and 50% of the forecasted inflation from the 3rd Q of 1990 through the 3rd Q of 1991, to determine the prospective "current" operating rate from October 1, 1990 to the end of the provider's 1991 FY.

The base "current" operating rate shall be adjusted for 100% of the historical inflation from the 1st Q of 1990 through the 3rd Q of 1991 and 50% of the forecasted

Final Regulations

inflation from the 3rd Q of 1991 through the 3rd Q of 1992, to determine the prospective "current" operating rate from the beginning of the provider's subsequent fiscal year end to June 30, 1992.

§ 6. Definition of terms.

ADL. Activities of Daily Living.

ADL Score. A score constructed by the Virginia Center on Aging of the Medical College of Virginia as a composite measure of patient function in six different ADL areas: bathing, dressing, transferring, ambulation, eating, and continency. A zero score indicates that a patient needs no staff assistance in an ADL area. A score of three indicates the patient requires total assistance in an ADL area. The ADL scores range in value from 0 to 12. Low scores indicate fewer ADL deficiencies and high scores indicate more extensive deficits.

DMAS 95. The multidimensional assessment document that is completed by each nursing facility at admission, and Semiannually thereafter, on all of its Medicaid residents. The DMAS 95 assessment data is used to document patient characteristics and is entered into the LTCIS for PIRS.

Facility score. An average resource cost measure of all patients in a facility.

LTCIS. DMAS' Long-Term Care Information System. This system captures data used to identify functional and medical characteristics that have major impacts on the level of nursing resource utilization.

Nursing Facility (NF). A facility, other than an intermediate care facility for the mentally retarded, licensed by the Division of Licensure and Certification, State Department of Health, and certified as meeting the participation regulations.

Patient Intensity Rating System. A patient-based (PIRS) reimbursement system which links a facility's per diem rate to the level of services required by its patient mix.

Service Intensity Index (SII). A mathematical index used to identify the resource needs of a given facility's patient mix relative to the needs in other nursing homes.]

ASSESSMENT PROCESS									
NAME		HOME ADDRESS			TELEPHONE NUMBER				
SUMMARY OF PROVIDERS									
RECORD NUMBER	PROVIDER NAME	PROVIDER ROOMS	TELEPHONE NUMBER	PROVIDER NUMBER	SOURCE	ADMISSION	DISCHARGE		
BIRTHDATE: MONTH, DAY, YEAR BIRTHPLACE: STATE OR COUNTRY SEX: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE MARITAL STATUS: <input type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> SINGLE <input type="checkbox"/> WIDOWED <input type="checkbox"/> DIVORCED <input type="checkbox"/> UNKNOWN									
RELIGIOUS PREFERENCE: <input type="checkbox"/> CATHOLIC <input type="checkbox"/> JEWISH - SECT <input type="checkbox"/> PROTESTANT - SECT <input type="checkbox"/> OTHER					RACIAL/ETHNIC BACKGROUND: <input type="checkbox"/> AMERICAN INDIAN OR ALASKAN NATIVE <input type="checkbox"/> ASIAN OR PACIFIC ISLANDER <input type="checkbox"/> BLACK (NOT HISPANIC) <input type="checkbox"/> WHITE (NOT HISPANIC) <input type="checkbox"/> HISPANIC <input type="checkbox"/> OTHER				
EDUCATION: <input type="checkbox"/> GRADUATE COLLEGE <input type="checkbox"/> UNDERGRADUATE COLLEGE <input type="checkbox"/> TRADE, TECHNICAL, VOCATIONAL <input type="checkbox"/> HIGH SCHOOL <input type="checkbox"/> NONE			FAMILY INCOME: <input type="checkbox"/> \$20,000 OR MORE <input type="checkbox"/> \$15,000 - \$19,999 <input type="checkbox"/> \$10,000 - \$14,999 <input type="checkbox"/> \$5,000 - \$9,999 <input type="checkbox"/> UNKNOWN			USUAL LIVING ARRANGEMENTS: <input type="checkbox"/> HOME DEPARTMENT <input type="checkbox"/> HOME <input type="checkbox"/> OTHER <input type="checkbox"/> DOMILIARY PERSONAL CARE FACILITY <input type="checkbox"/> HEALTH CARE FACILITY - TYPE IS <input type="checkbox"/> OTHER			
EMPLOYMENT STATUS: <input type="checkbox"/> EMPLOYED <input type="checkbox"/> PRE-RETIREMENT <input type="checkbox"/> POST-RETIREMENT <input type="checkbox"/> UNEMPLOYED <input type="checkbox"/> NEVER EMPLOYED <input type="checkbox"/> UNKNOWN			HEALTH CARE COVERAGE: <input type="checkbox"/> MEDICARE - PART A & B <input type="checkbox"/> MEDICAID <input type="checkbox"/> OTHER - TYPE IS			NUMBER OF LIVING CHILDREN: <input type="checkbox"/> SONS <input type="checkbox"/> DAUGHTERS <input type="checkbox"/> OTHER			
SOCIAL SECURITY: <input type="checkbox"/> YES <input type="checkbox"/> NO			ACTIVITIES OF DAILY LIVING SUPERVISION: <input type="checkbox"/> HOUSEKEEPING <input type="checkbox"/> LIVING SPACE <input type="checkbox"/> MEAL PREPARATION <input type="checkbox"/> SHOPPING <input type="checkbox"/> TRANSPORTATION <input type="checkbox"/> OTHER			SOCIAL SUPPORT WILLING AND ABLE TO PROVIDE: <input type="checkbox"/> YES <input type="checkbox"/> NO			
USUAL OCCUPATION: <input type="checkbox"/> HOMEWORKER <input type="checkbox"/> NONE			NONINSTITUTIONAL LIVING SPACE: <input type="checkbox"/> AVAILABLE <input type="checkbox"/> NOT AVAILABLE <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> NOT APPLICABLE			ENTRY STAIRS: <input type="checkbox"/> AVAILABLE <input type="checkbox"/> TELEVISION OR OTHER CONVEYANCE <input type="checkbox"/> TOILET ROOM SAME FLOOR LEVEL <input type="checkbox"/> AS BEDROOM FLOOR LEVEL <input type="checkbox"/> AS BEDROOM <input type="checkbox"/> OTHER CONDITION			
OCCUPATION OUTSIDE THE HOME: SPECIFY			DIRECTOR OF HEALTH CARE PROFESSIONALS & OTHERS			UTILIZATION INFORMATION			
			NAME ADDRESS TELEPHONE NUMBER			DATE OF ASSESSMENT TYPE OF SERVICE OR LEVEL OF CARE METHOD OF PAYMENT			
			NUTRITIONAL PHYSICIAN PHYSICIAN ALTERNATE PHYSICIAN DENTIST PODIATRIST PHARMACY FLORAL HOME INDICATED TO BE NOTIFIED			CURRENT ANTICIPATED CURRENT ANTICIPATED CURRENT ANTICIPATED CURRENT ANTICIPATED			
			OTHER			LONG TERM CARE INFORMATION SYSTEM 95A 1 FORMAT A			

MEDICAL STATUS				CHECK BOXES WHICH APPLY FILL IN SPACES AS INDICATED				NAME OR NUMBER	
SIGHT		NO IMPAIRMENT 0		IMPAIRMENT 1 (ATTEMPTED) 2 COMPENSATION 3 SPECIFY		NO COMPENSATION 3		DATE OF CHANGE (IF ANY)	
HEARING		D		D		D			
SPEECH		NO IMPAIRMENT 000		IMPAIRMENT 1		STRUCTURE OR MUSCULATURE OF VOCAL TRACT 2		TYPE	
		D		D		D		D	
DENTITION		NO TEETH MISSING OR FEW TEETH MISSING 00		SOME OPPOSING TEETH 1		NO TEETH OR NO OPPOSING TEETH 2			
		D		D		D			
FRACTURES/DISLOCATIONS		NONE 000		PREVIOUS REHABILITATION PROGRAM		ONSET			
HIP FRACTURE 1(S) 2		D		D		D			
OTHER FRACTURE(S) 3		D		D		D			
DISLOCATION(S) 4		D		D		D			
MISSING LIMBS		NONE 000		PREVIOUS REHABILITATION PROGRAM		ONSET			
FINGER(S) OR TOE(S) 1		D		D		D			
BELOW ELBOW 2		D		D		D			
ABOVE ELBOW 3		D		D		D			
BELOW KNEE 4		D		D		D			
ABOVE KNEE 5		D		D		D			
PARALYSIS/PARESIS		NONE 000		PREVIOUS REHABILITATION PROGRAM		ONSET			
MONOPLÉGIA/PARESIS 1		D		D		D			
HEMIPLEGIA/PARESIS 2		D		D		D			
PARAPLEGIA/PARESIS 3		D		D		D			
TRIPLEGIA/PARESIS 4		D		D		D			
BILATERAL HEMIPLEGIA/PARESIS 5		D		D		D			
QUADRIPLEGIA/PARESIS 6		D		D		D			
ALLERGIES—SPECIFY		ICD-9CM CODE		FAMILY HISTORY		ICD-9CM CODE			

LONG-TERM CARE INFORMATION SYSTEM 5M 2 FORMAT A-1

FUNCTIONING STATUS		MH = MECHANICAL HELP HH = HUMAN HELP		NAME OR NUMBER	
BATHING		ACTIVITIES OF DAILY LIVING (ADL)		MOBILITY LEVEL	
WITHOUT HELP 0		DATE		DATE	
MH ONLY 1		D		D	
HH ONLY 2		D		D	
MH AND HH 3		D		D	
IS BATHED 4		D		D	
OR DOES NOT BATHE 5		D		D	
DESCRIBE HELP				DESCRIBE HELP	
DRESSING		BLADDER FUNCTION		WALKING	
WITHOUT HELP 0		DATE		DATE	
MH ONLY 1		D		D	
MH AND HH 3		D		D	
IS DRESSED 4		D		D	
IS NOT DRESSED 5		D		D	
DESCRIBE HELP				DESCRIBE HELP	
TOILETING		EATING/FEEDING		WHEELING	
WITHOUT HELP 0		DATE		DATE	
MH ONLY 1		D		D	
MH AND HH 3		D		D	
IS TRANSFERRED 4		D		D	
IS NOT TRANSFERRED 5		D		D	
DESCRIBE HELP				DESCRIBE HELP	
TRANSFERRING		BEHAVIOR PATTERN		STAIRCLIMBING	
WITHOUT HELP 0		DATE		DATE	
MH ONLY 1		D		D	
MH AND HH 3		D		D	
IS TRANSFERRED 4		D		D	
IS NOT TRANSFERRED 5		D		D	
DESCRIBE HELP				DESCRIBE HELP	
BOWEL FUNCTION		ORIENTATION		COMMUNICATION OF NEEDS	
CONTINENT 0		DATE		DATE	
INCONTINENT 1		D		D	
LESS THAN WEEKLY		D		D	
OSTOMY-SELF CARE 2		D		D	
INCONTINENT 3		D		D	
WEEKLY OR MORE		D		D	
OSTOMY - NOT SELF CARE 4		D		D	
TYPE OF OSTOMY OTHER PROBLEM 5		D		D	

LONG-TERM CARE INFORMATION SYSTEM 5M 3 FORMAT A AND B

PHYSICIAN'S ORDERS FOR CARE	NAME OR NUMBER		
<small>PHYSICIAN'S SIGNATURE _____ DATE _____ DATE OF NEXT VISIT _____</small> I () CERTIFY () RECERTIFY THAT () SKILLED; () INTERMEDIATE-NURSING CARE; () OTHER PROFESSIONAL SERVICES ARE REQUIRED BY THE BENEFICIARY () ON AN IN-PATIENT BASIS OR () ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE () MEDICARE; () MEDICAID; REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY () ME OR () _____ AT LEAST EVERY _____ MONTHS. <small>PROGNOSIS REHABILITATION POTENTIAL: _____ PHYSICIAN'S SIGNATURE _____ DATE _____</small>			
<small>PHYSICIAN'S SIGNATURE _____ DATE _____ DATE OF NEXT VISIT _____</small> I () CERTIFY () RECERTIFY THAT () SKILLED; () INTERMEDIATE-NURSING CARE; () OTHER PROFESSIONAL SERVICES ARE REQUIRED BY THE BENEFICIARY () ON AN IN-PATIENT BASIS OR () ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE () MEDICARE; () MEDICAID; REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY () ME OR () _____ AT LEAST EVERY _____ MONTHS. <small>PROGNOSIS REHABILITATION POTENTIAL: _____ PHYSICIAN'S SIGNATURE _____ DATE _____</small>			
<small>PHYSICIAN'S SIGNATURE _____ DATE _____ DATE OF NEXT VISIT _____</small> I () CERTIFY () RECERTIFY THAT () SKILLED; () INTERMEDIATE-NURSING CARE; () OTHER PROFESSIONAL SERVICES ARE REQUIRED BY THE BENEFICIARY () ON AN IN-PATIENT BASIS OR () ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE () MEDICARE; () MEDICAID; REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY () ME OR () _____ AT LEAST EVERY _____ MONTHS. <small>PROGNOSIS REHABILITATION POTENTIAL: _____ PHYSICIAN'S SIGNATURE _____ DATE _____</small>			
<small>PHYSICIAN'S SIGNATURE _____ DATE _____ DATE OF NEXT VISIT _____</small> I () CERTIFY () RECERTIFY THAT () SKILLED; () INTERMEDIATE-NURSING CARE; () OTHER PROFESSIONAL SERVICES ARE REQUIRED BY THE BENEFICIARY () ON AN IN-PATIENT BASIS OR () ON AN INTERMITTENT BASIS FOR A BENEFICIARY CONFINED TO THE HOME, FOR CONDITION(S) ELIGIBLE FOR PRESUMED COVERAGE AS DESIGNATED IN THE () MEDICARE; () MEDICAID; REGULATIONS. THE ABOVE PATIENT IS UNDER CARE AND AN ESTABLISHED PLAN OF CARE WILL BE REVIEWED BY () ME OR () _____ AT LEAST EVERY _____ MONTHS. <small>PROGNOSIS REHABILITATION POTENTIAL: _____ PHYSICIAN'S SIGNATURE _____ DATE _____</small>			
ADDITIONAL COMMENTS/JUSTIFICATIONS/RECOMMENDATIONS/DECISIONS			
SIGNATURE	SIGNATURE	SIGNATURE	SIGNATURE
AFFILIATION	AFFILIATION	AFFILIATION	AFFILIATION

LONG-TERM CARE INFORMATION SYSTEM SM 6 FORMAT A AND B

PROVIDER NAME _____
 PROVIDER NUMBER _____
 FISCAL YEAR END _____

EXHIBIT A

Please indicate applicable level of care:

- Skilled care facility
- Skilled care part of skilled with intermediate care
- Intermediate care part of skilled care facility
- Hospital-based skilled care facility
- Hospital-based intermediate care facility

DRAFT

INTENTIONAL MISREPRESENTATION OR FALSIFICATION OF ANY INFORMATION CONTAINED IN THIS COST REPORT MAY BE PUNISHABLE BY FINE AND/OR IMPRISONMENT UNDER FEDERAL AND/OR STATE LAW.

CERTIFICATION BY OFFICER OR ADMINISTRATOR OF PROVIDER

I hereby certify, that I have read the above statement and that I have examined the accompanying Statement of Reimbursable Cost, the Balance Sheet and Statement of Revenue and Expense for the cost report period beginning _____ and ending _____, and that to the best of my knowledge and belief, it is a true, correct, and complete statement, prepared from the books and records of _____
 Name of Facility

Address _____

in accordance with applicable instructions, except as may be noted. The above referenced information was prepared by _____
 Name and Title

Address _____

Signed _____
 Officer or Administrator of Provider

Date _____

PROVIDER NAME _____
 PROVIDER NUMBER _____
 FISCAL YEAR END _____

DRAFT

EXHIBIT B
 (To be filed in addition
 to HCFA-2852, Wkst. D)

PROVIDER NAME _____
 PROVIDER NUMBER _____
 FISCAL YEAR ENDED _____

DRAFT EXHIBIT C

COMPUTATION OF INPATIENT AND OUTPATIENT ANCILLARY SERVICE COSTS

TITLE XIX Ancillary Service Costs	RATIO OF COST TO CHARGES (From Wkst. C Col. 2)	PROGRAM CHARGES		PROGRAM COSTS	
		Inpatient	Outpatient	Inpatient (1 x 2)	Outpa: (1)
1 ANCILLARY SERVICE	(1)	(2)	(3)	(4)	(5)
2 Radiology - Diagnostic					
3 Intravenous Therapy					
4 Oxygen(Inhalation)Therapy					
5 Physical Therapy					
6 Occupational Therapy					
7 Speech Therapy:					
8 Medical Supplies Charged					
9 Drugs Charged to Patients					
10 Charge A (Specify)					
11 Charge B (Specify)					
12 Charge C (Specify)					
13 Charge D (Specify)					
14 Charge E (Specify)					
15 Other: (Specify)					
16					
17 TOTALS					

MAP-250, Exhibit B, (Rev. 11/82)

PART I -- ANALYSIS OF INTERIM PAYMENTS FOR TITLE XIX (MEDICAID) SERVICES

DESCRIPTION	PATIENT DAYS	PAYMENTS FROM INTERMEDIARY	PATIENT PAY OR PAYMENTS FROM PRIMARY CARRIER
	(1)	(2)	(3)
1. Paid by Intermediary during the fiscal period			
2. (Deduct) Services rendered but not paid during prior period			
3. Add Prior period services not yet paid at end of current period			
4. Add Services rendered but not paid in current fiscal period			
5. Add/(Deduct) Cash Advances From/(To) Intermediary relative to this report		(Date / /)	
6. TOTAL			

PART II -- ACCUMULATION OF TITLE XIX (MEDICAID) CHARGES

1. Inpatient Ancillary Services	
2. Routine & Special Care Services	
3. Outpatient Ancillary Services	
4. Ambulance Services	
5.	
6.	
7. Total Medicaid Charges for Lower of Cost or Charges Comparison	

MAP-250, Exhibit C, (Rev. 11/82)

PROVIDER NAME _____ EXHIBIT D
 NUMBER _____ DRAFT PAGE 1 of 2
 PERIOD FROM _____ TO _____

PROVIDER NAME _____ EXHIBIT D
 NUMBER _____ PAGE 2 of 2
 PERIOD FROM _____ TO _____

COMPUTATION OF TITLE XIX (MEDICAID) BASE COSTS AND PER DIEM RATE

Operating Costs:

1. Total Inpatient Days (Form HCFA-2540, Page 5, Col. 7, Line 1 or Line 3 as applicable) 1. _____
2. Total Title XIX Inpatient Days (MAP 250, Exh. C, Col. 1, Line 6) 2. _____
3. Percent of Title XIX utilization (Line 2 / Line 1) 3. _____
4. Total Routine Expenses (Form HCFA 2540, Worksheet B, Part I, Col. 15, Line 15 (SNF) or Line 17 (ICF) as applicable) 4. _____
5. Less:
 - A. Plant Costs (HCFA-2540, Worksheet B, Part II, Col. 15, Line 15 (SNF) or Line 17 (ICF) as applicable) 5A. _____
 - B. Nurse Aide Competency Evaluation Costs (Schedule NC) 5B. _____
 - C. Va. Health Services Cost Review Council Fees. 5C. _____
6. Operating Cost (Line 4 minus Lines 5A, 5B, and 5C) 6. _____
7. Title XIX Operating Costs (Line 6 X Line 3) 7. _____
- B. Add:
 - A. Title XIX share of Ancillary Service Costs (MAP-250, Exh. B, Cols. 4 and 5, Line 17 minus cost of drugs charged to patients on line 9) 8A. _____
 - B. Malpractice Insurance Cost (HCFA-2540, wkst. D-8, Parts I & II as appropriate) 8B. _____
9. Total Title XIX Operating Costs (Line 7 plus Line 8A and Line 8B) 9. _____
10. Title XIX Days - the greater of Line 2 10a) _____
 OR
 HCFA-2540, page 5, Col. 2, Line 1
 or 3 X 95% X Line 3 10b) _____
 (NOTE: Above percentage = 85% for each level of care with 30 or less certified beds)
11. Title XIX Base Operating Costs per patient day (Line 9/Line 10) 11. _____
12. Escalator percentage X Title XIX based operating cost per Patient day (Line 11 X _____%) 12. _____
13. Title XIX Operating Cost per day including escalator percentage (Line 11 plus Line 12) 13. _____

14. Prospective Operating Cost Per Diem - Lower of:

- A. Title XIX (Medicaid) Operating Cost including escalator percentage (Line 13) 14A) _____
- B. Group Ceiling (from Virginia Division of Cost Settlement notification letter) 14B) _____ 14) _____
15. Title XIX Plant Costs per patient day:
 - A. Title XIX Plant Costs (Line 5A X Line 3) 15A) _____
 - Total Title XIX Plant Costs per patient day (Line 15A - Title XIX Days, Line 10) 15) _____
16. Total Title XIX Prospective Operating and Plant Cost per patient day (Line 14 plus Line 15) 16) _____
17. Profit Incentive:
 - A. Group Ceiling (Line 14B) 17A) _____ Minus
 - B. Title XIX Operating Cost with escalator (Line 13) 17B) _____ =
 - C. Incentive Base (NOTE: If incentive base is equal to or less than zero, Profit Incentive Line 17 = 0) 17C) _____
 - D. Percentage of Difference (Line 17C / Line 17A) (Limited to 25%) 17D) _____
 - E. Profit Incentive = 17C X 17D (as limited) 17) _____
18. Drugs (costs excluded on Line 8A / Title XIX Days on Line 2) 18) _____
19. Cost Basis Prospective per diem rate for FYE (Line 16 + Line 17 + Line 18) 19) _____
20. Average Program Charge (Total Program Charges, Exh. C Part II Line 7 / Title XIX Days, Line 10A) 20) _____
21. Prospective per diem rate for FYE (Line 19 or Line 20, whichever is lower) 21) _____

DRAFT

Exhibit E

DRAFT

PROVIDER NAME _____
 PROVIDER NUMBER _____
 PERIOD FROM _____ TO _____

(1) Period From To (4) Period From To
 (2) Period From To (3) Period From To

PART I SETTLEMENT COMPUTATION/PERS:

1. PERS Reimbursement Rate
 - A. (1) Prospective Direct Care Operating Cost or Ceiling A1) _____
 - (2) Service Intensity Index (SII) A2) _____
 - (3) Service Intensity Adjusted Prospective Direct Care Rate(A1 X A2, cols. 1 - 4) A3) _____
- B. Direct Care Profit Incentive (Prior Year) B) _____
- C. Prospective Indirect Care Operating Cost Or Ceiling C) _____
- D. Indirect Care Profit Incentive (Prior Year) D) _____
- E. Actual Plant Costs Current Year E) _____
- F. Total Reimbursement Rate (Col. 1-4, sum of lines A(3) + B, C, D, & E) F) _____

PART II SETTLEMENT COMPUTATION/CURRENT METHOD:

1. Prospective Operating Cost Rate _____ 1)
2. Medicaid Days _____ 2)
3. Total Current Method Prospective Reimbursement (Line 1 X line 2) _____ 3)

PART III SETTLEMENT COMPUTATION/PRIOR YEAR:

1. Total Potential PERS Settlement (Part I, line 4) \$ _____ X Phase-in _____ 1)
2. Total Potential PERS Current Method Settlement (Part II, line 3) \$ _____ X Phase-in _____ 2)
3. Total Potential Settlement (PART III sum of lines 1 & 2) _____ 3)
4. Total Current Year Medicaid Charges _____ 4)
5. Total Payments Paid to Provider - All Sources (Sch. J, Part IV, Col. 2, Line 6 + Col. 3, Line 6) _____ 5)
6. Balance Due to (From) Provider (Lower of Part III, Line 3 or Line 4 minus line 5) _____ 6)
7. Recovery of Prior Years' excess of Allowable Reimbursement over Charges _____ 7)
8. Total Amount Due to (From) Provider (Line 6 plus line 7) _____ 8)

MAP-250, Exhibit E

EXHIBIT D-1

DRAFT

Page 1 of 1

PROVIDER NAME _____
 PROVIDER NUMBER _____
 FISCAL YEAR END _____

PT. I STATEMENT OF COST OF SERVICES FROM RELATED ORGANIZATIONS

A. In the amount of costs to be reimbursed by the Health Insurance Program, are any costs included which are of transactions with a related organization as defined in Chapter 10 of Title 18?

YES NO (If "yes," complete part B, and submit schedule itemizing total expenses and basis of all costs incurred as result of transactions with related organizations)

Form No.	Subchapter	Line No.	Year	Amount

B. Name, and percent of ownership in the related organization

Name of Owner	Name of Related Organization	Percent Ownership

PT. II STATEMENT OF COMPENSATION OF OWNERS

Name	This Person's Percentage Ownership in the Business (2)	This Person's Percentage of Current Year Work Week Derived to Business (3)	Percent of Current Year Work Week Derived to Business (4a)	Percent of Current Year Work Week Derived to Business (4b)	Percent of Current Year Work Week Derived to Business (4c)	Current Year Compensation (5)
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)

(*) Compensation as used in this schedule has the same definition as in Chapter 9 of Title 18.

PT. III STATEMENT OF COMPENSATION PAID TO ADMINISTRATORS AND/OR ASSISTANT ADMINISTRATORS (OTHER THAN OWNERS)

Name	Title	Percent of Current Year Work Week Derived to Business	Compensation for the Period

MAP-250, Exh. D-3 (Rev. 11/82)

Final Regulations

RECLASSIFICATION AND ADJUSTMENT OF TRIAL BALANCE OF EXPENSES				Provider No.	Period		Schedule B	
					From	To	Map-178 Series	Page 1 of 2 Pages
Cost Center or Account (OMI Code)	Salaries (From Provider's Financial Statements)	Other (From Provider's Financial Statements)	Total (Col. 1 + 2) (From Provider's Financial Statements)	Reclassifications (From Schedule B-1, B-2 & B-3)	Reclassified Trial Balance (Col. 5 + 6)	Adjustments in Expenses (Increases & Decreases) (From Schedule B-4)	Net Expenses for Cost Allocation (Col. 5 + 6)	
1	2	3	4	5	6	7	8	9
1. Plant Cost								1.
2. Depreciation - Building & Fixture								2.
3. Depreciation - Movable Equipment								3.
4. Hazard Insurance on Property & Equipment								4.
5. Real Estate Taxes								5.
6. Personal Property Taxes								6.
7. Interest on Mortgages & Depreciable Assets								7.
8. Amortization of Goodwill (Reimbursable or non-reimbursable)								8.
9. Amortization of Start-up & Deferred Original Costs								9.
10. Amortization of Deferred Financial Costs								10.
11. Equipment Lease or Rental Costs								11.
12. Facility Lease Cost (in lieu of ownership)—(If Applicable)								12.
13. Home Office Plant Costs Allocated to this Facility (from home office cost report)—(If Applicable) (Direct Allocated Costs Only)								13.
14. Sub-Total (sum of lines 2-13) Total Plant Costs								14.
15. Routine Operating Costs								15.
16. Administrative and General								16.
17. Employee Health & Welfare								17.
18. Operating Interest Expense								18.
19. Dietary - Raw Food								19.
20. Dietary - Other Expense								20.
21. Housekeeping								21.
22. Laundry and Linen								22.
23. Operation of Plant - Utilities (except utilities)								23.
24. Maintenance & Operation								24.
25. Nursing Service								25.
26. Medical Supplies and Expenses								26.
27. Medical Records and Services								27.
28. Social Services								28.
29. Home Office Operating Costs Allocated to this Facility (from home office cost report)—(If Applicable) (Indirect Plant Costs)								29.
30. Educational Activities								30.
31. Patient Activities Program								31.
32. Other (Specify)								32.
33. Sub-Total (sum of lines 16-32) Total Routine Operating Costs								33.

DRAFT

RECLASSIFICATION AFFECTING ADMINISTRATIVE AND GENERAL EXPENSES

Provider No. _____ From _____ To _____ SCHEDULE B-1 Page 1 of 1 pages

Item	Depreciation Buildings & Fixtures	Depreciation Movable Equipment	Employee Health & Welfare	Administrative & General	Interest Expense	Utilization Review ICF
1	2	3	4	5	6	7
1. Employee Health & Welfare and General						
2. Personnel Department						
3. Employee Health Service						
4. Hospitalization Insurance						
5. Workmen's Compensation						
6. Employee Group Insurance						
7. Social Security Taxes						
8. Unemployment Taxes						
9. Annuity Premiums - Past Services						
10.						
11.						
12.						
13. Total employee benefits included in Administrative & General Expenses (lines 2-12)						
14. Insurance						
15. Interest						
16. Rent						
17. Taxes (real property taxes)						
18. Utilization Review-ICF						
19. TOTAL RECLASSIFICATION (Sum of lines 13-18) (Total of columns 1-6, line 19 should equal d)						
	Transfer to Schedule B Col. 4, Line 2	Transfer to Schedule B Col. 4, Line 3	Transfer to Schedule B Col. 4, Line 17	Transfer to Schedule B Col. 4, Line 18	Transfer to Schedule B Col. 4, Line 7	Transfer to Schedule B Col. 4, Line 64

OTHER RECLASSIFICATIONS— All items reclassified except those Reclassified on Schedule B-1. All items listed on Schedule B-1 MUST be reclassified to the proper VMAP account.

Provider No. _____ Period: From _____ To _____ SCHEDULE B-2

Explanation of Reclassification	Non Entry	Code (1)	Increase			Decrease		
			Cost Center	Line No.	Amount (2)	Cost Center	Line No.	Amount (2)
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33								
34								
35								
36								
37								
38								
39								
40								

DRAFT

Total Reclassifications (Sum of lines 1-35) must equal sum of col. 7. Each line to identify each reclassification entry. (1) A letter (A, B, etc.) must be entered for each reclassification. (2) Total for Schedule B, col. 4, to

ANALYSIS OF ADMINISTRATIVE AND GENERAL—OTHER

EXPENSE CLASSIFICATION

1. Advertisement

2. Telephone

3. Dues and Subscriptions

4. Equipment Rental

5. Office Supplies

6. Printing and Postage

7. Professional Fees:

 A. Legal

 B. Audit

 C. Accounting

 D. Management

 E. Consultant

 F. Director's Fees

 G.

8. Travel:

 A. Auto

 B. Registration—Tuition

 C. Room and Board

 D.

9. Public Relations

10. Taxes and License

11. Insurance

12. Purchased Services:

 A.

 B.

13. Payroll Taxes

14. Employee Benefits

 Other: (Specify)

 A.

 B.

 C.

15. Non-Allowables:

 A.

 B.

 C.

 D.

 E.

 F.

 G.

16. Total Administrative and General Cost—Other (16 A-G to be deducted on Schedule B-4) (17 Same as Schedule B, Line 16, Column 2)

DRAFT

STATEMENT OF COST OF SERVICES FROM RELATED ORGANIZATIONS

Provider Number _____ Schedule D Page 1 of 1 Page

Period From _____ To _____

2. In the amount of costs to be reimbursed by the Health Insurance Program, are any costs included which are a result of transactions with a related organization as defined in Chapter 10 of HIM-15?

YES NO (If "Yes," complete part B, and submit schedule itemizing total expenses and basis of allocation.)

3. Costs incurred as result of transactions with related organizations

Form No.	Schedule	Line No.	Amount

C. Name, and percent of ownership in the related organization

Name of Owner	Name of Related Organization	Percent of Ownership

STATEMENT OF COMPENSATION OF OWNERS

Name	Title and Function (2)	Sole Proprietorship or Partnership (3)	Partners		Corporation Officers		Compensation Received in Costs for The Period (4)
			Percent Share of Operating Profits (Loss) (4a)	Percent Customary Work Week Devoted to Business (4b)	Percent of Profits or Salary Devoted to Business (5a)	Percent of Customary Work Week Devoted to Business (5b)	
(1)							(6)

* Compensation as used in this schedule has the same definition as in Chapter 5 of HIM-15.

STATEMENT OF COMPENSATION PAID TO ADMINISTRATORS AND/OR ASSISTANT ADMINISTRATORS (OTHER THAN OWNERS)

Name	Title	Percent of Customary Work Week Devoted to Business	Compensation for the Period

ADJUSTMENTS TO EXPENSES

Provider No. _____ Schedule B-4 Page 1 of 1 Page

Period From _____ To _____

Description	Amount (2)	Line No.	Line No.
Investment income on commingled restricted and unrestricted funds (Chapter 2)			
Excess quantity, loans and discounts on such quantities (Chapter 4)			
Rebates and refunds of expenses (Chapter 6)			
Rent of provider space by suppliers (Chapter 8)			
Services (low services excluded) (CHAPTER 21)			
Television and radio service (Chapter 21)			
Home office costs			
Sale of scrap, waste, etc. (Chapter 23)			
Nonallowable costs related to certain capital expenditures (Chapter 24)			
Adjustments resulting from transactions with related organizations (CHAPTER 10)			
Laundry and linen service			
Catering-employees, guests, etc.			
Rent of living quarters to employees and others			
Sale of medical and surgical supplies to other than patients			
Sale of drugs to other than patients			
Sale of medical records and abstracts			
Vending machines			
Transfer from institution of interest income or security charges (Chapter 21)			
Advertisement			
Donations			
Excess (other than owner) compensation			
Excess Director's Fees			
Excess Medical Director's Fees			
Excess Management Fees			
Non-Allowable Life Insurance Premiums			
Non-Allowable Public Relations Expenses			
Fund Raising Expenses			
Non-Competition Agreement Expenses			
Non-Allowable Interest Expense			
Non-Allowable Travel Expenses			
Non-Allowable Membership Expense			
Other			
Total			

Based on adjustment (SEE INSTRUCTIONS):

A. Amount received - cost cannot be determined.

B. Amount received - cost cannot be determined.

C. Transfer amounts in Column 2 to the appropriate line in Schedule B, Column 6.

LIMITATION ON FEDERAL FINANCIAL CONTRIBUTION FOR CAPITAL EXPENDITURES QUESTIONNAIRE Provider No. _____ Period From _____ To _____ **SCHEDULE G** Part 1 of 1 Page

Description	Beginning Balance	Acquisitions			Disposals and Retirements	Ending Balance
		Purchase	Donation	Total		
Land	\$ 1	\$ 2	\$ 3	\$ 4	\$ 5	\$ 6
Land Improvements						
Buildings & Fixtures						
Building Improvements						
Equipment						
Fixed Movable						
TOTAL						

2. Were there any obligations and/or expenditures incurred for capital expenditures (as defined in Provider Reimbursement Manual, Part I, chapter 24) by or on behalf of the provider during the period to which this cost report applies and subsequent to (1) December 31, 1972, or (2) the effective date of the agreement between the State and the Secretary, whichever is later?
 Yes No If "No", DO NOT COMPLETE THE REMAINDER OF THIS SCHEDULE.

3. Enter the following data relative to each capital expenditure (as defined in Provider Reimbursement Manual, Part I, chapter 24) made by or on behalf of the provider during the period to which this cost report applies and subsequent to (1) December 31, 1972, or (2) the effective date of the agreement between the State and the Secretary, whichever is later.

Description	How Acquired (Enter Letter Symbol (1))	Date Obligation Incurred	Cost	Expenses Included on Sch. B, Col. 7, Lines 2 & 3, Related to Capital Expenditures					Total (Sum of Col. 4, 5, 6, 7)
				Depreciation	Interest	Rent	Other Expenses	Amount	
a			\$	\$	\$	\$	\$	\$	\$
b			\$	\$	\$	\$	\$	\$	\$
c			\$	\$	\$	\$	\$	\$	\$
d			\$	\$	\$	\$	\$	\$	\$

4. Enter the following data with respect to the provider's written notice of intention to make each capital expenditure described in item 3 above. The capital expenditures should be listed in the same chronological order as those listed in item 3.

Description	Date Written Notice Submitted	Date Approved	Date of Notice of Disapproval Received	Appeal of Denial	
				Date	Status of Appeal
a					
b					
c					
d					

(1) Use the following symbols to indicate how the asset was acquired:
 A - Purchase on the open market
 B - Donation or transfer
 C - Lease or comparable arrangement

SCHEDULE H Page 1 of 2

COMPUTATION OF BASE COSTS AND ICF PER DIEM RATE

PROVIDER NUMBER: _____ PERIOD FROM: _____ TO: _____

OPERATING COST

- Total Patient Days (Sch. A, Col. 2, Line 4A)
- Total ICF Program Patient Days (Sch. A, Line 4B)
- Total Allowable Expenses (Sch. B, Col. 7, Line 73)
- Less: Ancillary Service Costs (Sch. B, Col. 7, Line 47)
- Less:
 - Plant Costs (Sch. B, Col. 7, Line 14)
 - Nurse Aide Competency Evaluation Costs (Sch. B, Col. 7, Line 49)
 - VA Health Services Cost Review Council Fees (Sch. B, Col. 7, Line 50)
- Operating Cost Less Ancillaries and Plant Costs (Line 3 minus Lines 4, 5A, 5b, and 5c)
- Percent of Medicaid Utilization (Line 2/Line 1)
- Medicaid Cost (Line 6 above X Line 7) = _____
- Add Back Medicaid Share of Ancillary Costs: (Do Not Include Drugs in either costs or charges)
 Medicaid Ancillary Charges (9a) _____
 Total Ancillary Charges (9b) _____ X
 Line 4 = _____
- Total Operating Cost (Line 8 plus Line 9) _____
- Medicaid Days - The Greater of:
 (Sch. H, Line 2) (11a) _____ OR
 (Sch. A, Line 3) X *55% = _____
 X Line 7 above = (11b) _____
 *(NOTE: This percentage is 85% for an ICF with 30 or less certified beds.)
- Medicaid Base Operating Cost Per Patient Day (Line 10 - Line 11) _____
- Escalator Percentage X Medicaid Base Operating Cost Per Patient Day (Line 12 X _____) = _____
- Medicaid Operating Cost Including Escalator Percentage (Line 12 plus Line 13) _____
- Prospective Operating Cost Per Diem - The Lower of:
 A. Medicaid Operating Cost including escalator percentage (Line 14) _____
 B. Or Group Ceiling (15b) _____
- Plant Cost Per Patient Day:
 A. Plant Costs (Line 5A X Line 7) _____
 Total Plant Cost Per Patient Day (Line 16a / Line 11) _____
- Total Prospective Operating and Plant Cost Per Patient Day (Line 15 plus Line 16) 17. _____

DRAFT

COMPUTATION OF PROVIDER NUMBER _____
BASE COSTS AND PERIOD FROM _____ SCHEDULE
ICF PER DIEM TO _____
RATE

Page 2 of

DRAFT

- 18. Profit Incentive:
 - A. Group Ceiling (Line 15b)..18a _____ Minus
 - B. Medicaid Operating Cost with escalator (Line 15a) 18b _____ =
 - C. Incentive Base.....18c _____
(NOTE: If incentive base is equal to or less than zero, Profit Incentive Line 18 = 0)
 - D. Percentage of Difference (Line 18c ÷ 18a).....18d _____ %
(Limited to a maximum of 25%)
 - D. Profit Incentive = 18c X 18d (as limited)...18) _____
- 19. Add back Medicaid share of drugs:
 - A. Medicaid drug charges.....19a _____ +
 - B. Total drug charges.....19b _____ X
 - C. Medicaid drug costs removed on Line 9.....19c _____ =
 - D. Medicaid share of drugs...19d _____ ÷
Line 2 =19) _____
- 20. Cost Basis ICF Prospective Per Diem Rate for FY _____ (Lines 17 + 18 + 19).....20) _____
- 21. Total Program Charges.... +
Medicaid Days (Line 2)... =..21) _____
- 22. Total ICF Prospective Per Diem Rate for FY _____ (The lower of Line 20 or Line 21) 22) _____

INTENTIONAL MISREPRESENTATION OR FALSIFICATION OF ANY INFORMATION CONTAINED IN THIS COST REPORT MAY BE PUNISHABLE BY FINE AND/OR IMPRISONMENT UNDER FEDERAL AND/OR STATE LAW.

CERTIFICATION BY OFFICER OR ADMINISTRATOR OF PROVIDER

I hereby certify that I have read the above statement and that I have examined the accompanying Statement of Reimbursable Cost, the Balance Sheet and Statement of Revenue and Expense for the cost report period beginning _____ and ending _____ and that to the best of my knowledge and belief, it is a true, correct and complete statement, prepared from the books and records of _____
Name of Facility

Address _____
in accordance with applicable instructions, except as may be noted. The above referenced information was prepared by _____
Name and Title

Signed _____
Officer or Administrator of Provider
Title _____
Date _____

PROVIDER NAME _____
 PROVIDER NUMBER _____
 PERIOD FROM _____ TO _____

DRAFT Schedule J
 Page 1 of 2

(1) Period (2) Period (3) Period (4) Period
 From _____ From _____ From _____ From _____
 To _____ To _____ To _____ To _____

PART I SETTLEMENT COMPUTATION/PIRS:

1. PIRS Reimbursement Rate
 - A. (1) Prospective Direct Care Operating Cost or Ceiling A1) _____
 - (2) Service Intensity Index (SII) A2) _____
 - (3) Service Intensity Adjusted Prospective Direct Care Rate(A1 X A2, cols. 1 - 4) A3) _____
 - B. Direct Care Profit Incentive (Prior Year) B) _____
 - C. Prospective Indirect Care Operating Cost Or Ceiling C) _____
 - D. Indirect Care Profit Incentive (Prior Year) D) _____
 - E. Actual Plant Costs Current Year E) _____
 - F. Total Reimbursement Rate (Col. 1-4, sum of lines A(3) + B, C, D, & E) F) _____
2. Medicaid Days 2) _____
3. PIRS Prospective Reimbursement (Line 1F X 2, Col. 1 thru 4) 3) _____
4. Total PIRS Prospective Reimbursement (Sum of line 3, cols. 1-4) 4) _____

PART II SETTLEMENT COMPUTATION/CURRENT METHOD

1. Prospective Operating Cost Rate 1) _____
2. Medicaid Days 2) _____
3. Total Current Method Prospective Reimbursement (Line 1 X line 2) 3) _____

PART III SETTLEMENT COMPUTATION/PHASE-IN

1. Total Potential PIRS Settlement (Part I, line 4) \$ _____ X Phase-in _____ 1) _____
2. Total Potential PIRS Current Method Settlement (Part II, line 3) \$ _____ X Phase-in _____ 2) _____
3. Total Potential Settlement (PART III sum of lines 1 & 2) 3) _____
4. Total Current Year Medicaid Charges 4) _____
5. Total Payments Paid to Provider - All Sources (Sch. J, Part IV, Col. 2, Line 6 + Col. 3, Line 6) 5) _____
6. Balance Due to (From) Provider (Lower of Part III, Line 3 or Line 4 minus line 5) 6) _____
7. Recovery of Prior Years' excess of Allowable Reimbursement over Charges 7) _____
8. Total Amount Due to (from) Provider (Line 6 plus Line 7) 8) _____

PROVIDER NAME _____ SCHEDULE _____
 NUMBER _____ Page 2 of _____

PERIOD FROM _____ TO _____

DRAFT

Part II

ANALYSIS OF INTERIM PAYMENTS FOR TITLE XIX (MEDICAID) SERVICES

DESCRIPTION	PATIENT DAYS (1)	PAYMENTS FROM INTERMEDIARY (2)	PATIENT PAY OR PAYMENTS FROM PRIMARY CARRIER (3)
1. Paid by Intermediary during the fiscal period			
2. (Deduct) Services rendered but not paid during prior period			
3. Add Prior period services not yet paid at end of current period			
4. Add Services rendered but not paid in current fiscal period			
5. Add/ (Deduct) Cash Advances From/ (To) Intermediary relative to this report (Date / /)			
6. TOTAL			

DRAFT

DRAFT

BALANCE SHEET				
(Completed by all providers. Nonproprietary providers not maintaining fund type accounting records, should complete the "General Fund" column only.)		PROVIDER NO.	PERIOD: FROM _____ TO _____	WORKSHEET NO.
Assets (Omit Cents)	General Fund	Specific Purpose Fund	Endowment Fund	Pl. Fund
CURRENT ASSETS				
1 Cash on hand and in banks				
2 Temporary Investments				
3 Notes Receivable				
4 Accounts Receivable				
5 Other Receivables				
6 Less: Allowance for uncollectible notes and accounts receivable	()	()	()	()
7 Inventory				
8 Prepaid Expenses				
9 Other Current Assets				
10 Due From Other Funds				
11 TOTAL CURRENT ASSETS (Sum of lines 1-10)				
FIXED ASSETS				
12 Land				
13 Land Improvements				
14 Less: Accumulated Depreciation	()	()	()	()
15 Buildings				
16 Less: Accumulated Depreciation	()	()	()	()
17 Leasehold Improvements				
18 Less: Accumulated Amortization	()	()	()	()
19 Fixed Equipment				
20 Less: Accumulated Depreciation	()	()	()	()
21 Automobiles and Trucks				
22 Less: Accumulated Depreciation	()	()	()	()
23 Major Movable Equipment				
24 Less: Accumulated Depreciation	()	()	()	()
25 Minor Equipment Nondepreciable				
26 Other Fixed Assets				
27 TOTAL FIXED ASSETS (Sum of lines 12-26)				
OTHER ASSETS				
28 Investments				
29 Deposits on leases				
30 Due from owners/officers				
31				
32 TOTAL OTHER ASSETS (Sum of lines 28-31)				
33 TOTAL ASSETS (Sum of lines 11, 27 and 32)				

BALANCE SHEET				
(Completed by all providers. Nonproprietary providers not maintaining fund type accounting records, should complete the "General Fund" column only.)		PROVIDER NO.	PERIOD: FROM _____ TO _____	WORKSHEET NO. (Continued)
Liabilities and Fund Balances (Omit Cents)	General Fund	Specific Purpose Fund	Endowment Fund	Pl. Fund
CURRENT LIABILITIES				
34 Accounts Payable				
35 Salaries, Wages & Fees Payable				
36 Payroll Taxes payable				
37 Notes & Loans Payable (Short Term)				
38 Deferred Income				
39 Accelerated Payments				
40 Due to Other Funds				
41				
42 TOTAL CURRENT LIABILITIES (Sum of lines 34-41)				
LONG TERM LIABILITIES				
43 Mortgage Payable				
44 Notes Payable				
45 Unsecured Loans				
46 Loans from owners				
	a. Prior to 7/1/66			
	b. On or after 7/1/66			
47				
48				
49 TOTAL LONG TERM LIABILITIES (Sum of lines 43-48)				
50 TOTAL LIABILITIES (Sum of lines 42 and 49)				
CAPITAL ACCOUNTS				
51 General Fund Balance				
52 Specific Purpose Fund Balance				
53 Donor created--Endowment Fund Balance--Restricted				
54 Donor created--Endowment Fund Balance--Unrestricted				
55 Governing Body created--Endowment Fund Balance				
56 Plant Fund Balance--Invested in Plant				
57 Plant Fund Balance--Reserve for Plant Improvement, Replacement and Expansion				
58 TOTAL FUND BALANCES (Sum of lines 51 thru 57)				
59 TOTAL LIABILITIES AND FUND BALANCES (Sum of lines 50 and 58)				

DRAFT

STATEMENT OF PATIENT REVENUES AND OPERATING EXPENSES	PROVIDER NO.:	PERIOD FROM	TO	WORKSHEET
--	---------------	-------------	----	-----------

PART I - PATIENT REVENUES

REVENUE CENTER	INPATIENT	OUTPATIENT	TOTAL
	1	2	3
GENERAL INPATIENT ROUTINE CARE SERVICES			
1 Skilled Nursing Facility - Participating	/	/	/
2 Skilled Nursing Facility - Nonparticipating	/	/	/
3 Intermediate Care Facility	/	/	/
4 Other Long Term Care	/	/	/
5 TOTAL General Inpatient Care Services (Sum of lines 1-4)	/	/	/
All Other Care Services	/	/	/
6 Ancillary Services	/	/	/
7 Clinic	/	/	/
8 Home Health Agency	/	/	/
9 CORF	/	/	/
10 Ambulance	/	/	/
11 Hospice	/	/	/
12			
13			
14 TOTAL Patient Revenues (Sum of lines 5-13) (Transfer col. 3 to Worksheet G-2, line 1)			

PART II - OPERATING EXPENSES

1 Operating Expenses (Per Worksheet B col. 3, line 73)	
2 Add (Specify)	
3	
4	
5	
6	
7	
8 TOTAL Additions (Sum of lines 2-7)	
9 Deduct (Specify)	
10	
11	
12	
13	
14 TOTAL Deductions (Sum of lines 9-13)	
15 Net Operating Expenses (Sum of lines 1 and 8 minus line 14) Schedule G-2, line 3)	

STATEMENT OF REVENUES AND EXPENSES	PROVIDER NO.:	PERIOD FROM	TO	WORKSHEET
------------------------------------	---------------	-------------	----	-----------

1 Total patient revenues (From Wkst. G-1, Part I, col. 3, line 14)	
2 Less - Allowances and discounts on patients' accounts	
3 Net patient revenues (line 1 minus line 2)	
4 Less - Total operating expenses (From Wkst. G-1, Part II, line 15)	
5 Net income from service to patients (line 3 minus line 4)	
6 Other income:	
7 Contributions, donations, bequests, etc.	
8 Income from investments	
9 Revenue from telephone and telegraph service	
10 Revenue from television and radio service	
11 Purchase discounts	
12 Rebates and refunds of expenses	
13 Parking lot receipts	
14 Revenue from laundry and linen service	
15 Revenue from meals sold to employees and guests	
16 Revenue from sale of medical supplies to other than patients	
17 Revenue from sale of drugs to other than patients	
18 Revenue from sale of medical records and abstracts	
19 Revenue from gifts, flower, coffee shops, canteen	
20 Rental of vending machines	
21 Rental of skilled nursing facility space	
22 Other (Specify)	
23 Other (Specify)	
24 Total other income (Sum of lines 7-23)	
25 Total (line 5 plus line 24)	
26 Other expenses (Specify)	
27	
28	
29 Total other expenses (Sum of lines 26-28)	
30 Net income (or loss) for the period (line 25 minus line 29)	

EMERGENCY REGULATIONS

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-05-1. Regulations of Asbestos Analytical Laboratories and Conflict of Interest for the Department of Commerce.

Statutory Authority: § 54.1-500 of the Code of Virginia.

Effective Dates: June 30, 1990 through January 1, 1991.

Preamble:

The Department of Commerce is promulgating emergency regulations as detailed in § 9-6.14:5, Code of Virginia, governing the issuance of licenses for asbestos analytical laboratories and conflict of interest within the asbestos industry.

The regulations are required by revisions through H.B. 803, 1990 to § 54.1-500 and 54.1-501, Code of Virginia, which will become effective July 1, 1990. The bill's effective date does not allow ample time to comply with the Administrative Process Act (§ 9-6.14:1). The Department will proceed immediately to promulgate permanent regulations, and will receive, consider and respond to comments by any interested parties.

The emergency regulation will be in effect until January 1, 1991, the anticipated approval date of final revisions to the Virginia Asbestos Licensing Regulations including the revisions pursuant to H.B. 308.

Approved:

/s/ Milton K. Brown, Jr.
Department of Commerce
Date: July 11, 1990

/s/ Lawrence H. Framme, III
Secretary of Economic Development
Date: July 12, 1990

/s/ Lawrence Douglas Wilder
Governor
Date: July 25, 1990

Filed with:
Registrar of Regulations
Date: July 30, 1990

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:

"Asbestos Analytical Laboratory License" means an authorization by the Department to perform phase contrast, polarized light, or transmission electron

microscopy on material known or suspected to contain asbestos.

"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 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.

"Department" means the Department of Commerce.

"Director" means the Director of the Department of Commerce.

"USEPA" means United State Environmental Protection Agency.

"NIOSH" means National Institute of Occupational Safety & Health.

"NIST" means National Institute of Standards and Technology.

"OSHA" means the U.S. Department of Labor Occupational Safety and Health Administration.

"PCM" means phase contrast microscopy.

"PLM" means polarized light microscopy.

"TEM" means transmission electron microscopy.

PART II. ASBESTOS ANALYTICAL LABORATORY LICENSE REQUIREMENTS.

Asbestos Analytical Laboratories are required to comply fully with all requirements, procedures, standards, and regulations covering all aspects of asbestos analytical services as established by these regulations.

§ 2.1. License Application.

A. Each applicant is responsible for obtaining a current application. All requirements 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 an officer or a responsible party of the asbestos analytical laboratory company and shall include a certification by the applicant

that within the last three (3) years prior to the application date, his license, program accreditation rating or other authorization to analyze asbestos samples have not been suspended or revoked by any jurisdiction, and that no enforcement action is pending against the applicant.

C. In the event enforcement actions have been taken against the applicant, the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos analytical laboratory might not perform its services in a manner that would protect the safety of its employees, or that the analytical testing results might lack credibility and/or reliability.

In order to make this determination, the following information will be required:

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 copy of any reports of enforcement actions compiled by an enforcement agency against the applicant.

D. All applications shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant; however, the fees received are not refundable.

§ 2.2. Qualifications for licensure.

Each individual or business applying to the Department of Commerce for licensing as an Asbestos Analytical Laboratory shall have the following qualifications:

A. Applicants shall have all occupational or professional licenses necessary and required by state statute or local ordinance to transact the business of an asbestos analytical laboratory in addition to those requirements as set forth in these regulations.

B. A license issued by the Department of Commerce will authorize an asbestos analytical laboratory to perform analysis of bulk samples using PLM and/or TEM analysis, air samples using PCM and/or TEM analysis or both bulk and air sampling using PLM and/or PCM and/or TEM analysis.

C. Analysis of bulk materials.

1. For licensure to analyze bulk materials using Polarized Light Microscopy (PLM):

- a. The applicant shall provide evidence that the asbestos analytical laboratory is currently rated as "proficient" by the National Voluntary Laboratory Accreditation Program. The asbestos analytical laboratory shall participate in all rounds of the program.

b. The asbestos analytical laboratory using PLM to analyze bulk samples shall use the method in accordance with USEPA specifications defined in the Interim Method for the Determination of Asbestos in Bulk Insulation Samples, USEPA 40 CFR Part 763, Appendix A, Subpart F or NIOSH 9002.

2. For licensure to analyze asbestos bulk materials using Transmission Electron Microscopy:

a. The applicant shall adhere to the final rules pertaining to TEM proficiency certification of laboratories for asbestos analysis that are being developed by the National Institute of Standards and Technology (NIST). The Department intends to incorporate these final rules pertaining to TEM asbestos analysis into the Virginia Asbestos Licensing Regulations. Once the NIST program is in place all laboratories will be required to provide proof of current NIST accreditation within sixty (60) days to continue TEM analysis.

b. For license approval by the Department of Commerce, the applicant must submit the following:

(1) Names, employment dates and verification of training for those persons performing analysis of the site(s).

(2) Name of supervisor (s), employment dates, and verification of education, specific training and experience.

(3) Documentation of:

(a) Laboratory's chain-of-custody procedures.

(b) Analytical quality assurance program.

(c) Equipment calibration and standardization programs.

(d) Laboratory standard procedures.

(e) Laboratory record keeping procedures.

(f) Asbestos analytical equipment inventory.

4. Complete disclosure form.

c. The applicant shall provide documentation that the individual who directly supervises the electron microscopy analysis has at least two (2) years experience in materials analysis by electron microscopy.

d. The technique used for TEM Analysis of bulk samples shall be in accordance with USEPA 40CFR PART 763, Appendix A, Subpart E.

D. Analysis of airborne asbestos fibers:

Emergency Regulations

1. For licensure to analyze airborne asbestos fiber counts using Phase Contrast Microscopy:

a. The applicant shall provide evidence that the National Institute for Occupational Safety and Health (NIOSH) has accredited the applicant's facility as "proficient" in the Proficiency Analytical Testing (PAT) Programs most recent round of asbestos evaluations or has been accredited by the American Industrial Hygiene Association for Asbestos Analytical Services. Each analyst must provide proof of successfully completing the NIOSH 582 Course or equivalent.

b. The laboratory using PCM to analyze air samples shall use the method in accordance with OSHA 29 CFR 1910.1001, Appendix A, FR No. 119, 22739, June 20, 1986 or NIOSH Method 7400 "A" counting rules.

2. For licensure to analyze airborne asbestos fiber counts using Transmission Electron Microscopy:

a. The applicant shall adhere to the final rules pertaining to TEM proficiency certification of laboratories for asbestos analysis that are being developed by the National Institute of Standards and Technology (NIST). The Department intends to incorporate these final rules pertaining to TEM asbestos analysis into the Virginia Asbestos Licensing Regulations. Once the NIST program is in place all asbestos analytical laboratories will be required to provide proof of current NIST accreditation within sixty (60) days to continue TEM analysis.

b. For license approval by the Department of Commerce, the applicant must submit the following:

1. Names, employment dates and verification of training for those persons performing analysis at the site(s).

2. Name of supervisor(s), employment, dates, and verification of education, specific training and experience.

3. Documentation of:

a. Laboratory's chain-of-custody procedures.

b. Analytical quality assurance program.

c. Equipment calibration and standardization programs.

d. Laboratory standard procedures.

e. Laboratory record keeping procedures.

f. Asbestos analytical equipment inventory.

4. Complete disclosure form.

c. The applicant shall provide documentation that the individual who directly supervises the electron microscopy analysis has at least two (2) years experience in materials analysis by electron microscopy.

d. The technique used for TEM Analysis of airborne fiber counting shall be in accordance with USEPA 40 CFR PART 763, Appendix A, Subpart E or NIOSH Method 7402.

§ 2.3. Fees.

A. The fee for an asbestos analytical laboratory license shall be \$100.00. The fee amount is based on the administrative costs of the asbestos licensing program.

B. A completed application(s) (as required in Part II, § 2.1 of these regulations) shall be accompanied by the required fee(s). 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(s).

C. All fees 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 Analytical Laboratory 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. At least thirty days 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, documentation of valid accreditations and the \$100.00 renewal fee. Should the licensee fail to receive the renewal notice, a copy of a current license may be submitted with the proper accreditation documentation and required fee(s).

B. If a Licensee's Renewal fee is received by the Department of Commerce more than thirty (30) days after the expiration date noted on the license, then the licensee must pay a late fee of \$100.00 in addition to the renewal fee.

C. Licensees failing to renew their licenses within six

months of the expiration date noted on the licenses shall apply as new applicants meeting all current application requirements in Part 2.1 of these regulations.

§ 2.6. Change of status.

A. The licensee shall notify the Department of Commerce on a form provided by the Department immediately of any addition or deletion regarding employment of trained and experienced supervisors, and any changes regarding the signing officers or responsible party's relationship with the company.

B. The licensee shall notify the Department of Commerce immediately upon the loss of accreditation by NVLAP, NIOSH Pat Proficiency Program or AIHA by any laboratory location.

C. The licensee shall notify the Department of Commerce in writing within ten days of the receipt of their most recent accreditation evaluation results.

§ 2.7. License certificate.

A. The transfer of an Asbestos Analytical Laboratory License is prohibited. Whenever there is any change in the controlling interest of the legal entity licensed, whether in proprietorship or change of partner in partnership or the creation of a corporation, a new license is required.

B. A copy of a current Asbestos Analytical Laboratory License certificate shall be available at all times for review by the Department of Commerce at each laboratory site.

C. The Director shall require asbestos analytical laboratories that wish to become or remain licensed in the Commonwealth to conform to any future additional standards or regulations set forth by the USEPA and the National Institute of Standards and Technology.

D. The Department of Commerce shall conduct periodic on-site inspections and evaluations of any licensed asbestos analytical laboratory facility. The inspection shall include but not be limited to: all equipment, procedure and protocol records, training and accreditation documentation and any other program's evaluation results on file.

PART III. CONFLICT OF INTEREST.

Pursuant to § 54.1-501.1 of the Code of Virginia, the following situations and relationships between license categories are deemed to represent a conflict of interest and are prohibited.

It shall be considered a conflict of interest and a violation of these regulations for an asbestos contractor or asbestos RFS contractor to have a proprietary or financial relationship with a laboratory utilized by the contractor for asbestos sample analysis.

It shall be considered a conflict of interest and a violation of these regulations for an asbestos contractor or asbestos RFS contractor to have an employee/employer relationship with an asbestos project monitor working on a project performed by that asbestos contractor or asbestos RFS contractor. The asbestos contractor or asbestos RFS contractor shall not have any proprietary or financial relationship with the firm of which the project monitor is an employee.

It shall be considered a violation of these regulations for an asbestos contractor or an asbestos RFS contractor to enter into an asbestos project if the asbestos inspection or project design were performed by individuals employed by, compensated, or financially affiliated with the asbestos contractor or RFS contractor.

6/8/90

6/8/90

For Office Use Only
Lic # _____
Date _____
Code _____

Commonwealth of Virginia
Department of Commerce
Application for Asbestos Analytical Laboratory
License

PLEASE PRINT

1) Name _____

Addresses of all laboratory site locations:

Mailing Address if different from above:

City _____ State _____ Zip Code _____

2) Type of laboratory analysis performed:
Please check the appropriate box(s)

Bulk _____ Air _____

Type of methodology used by the laboratory:
Please check the appropriate box(s)

PLM _____ PCM _____ TEM _____

3) Accreditations held:
Please check the appropriate box(s)

NVLAP _____ Locations _____

NISH Pat Proficiency Program _____ Locations _____

AIHA _____

Please enclose proof of current accreditation(s) with this application.

If the company does not hold any of the above accreditation(s), please enclose the following valid documentation:

1. Names, employment dates and verification of training for those persons performing analysis at the laboratory site(s).
2. Name of supervisor(s), employment dates and verification of education, specific training and experience.
3. Documentation of:
 - a. Laboratory chain of custody procedures
 - b. Analytical quality assurance program
 - c. Equipment calibration and standardization program
 - d. Results of the last two (2) Pat or NVLAP rounds
 - e. Laboratory standard procedures
 - f. Laboratory record keeping procedures
 - g. Asbestos analytical equipment inventory
4. A complete disclosure form
- 4) License Fee of \$ 100.00. ALL CHECKS OR MONEY ORDERS SHALL BE MADE PAYABLE TO THE TREASURER OF VIRGINIA.
- 5) Applicants signature below indicates that within the past 36 months license or authorization to perform asbestos analytical laboratory services has not been suspended or revoked by any federal, state or private accreditation program, and that no enforcement actions by any jurisdiction are pending against the applicant.

Signature

In the event enforcement actions have been taken against the applicant, the Director may deny an applicant's request for a license based on prior enforcement actions which indicate that the asbestos analytical laboratory might not perform its services in a manner that would protect the safety of its employees, or that the analytical testing results might lack credibility and/or reliability.

In order to make this determination, the following information will be required:

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 copy of any reports of enforcement actions compiled by an enforcement agency against the applicant.

BY MY SIGNATURE BELOW, I UNDERSTAND AND AGREE TO MY DUTIES AND OBLIGATIONS AND I AM FAMILIAR WITH THE STATUTES AND REGULATIONS OF THE COMMONWEALTH OF VIRGINIA APPLICABLE TO ASBESTOS ANALYTICAL LABORATORIES.

AFFIDAVIT

- 6) THIS PORTION MUST BE COMPLETED BY AN OFFICER OF THE LABORATORY OR A RESPONSIBLE PARTY.

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 _____

Title _____

Date _____

- 7) THIS PORTION MUST BE COMPLETED BY A NOTARY PUBLIC.

State of _____ City/County of _____

Subscribe and sworn 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 _____

(seal)

Notary Public

VIRGINIA ASBESTOS LICENSING
Department of Commerce
Post Office Box 11066
Richmond, Virginia 23230

GENERAL INSTRUCTIONS

- 1. PLEASE READ THE INSTRUCTIONS, STATUTE, REGULATIONS AND APPLICATION CAREFULLY BEFORE COMPLETING THE APPLICATION FORM. DO NOT DUPLICATE THE APPLICATION FORM.
- 2. Applications may be filed at any time.
- 3. PRINT IN INK OR TYPE.
- 4. All application and renewal fees are non-refundable.
- 5. Acceptance by the Department of Commerce of an application fee does not indicate approval of an application nor connote eligibility for licensure.
- 6. All applicable items must be properly completed and/or attached or the application will be returned and processing will be delayed.
- 7. Please keep instructions for future reference, along with a copy of your application and related papers.
- 8. Include a check or money order payable to "Treasurer of Virginia" in the amount of \$100.00.
- 9. MAIL THE COMPLETED APPLICATION FORM, FEE AND ALL ATTACHMENTS TO: COMMONWEALTH OF VIRGINIA, DEPARTMENT OF COMMERCE, P. O. Box 11066, RICHMOND, VIRGINIA 23230, IN THE PRE-ADDRESSED ENVELOPE.

FORM INSTRUCTIONS

- 1. Complete both sides of the application form.
- 2. Provide your current address; a street address must be provided unless you have a rural route and box number. All correspondence and your renewal application will be mailed to the address listed on the address line.
- 3. If your license or other authorization to perform asbestos analytical services has not been suspended or revoked by any jurisdiction and if no enforcement action by any jurisdiction is pending, sign in the space provided near the bottom of the first page.

OR

Emergency Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care (Long Stay Acute Care Hospitals).
VR 460-04-8.10. Regulations for Long Stay Acute Care Hospitals (Non-Mental Hospitals).

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

Effective Dates: August 7, 1990, through August 6, 1991.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Long Stay Acute Care Hospitals. This policy will implement admission criteria and preadmission authorization for facilities certified as long stay acute care hospitals.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding long stay acute care hospitals. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: July 20, 1990

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: July 27, 1990

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: August 5, 1990

5. FILED WITH:

Joan W. Smith
Registrar of Regulations
Date: August 7, 1990 - 3:30 p.m.

DISCUSSION

6. **BACKGROUND:** The Board of Medical Assistance Services (BMAS), in response to the Administration's directive to identify potential cost savings initiatives, directed the Department of Medical Assistance Services (DMAS) to implement the policy described in this Emergency Regulation. This action establishes admission criteria and a preauthorization process for two long stay acute care hospitals which are providing specialized services to individuals who require more intensive medical management and nursing care than can normally be

provided in nursing facilities. These criteria will not apply to long stay hospitals serving the mentally ill. The Plan section effected by this action is the "Standards Established and Methods Used to Assure High Quality Care" (Attachment 3.1-C).

The admission criteria require that the hospitals submit a completed LTC Assessment Process Instrument (DMAS-95), a physician certification of the need for long stay acute care hospital placement, and any additional information that justifies the need for intensive services. DMAS coverage decisions will either be rendered within a 72 hour review period or additional information will be required of the requesting provider. If additional information is requested, the coverage decision will be made after the information is provided. DMAS' admission decision will be telephoned to the admitting hospital and followed up by written authorization.

The criteria are divided into two sections—one for adults, and the other for the pediatric/adolescent populations. The following are descriptions of the criteria for each of these categories.

A. Adult Long Stay Acute Care Hospital Criteria: The resident must have long-term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, and the need for specialized services or equipment. The targeted population includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services, and individuals with communicable diseases requiring universal or respiratory precautions.

At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse, whose sole responsibility is the designated unit, must be on the nursing unit 24 hours a day on which the resident resides), and coordinated multidisciplinary team approach to meet their health care needs.

In addition, these individuals must meet at least one of the following requirements:

Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services.

Individuals meeting this requirement must be provided with therapy at least 4 sessions (minimum of 30 minutes per session) per day, 5 days per week. Individuals being provided these therapy services must demonstrate progress on a monthly basis when compared to their overall rehabilitative plan of care.

- or -

Must require special equipment such as mechanical

Emergency Regulations

ventilators, respiratory therapy equipment (that must be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy;

- or -

Must require at least one of the following special services:

Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

Special infection control precautions such as universal or respiratory precaution;

Dialysis treatment that is provided on unit (i.e. peritoneal dialysis);

Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body); or

Ongoing care of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.)

B. Pediatric/Adolescent Long stay Acute Care Hospital Criteria: The child must have ongoing health care needs requiring close medical supervision, 24-hour licensed nursing supervision, and specialized services or equipment. The recipient must be age 21 or younger. The targeted population includes children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.) or terminal illnesses.

The child must require at a minimum physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse, whose sole responsibility is that nursing unit, must be on the nursing unit on which the child is residing 24 hours a day), and a coordinated multidisciplinary team approach to meet needs.

In addition, the child must meet one of the following requirements:

Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services;

Individuals meeting this requirement must be provided at least 6 therapy sessions (minimum of 15 minutes per session) per day, 5 days per week. These individuals must demonstrate progress in their overall rehabilitative plan of care on a monthly basis.

- or -

Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc.

- or -

Children that require at least one of the following special services:

Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition, antibiotic therapy, narcotic administration, etc.)

Special infection control precautions such as universal or respiratory precaution;

Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body);

Ostomy care requiring services by a licensed nurse;

Services required for terminal care.

In addition, the nursing facility must provide for the educational and habilitative needs of the child. These services must be appropriate to the child's age and cognitive level. Services must also be individualized to meet the specific needs of the child and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. The services must be provided for a minimum of 2 hours per day.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services the authority to

Emergency Regulations

administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in the Administrative Process Act (APA) § 9-6.14.9, for this agency's adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

The Code of Federal Regulations, Title 42, Part 456, grants states the authority to perform admission review, utilization review, and certification for continued stay in long stay acute care hospitals.

Without an emergency regulation, this regulation and accompanying amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the earliest possible effective date established by BMAS.

8. **FISCAL/BUDGETARY IMPACT:** The development of admission criteria and a preauthorization process for long stay acute care hospitals and the implementation of utilization review of Medicaid recipients in long stay acute care hospitals will prevent unnecessary expenditures. A recent on site review at one long stay acute care hospital unit indicated that 75 percent of the residents currently on the unit had needs that could be safely and adequately provided in lower levels of care. If 30 of the 41 residents reviewed at this facility were placed in an alternate setting, Medicaid would realize a cost savings of \$6,774.65 per day. In FY 89, this long stay acute care hospital unit used 7,299 Medicaid days which were reimbursed at an established per diem rate of \$307. In addition, this unit receives a disproportionate share, estimated to be \$133 per day. Estimated per diem for FY 91 is \$327.21.

The formula used to estimate these savings is the average number of recipients in the long stay acute care hospital unit multiplied by days per year multiplied by established per diem rate multiplied by estimated percentage of recipients whose care could be provided in a less intense setting for a total estimated yearly savings. In this example, the equation is 37 recipients multiplied by 365 days per year multiplied by \$327 per day multiplied by 75 percent for a total of \$3,312,101.25 (\$1,656,051 NGF; \$1,656,050 GF) estimated savings per year. It should be noted that these figures are estimates only and are based on previous reimbursement and occupancy rates.

Because long stay acute care hospitals will make every effort to keep beds occupied, DMAS may not recognize this overall total savings. Once DMAS has implemented criteria for admission and continued stay at the long stay acute care hospital level of care, the cost savings realized by DMAS will be recognized by payment being made for the appropriate level of care that an individual may need.

No additional FTEs will be required for utilization review or preadmission authorization. DMAS is developing a tracking system to monitor the flow of information from the initial provider request for the authorization admission to routine utilization review.

9. **RECOMMENDATION:** Recommend approval of this request to take an emergency adoption action to become effective upon its adoption and filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the regulatory authority to implement admission criteria and a process for preadmission authorization.

10. Approval Sought for VR 460-02-3.1300 and 460-04-8.10.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14.4.1(C)(5) to adopt the following regulation:

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

The following is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality:

§ 1.0 Institutional care will be provided by facilities qualified to participate in Title XVIII and/or Title XIX.

§ 2.0 Utilization Control

A. General Acute Care Hospitals

1. The Commonwealth of Virginia is required by State law to take affirmative action on all hospital stays that approach 15 days. It is a requirement that the hospitals submit to the Department of Medical Assistance Services complete information on all hospital stays where there is a need to exceed 15 days. The various documents which are submitted are reviewed by professional program staff, including a physician who determines if additional hospitalization is indicated. This review not only serves as a mechanism for approving additional days, but allows physicians on the Department of Medical Assistance Services' staff to evaluate patient documents and give the Program an insight into the quality of care by individual patient. In addition, hospital representatives of the Medical Assistance Program visit hospitals, review the minutes of the Utilization Review Committee, and discuss patient care, and discharge planning.

2. In each case for which payment for inpatient hospital services or inpatient mental hospital services is made under the State Plan:

a. A physician must certify at the time of admission, or if later, the time the individual applies for medical assistance under the State Plan that the individual requires inpatient hospital or mental hospital care.

b. The physician, or a physician assistant under the supervision of a physician, must recertify, at least every 60 days, that patients continue to require inpatient hospital or mental hospital care.

c. Such services were furnished under a plan established and periodically reviewed and evaluated by a physician for inpatient hospital or mental hospital services.

B. Long Stay Acute Care Hospitals. (Non-mental Hospitals)

1. Services for adults in Long Stay Acute Care Hospitals. The population to be served includes individuals requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, comprehensive rehabilitative therapy services, or individuals with communicable diseases requiring universal or respiratory precautions.

a. Admission criteria for long-stay acute care hospital stays require that the hospital submit a completed LTC Assessment Process Instrument (DMAS-95), a physician certification of the need for long-stay acute care hospital placement, and any additional information that justifies the need for intensive services. Prior authorization shall be required by submission of the DMAS-95. Physician certification must accompany the request. Periods of care not authorized by the Department of Medical Assistance Services (DMAS) shall not be approved for payment.

b. These individuals must have long term health conditions requiring close medical supervision, the need for 24-hour licensed nursing care, AND the need for specialized services or equipment needs.

c. At a minimum, these individuals must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit 24 hours a day on which the resident resides), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the individual must meet at least one of the following requirements:

(1) Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services. Individuals meeting this requirement must be provided with therapy at a minimum of 4 therapy sessions

(minimum of 30 minutes per session) per day, 5 days per week; individuals must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

(3) The individual must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(c) Dialysis treatment that is provided on-unit (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body); or

(f) Ongoing management of multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.)

e. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the individuals' medical records as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

f. When the individual no longer meets long stay acute care hospital criteria or requires services that the facility is unable to provide, then the individual must be discharged.

2. Services to Pediatric/Adolescent Patients in Long Stay Acute Care Hospitals. The population to be served shall include children requiring mechanical ventilation, ongoing intravenous medication or nutrition administration, daily dependence on device-based

Emergency Regulations

respiratory or nutritional support (tracheostomy, gastrostomy, etc.), comprehensive rehabilitative therapy services, and those children having communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.), and with terminal illnesses.

a. Long-stay acute care hospital stays shall be preauthorized by the submission of a completed LTC Assessment Process Instrument (DMAS-95), a physician certification of the need for long-stay acute care, and any additional information that justifies the need for intensive services. Periods of care not authorized by DMAS shall not be approved for payment.

b. The child must have ongoing health conditions requiring close medical supervision, the need for 24-hour licensed nursing supervision, AND the need for specialized services or equipment. The recipient must be age 21 or under.

c. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit 24 hours a day on which the child is residing), and a coordinated multidisciplinary team approach to meet needs.

d. In addition, the child must meet one of the following requirements:

(1) Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services. Children meeting this requirement must be provided with therapy at a minimum of 6 therapy sessions (minimum of 15 minutes per session) per day, 5 days per week; children must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

(2) Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

(3) Must require at least one of the following special services:

(a) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(b) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation

for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(c) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(d) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(e) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second or third degree burns covering more than 10% of the body);

(f) Ostomy care requiring services by a licensed nurse;

(g) Services required for terminal care.

e. In addition, the nursing facility must provide for the educational and habilitative needs of the child. These services must be age-appropriate and appropriate to the child's cognitive level. Services must also be individualized to meet the child's specific needs and must be provided in an organized manner that encourages the child's participation. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. The services must be provided for a minimum of 2 hours per day.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long-stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Nursing Homes Facilities

~~(Skilled and Intermediate Care Facility)~~

1. As required by Federal law, the Department of Medical Assistance Services visits every Medicaid patient that is residing in a nursing home in Virginia. The purpose of the visit is to conduct a complete medical and social evaluation of the patient. The visit also includes patient interviews and discussions with the professional staff and the attending physician. Thus, it is assured that quality care is rendered to these recipients and that the patient is receiving the

proper level of care.

2. Long term care of patients in medical institutions will be provided in accordance with procedures and practices that are based on the patient's medical and social needs and requirements.

3. In each case for which payment for skilled nursing facility services or intermediate care facility services is made under the State Plan:

a. A physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician, must certify at the time of admission or, if later, the time the individual applies for medical assistance under the State Plan that the individual requires the skilled or intermediate nursing facility level of care. The Nursing Home Pre-Admission Screening shall serve as the admission or initial certification for intermediate or skilled nursing home care if the date of the screening occurred within 30 days prior to the admission;

VR 460-04-8.10. Regulations for Long Stay Acute Care Hospitals (Non-Mental Hospitals).

§ 1. Scope.

A. Medicaid shall cover long stay acute care hospital services as specified in § 2 provided by hospitals certified as long stay acute care hospitals and which have provider agreements with the Department of Medical Assistance Services.

B. Long stay acute care hospital services shall mean a freestanding hospital unit or unit of a hospital certified to provide a medically directed, interdisciplinary program of intensive services including licensed nursing, medical and rehabilitative services and specialized equipment needs as defined in § 3.

§ 2. Authorization for Services.

Long stay acute care hospital stays shall be preauthorized by the submission of a completed LTC Assessment Process Instrument (DMAS-95), a physician certification of the need for long stay acute care hospital placement, and any additional information that justifies the need for intensive services. Prior authorization shall be required by submission of the DMAS-95. Physician certification must accompany the request. Periods of care not authorized by the Department of Medical Assistance Services shall not be approved for payment.

§ 3. Criteria for Long Stay Acute Care Hospital Stays.

A. Adult Long Stay Acute Care Hospital Criteria:

1. The resident must have long-term health conditions requiring close medical supervision, 24-hour licensed

nursing care, AND specialized services or equipment needs. The population to be served includes individuals requiring mechanical ventilation, individuals with communicable diseases requiring universal or respiratory precautions, individuals requiring ongoing intravenous medication or nutrition administration, and individuals requiring comprehensive rehabilitative therapy services.

2. At a minimum, the individual must require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is the designated unit must be on the nursing unit on which the resident resides, 24 hours a day), and coordinated multidisciplinary team approach to meet needs.

3. In addition, the individual must meet at least one of the following requirements:

a. Must require two out of three of the following rehabilitative services: physical therapy, occupational therapy, speech-pathology services; therapy must be provided at a minimum of 4 therapy sessions (minimum of 30 minutes per session) per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by a licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy; or

c. The individual must require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only);

(3) Dialysis treatment that is provided on unit (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third degree burns covering more than 10% of the body); or

(6) Multiple unstable ostomies (a single ostomy does

Emergency Regulations

not constitute a requirement for special care) requiring frequent care (i.e. suctioning every hour; stabilization of feeding; stabilization of elimination, etc.)

B. Pediatric/Adolescent Patients in Long Stay Acute Care Hospitals Criteria.

1. To be eligible for long stay acute care hospital services, the child must have ongoing health conditions requiring close medical supervision, 24-hour licensed nursing supervision, AND specialized services or equipment needs. The recipient must be age 21 or under. The population to be served includes children requiring mechanical ventilation, those with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.), those requiring ongoing intravenous medication or nutrition administration, those requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.), those requiring comprehensive rehabilitative therapy services, and those with a terminal illness.

2. The child must minimally require physician visits at least once weekly, licensed nursing services 24 hours a day (a registered nurse whose sole responsibility is that nursing unit must be on the unit on which the child is residing 24 hours a day), and a coordinated multidisciplinary team approach to meet needs.

3. In addition, the child must meet one of the following requirements:

a. Must require two out of three of the following physical rehabilitative services: physical therapy, occupational therapy, speech-pathology services; therapy must be provided at a minimum of 6 therapy sessions (minimum of 15 minutes per session) per day, 5 days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or

b. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc; or

c. Must require at least one of the following special services:

(1) Ongoing administration of intravenous medications or nutrition (i.e. total parenteral nutrition (TPN), antibiotic therapy, narcotic administration, etc.);

(2) Special infection control precautions such as universal or respiratory precaution (this does not include handwashing precautions only or isolation

for normal childhood diseases such as measles, chicken pox, strep throat, etc.);

(3) Dialysis treatment that is provided within the facility (i.e. peritoneal dialysis);

(4) Daily respiratory therapy treatments that must be provided by a licensed nurse or a respiratory therapist;

(5) Extensive wound care requiring debridement, irrigation, packing, etc. more than two times a day (i.e. grade IV decubiti; large surgical wounds that cannot be closed; second- or third degree burns covering more than 10% of the body);

(6) Ostomy care requiring services by a licensed nurse;

(7) Services required for terminal care.

d. In addition, the long stay acute care hospital must provide for the educational and habilitative needs of the child. These services must be age appropriate and appropriate to the child's cognitive level. Services must also be individualized to meet the specific needs of the child and must be provided in an organized manner that encourages the child to participate. Services may include, but are not limited to, school, active treatment for mental retardation, habilitative therapies, social skills, and leisure activities. The services must be provided for a minimum of 2 hours per day.

§ 4. Documentation Requirements.

A. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

B. The long stay acute care hospital shall maintain and retain the business and professional records sufficient to document fully and accurately the nature, scope, and details of the health care provided. Such records shall be retained for a period of not less than five years from the date of service or as provided by applicable State laws, whichever period is longer, except that, if an audit is initiated within the required retention period, the records must be retained until the audit is completed and every exception resolved.

C. The following documentation must be maintained in the resident's medical record:

1. Each record must identify the resident on each page.

2. Entries must be signed and dated (month, day, and year) by the author, followed by professional title. Care rendered by personnel under the supervision of

Emergency Regulations

the provider, which is in accordance with Medicaid policy, must be countersigned by the responsible licensed participating provider.

3. The attending physician must certify at the time of admission that the resident requires long stay acute hospital care and meets the criteria as defined by DMAS.

4. The record must contain a preliminary working diagnosis and the elements of a history and physical examination upon which the diagnosis is based.

5. All services provided, as well as any treatment plan, must be entered in the record. Any drugs prescribed and administered as part of a physician's treatment plan, including the quantities and the dosage, must be recorded.

6. The record must indicate the resident's progress, any change in diagnosis or treatment, and the response to the treatment.

7. Physician progress notes must be written at least weekly and must reflect that the resident has been examined by the physician.

8. A comprehensive nursing assessment must be made by a registered nurse at the time of admission to the facility. Nursing care plans based on an admission assessment must be resident specific and must indicate realistic nursing needs, measurable goals, and specifically state the method by which the goals are to be accomplished. They must be updated as needed, but at least monthly. Nursing summaries, in addition to the p.r.n. (as needed) notes, are required weekly. Nursing summaries must give a current, written picture of the resident, the resident's nursing needs, the care being provided, and the resident's response to treatment. The nursing summary at a minimum must address the following: medical status; functional status in activities of daily living, elimination, mobility, and emotional/mental status; special nursing procedures; and identification and resolution of acute illnesses or episodes.

9. Social services documentation must include a social evaluation and history and a social services plan of care including a discharge plan. The social work plans of care must be resident specific and include measurable goals with realistic time frames. Social work plans of care must be updated as needed and at least monthly. Social services progress notes must be written at least monthly.

10. Activities documentation must be based on a comprehensive assessment completed by the designated activity coordinator. An activity plan of care must be developed for each resident and must include consideration of the individual's interests and skills, the physician's recommendations, social and

rehabilitation goals, and personal care requirements. Individual and group activities must be included in the plan. The activity plan of care must be updated as needed but at least every month. Activity progress notes must be written at least monthly.

11. Rehabilitative therapy (physical and occupational therapy or speech-language services) or other health care professional (psychologist, respiratory therapist, etc.) documentation must include an assessment completed by the qualified rehabilitation professional. A plan of care developed specific to the resident must be developed and must include measurable goals with realistic time frames. The plan of care must be updated as needed but at least monthly. Rehabilitative therapy or other health care professional progress notes must be written at least monthly.

12. Each resident's record must contain a dietary evaluation and plan of care completed by a registered dietician. The plan of care must be resident specific and must have measurable goals within realistic time frames. The plan of care must be updated as needed, but at least monthly. The dietary assessment and monthly plans of care must be completed by a registered dietician. Dietary progress notes must be written at least monthly.

13. A coordinated interdisciplinary plan of care must be developed for each resident. The plan of care must be resident specific and must contain measurable goals within realistic time frames. Based on the physician's plan of care, the interdisciplinary team should include, but is not necessarily limited to, nurses, social workers, activities coordinators, dietitians, rehabilitative therapists, direct care staff, and the resident and/or responsible party. At a minimum, the interdisciplinary team must review and update the interdisciplinary plan of care as needed but at least monthly. The interdisciplinary plan of care review must identify those attending the meeting, changes in goals and approaches, and progress made toward meeting established goals and discharge.

14. For residents age 21 and younger, the record must contain documentation that educational or habilitative services are provided as required. The documentation shall include an evaluation of the resident's educational and/or habilitative needs, a description of the educational and/or habilitative services provided, a schedule of planned programs, and records of resident attendance. Educational or habilitative progress notes shall be written at least every 30 days.

§ 5. Long Stay Acute Care Hospital Services. All services must be provided by appropriately qualified personnel. The following services are covered long stay acute care hospital services:

A. Physician services:

Emergency Regulations

1. Physician services shall be performed by a professional who is licensed to practice in the Commonwealth, who is acting within the scope of his or her license, and who is a doctor of medicine or osteopathy, a doctor of dental surgery or dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor.

2. An attending physician means a physician who is a doctor of medicine or osteopathy and is identified by the individual as having the most significant role in the determination and delivery of the individual's medical care.

B. Licensed nursing services:

1. Must be provided 24 hours a day (a registered nurse, whose sole responsibility is the designated unit on which the resident resides, must be on the unit 24 hours a day).

2. Nursing services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by a registered nurse or licensed professional nurse, or nursing assistant under the direct supervision of a registered nurse who is experienced in providing the specialized care required by the resident.

C. Rehabilitative services:

1. Rehabilitative services shall be directly and specifically related to written plan of care designed by a physician after any needed consultation with the rehabilitation professional.

2. Physical therapy services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by a physical therapist licensed by the Board of Medicine, or a physical therapy assistant who is licensed by the Board of Medicine and under the direct supervision of a physical therapist licensed by the Board of Medicine.

3. Occupational therapy services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined.

4. Speech-language services shall be of a level of complexity and sophistication, or the condition of the resident shall be of a nature that the services can only be performed by a speech-language pathologist

licensed by the Board of Audiology and Speech Pathology.

D. Ancillary services shall be provided directly and specifically related to a plan of care designed by the physician. The ancillary services may include but are not limited to dietary, respiratory therapy services, and psychological services.

1. Dietary services must be of level of complexity or sophistication, or the nature of the resident shall be of a nature that the services can only be performed or supervised by a dietician, registered with the American Dietetic Association.

2. Respiratory therapy services must be of a level of complexity and sophistication, or the nature of the resident shall be of a nature that the services can only be performed by a respiratory therapist. Respiratory therapy services must be provided by a respiratory therapist registered with the National Board for Respiratory Care. If the facility agrees to provide care to a resident who is dependent on mechanical assistance for respiration (positive or negative pressure mechanical ventilators), respiratory therapy services must be available 24 hours daily. If the facility contracts for respiratory therapy services, a respiratory therapist must be on call 24 hours daily and available to the facility in a timely manner.

3. Psychology services shall be of a level of complexity or sophistication, or the condition shall be of a nature that the services can only be performed by a psychologist licensed by the Board of Medicine.

4. Activity programs under the supervision of designated activities coordinators: The program of activities must include both individual and group activities which are based on consideration of interest, skills, physical and mental status, and personal care requirements.

5. Provide social services to each resident in an effort to assist the resident, his family and the nursing facility staff in understanding the significant social and emotional factors related to the health problems, to assist with appropriate utilization of community resources and to coordinate discharge plans. Social services must be provided by a social worker with at least a bachelor's degree in social work or similar qualifications.

§ 6. Long Stay Acute Care Hospital Requirements.

A. A coordinated multidisciplinary team approach shall be implemented to meet the needs of the resident. Based on the physician's plan of care, the interdisciplinary team should include, but is not necessarily limited to, nurses, social workers, activity coordinators, dietitians, rehabilitative therapists, and any direct care staff.

Emergency Regulations

B. The long stay acute care hospital shall provide for the educational and habilitative needs of residents age 21 or younger. These services must be age appropriate and appropriate to the cognitive level of the child. Services must be individualized to meet the specific needs of the child and must be provided in an organized manner which encourages the child to participate. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. These services must be provided for a minimum of 2 hours per day.

C. The long stay acute care hospital shall provide an acceptable plan for assuring that residents requiring long stay acute hospital care are afforded the same opportunity for participating in integrated facility activities as the other facility residents.

D. Non-emergency transportation shall be provided so that residents may participate in community activities sponsored by the facility or community activities in which the facility is providing transportation for other facility residents.

E. The long stay acute care hospital shall coordinate discharge planning for the resident utilizing all available resources in an effort to assist the resident to maximize his or her potential for independence and self-sufficiency and to assure that services are being provided by the most effective level of care.

F. The long stay acute care hospital shall provide family or caregiver training in the skills necessary for the care of the resident in the community, should the resident or the resident's caregiver so desire.

G. The long stay acute care hospital shall provide all necessary durable medical equipment to sustain life or monitor vital signs and to carry out a plan of care designed by the physician. This equipment may include but is not limited to mechanical ventilator, apnea monitor, etc.

H. Provide Utilization Review activities as follows:

1. Purpose. The objective of the utilization review mechanism is the maintenance of high quality patient care and the most efficient utilization of resources through an educational approach involving the study of patient care as well as to ensure that inpatient care is provided only when medically necessary and that the care meets quality standards.

a. In addition to the certification and recertification by the patient's physician, the hospital shall have a utilization review plan which provides for review of all Medicaid patient stays and medical care evaluation studies of admissions, durations of stay, and professional services rendered.

b. Effective utilization review shall be maintained on

a continuing basis to ensure the medical necessity of the services for which the Program pays and to promote the most efficient use of available health facilities and services.

2. The Department of Medical Assistance Services delegates to the local facilities' utilization review departments the utilization review of inpatient hospital services for all Medicaid admissions. The hospital must have a utilization review plan reflecting 100 percent review of Medicaid patients, approved by the Division of Licensure and Certification, Department of Health, and DMAS or the appropriate licensing agency in the state in which the institution is licensed.

3. The hospital utilization review coordinator shall approve the medical necessity, based on admission criteria approved by the utilization review committee, within one working day of admission. In the event of an intervening Saturday, Sunday, or holiday, a review must be performed the next working day. This review shall be reflected in the hospital utilization review plan and the patient's record.

4. If the admission is determined medically necessary, an initial stay review date must be assigned and reflected on the utilization review sheets. Continued or extended stay review must be assigned prior to or on the date assigned for the initial stay. If the facility's utilization review committee has reason to believe that an inpatient admission was not medically necessary, it may review the admission at any time. However, the decision of a utilization review committee in one facility shall not be binding upon the utilization review committee in another facility.

5. If the admission or continued stay is found to be medically unnecessary, the attending physician shall be notified and be allowed to present additional information. If the hospital physician advisor still finds the admission or continued stay unnecessary, a notice of adverse decision must be made within one working day after the admission or continued stay is denied. Copies of this decision must be sent by the utilization review committee's designated agent to the hospital administrator, attending physician, recipient or recipient's authorized representative, and Medicaid.

6. As part of the utilization review plan, long stay acute care hospitals shall have one medical or patient care evaluation study in process and one completed each calendar year. Medical care evaluation studies must contain the elements mandated by 42 Code of Federal Regulations 456.141 through 456.145. The elements are objectives of study, results of the study, evaluation of the results, and action plan or recommendations as indicated by study results.

7. The Department of Medical Assistance Services shall monitor the length of stay for inpatient hospital stays. The guidelines used shall be based on the

Emergency Regulations

criteria described in Section 3 of these regulations. If the stay or any portion of the stay is found to be medically unnecessary, contrary to Program requirements, or if the required documentation has not been received, reimbursement will not be made by Medicaid.

8. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

I. The long stay acute care hospital shall provide all medical supplies necessary to provide care as directed by the physician's plan of care for the resident. These supplies may include but are not limited to suction catheters, tracheostomy care supplies, oxygen, etc.

J. The long stay acute care hospital shall provide all nutritional elements including those that must be administered intravenously. This includes providing all necessary equipment or supplies necessary to administer the nutrients.

K. The long stay acute care hospital shall submit all necessary health care and medical social service information on the resident to DMAS for preadmission authorization. The provider cannot bill DMAS for services that have not been pre-authorized.

* * * * *

Title of Regulation: State Plan for Medical Assistance Relating to Nursing Home Cost Savings Initiatives.
VR 460-03-3.1100. Amount, Duration and Scope of Services.
VR 460-03-4.1940. Nursing Home Payment System.

Statutory Authority: § 32.1-325 of the Code of Virginia.
Effective Dates: August 2, 1990 through August 1, 1991.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Nursing Homes Cost Savings Initiatives which will reduce expenditures by this agency for specific nursing home reimbursement policies.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding Nursing Homes Cost Savings Initiatives. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: July 13, 1990

3. **CONCURRENCES:**

Concur
/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: July 27, 1990

4. **GOVERNOR'S ACTION:**

Approve
/s/ Lawrence Douglas Wilder
Governor
Date: August 2, 1990

5. **FILED WITH:**

/s/ Joan W. Smith
Registrar of Regulations
Date: August 2, 1990

DISCUSSION

6. **BACKGROUND:** The Board of Medical Assistance Services (DMAS), in response to the Administration's directive to identify potential cost savings initiatives, directed the Department of Medical Assistance Services (DMAS) to implement the following three cost saving initiatives in the area of nursing facility reimbursement: elimination of cost reimbursement to nursing facilities' licensed in-house pharmacies; inclusion of occupational and speech therapy services in the prospective rate; limitations on the cost for management services. This decision brief discusses these issues in this order.

ELIMINATION FOR COST REIMBURSEMENT TO NF LICENSED IN-HOUSE PHARMACIES

This proposed change would eliminate cost reimbursement for pharmacy services provided by nursing facilities which operate licensed in-house pharmacies. Effective August 1, 1990, this proposed change would require licensed in-house pharmacies in nursing facilities to submit bills and receive payment for pharmacy services the same as free-standing pharmacies. This proposed change would provide DMAS a consistent basis and policy for reimbursing pharmacy services provided to Medicaid recipients in all nursing facilities by using the effective computerized claims processing system edits.

ELIMINATION OF OCCUPATIONAL AND SPEECH THERAPY PAYMENTS TO REHABILITATION AGENCIES

This proposed change provides for the elimination of direct payment to enrolled rehabilitation agencies for occupational and speech therapy services provided to Medicaid recipients in nursing facilities effective August 1, 1990. When the nursing facility operating cost ceilings were established in 1982, occupational and speech therapy costs were considered as part of these ceilings. Subsequently, nursing facility providers contracted with Medicaid enrolled rehabilitation agencies to provide these services and bill DMAS

Emergency Regulations

directly for payment. This resulted in increased costs to DMAS.

Effective August 1, 1990, nursing facilities contracting with rehabilitation agencies for occupational and speech therapy services shall report these costs in their cost reports. These costs as well as all other costs shall be subject to the conditions and limitations of the Nursing Home Prospective Payment System.

LIMITATIONS ON MANAGEMENT SERVICES EXPENSES

This proposed change provides for the establishment of a ceiling limitation for management services costs to be claimed by nursing facilities. Currently, management services are not constrained except for the total operating cost ceiling. Effective August 1, 1990, the ceiling limitation shall be a median per diem cost of all management services costs claimed by the nursing facilities. Management services costs in excess of the median per diem cost limitation will not be recognized by DMAS after that date.

7. AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of DMAS the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Board directed the Department, on May 17, 1990, to implement these cost savings initiatives in the nursing facility payment system at the earliest possible date. The Code also provides, in the Administrative Process Act (APA) § 9-6.14:9, for this agency's adoption of emergency regulations subject to the Governor's approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, the Code requires this agency to initiate the public notice and comment process as contained in Article 2 of the APA.

Without an emergency regulation, the accompanying State Plan amendment cannot become effective until the publication and concurrent comment and review period requirements of APA's Article 2 are met. Therefore, an emergency regulation is needed for the earliest possible effective date consistent with the DMAS direction.

Title 42 of the Code of Federal Regulations Part 447 Subpart C "implements § 1902(a)(13)(A) of the Social Security Act which requires that the State Plan provide for payment for hospital and long-term care facility services through the use of rates that the state finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities to provide services in conformity with state and federal laws, regulations, and quality and safety standards."

8. FISCAL/BUDGETARY IMPACT: The fiscal impact of these 3 issues will be discussed in the order established in the Background section of this Brief.

ELIMINATION OF COST REIMBURSEMENT TO NF LICENSED IN-HOUSE PHARMACIES

This change in pharmacy reimbursement affects twenty-six (26) hospitals which operate fourteen (14) intermediate care facilities and twenty (20) skilled nursing facilities in the Commonwealth. Four (4) freestanding nursing facilities are also affected. The estimated decrease in annual aggregate expenditures FY 91 is approximately \$300,000 (\$150,000 NGF; \$150,000 GF) total dollars.

ELIMINATION OF OCCUPATIONAL AND SPEECH THERAPY PAYMENTS TO REHABILITATION AGENCIES

The estimated decrease in annual aggregate expenditures is approximately \$800,000 (\$400,000 NGF; \$400,000 GF) in total dollars for FY 91 for the affected 54 rehabilitation agencies.

LIMITATIONS ON MANAGEMENT SERVICES EXPENSES

This proposed change affects approximately thirty (30) nursing facilities with existing management contracts. The estimated decrease in annual aggregate expenditures is approximately \$600,000 (\$300,000 NGF; \$300,000 GF) in total dollars for FY 91.

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective upon its filing with the Registrar of Regulations. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to implement these cost savings initiatives in its nursing facility payment methodology.

10. APPROVAL SOUGHT FOR VR 460-03-4.194.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14.4.1(C)(5) to adopt the following regulation:

VR 460-03-3.1100. Narrative for the Amount, Duration and Scope of Services.

D. The State Agency may place appropriate limits on a service based on medical necessity and/or for utilization control. Examples of service limitations are: examinations, prophylaxis, fluoride treatment (once/six months); space maintenance appliances; bitewing x-ray - two films (once/twelve months); routine amalgam and composite

Emergency Regulations

restorations (once/three years); dentures (once per 5 years); extractions, orthodontics, tooth guidance appliances, permanent crowns and bridges, endodontics, patient education and sealants (once).

E. Limited oral surgery procedures, as defined and covered under Title XVIII (Medicare), are covered for all recipients, and also require preauthorization by the State Agency.

11. Physical therapy and related services.

11a. Physical therapy.

A. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy services rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.

11b. Occupational therapy.

A. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. *Effective August 1, 1990, the Program will not provide direct reimbursement to enrolled providers for occupational therapy rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing homes' operating cost.*

11c. Services for individuals with speech, hearing, and language disorders (Provided by or under the supervision of a speech pathologist or audiologist; see Page 1, General and Page 12, Physical Therapy and Related Services.)

A. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, skilled nursing home service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.

B. *Effective August 1, 1990, the Program will not provide direct reimbursement to enrolled providers for speech therapy rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing*

homes' operating cost.

12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist.

12a. Prescribed drugs.

A. Non-legend drugs except insulin, syringes, needles, and diabetic test strips for clients under 21 years of age, and family planning supplies are not covered by Medicaid. This limitation does not apply to Medicaid recipients who are in skilled and intermediate care facilities.

B. Legend drugs, with the exception of anorexant drugs prescribed for weight loss and transdermal drug delivery systems, are covered. Coverage of anorexants for other than weight loss requires preauthorization.

C. The Program will not provide reimbursement for drugs determined by the Food and Drug Administration (FDA) to lack substantial evidence of effectiveness.

D. Notwithstanding the provisions of § 32.1-87 of the Code of Virginia (1950), as amended, prescriptions for Medicaid recipients for specific multiple source drugs shall be filled with generic drug products listed in the Virginia Voluntary Formulary unless the physician or other practitioners so licensed and certified to prescribe drugs certifies in his/her own handwriting "brand necessary" for the prescription to be dispensed as written.

12b. Dentures.

A. Provided only as a result of EPSDT and subject to medical necessity and preauthorization requirements specified under Dental Services.

VR 460-03-4.1940. Nursing Home Payment System.

3. Routine service costs for skilled care include the same items as intermediate care. However, lab, x-ray, and other ancillaries may be provided by the facility and are thereby covered ancillaries and includable in the cost report.

4. *Effective August 1, 1990, cost reimbursement for pharmacy services, legend and non-legend drugs provided by intermediate and skilled nursing homes which operate licensed in-house pharmacies shall be eliminated. These services shall be billed and payment made directly by the DMAS in accordance with § (f) of Attachment 4.19B of the Commonwealth's State Plan for Medical Assistance.*

C. Allowances/Goodwill. Bad debts, goodwill, charity, and courtesy allowances are not recognized as an allowable expense.

§ 2.10. Purchases/Related Organizations.

Emergency Regulations

A. Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization, provided that such costs do not exceed the price of comparable service.

Effective August 1, 1990, allowable costs applicable to management services furnished to the provider by organizations related to the provider by common ownership or control shall be lesser of the cost to the related organization or the per patient day ceiling limitation established for management services cost. (See Appendix III).

B. Related to the provider means that the provider is related by reasons of common ownership or control by the organization furnishing the services, facilities, or supplies.

C. Common ownership exists when an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider. Control exists where an individual or an organization has the power, directly or indirectly, to influence or direct the actions or policies of an organization or institution.

D. Exception to the Related Organization Principle. Effective with cost reports having fiscal years beginning on or after July 1, 1986 an exception to the related organization principle will be allowed. Under this exception, charges by a related organization to a provider for goods or services are allowable cost to the provider if all four of the conditions set out below are met.

VR 460-03-4.1943.

(2.) Membership fees will be allowed for the administrator, owner, and home office personnel in health care organizations.

(3.) Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

c. Management Fees.

(1.) External management services must be needed, cost effective, and non-duplicative of existing facility services.

(2.) Costs to the provider, based upon a percentage of net and/or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. In addition, management fees must be reasonable and based upon rates related to services provided.

(3.) Management fees paid to a related party may

be recognized by the Program as the owner's compensation and may be subject to administrator salary guidelines.

(4.) A management fees service agreement exists when the contractor provides non-duplicative personnel, equipment, services, and supervision.

(5.) A consulting service agreement exists when the contractor provides non-duplicative supervisory or management services only.

(6.) Limits will be based upon comparisons with other similar size facilities and/or other Program guidelines and information.

Effective for all providers cost reporting periods ending on or after August 1, 1990, a per patient day ceiling for all full service management service costs shall be established. The ceiling limitation for cost reporting periods ending on or after July 3, 1990, through December 31, 1990, shall be the median per patient day cost as determined from information contained in the most recent cost reports for all providers with fiscal years ending through December 31, 1989. These limits will be adjusted annually by a Consumer Price Index effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, JULY 25, 1990

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE900044

Ex Parte; In re: Investigation
into the promulgation of filing
requirements for independent power
producers

ORDER DIRECTING NOTICE AND INVITING COMMENT

Independent power production is emerging as a significant resource for meeting electric utilities' capacity needs. An independent power producer ("IPP") does not qualify for the exemptions currently available to cogeneration and small power production facilities as defined by the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. Section 2601 et seq. (1978) ("PURPA") and the Federal Energy Regulatory Commission ("FERC") regulations. Therefore, it is subject to regulation as a public utility. Although the regulation of an IPP's rates and service are governed by the FERC, under Part II, Sections 205, 206 and 207 of the Federal Power Act (16 U.S.C. Sections 824D-F), the permitting or certification of power plants is left to the jurisdiction of the states.

In Virginia, electric utilities subject to our certificate jurisdiction must receive approval of expenditures for construction of plants that are 100 megawatts ("MW") or larger pursuant to Virginia Code § 56-234.3. In addition, utilities must receive a certificate of public convenience and necessity authorizing construction of any facilities to be used in public utility service, except ordinary extensions in the usual course of business within the territory in which the utility is lawfully authorized to operate. Virginia Code § 56-265.2. We have applied both statutes to the construction of an electric generating plant owned by an independent power producer. Opinion and Final Order, Application of Doswell Limited Partnership for a certificate of public convenience and necessity and, if applicable for approval of expenditures for new generating facilities, Case No. PUE890068, February 13, 1990. Therein, Doswell Limited Partnership, an IPP, applied for a certificate of public convenience and necessity and, if necessary, for approval of expenditures pursuant to Va. Code § 56-234.3 for its proposed 650 MW gas-fired combined-cycle generating facility in Hanover County, Virginia. In the Order approving that project, we noted that Doswell had no certificated service territory and sought none. We also recognized that Doswell had no service obligation to Virginia customers and that its generating output would be sold exclusively to a certificated Virginia electric utility. The Commission therefore determined that an IPP application must be

analyzed in terms of the certificated utility's obligation to provide reliable service to its customers at just and reasonable rates. The findings necessary under both Code §§ 56-265.2 and 56-234.3 therefore were established by evidence of need, cost, reliability and preferable alternatives in relation to the certificated utility. In the Doswell case, we used the criteria established in Application of Virginia Electric and Power Company, 1987 S.C.C. Ann. Rep. 262, as a starting point in evaluating the IPP application:

Several factors must be demonstrated to the satisfaction of the Commission before it can properly approve any new construction. Among these factors are that the utility will have a need for additional power within the time frame contemplated; that its cost estimates, choice of technology, construction plans and proposed manner of carrying out the plan are reasonable; and that there are no suitable alternatives to the proposed construction such as conservation and load management, upgrading existing units, or obtaining the necessary power from resources other than the utility's own facilities. *Id.* at 262.

The above criteria did not fully address an IPP project. Therefore, we also determined that it was necessary to examine the technical and financial viability of the IPP and its proposed project.

Shortly before the final order was issued in the Doswell case, on February 1, 1990, a second IPP, Commonwealth Atlantic Limited Partnership ("Commonwealth Atlantic") filed its Application requesting Commission approval of its proposed 240 MW simple-cycle generating plant to be located in the City of Chesapeake, Virginia. We issued our Order approving that project on June 12, 1990. There are no other pending IPP cases before us; however, with the development of competitive solicitations and the emergence of IPPs in Virginia, it is important to consider and formulate the standards and requirements which should be imposed upon IPPs as new participants in the electric industry. This need is highlighted by Virginia Electric and Power Company's last solicitation which resulted in approximately forty percent of its bids being submitted by IPPs. Standards will not only assist the Commission in our determination of whether to grant a certificate of public convenience and necessity and approve a proposed project, but will also provide IPPs and utilities an outline of the requisite information that must be included in an IPP certificate request.

After adjudication of the merits of Doswell's and Commonwealth Atlantic's certificate requests, we directed our Staff to develop proposed filing requirements to support an IPP application for certification and approval of expenditures pursuant to Virginia Code § 56-234.3.

Those proposed filing requirements are attached hereto as Appendix A. The required information is divided into two sections. First, certain information would be provided primarily by the IPP applicant. That information includes

identification of the applicant and its organizational structure; information about the site of the proposed facility including location, status of site acquisition and a description of applicable local zoning or land use approvals needed; a description of the proposed project including relevant design features, estimated costs and schedule for engineering, construction, testing and commercialization; preliminary construction plans; fuel procurement strategy; expected financing; financial information about the applicant and the project; and information related to other regulatory approvals.

Additional information, identified in the second section, would be primarily provided by the purchasing utility. It relates largely to: need; cost/benefit analyses of supply alternatives; sensitivity and risk analyses of major assumptions on demand and supply side considerations; a demonstration that the proposed generation facility and the utility's resource plans are reasonably calculated to promote the maximum efficient conservation and use of energy and capital; and a description of all utility procedures which will be followed to assure the financial and technical viability of the proposed project.

We recognize that our consideration of IPPs will necessarily be an evolving process. We therefore will most likely continue to refine our review of issues presented in proceedings initiated by IPPs. It is, however, reasonable to develop appropriate filing requirements to provide a foundation for our review.

NOW THE COMMISSION finds that notice of the proposed filing requirements should be made and that interested persons should be provided an opportunity to comment and to request a hearing. If any requests for hearing are received after such publication, the Commission will issue a subsequent order addressing these requests. In the absence of a request for hearing, the Commission may decide to act after considering all written comments. Accordingly;

IT IS ORDERED:

(1) That on or before August 31, 1990, the Commission's Division of Energy Regulation shall cause a copy of the following notice to be published once a week for two consecutive weeks in newspapers having general circulation throughout the Commonwealth:

NOTICE OF THE CONSIDERATION BY THE VIRGINIA STATE CORPORATION COMMISSION OF PROPOSED FILING REQUIREMENTS FOR INDEPENDENT POWER PRODUCTION FACILITIES - CASE NO. PUE900044

On July 25, 1990, the State Corporation Commission initiated an investigation into the promulgation of filing requirements for independent power producers. Two cases have already been before the Commission in which independent power producers have sought a certificate of public convenience and necessity and approval of

expenditures for electric generating plants. Moreover, with the development of competitive solicitations and the emergence of IPPs in Virginia as a source for electric utilities to meet future capacity needs, the Commission has determined it is important to consider and formulate filing requirements which should be imposed upon IPPs.

The Commission therefore directed its Staff to develop proposed filing requirements. Those proposed requirements are now available for public comment. Certain information would be provided primarily by the IPP applicant including: an identification of applicant; its proposed organizational structure; information about the site of the proposed facility including location, status of site acquisition and a description of applicable local zoning or land-use approvals needed; a description of the proposed project including relevant design features, estimated costs, and schedules for engineering, construction, testing and commercialization; preliminary construction plans; fuel procurement strategy; expected financing; financial information about the application and the project; and information related to other regulatory approvals.

Additional information would be provided by the purchasing utility. Such information would relate primarily to need; cost/benefit analyses of supply alternatives; sensitivity and risk analyses run for major assumptions on demand and supply side consideration; a demonstration that the proposed generation facility and the utility's resource plans are reasonably calculated to promote the maximum efficient conservation and use of energy and capital; and a description of all utility procedures which will be followed to assure the financial and technical viability of the proposed project.

The text of the proposed filing requirements may be reviewed by the public at the State Corporation Commission's Document Control Center, located on Floor B-1 of the Jefferson Building, Bank and Governor Streets, Richmond, Virginia, from Monday through Friday, during its regular business hours, i.e. 8:15 a.m. to 5:00 p.m. In addition, those requirements may be reviewed at each electric utility's business office where utility bills may be paid.

Any interested person who wishes to submit written comments on the proposed filing requirements or to request a hearing on the proposed standards must file an original and fifteen copies of such comments or requests with George W. Bryant, Jr., Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 no later than September 28, 1990. A copy of those comments or requests for hearing shall be served upon all persons reflected in the attestation paragraph of the Commission's July 25, 1990 Order. If any hearing requests are received, the Commission will issue a subsequent order addressing such request. In the absence of a request for a hearing, the Commission may decide to act after consideration of all written comments.

State Corporation Commission

VIRGINIA STATE CORPORATION COMMISSION DIVISION OF ENERGY REGULATION

(2) That any person may file written comments concerning the proposed filing requirements and may request a hearing thereon, provided an original and fifteen copies of the comments and any requests for oral argument are filed no later than September 28, 1990, with George W. Bryant, Jr., Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 and shall refer to Case No. PUE900044. If any requests for a hearing are received, the Commission will issue a subsequent order addressing such requests. In the absence of a request for a hearing, the Commission may decide to act after consideration of all written comments. A copy of the comments shall be served upon all persons reflected in the attestation paragraph of this order;

(3) That, on or before October 26, 1990, Staff may file further written comments. Those Comments should be served on all parties of record;

(4) That all Virginia investor-owned electric utilities and electric cooperatives subject to the Commission's jurisdiction shall forthwith make available, for public inspection during normal business hours at the respective offices where utility bills may be paid, a copy of this Order complete with the attached appendices; and

(5) That the Division of Energy Regulation shall provide proof of the publication required herein upon its completion.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each investor-owned electric utility company and each electric cooperative, a list of which is attached hereto as Appendix B; Laurence M. Hamric, Esquire, Williams, Mullen and Christian, P.O. Box 1320, Richmond, Virginia 23210; Harrison Welford, Esquire and John L. Sachs, Esquire, Olwine, Connelly, Chase, O'Donnell and Weyner, Suite 1000, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006; and to the Commission's Office of General Counsel and Divisions of Energy Regulation, Public Utility Accounting and Economics and Finance.

Appendix A

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION

INFORMATION REQUIREMENTS IN SUPPORT OF PETITIONS FOR INDEPENDENT POWER FACILITIES

Independent Power Producers (IPPs) planning to construct generating facilities in the Commonwealth of Virginia must apply for a Certificate of Public Convenience and Necessity from the State Corporation Commission, pursuant to Section 56-265.2 of the Code of Virginia and for approval pursuant to Section 56-234.3. The

petition must set forth the nature of the proposed facility and its necessity in relation to the purchasing utility's projected programs of operation. An applicant must notify the Commission of its intent to file a petition at least 30 days prior to filing.

Some of the information described in the following Sections and necessary to support an IPP's application for approval may be considered to be confidential or proprietary by the developer. The Commission recognizes the need for confidential treatment of some although certainly not all data required herein. Therefore, the need for confidential treatment of data should first be carefully scrutinized by the developer before the submitting an application and supporting information. That data deemed to be confidential may be temporarily withheld from the initial filing while a Confidentiality Agreement is being negotiated with the Staff. Upon execution of a Confidentiality Agreement that information should then be provided directly to Staff. The application, however, will not be processed as complete until the Confidentiality Agreement is executed and the confidential information and data is provided to the Staff.

The petition shall present the information specified in the following Sections:

Section I - General Information, Generating Facility Information and Documents to be Included in the Petition

The information in Section I should be provided primarily by the IPP applicant.

Section II - Demonstration of the Need, Viability, and Cost Effectiveness of the Project

The information in Section II should be provided primarily by the purchasing utility.

Any modifications to these information requirements will be determined by the Commission on a case by case basis. Applicants should update the materials filed during the course of their proceedings.

SECTION I - GENERAL INFORMATION, GENERATING FACILITY INFORMATION AND DOCUMENTS TO BE INCLUDED IN THE PETITION

The information in this section should be provided primarily by the IPP applicant.

- A. Applicant's name and address.
- B. Name, title and address of the person authorized to receive communication regarding the petition.
- C. Prefiled testimony in support of application.
- D. A discussion of the Applicant's qualifications, including:

1. A summary of other projects developed and owned by the applicant. Include location, status, and operational history.

2. A detailed description of the organizational structure of the applicant.

3. A description of any affiliation(s) with the purchasing utility.

E. Specific information about the site for the proposed facility, including:

1. The location and county in which the facility will be constructed.

2. A description of the site, and a depiction on topographic maps of the applicable information.

3. The status of site acquisition (ie., purchase option, ownership, etc.).

4. A description of any applicable local zoning or land use approvals needed and the status of these approvals.

F. A summary of the proposed project, including relevant design features, estimated costs and the schedule for engineering, construction, testing and commercialization.

G. Specific information about the proposed facility, including:

1. Description of all major systems and expected suppliers of major components.

2. Nameplate capacity, gross dependable capacity and net dependable capacity for generating unit.

3. Division of ownership, if applicable.

4. Projected plant life, heat rates, equivalent availability and capacity factors.

H. Preliminary construction plans including:

1. The names and addresses of the architects, engineers, contractors, subcontractors, when known, proposed to do such work.

2. A description of how the project will be managed including:

a. Organization plan,

b. Designation of responsibilities for management of all project functions,

c. Identification of the relationship between the petitioner and contractors,

d. The plan by which the applicant will monitor the construction.

3. A description of any vendor guarantees or penalties for non-performance included in equipment supplier or construction contracts.

I. A description of the fuel procurement strategy including fuel type, quality, source(s), and transportation for fuel delivery.

J. The estimated cost of the project. Cost estimates should be detailed, including:

1. Annual capacity costs.

2. Annual production costs (operation and maintenance costs, less fuel costs).

3. Projected unit fuel costs by primary, alternate and ignition fuel categories on an annual basis over the life of the facility. Costs should be provided on both a cents/KWH and cents/MBTU basis.

4. Annual total cost in Mills per KWH.

K. Expected financing for the project (development phase, construction and permanent financing) including sources, amounts, terms, conditions, and expected financial closing date.

L. Financial information for the applicant, or principal participant(s) in the project if the applicant is a special purpose entity with no history, including:

1. Analysis of financial condition.

2. Financial statements for the two most recent fiscal years.

M. Current financial projections for the life of the project, including debt service coverage ratio. Show all assumptions.

N. A discussion of economic impacts, including tax and employment implications of the project.

O. Copies of project-related filings with the Federal Energy Regulatory Commission.

P. A list of other local, state or federal government agencies having requirements which must be met in connection with the construction or operation of the project and a statement of the status of the approval procedure for each of these agencies. Include a discussion of the following, if applicable:

1. Air permit type, restriction, emissions, and offsets.

2. Wetlands protection.

State Corporation Commission

3. Threatened and endangered species.
4. Source and discharge of cooling water.
5. Solid and Hazardous Wastes.
6. Erosion and sediment control
7. Archaeological, historic, or architectural resources in the area.

SECTION II - DEMONSTRATION OF THE NEED, VIABILITY, AND COST EFFECTIVENESS OF THE PROJECT

The information in this section should be provided primarily by the purchasing utility.

A. Provide a thorough discussion of the need for the facility as it relates to the purchasing utility's projected peak load and energy requirements. Provide a copy of the Company's peak load and energy forecast at the time the project was selected. Provide a copy of the current peak load and energy forecast, if different. Include all assumptions.

B. Provide cost/benefit analyses or studies of the proposed facility and all supply alternatives considered to meet projected load. All major factors should be addressed, including, but not limited to:

1. System load characteristics, and operating characteristics of existing and planned utility plants.
2. System reliability criteria and adequacy of projected capacity.
3. Transmission system, interconnection capability and pooling agreements.
4. Power interchange with other systems and feasibility of selling and purchasing power (including cogeneration/small power production).

C. Provide cost/benefit analyses or studies of all demand side alternatives considered to modify projected load in order to postpone or avoid the proposed facility. This should include, but not be limited to, discussions of existing and potential demand modification programs for each customer sector.

D. Provide sensitivity and risk analyses for major assumptions in the demand and supply side analyses presented above.

E. Demonstrate that with the proposed generation facility, the utility's resource plans are reasonably calculated to promote the maximum effective conservation and use of energy and capital resources in providing energy services.

F. Provide a description of all utility procedures to assure the financial and technical viability of the proposed project.

Appendix B

Electric Cooperatives in Virginia

Mr. Vernon N. Brinkley
Manager
A&N Electric Cooperative
Post Office Box 288
Parksley, VA 23421

Mr. Hugh M. Landes
General Manager
B-A-R-C Electric Cooperative
Millboro, VA 24460

Mr. W. L. Tucker, Jr.
Manager
Central Virginia Electric Cooperative
Lovingson, VA 22949

Mr. J. M. Reynolds
General Manager
Community Electric Cooperative
Post Office Box 267
Windsor, VA 23487

Mr. Gerald H. Groseclose
General Manager
Craig-Botetourt Electric Cooperative
Post Office Box 265
New Castle, VA 24127

Mr. John Bowman
General Manager
Mecklenberg Electric Cooperative
Chase City, VA 23924

Mr. Charles R. Rice, Jr.
Manager
Northern Neck Electric Cooperative
Post Office Box 288
Warsaw, VA 22572

Mr. Harry K. Bowman
Manager
Northern Virginia Electric Cooperative
Post Office Box 2710
Manasas, VA 22110

Mr. Gene G. Carr
General Manager
Prince George Electric Cooperative
Waverly, VA 23890

Mr. Cecil E. Viverette, Jr.
Executive Vice President & General Manager

Rappahannock Electric Cooperative
Post Office Box 7388
Fredericksburg, VA 22404-7388

Mr. William R. Fleming
Manager
Shenandoah Valley Electric Cooperative
Box 8
Dayton, VA 22821

Mr. John C. Anderson
General Manager
Southside Electric Cooperative
Crewe, VA 23930

Electric Companies in Virginia

Mr. Joseph H. Vipperman, President
Appalachian Power Company
Post Office Box 2021
Roanoke, VA 24009

Mr. James R. Wittine
General Manager Regulatory Practice
Delmarva Power & Light Company
800 King Street
Post Office Box 231
Wilmington, Delaware 19899

Mr. Harold E. Armsey, Manager
Old Dominion Power Company
Post Office Drawer 658
Norton, VA 24273

Mr. Elmer B. Kaelin, President
The Potomac Edison Company
Downsville Pike
Hagerstown, Maryland 21740

Dr. James T. Rhodes, President
Virginia Power Company
Box 26666
Richmond, VA 23261

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER TWENTY (90)

VIRGINIA'S TENTH INSTANT GAME LOTTERY; "PLAY TV," END OF GAME

In accordance with the authority granted by § 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's tenth instant game lottery, "Play TV," will officially end at midnight on Wednesday, August 1, 1990. The last day to redeem winning tickets for "Play TV," will be Monday, January 28, 1991, 180 days from the declared official end of the game. Claims for winning tickets from "Play TV" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a postmark of January 28, 1991, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson, Director
Date: July 23, 1990

* * * * *

DIRECTOR'S ORDER NUMBER TWENTY-ONE (90)

ADVANCE APPROVAL FOR RETURN OF UNSOLD TICKETS; REVISED

In accordance with the authority granted by § 58.1-4006 A of the Code of Virginia, and in accordance with State Lottery Department Instant Game Regulations (VR 447-02-1), § 2.10.D.1, I hereby grant advance approval for return of unsold instant tickets as follows:

A. Each retailer may return for credit full, unbroken ticket packs to the department at any time before the announced end of the game and before the return of any partial packs.

B. After the twelfth week of any instant game, each retailer may return broken partial packs of tickets to the department for credit. Partial pack returns are limited to one pack return per register where tickets have been sold for that game. At the same time partial packs are returned, the retailer must return all eligible partial packs and all full packs for that game remaining in his inventory. No additional partial packs or full packs will be accepted from the retailer by the

department for credit after partial packs have been returned.

C. All tickets in the possession of a retailer remaining unsold at the announced end of the game, the return of which are not prohibited by section B, whether partial pack or full pack, must be returned to the department not later than twenty-one calendar days after the announced end of each instant game or any final prize drawing or no credit will be allowed to the retailer for tickets remaining unsold by that retailer.

D. The provisions of A, B and C above shall be modified with regard to all ticket packs sold during the period July 23, 1990 through September 14, 1990. During this period, the Director may deny credit for the return of full or partial packs of tickets, if he determines that the retailer claiming the credit has ordered those packs for the primary purpose of gaining additional entry into the retailer drawings held during that period, or for the purpose of accumulating additional merchandise coupons distributed during that period, and not for the primary purpose of selling the tickets.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This order supersedes Director's Order Number Twenty-One (89), issued November 28, 1989. This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson, Director
Date: July 23, 1990

* * * * *

DIRECTOR'S ORDER NUMBER TWENTY-TWO (90)

"CATCH OF THE DAY"; FISHING CONTEST RULES

In accordance with the authority granted by § 58.1-4006 A of the Code of Virginia, I hereby promulgate the "Catch of the Day" fishing contest rules for the promotional events which will be conducted at the Bass Masters Tournament in Richmond, Virginia, on August 23, 1990 through August 25, 1990. These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery

State Lottery Department

Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until August 26, 1990, unless otherwise extended by the Director.

/s/ Kenneth W. Thorson, Director
Date: July 26, 1990

* * * * *

DIRECTOR'S ORDER NUMBER TWENTY-THREE (90)

VIRGINIA'S THIRTEENTH INSTANT GAME LOTTERY; "CATCH OF THE DAY," FINAL RULES FOR GAME OPERATION

In accordance with the authority granted by § 58.1-4006 A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's thirteenth instant game lottery, "Catch of the Day." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Kenneth W. Thorson, Director
Date: July 31, 1990

FINAL REGULATIONS

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: September 26, 1990.

Summary:

The State Lottery Department is amending two sections of the Instant Game Regulations.

The amendment to § 2.12 permits lottery retailers to return unbroken instant lottery packs of tickets to the department for credit prior to the announced end of the game. After the twelfth week of the game, retailers are permitted to return partial packs of tickets for credit. The regulation specifies that partial

packs are limited to one per register, and no additional full or partial packs will be accepted after the partial packs are returned. The amendment relieves lottery retailers of the unnecessary financial burden of carrying unsold instant tickets in their inventory until the announced end of the game.

The amendment to § 3.30 eliminates the requirement for a claim form to redeem prizes of less than \$600 from lottery regional offices. Currently, a claim form is required to redeem all prizes from the regional offices, regardless of the amount.

VR 447-02-1. Instant Game Regulations.

PART I. LICENSING OF RETAILERS FOR INSTANT GAMES.

§ 1.1. Licensing.

Generally.

The director may license as lottery retailers for instant games persons who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 1.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may submit an application for licensure, except no person may submit an application for licensure:

1. Who will be engaged solely in the business of selling lottery tickets; or
2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as a board member, officer or employee of the department; or
3. Who is a vendor of lottery tickets or material or data processing services, or whose business is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

B. Application not an entitlement to license.

The submission of an application for licensure does not

State Lottery Department

in any way entitle any person to receive a license to act as a lottery retailer.

§ 1.3. Application procedure.

Filing of forms with the department.

Any eligible person shall first file an application with the department on forms supplied for that purpose, along with the required fees as specified elsewhere in these regulations. The applicant shall complete all information on the application forms in order to be considered for licensing. The forms to be submitted include:

1. Retailer License Application;
2. Personal Data Form(s); and
3. Preliminary Marketing Evaluation Form.

State Lottery Law makes falsification, concealment or misrepresentation of a material fact, or making a false, fictitious or fraudulent statement or representation in an application for a license a misdemeanor.

§ 1.4. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and security of the applicant, to include:
 - a. A credit and criminal background investigation;
 - b. Outstanding state tax liability;
 - c. Required business licenses, tax and business permits;
 - d. Physical security at the place of business, including insurance coverage.
2. The accessibility of his place of business to the public, to include:
 - a. The hours of operation;
 - b. The availability of parking and transit routes, where applicable;
 - c. The location in relation to major employers, schools, or retail centers;
 - d. The population level and rate of growth in the market area;

- e. The traffic density, including levels of congestion in the market area.

3. The sufficiency of existing lottery retailers to serve the public convenience, to include:

- a. The number of and proximity to other lottery retailers in the market area;
- b. The expected sales volume and profitability of potentially competing lottery retailers;
- c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers.

4. The volume of expected lottery ticket sales, to include:

- a. Type and volume of the products and services sold by the retailer;
- b. Dollar sales volume of business;
- c. Sales history of business and market area;
- d. Volume of customer traffic in place of business.

B. Additional factors for selection.

The director may develop and, by administrative order, publish additional criteria which, in his judgment, are necessary to serve the public interest and public trust in the lottery.

§ 1.5. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond from a surety company entitled to do business in Virginia. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$5,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.

2. Within 15 calendar days of receipt of the "License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on renewal of license.

A lottery retailer applying for renewal of a license shall:

1. Obtain a letter or certificate from the surety

company to verify that the surety bond is being continued for the license renewal period; and

2. Submit the surety company's letter or certificate with the required license renewal fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

§ 1.6. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the Automatic Clearing House (ACH) system.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed or due from the purchase of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "License Approval Notice," the lottery retailer shall return the properly executed "Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department to record establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank account from one bank to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 1.7. License term and renewal.

A. License term.

A general license for an approved lottery retailer shall be issued for a one-year period.

B. License renewal.

A general license shall be renewed annually at least 30 days before its expiration date and shall be accompanied by the appropriate fee(s) as specified elsewhere in these regulations. The director may implement a staggered, monthly basis for annual license renewals and allow for the proration of annual license fees to credit licensees for the time remaining on their current license when the staggered renewal requirement is imposed. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Temporary license.

No temporary licenses shall be issued after November 30, 1988.

1. All temporary licenses expire not later than December 1, 1988.

2. Upon expiration of a temporary license, the applicant shall stop the sale of tickets and surrender to a department representative his temporary license and department property and make settlement of his lottery account.

D. Amended license term.

An amended license issued under the requirements of § 1.9 C shall be valid for the remainder of the period of the license it replaces.

E. Special license.

State Lottery Department

The director may issue special licenses to persons for specific events and activities. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

§ 1.8. License fees.

A. License application fee.

The fee for a license application for a lottery retailer general license to sell instant game tickets shall be \$25. The general license fee to sell instant game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License renewal fee.

The annual fee for renewal of a lottery retailer general license to sell instant game tickets shall be an amount fixed by the board at its November meeting for all renewals occurring in the next calendar year. The renewal fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The renewal fee shall be paid for each location for which a license is renewed. This fee is nonrefundable. The renewal fee shall be submitted at least 30 days before a retailer's general license expires.

C. Amended license application fee.

The fee for processing an amended license application for a lottery retailer general license shall be an amount as approved by the board at its November meeting for all amendments occurring in the next calendar year. The amended license fee shall be paid for each location affected. This fee is nonrefundable. An amended license application shall be submitted in cases where a business change occurs as specified in § 1.9 B.

§ 1.9. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

A license shall become invalid for any of the following reasons:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship);
3. Change in the business owners listed in the original application form for which submission of a Personal

Data Form is required under the license application procedure.

C. Amended application required.

A licensed lottery retailer who anticipates a change as listed in subsection B shall notify the department of the anticipated change at least 15 calendar days before it takes place and submit an amended application. The director shall review the changed factors in the same manner that would be required for a review of an original application.

§ 1.10. Display of license.

License displayed in general view.

Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 1.11. Denial, suspension, revocation or nonrenewal of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person has been:

1. Convicted of a felony;
2. Convicted of a crime involving moral turpitude;
3. Convicted of any fraud or misrepresentation in any connection;
4. Convicted of bookmaking or other forms of illegal gambling.

B. Grounds for refusal to license partnership or corporation.

The director may refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A.

C. Grounds for suspension, revocation or refusal to renew license.

After notice and a hearing, the director may suspend, revoke, or refuse to renew a license for any of the following reasons:

1. Failure to properly account for lottery tickets received, for prizes claimed and paid or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;

3. Failure to comply with applicable laws, instructions, terms and conditions of the license, or rules and regulations of the department concerning the licensed activity, especially with regard to the prompt payment of claims;

4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;

5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules and regulations of the department;

6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;

7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers;

8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing application process;

9. Failure to comply with lottery game rules;

10. Failure to meet minimum point of sale standards.

D. Notice of intent to suspend, revoke or deny renewal of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny renewal of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

E. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

F. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final lottery accounting of his lottery activities by the date specified by

the director.

§ 1.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 1.13. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any retailer's lottery material that has not been approved for use by the department.

§ 1.14. Inspection of premises.

Access to premises by department.

Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises.

§ 1.15. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

State Lottery Department

§ 1.16. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 1.17. Reporting requirements and settlement procedures.

Instructions for purchasing tickets, reporting transactions and settling accounts.

Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering tickets; (ii) paying for tickets purchased; (iii) reporting receipts, transactions and disbursements pertaining to lottery ticket sales; and (iv) settling the retailer's account with the department.

§ 1.18. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Forms of payment for tickets; deposit of lottery receipts.

Each lottery retailer shall purchase the tickets distributed to him. The moneys for payment of these tickets shall be deposited to the credit of the State Lottery Fund by the department. The retailer shall make payments to the department by Electronic Funds Transfers (EFT); however, the director reserves the right to specify one or more of the following alternative forms of payment under such conditions as he deems appropriate:

1. Cash;
2. Cashier's check;
3. Certified check;
4. Money order; or
5. Business check.

B. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the purchasing and payment of tickets and the settlement of accounts.

C. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will be assessed an interest charge on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment

through the day preceding receipt of the late payment by the department for deposit.

D. Service charge for dishonored EFT transfer or bad check.

The director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

E. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt that are incurred by the department and the agencies to which the debt is referred.

§ 1.19. Training of retailers and their employees.

Retailer training.

Each retailer or his designated representative or representatives is required to participate in training given by the department in the operation of each game. The director may consider nonparticipation as grounds for suspending or revoking the retailer's license.

§ 1.20. License termination by retailer.

Voluntary termination of license.

The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 15 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART II. INSTANT GAMES.

§ 2.1. Development of instant games.

The director shall select, operate, and contract for the operation of instant games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each instant game after consultation with the director. These details include, but are not limited to:

1. Prize amounts and prize structure,
2. Types of noncash prizes, if any, and

3. The amount and type of any jackpot or grand prize which may be awarded.

§ 2.2. Prize structure.

The prize structure for any instant game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each instant game shall be approved in advance by the board.

B. Prizes may be cash or noncash awards, including instant game tickets.

§ 2.3. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board and will be between \$.25 and \$15. Lottery retailers may not discount the sale price of instant game tickets or offer free tickets as a promotion with the sale of instant tickets. This section shall not prevent a retailer from providing free instant tickets with the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery.

B. This section shall not apply to the redemption of a winning instant ticket the prize for which is another free ticket.

§ 2.4. Sales, gift of tickets to minors prohibited.

An instant game ticket shall not be sold to, purchased by, or given as a gift to any individual under 18 years old.

§ 2.5. Odds of winning.

The director shall publicize the overall odds of winning a prize in each instant game. The odds may be printed on the ticket or contained in informational materials, or both.

§ 2.6. End of game.

Each instant game will end when all tickets have been sold or on a date announced in advance by the director. The director may suspend or terminate an instant game without advance notice if he finds that this action will serve and protect the public interest.

§ 2.7. Sale of tickets from expired games prohibited.

No instant game tickets shall be sold after that game ends.

§ 2.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all instant game tickets purchased from the department

for resale by the retailer.

B. The director may award cash bonuses or other incentives to retailers. The board shall approve any bonus or incentive system. The director will publicize any such system in rules of the game(s) to which it applies.

§ 2.9. Price for ticket packs.

For each pack, retailers shall pay the retail value, less the 5.0% retailer discount and less the value of the low-tier winning tickets in the pack. For example, for a pack of tickets with a retail value of \$500, and guaranteed low end prize structure of \$165, the retailer would pay \$310: \$500 (the pack value) minus \$165 for low-tier winners, less the retailer's \$25 discount.

§ 2.10. Purchase of instant tickets.

A. Retailers shall purchase books of tickets directly from the department or through designated depositories.

B. Retailers shall pay for tickets via an electronic funds transfer (EFT) initiated by the department.

1. The department will initiate the EFT after tickets are delivered to the retailer. The schedule will be determined by the director.

2. If, for any reason, an electronic funds transfer is refused, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

3. The director may approve another form of payment for designated retailers under conditions to be determined by the director.

4. If the director permits payment by check and if payment on any check is denied, the retailer shall be assessed service charge, interest and penalty charges as provided for in these regulations.

C. Once tickets are accepted by a retailer, the department will not replace mutilated or damaged tickets, unless specifically authorized by the director.

D. Ticket sales to retailers are final.

1. The Department will not accept returned tickets except as provided for elsewhere in these regulations or with the director's advance approval.

2. The retailer is responsible for lost, stolen or destroyed tickets unless otherwise approved by the director.

§ 2.11. Retailers' conduct.

A. Retailers shall sell instant tickets at the price fixed by regulation, unless the board allows reduced prices or

State Lottery Department

ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies or with the department's specific approval.

D. Tickets shall be sold during all normal business hours unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. Retailers shall not sell instant tickets after the announced end of an instant game.

G. Retailers shall not break apart ticket packs to sell instant tickets except to sell tickets from the same pack at separate selling stations within the same business establishment.

H. Retailers shall not exchange ticket books or tickets with one another or sell ticket books or tickets to one another.

I. On the back of each instant ticket sold by a retailer, the retailer shall print or stamp the retailer's name, address and retailer number. This shall be done in a manner that does not conceal any of the preprinted material.

J. No retailer or his employee or agent shall try to determine the numbers or symbols appearing under the removable latex coverings or otherwise attempt to identify unsold winning tickets. However, this shall not prevent the removal of the covering over the validation code or validation number after the ticket is sold and a prize is claimed.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 2.12. Returns of unsold tickets.

A. After the date announced by the director as the end of an instant game, each retailer may return all unbroken ticket books and one partly-sold book per cash register on the retailer's premises. Each retailer may return for credit full, unbroken ticket packs to the department at any time before the announced end of the game and before the return of any partial packs.

B. Retailers shall return unsold tickets to the department or to the depository which services the retailer for the department within 21 calendar days after the end of each instant game or after any final prize drawing. After the twelfth week of any instant game, each retailer may return broken partial packs of tickets to the department for credit. Partial pack returns are limited to one pack return per register where tickets have been sold for that game. At the same time partial packs are returned, the retailer must return all eligible partial packs and all full packs for that game remaining in his inventory. No additional partial packs or full packs will be accepted from the retailer by the department for credit after partial packs have been returned.

C. The department will show the value of each retailer's unsold tickets in the department's accounting records. However, no funds will be returned to the retailer until after the settlement procedures are completed. All tickets in the possession of a retailer remaining unsold at the announced end of the game, the return of which are not prohibited by § 2.12 B, whether partial pack or full pack, must be returned to the department not later than 21 calendar days after the announced end of each instant game or any final prize drawing or no credit will be allowed to the retailer for tickets remaining unsold by that retailer.

§ 2.13. Reserved

§ 2.14. Reserved

§ 2.15. Reserved

PART III.

PAYMENT OF PRIZES FOR INSTANT GAMES.

§ 3.1. Prize winning tickets.

Prize-winning instant tickets are those that have been validated and determined in accordance with the rules of the department to be official prize winners. Consistent with these regulations, criteria and specific rules for winning prizes shall be published and posted by the director for each instant game and made available for all players. Final validation and determination of prize winning tickets remains with the department.

§ 3.2. Unclaimed prizes.

All instant game winning tickets shall be received for payment as prescribed in these regulations within 180 days after the announced end of the game or of the event which caused the ticket to be a winning entry, whichever is later. In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day. Tickets which have been mailed in an envelope bearing a postmark on or before the 180th day will be deemed to have been received on time.

A. Any non-low-tier instant game prize which has been won as a result of a drawing but which is not claimed within 180 days after the instant game drawing shall revert to the State Literary Fund.

B. Any non-low-tier instant game prize which has been won other than by drawing, but which is not claimed within 180 days after the announced end of the instant game shall revert to the State Literary Fund.

C. Any instant game low-tier prize-winning ticket which has been purchased but which is not claimed within 180 days after the announced end of the instant game shall revert as a bonus compensation to the account of the retailer which sold the instant game low-tier prize-winning ticket.

§ 3.3. Using winners' names.

The department shall have the right to use the names of prize winners. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.4. No prize paid to people under 18.

No prize shall be claimed by or paid to any individual under 18 years of age.

§ 3.5. Where prizes claimed.

Winners may claim instant game prizes from the retailer from whom the ticket was purchased or the department in the manner specified in these regulations.

§ 3.6. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations or in any other manner which the director may determine.

§ 3.7. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service.

1. If the department, a retailer or these regulations require that a claim form be filed, the FEIN shall be shown on the claim form.

2. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

3. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

§ 3.8. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and

2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.9. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.10. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the director and employees of the department, terminates upon payment of a lottery prize.

§ 3.11. Delay of payment allowed.

The director or the board may refrain from making payment of the prize pending a final determination by the director under any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;

2. If there is any question regarding the identity of the claimant;

3. If there is any question regarding the validity of any ticket presented for payment; or

4. If the claim is subject to any set off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act.

No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

State Lottery Department

§ 3.12. When periodic prize payment may be delayed.

The director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed payments shall be brought up to date immediately upon the director's confirmation. Delayed payments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.13. Ticket is bearer instrument.

A ticket that has been legally issued by a lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.14. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification and the submission of a prize claim form if one is required, unless otherwise delayed in accordance with these regulations.

§ 3.15. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.16. Penalty for counterfeit or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a forged, counterfeit or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment is a Class 6 felony in accordance with the state lottery law.

§ 3.17. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

§ 3.18. Erroneous or mutilated ticket.

The department is not liable for erroneous or mutilated tickets. The director, at his option, may replace an erroneous or mutilated ticket with an unplayed ticket for the same or a later instant game.

§ 3.19. Retailer to pay low-tier prizes.

Low-tier prizes (those of \$25 or less in cash or free instant game tickets) shall be paid by the retailer who sold the winning ticket, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.20. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay cash prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.

2. If payment of a prize by a check presented to a claimant by a retailer is denied for any reason, the retailer is subject to the same service charge interest and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.

3. Retailers shall pay claims for low-tier prizes during all normal business hours.

4. Prize claims shall be paid only at the location specified on the license.

5. The department will reimburse a retailer for prizes of between \$26 and \$599 paid up to 180 days after an instant game ends.

§ 3.21. Retailer to validate winning ticket.

Before paying a prize claim, the retailer shall validate the winning ticket. The retailer shall follow validation procedures listed in these regulations or obtained from the department.

§ 3.22. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize-winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.23. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims paid in error.

§ 3.24. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The manner of voiding the ticket will be prescribed by the director.

§ 3.25. Prizes of less than \$600.

A retailer may elect to pay instant prizes between \$26 and \$599 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. If the retailer elects to pay prizes of up to \$599, the following terms and conditions

State Lottery Department

apply:

1. The retailer shall execute an agreement with the department to pay higher prize limits.
2. The retailer shall pay all prizes agreed to up to \$599 or less on validated tickets presented to that retailer.
3. The retailer shall display special informational material provided by or approved by the department informing the public of the exceptional prize payments available from that retailer.
4. Nothing in this section shall be construed to prevent the department from accepting an agreement from a retailer to pay prize amounts \$26 more but less than \$599.

§ 3.26. Additional validation requirements.

Before paying any prize between \$26 and \$599, the retailer shall:

1. Reserved
2. Inspect the ticket to assure that it conforms to each validation criterion listed in these regulations and to any additional criteria the director may specify;
3. Report to the department the ticket number, validation code and validation number of the ticket; and
4. Obtain an authorization number for prize payment from the department.

§ 3.27. When prize shall be claimed from the department.

The department will pay prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall send or present to the department a completed claim form and the signed ticket.
2. If a ticket holder is unable to return to the retailer from which the ticket was purchased, a completed claim form and the signed ticket may be presented or mailed to the department.
3. If the prize amount is over the limit paid by the retailer from which the ticket was purchased, a completed claim form and the signed ticket shall be presented or mailed to the department.

§ 3.28. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay

prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.29. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.30. When claims form required.

A claims form for a winning ticket may be obtained from any department office or any lottery sales retailer.

A. Claims forms shall be required to claim any prize from the department's central and regional offices .

B. ~~Reserved~~ Claims forms shall be required to claim any prize of \$600 or more from the department's regional offices .

C. Reserved.

D. The director may, at his discretion, require claims forms to be filed to claim prizes.

§ 3.31. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations.

A. If the claim is not valid, the department will notify the ticket holder promptly.

B. If the claim is mailed to the department and the department validates the claim, a check for the prize amount will be mailed to the winner.

C. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.32. Withholding, notification of prize payments.

A. When paying any prize of \$600 or more, the department shall:

1. File the appropriate income reporting form(s) with the state Department of Taxation and the federal Internal Revenue Service; and

2. Withhold any moneys due for delinquent debts listed with the Department of Taxation's set-off debt collection program.

B. When paying any prize of more than \$5,000, the

State Lottery Department

department shall provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for the winning ticket.

§ 3.33. Grand prize event.

If an instant game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director.
2. Participation in the drawing(s) shall be limited to those tickets which are actually received and validated by the department on or before the date announced by the director.
3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent instant game. That action is the extent of the department's liability.
4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each instant game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.34. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

§ 3.35. Valid ticket described.

To be valid, a Virginia lottery game ticket shall meet all of the validation requirements listed here:

1. The ticket shall have been issued by the department in an authorized manner.
2. The ticket shall not be altered, unreadable, reconstructed, or tampered with in any way.
3. The ticket shall not be counterfeit in whole or in part.
4. The ticket shall not have been stolen or appear on any list of void or omitted tickets on file with the department.
5. The ticket shall be complete and not blank or partly blank, miscut, misregistered, defective, or printed or produced in error.
6. The ticket shall have exactly one play symbol and exactly one caption under each of the rub-off spots,

exactly one ticket number, exactly one validation code, and exactly one validation number. These items shall be present in their entirety, legible, right side up, and not reversed in any manner.

7. The validation number of an apparent winning ticket shall appear on the department's official list of validation numbers of winning tickets provided by the vendor of the instant tickets. A ticket with that validation number shall not have previously been paid.

8. The ticket shall pass all additional confidential validation requirements set by the department.

§ 3.36. Invalid ticket.

An instant ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its instant game is invalid. An invalid ticket is not eligible for any prize.

§ 3.37. Replacement of ticket.

The director may replace an invalid ticket with an unplayed ticket from the same or another instant game. If a defective ticket is purchased, the department's only liability or responsibility shall be to replace the defective ticket with an unplayed ticket from the same or another instant game or to refund the purchase price, at the department's option.

§ 3.38. When ticket is partially mutilated or not intact.

If an instant ticket is partially mutilated or if the ticket is not intact but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.39. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.40. When prize payable over time.

Unless the rules for any specific instant game provide otherwise, any cash prize of \$500,000 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts each year until the total payments equal the prize amount.

§ 3.41. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.42. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim

is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

RETAILER LICENSE APPLICATION Virginia Lottery P.O. Box 4689 Richmond, Virginia 23220 Processing Fee: \$25.00 (non-refundable) Make check payable to: Virginia Lottery	<p style="text-align: center;">DO NOT WRITE IN THIS BLOCK</p> Date Received: _____ Control # _____ Security: _____ License # _____ Final Action: _____ Final Action Date: _____
---	--

NOTE: Please print or type. Read Applicant Instructions before completing application. Attach additional sheets if necessary for any questions.

TYPE OF APPLICATION

1. INDICATE TYPE OF APPLICATION: Single Location Multiple Locations

List main company address below, and attach a retail location form for each retail location that will be selling tickets.

a. Business Name: _____ Phone Number: () _____

b. Street Address: _____ City/County: _____ State: _____ Zip: _____

c. Mailing Address: _____ City/Town: _____ State: _____ Zip: _____

BUSINESS/ORGANIZATION INFORMATION

2. INDICATE TYPE OF BUSINESS/ORGANIZATION.

Sole Proprietorship Partnership or Joint Venture Trust
 Corporation or Subsidiary Association, Fraternal or Civic (including Non-Profit) Governmental

List below the names of individuals for your type of business as defined in the instruction booklet.

1. Name (Last name first)	2. Name (Last name first)	3. Name (Last name first)	

c. FOR EACH NAME LISTED ABOVE ATTACH A PERSONAL DATA FORM. If there are more names than the spaces above, please list them on a separate sheet and also attach a Personal Data Form for each of them.

3. HAS BUSINESS/ORGANIZATION EVER BEEN CONVICTED OF A GAMBLING RELATED OFFENSE OR OTHER CRIME? Yes No If yes, please provide details on a separate sheet.

4. ATTACH LIST OF OTHER CURRENT STATE OR LOCAL BUSINESS LICENSES HELD. Include License Number.

5. HAS BUSINESS OPERATED UNDER A DIFFERENT NAME? Yes No If yes, provide details on separate sheet.

FINANCIAL INFORMATION

6. BANK (List primary business bank)

Bank Name	Account #
(If more than one account, attach list of all account numbers.)	
Bank Address	

7. ARE YOU CURRENTLY BONDED? Yes No If yes, list bond company, type & limits on separate sheet.

8. FEDERAL EMPLOYER I.D. # _____ VIRGINIA TAX I.D. # _____

9. ARE ALL STATE TAXES CURRENT? Yes No

10. DISCLOSURE STATEMENT (Read Carefully).

I, the undersigned do hereby certify that I have not knowingly made a false statement of material fact on this application and that I have read and understand the License Terms and Conditions enclosed with this Retailer License Application. If the Lottery issues a license pursuant to this application, the State Lottery Department and I will be bound by all the requirements contained in the License Terms and Conditions. I understand that untruthful or misleading answers are cause for denial of the application and/or termination of any lottery license. I authorize the Virginia State Lottery Department and/or the Department of State Police to investigate any or all matters set forth in this Retailer License Application pursuant to §58-1-4009 of the State Lottery Law including but not limited to financial records, financial sources, state tax records and criminal history. I understand that further information may be requested of me in regard to this investigation. I waive any rights or causes of action, based on disclosure of otherwise confidential information, that I may have against the Virginia State Lottery, the Virginia State Police, and/or any other individual or agency disclosing or releasing such information to the Virginia State Lottery or the Virginia State Police.

APPLICANT/AUTHORIZED AGENT OF BUSINESS/ORGANIZATION

TYPE OR PRINT NAME	TITLE
SIGNATURE	DATE

ROUTING INSTRUCTIONS: _____

<p style="text-align: center;">PERSONAL DATA FORM</p> Virginia Lottery P.O. Box 4689 Richmond, Virginia 23220 Note: Submit Personal Data Form for each individual listed in Question 2b of the Retailer License Application.	<p style="text-align: center;">DO NOT WRITE IN THIS BLOCK</p> Date Received: _____ Control # _____ Security Recommendation: _____ License # _____ Accept <input type="checkbox"/> Not Accept <input type="checkbox"/> By: _____ Date: _____																						
<p><i>NOTE: Please print or type. Read Applicant Instructions before completing Personal Data Form. Attach additional sheets if needed.</i></p>																							
1. a. Business Name: _____ Phone () _____ (As listed on retailer license application) b. Street Address: _____ City/County _____ State _____ Zip _____ c. Mailing Address: _____ City/Town _____ State _____ Zip _____																							
2. YOUR NAME DATE OF BIRTH <table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Last Name</th> <th>First</th> <th>Middle</th> <th>Sex</th> <th>Race</th> <th>Month</th> <th>Day</th> <th>Year</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <tr> <td style="width: 33%;">Place of Birth - County or City</td> <td style="width: 33%;">Place of Birth - State or Country</td> <td style="width: 33%;">Social Security Number</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>		Last Name	First	Middle	Sex	Race	Month	Day	Year									Place of Birth - County or City	Place of Birth - State or Country	Social Security Number			
Last Name	First	Middle	Sex	Race	Month	Day	Year																
Place of Birth - County or City	Place of Birth - State or Country	Social Security Number																					
3. a. Current Street Address: _____ City/County _____ State _____ Zip _____ Home Phone () _____ b. Have you been a permanent Virginia resident for the past year? <input type="checkbox"/> Yes <input type="checkbox"/> No If no, attach a list of other states in which you have resided.																							
4. YOUR RELATIONSHIP TO BUSINESS <input type="checkbox"/> Owner <input type="checkbox"/> Principal <input type="checkbox"/> Officer/Board Member <input type="checkbox"/> Partner <input type="checkbox"/> Stockholder (10% or more) <input type="checkbox"/> Other _____																							
5. List two credit references: 1. _____ 2. _____																							
6. Current Bank _____ Account # _____ (If more than one account, attach list of all account numbers.) Bank Address _____ City/Town _____ State _____ Zip _____																							
7. If any of the following questions are answered yes, please attach a separate sheet with complete details. a. Have you ever been convicted of a felony, illegal gambling, fraud or had any business license revoked or suspended in Virginia or any other state? <input type="checkbox"/> Yes <input type="checkbox"/> No b. Ever filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No																							

8. DISCLOSURE STATEMENT (Read Carefully).

I, the undersigned do hereby certify that I have not knowingly made a false statement of material fact on this application and that I have read and understand the License Terms and Conditions enclosed with this Retailer License Application. If the Lottery issues a license pursuant to this application, the State Lottery Department and I will be bound by all the requirements contained in the License Terms and Conditions. I understand that untruthful or misleading answers are cause for denial of the application and/or termination of any lottery license. I authorize the Virginia State Lottery Department and/or the Department of State Police to investigate any or all matters set forth in this Retailer License Application pursuant to §58-1-4009 of the State Lottery Law including but not limited to financial records, financial sources, state tax records and criminal history. I understand that further information may be requested of me in regard to this investigation. I waive any rights or causes of action, based on disclosure of otherwise confidential information, that I may have against the Virginia State Lottery, the Virginia State Police and/or any other individual or agency disclosing or releasing such information to the Virginia State Lottery or the Virginia State Police.

TYPE OR PRINT NAME	TITLE
SIGNATURE	DATE

NOTARY PUBLIC

State of _____ County/City of _____


To wit, this day _____ (signature of person named in record), personally appeared before me in the County/City aforesaid, and under oath authorized the Virginia State Police to search the files of the Central Criminal Records Exchange for any criminal history record and report the results of such search to the Virginia State Lottery Department.

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

My commission expires _____, 19 _____

Notary Public

NOTE: This form may be copied.

RETAILER LOCATION FORM  Virginia Lottery P.O. Box 4689 Richmond, Virginia 23220 Please include this form when returning the Retailer License Application.		DO NOT WRITE IN THIS BLOCK Date Received: _____ Control # _____ License # _____ Preliminary Evaluation: _____ Final Action Date: _____																									
NOTE: This form must be filled out for each location selling Lottery Tickets.																											
STORE INFORMATION Store Name: _____ Business Name (if Different): _____ Street Address: _____ City/County: _____ State: _____ Zip: _____ Owner or Authorized Agent: _____ Is the proprietor on premises daily? <input type="checkbox"/> Yes <input type="checkbox"/> No Business Telephone: () _____ How long has business been in operation at this location? Years _____ Months _____ Number of cash registers _____ Average weekly in-store customer count _____ Average weekly cash register receipts \$ _____																											
AUTHORIZED CONTACT PERSON(S) Please list contact persons at this location authorized to receive and sign for Lottery Tickets starting with primary contact person then alternatives. Please type or print. PRIMARY _____ ALTERNATE _____ ALTERNATE _____ ALTERNATE _____ ALTERNATE _____ ALTERNATE _____																											
TYPE OF BUSINESS <input type="checkbox"/> Grocery/Supermarket <input type="checkbox"/> Convenience <input type="checkbox"/> Restaurant <input type="checkbox"/> Specialty/Non-Grocery <input type="checkbox"/> Drug/Variety <input type="checkbox"/> Auto/Gas Service <input type="checkbox"/> Bar/Tavern <input type="checkbox"/> Other (Specify) _____																											
BUSINESS HOURS <table border="1"> <thead> <tr> <th>Day of Week</th> <th>Mon.</th> <th>Tues.</th> <th>Wed.</th> <th>Thurs.</th> <th>Fri.</th> <th>Sat.</th> <th>Sun.</th> </tr> </thead> <tbody> <tr> <td>Opening Time</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Closing Time</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> Total Weekly Hours _____				Day of Week	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.	Opening Time								Closing Time							
Day of Week	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.																				
Opening Time																											
Closing Time																											

STREET MAP

Indicate Retailer Location.
 Draw & Identify Closest Intersection.

You May Include Additional Comments Below
 To Support Your Selection as a Lottery Retailer.

AUTHORIZATION AGREEMENT FOR PREAUTHORIZED PAYMENTS

DATE _____

Retailer Name (As Shown on Bank Account)	Retailer Lottery I.D.
--	-----------------------

I (we) hereby authorize the VIRGINIA STATE LOTTERY DEPARTMENT, hereinafter called LOTTERY, to initiate debit and credit entries to my (our) Checking account or Savings account indicated below. It is agreed that these withdrawals, deposits, and adjustments may be made by the Electronic Fund Transfer System --EFT) under the rules of the Virginia State Lottery and the National and Local Automated Clearing House (ACH) Associations.

Depository Name		
Branch		
Address		
City	State	Zip
Bank Account Number		

Please staple to the original form a Check marked in ink "VOID" (Checking account) or a Deposit Slip (Savings account) from your financial institution and account.

This authority is to remain in full force and effect until LOTTERY and DEPOSITORY has received written notification from me (or either of us) of its termination in such time and in such manner as to afford LOTTERY and DEPOSITORY a reasonable time to act on it.

Retailer Address		
City	State	Zip
EFT Authorization Name	Signature	
EFT Authorization Name	Signature	

FOR BANK USE ONLY

TRANSIT ROUTING NUMBER	ACCOUNT NUMBER INFORMATION																																								
<table border="1"> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table>																					<table border="1"> <tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </table>																				
TRANSIT ABA																																									

VOIDED "LOTTERY COPY" VOIDED "BANK COPY" VOIDED "RETAILER COPY"

VIRGINIA LOTTERY
P.O. BOX 4689
RICHMOND, VIRGINIA 23220

SHIPPER NO.
PACKAGE ID

INVOICE

PAGE
INVOICE NUMBER

VER TO:		CHAIN NO.	RETAILER NO.	INVOICE DATE
LSR #	LOTTERY SALES REP NAME			
DAY	STOP #	LOCATION CONTACT		

VIRGINIA
LOTTERY



LICENSED
RETAILER

BUSINESS ADDRESS	
EXPIRES	RETAILER NO.

BY AUTHORITY OF
THE STATE LOTTERY LAW OF 1987, AS AMENDED,
THE ABOVE-NAMED RETAILER IS DULY AUTHORIZED AS
INDICATED TO SELL LOTTERY TICKETS IN VIRGINIA.

INSTANT GAME TICKETS ONLY

**THIS CERTIFICATE MUST
BE PROMINENTLY DISPLAYED
AT ALL TIMES**

KENNETH W. THORSON
DIRECTOR, VIRGINIA LOTTERY

NON-TRANSFERABLE

REV 6/88

Virginia Register of Regulations

4006

VIRGINIA LOTTERY	EXPIRES	AUTHORIZED RETAILER
BUSINESS NAME		
RETAILER NO.		

KENNETH W. THORSON
DIRECTOR, VIRGINIA LOTTERY

REV 7/88

**NON-TRANSFERABLE
MUST BE PRESENTED WHEN ACCEPTING TICKETS**

- DO NOT DESTROY CERTIFICATE OR IDENTIFICATION CARD.
- Carefully detach along perforated lines.
- Display certificate in a **PROMINENT PLACE** in your business location.
- Identification card **MUST** be presented when purchasing or accepting tickets.
- If retailer authorization is suspended, revoked or voluntarily discontinued, return certificate identification card, and stamp to the Lottery.

ORDERED BY (SIGNATURE)	DATE	RECEIVED BY (SIGNATURE)	DATE
------------------------	------	-------------------------	------

E—LOTTERY HEADQUARTERS YELLOW—REGIONAL OFFICE GOLDENROD—CHAIN HQ. PINK—LOTTERY RETAILER



RETAILER GUIDELINES FOR USING ADVERTISING APPROVAL FORM

Retailers who want to advertise that they sell lottery tickets need to be aware of certain advertising restrictions. The lottery law contains a provision that limits the lottery advertising to "...reasonably informing the public concerning..." at least one of the following:

1. type(s) of lotteries to be conducted;
2. price of tickets or shares in the lottery;
3. number and size of prizes and the odds of winning prizes;
4. way in which winning tickets or shares are selected;
5. way in which prizes are paid to winners;
6. frequency of drawings;
7. type(s) of locations at which tickets or shares may be sold; and
8. disposition of lottery revenues to the General Fund.

Retailers may list the names of winners, and the amount they won, in lottery advertising. (Provided, of course, that those winners have given permission to release their names.) This listing of winners is entirely voluntary, for the retailer as well as for the winners themselves.

The law further states that "...no funds shall be expended for the primary purpose of inducing persons to participate in the lottery."

All print ads (newspapers, magazines, free shoppers, flyers, etc.), all radio and television commercials, and all signs (interior and exterior) must be approved by the Virginia Lottery BEFORE they appear. Each ad or commercial within a continuing series must have separate approval. (IMPORTANT: All advertising materials you receive from the Virginia Lottery or your Lottery Sales Representative have been approved and may be used immediately. If your vendors—TV, radio, newspapers, printers, etc.—need written proof of ad approval, you need a form. Otherwise, completion of a form is at the discretion of the Lottery Sales Representative or Corporate Account Representative. For obvious cases, verbal approvals are acceptable and would require no form.

Lottery Sales Representatives and Corporate Account Representatives are responsible for the review of all retailer advertising. After each review, they must fill out a retailer advertising approval form in this manner:

1. Indicate the business name, address, retailer identification number, and primary retailer contact.
2. Write a brief description of the advertising, including all words used. Attach a copy if one is available.
3. Indicate whether or not the advertising should be approved by checking "yes" or "no" or "not sure."

WINNER CLAIM FORM - FOR PRIZES OF MORE THAN \$25		FOR LOTTERY USE ONLY	
MAIL TO: Virginia Lottery Box C-32100 Richmond, VA. 23261-2100		DATE <input type="text"/> - <input type="text"/> - <input type="text"/>	WARRANT NO. <input type="text"/>
INSTRUCTIONS TO CLAIMANT		TIME <input type="text"/> A/P <input type="text"/>	CASHIER <input type="text"/>
<ul style="list-style-type: none"> • ON BACK OF TICKET, PRINT YOUR NAME & ADDRESS • YOU MUST SIGN YOUR NAME ON THE TICKET • COMPLETE ITEMS 1 THROUGH 16 AND OPTIONAL ITEMS 17 AND 18 BELOW • YOU MUST SIGN YOUR NAME ON THE CLAIM FORM • STAPLE TICKET TO TOP COPY OF FORM AT RIGHT • KEEP BOTTOM (PINK) COPY OF THIS FORM • MAIL WHITE & YELLOW COPIES OF THIS FORM WITH TICKET TO ADDRESS SHOWN ABOVE. 		STAPLE TICKET TO TOP COPY HERE	
PLEASE DO NOT STAPLE THROUGH ANY NUMBERS OR PLAY SPOTS ON TICKET!			
1. GAME NO. Black 2-digit number from front of ticket.	<input type="text"/>		
2. PACK NO. Black 10-digit number from front of ticket.	<input type="text"/>		
3. VALIDATION NO. 12 digit number from front of ticket.	<input type="text"/>		
4. PRIZE AMOUNT	\$ <input type="text"/>		
5. NAME	<input type="text"/>		
6. ADDRESS	<input type="text"/>		
7. CITY	<input type="text"/>	8. STATE	<input type="text"/>
9. ZIP CODE	<input type="text"/>	10. PHONE NUMBER	<input type="text"/>
11. COUNTRY CODE	<input type="text"/>	12. SOCIAL SECURITY NO.	<input type="text"/>
13. U.S. CITIZEN <input type="checkbox"/>	RESIDENT ALIEN <input type="checkbox"/>	NON-RESIDENT ALIEN <input type="checkbox"/>	14. SEX <input type="checkbox"/> OR <input type="checkbox"/>
15. DATE PURCHASED (MM-DD-YY)	<input type="text"/>	16. DATE OF BIRTH (MM-DD-YY)	<input type="text"/>
OPTIONAL INFORMATION			
17. HOW OFTEN DO YOU PURCHASE INSTANT TICKETS (CHECK ONE)			
<input type="checkbox"/> 1. DAILY	<input type="checkbox"/> 3. 2 TIMES/WEEK	<input type="checkbox"/> 5. 1 TIME/TWO WEEKS	<input type="checkbox"/> 7. LESS THAN ONCE/MONTH
<input type="checkbox"/> 2. 3 - 5 TIMES/WEEK	<input type="checkbox"/> 4. 1 TIME/WEEK	<input type="checkbox"/> 6. 1 TIME/MONTH	
18. NUMBER OF TICKETS PURCHASED AT ONE TIME? (CIRCLE ONE)			
1 2 3 4 5 6 7 8 9 10+			
UNDER PENALTY OF PERJURY, I DECLARE THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE NAME, ADDRESS, AND SOCIAL SECURITY NUMBER CORRECTLY IDENTIFY ME AS THE RECIPIENT OF THIS PAYMENT. I UNDERSTAND THAT ANY PERSON WHO, WITH INTENT TO DEFRAUD, FALSELY MAKES, FORGES OR COUNTERFEITS A LOTTERY TICKET IS IN VIOLATION OF STATE LAW. I ALSO AUTHORIZE THE VIRGINIA LOTTERY TO USE MY NAME AND PHOTOGRAPH FOR ANY REASONABLE PUBLICITY IT CONSIDERS DESIRABLE.			
CLAIMANT'S SIGNATURE		DATE	



VIRGINIA LOTTERY
RETAILER ADVERTISING APPROVAL FORM

Please read the guidelines for advertising approval before completing this form. Retailer lottery advertising is subject to the restrictions of the Lottery Law, specifically, "...no funds shall be expended for the primary purpose of inducing persons to participate in the lottery."

Business Name _____ Retailer I.D.# _____

Address _____ Retailer Contact _____

City, State, Zip _____

Description of Advertising (attach copy of ad if possible)

Point of Sale (write all words here) _____
 Interior sign
 counter card
 window sign
 door sign
 other (describe) _____

Newspaper ad
 Date(s) ad will appear _____
 Headline _____
 Words used _____

Radio/Television ad
 Date(s) ad will appear _____
 Tagline _____
 Words used _____

Other
 Please describe (include dates of usage and exact wording) _____

Advertising approved Yes No Not sure

If not approved or if not sure, indicate reason: _____

Lottery employee signature _____ Date _____

Retailer contact signature _____ Date _____

White copy to retailer, yellow copy to LSR/CAR, pink copy to Lottery

SLD-0022 (1/89)

VIRGINIA LOTTERY
STOLEN TICKET REPORT

DATE OF REPORT:			INVESTIGATOR TAKING REPORT:			
RETAILER NAME & ADDRESS (if applicable):					RETAILER NUMBER:	
STOLEN PACK NUMBER(S)			STOLEN TICKET NUMBERS			
GM.	PACK	CK.	FROM	TO	FROM	TO
LOCATION OF THEFT:			DATE/THEFT:		<input type="checkbox"/> STOLEN OR <input type="checkbox"/> LOST FROM: <input type="checkbox"/> MAIN WHSE <input type="checkbox"/> L.S.R. <input type="checkbox"/> REGN. WHSE <input type="checkbox"/> RETAILER	
REPORTING PERSON'S NAME:			ADDRESS:		PHONE: ()	
DETAILS OF THEFT:						
THEFT REPORTED TO LOCAL AUTHORITIES? <input type="checkbox"/> YES <input type="checkbox"/> NO SPECIFY						
INVESTIGATOR'S SIGNATURE:			DATE & TIME ENTERED ON COMPUTER			
			____/____/____ AM PM			

766.000 REV. 1/89

SHAW _____
GOODMAN _____

WHITE - FILE
YELLOW - P/A

State Lottery Department

Title of Regulation: VR 447-02-2. On-Line Game Regulations.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Effective Date: September 26, 1990.

Summary:

The State Lottery Department is amending two sections of the On-Line Game Regulations.

The amendment to § 1.6 permits a lottery retailer to cancel an on-line lottery ticket manually, by entering the ticket validation number into the terminal using the keyboard if that ticket cannot be cancelled by inserting it into the terminal. During the notice of comment period, the department submitted a revision to allow, on a case-by-case basis, a credit to a retailer who could not cancel a lottery ticket using the original two methods. The revision permits the director to provide credit to a retailer in other unusual situations. It also clarifies the requirement that ticket cancellation must occur prior to the time of the drawing within the same business day it was purchased.

The amendment to § 3.36 eliminates the requirement for a claim form to redeem prizes of less than \$600 from lottery regional offices. Currently, a claim form is required to redeem all prizes from the regional offices, regardless of the amount.

VR 447-02-2. On-Line Game Regulations.

PART I. ON-LINE GAMES.

§ 1.1. Development of on-line games.

The director shall select, operate, and contract for the operation of on-line games which meet the general criteria set forth in these regulations. The board shall determine the specific details of each on-line lottery game after consultation with the director. These details include, but are not limited to:

1. The type or types of on-line lottery games; -
2. Individual prize amounts and overall prize structure;
3. Types of noncash prizes, if any;
4. The amount and type of any jackpot or grand prize which may be awarded and how awarded; and
5. Chances of winning.

§ 1.2. General definitions for on-line games.

"Auto-picks" means computer generated numbers or items. The director may select a different name to identify this feature for marketing purposes.

"Breakage" means the fraction of a dollar not paid out due to rounding down and shall be used exclusively to fund prizes.

"Cancelled ticket" means a ticket that has been placed into the terminal, whereupon the terminal must read the information from the ticket, cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void.

"Certified drawing" means a drawing in which a lottery official and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination has occurred.

"Drawing" means a procedure by which the lottery randomly selects numbers or items in accordance with the specific game rules for those games requiring random selection of number(s) or item(s).

"Duplicate ticket" means a ticket produced by any means other than by an on-line terminal with intent to imitate the original ticket.

"On-line game" means a lottery game, the play of which is dependent upon the use of an on-line terminal in direct communication with an on-line game main frame operated by or at the direction of the department.

"On-line lottery retailer" means a licensed lottery retailer who has entered an agreement with the department to sell on-line tickets.

"On-line system" means the department's on-line computer system consisting of on-line terminals, central processing equipment, and a communication network.

"On-line terminal" means computer hardware through which a combination of numbers or items is selected or generated and through which on-line tickets are generated and claims may be validated.

"On-line ticket" means a computer-generated ticket issued by an on-line lottery retailer to a player as a receipt for the number, numbers, or items or combination of number or items the player has selected.

"Play" means a wager on a single set of selected numbers.

"Player-selected item" means a number or item or group of numbers or items selected by a player in connection with an on-line game. Player-selected items include selections of items randomly generated by the computer on-line system. Such computer-generated numbers or items are also known as "auto-picks" or

"quick picks."

"Quick pick" means the same as "auto pick."

"Retailer," as used in these on-line game regulations, means a licensed on-line lottery retailer, unless the context clearly requires otherwise.

"Roll stock" means the paper roll placed into the lottery retailer terminals from which a unique lottery ticket is generated by the computer, displaying the player selected item(s) or number(s).

"Share" means a percentage of ownership in a winning ticket.

"Validation" means the process of determining whether an on-line ticket presented for payment is a winning ticket.

"Validation number" means a unique number assigned by the on-line central computer and printed on the front of each on-line ticket which is used for validation.

"Winning combination" means two or more items or numbers selected by a drawing.

§ 1.3. Prize structure.

The prize structure for any on-line game shall be designed to return to winners approximately 50% of gross sales.

A. The specific prize structure for each type of on-line game shall be determined in advance by the board.

B. From time to time, the board may determine temporary adjustments to the prize structure to account for breakage or other fluctuations in the anticipated redemption of prizes.

§ 1.4. Drawing and selling times.

A. Drawings shall be conducted at times and places designated by the director and publicly announced by the department.

B. On-line tickets may be purchased up to a time prior to the drawing as specified in the on-line drawing rules. That time will be designated by the director.

§ 1.5. Ticket price.

A. The sale price of a lottery ticket for each game will be determined by the board and will be between \$.50 and \$15. These limits shall not operate to prevent the sale of more than one lottery play on a single ticket. Lottery retailers may not discount the sale price of on-line game tickets or provide free lottery tickets as a promotion with the sale of on-line tickets. This section shall not prevent a licensed retailer from providing free on-line tickets with

the purchase of other goods or services customarily offered for sale at the retailer's place of business; provided, however, that such promotion shall not be for the primary purpose of inducing persons to participate in the lottery. (see § 1.9)

§ 1.6. Ticket cancellation.

A ticket may be cancelled and a refund of the purchase price obtained at the request of the bearer of the ticket under the following conditions:

1. To be accepted for cancellation, the ticket must be presented to the lottery retailer location at which the ticket was sold [, prior to the time of the drawing and within the same business day it was purchased].

2. Cancellation may only be effected by the following two procedures:

a. Inserting the ticket into the lottery terminal, whereupon the terminal must read the information from the ticket ; and cancel the transaction and brand the ticket with a mark or words indicating that the ticket is cancelled and void .

b. After first determining that the preceding procedure cannot be utilized successfully to cancel the ticket, the terminal operator may cancel the ticket by manually entering the ticket validation number into the terminal via the keyboard.

Any ticket which cannot be cancelled by this procedure either of these procedures remains valid for the drawing for which purchased [; and is to be returned to the person who presented the ticket for cancellation and no refund will be available]. Any ticket which is mutilated, damaged or has been rendered unreadable, and cannot be inserted into or read by the lottery terminal or whose validation number cannot be read and keyed into the terminal , cannot be cancelled by any other means.

3. The cancelled ticket must be surrendered by the bearer to the retailer [who must deliver the cancelled ticket to the lottery sales representative serving that location. Cancelled tickets will be returned to the department].

4. [On a case-by-case basis, credit may be provided to retailers for tickets which could not be cancelled by either of the two methods described in § 1.6 2. Such credit may be given provided unusual, verifiable circumstances are present which show that the department's computer system could not accept the cancellation within the same day the ticket was purchased or that the ticket was produced by an unusual retailer error. The retailer must notify the department's Hotline prior to the time of the drawing and within the same business day the ticket was purchased.

State Lottery Department

5. The director may approve credit for other cancellation requests not described in this section.

6.] The lottery's internal auditor will audit cancelled tickets on a sample basis.

§ 1.7. Chances of winning.

The director shall publicize the overall chances of winning a prize in each on-line game. The chances may be printed in informational materials.

§ 1.8. Licensed retailers' compensation.

A. Licensed retailers shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

B. The board shall approve any bonus or incentive system for payment to retailers. The director will publicize any such system in the rules of the game(s) to which it applies. The director may then award such cash bonuses or other incentives to retailers.

§ 1.9. Retailers' conduct.

A. Retailers shall sell on-line tickets at the price fixed by the board, unless the board allows reduced prices or ticket give-aways.

B. All ticket sales shall be for cash, check, cashier's check, traveler's check or money order at the discretion of and in accordance with the licensed retailer's policy for accepting payment by such means. A ticket shall not be purchased with credit cards, food stamps or food coupons.

C. All ticket sales shall be final. Retailers shall not accept ticket returns except as allowed by department regulations or policies, or with the department's specific approval.

D. Tickets shall be sold during all normal business hours of the lottery retailer when the on-line terminal is available unless the director approves otherwise.

E. Tickets shall be sold only at the location listed on each retailer's license from the department.

F. On-line retailers must offer for sale all lottery products offered by the department.

G. An on-line game ticket shall not be sold to, purchased by, or given as a gift to any individual under 18 years of age.

H. On-line retailers shall furnish players with proper claim forms provided by the department.

I. On-line retailers shall post winning numbers prominently.

J. On-line retailers and employees who will operate on-line equipment shall attend training provided by the department and allow only trained personnel to operate terminals.

K. Unsupervised retailer employees who sell or otherwise vend lottery tickets must be at least 18 years of age. Employees not yet 18 but at least 16 years of age may sell or vend lottery tickets so long as they are supervised by a person 18 years of age or older.

§ 1.10. End of game; suspension.

The director may suspend or terminate an on-line game without advance notice if he finds that this action will serve and protect the public interest.

PART II.

LICENSING OF RETAILERS FOR ON-LINE GAMES.

§ 2.1. Licensing.

A. Generally.

The director may license persons as lottery retailers for on-line games who will best serve the public convenience and promote the sale of tickets and who meet the eligibility criteria and standards for licensing.

B. For purposes of this part on licensing, "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including its counties, cities, and towns.

§ 2.2. Eligibility.

A. Eighteen years of age and bondable.

Any person who is 18 years of age or older and who is bondable may be considered for licensure, except no person may be considered for licensure:

1. Who will be engaged solely in the business of selling lottery tickets; or

2. Who is a board member, officer or employee of the State Lottery Department or who resides in the same household as board member, officer or employee of the department; or

3. Who is a vendor to the department of instant or on-line lottery tickets or goods or data processing services, whose tickets, goods or services are provided directly to the lottery department, or whose business is owned by, controlled by, or affiliated with a vendor of instant or on-line lottery tickets or goods or data

processing services whose tickets, goods or services are provided directly to the lottery department.

B. Form submission.

The submission of forms or data for licensure does not in any way entitle any person to receive a license to act as an on-line lottery retailer.

§ 2.3. General standards for licensing.

A. Selection factors for licensing.

The director may license those persons who, in his opinion, will best serve the public interest and public trust in the lottery and promote the sale of lottery tickets. The director will consider the following factors before issuing or renewing a license:

1. The financial responsibility and integrity of the retailer, to include:

- a. A credit and criminal record history search or when deemed necessary a full investigation of the retailer;
- b. A check for outstanding delinquent state tax liability;
- c. A check for required business licenses, tax and business permits; and
- d. An evaluation of physical security at the place of business, including insurance coverage.

2. The accessibility of his place of business to public, to include:

- a. The hours of operation compared to the on-line system selling hours;
- b. The availability of parking including ease of ingress and egress to parking;
- c. Public transportation stops and passenger traffic volume;
- d. The vehicle traffic density, including levels of congestion in the market area;
- e. Customer transaction count within the place of business;
- f. Other factors indicating high public accessibility and public convenience when compared with other retailers; and
- g. Adequate space and physical layout to sell a high volume of lottery tickets efficiently.

3. The sufficiency of existing lottery retailers to serve

the public convenience, to include:

- a. The number of and proximity to other lottery retailers in the market area;
 - b. The expected impact on sales volume of potentially competing lottery retailers;
 - c. The adequacy of coverage of all regions of the Commonwealth with lottery retailers; and
 - d. The population to terminal ratio, compared to other geographical market areas.
- #### 4. The volume of expected lottery ticket sales, to include:
- a. Type and volume of the products and services sold by the retailer;
 - b. Dollar sales volume of the business;
 - c. Sales history of the market area;
 - d. Sales history for instant tickets, if already licensed as an instant retailer;
 - e. Volume of customer traffic in place of business; and
 - f. Market area potential, compared to other market areas.
- #### 5. The ability to offer high levels of customer service to on-line lottery players, including:
- a. A history demonstrating successful use of lottery product related promotions;
 - b. Volume and quality of point of sale display;
 - c. A history of compliance with lottery directives;
 - d. Ability to display jackpot prize amounts to pedestrians and vehicles passing by;
 - e. A favorable image consistent with lottery standards;
 - f. Ability to pay prizes less than \$600 during maximum selling hours, compared to other area retailers;
 - g. Commitment to authorize employee participation in all required on-line lottery training; and
 - h. Commitment and opportunity to post jackpot levels near the point of sale.

B. Additional factors for selection.

State Lottery Department

The director may develop and, by director's order, publish additional criteria which, in the director's judgment, are necessary to serve the public interest and public trust in the lottery.

C. Filing of forms with the department.

After notification of selection as an on-line lottery retailer, the retailer shall file required forms with the department. The retailer must submit all information required to be considered for licensing. Failure to submit required forms and information within the times specified in these regulations may result in the loss of the opportunity to become or remain a licensed on-line retailer. The forms to be submitted shall include:

1. Signed retailer agreement;
2. Signed EFT Authorization form with a voided check or deposit slip from the specified account; and
3. Executed bond requirement.

§ 2.4. Bonding of lottery retailers.

A. Approved retailer to secure bond.

A lottery retailer approved for licensing shall obtain a surety bond in the amount of \$10,000 from a surety company entitled to do business in Virginia. If the retailer is already bonded for instant games, a second bond will not be required. However, the amount of the original bond must be increased to \$10,000. The purpose of the surety bond is to protect the Commonwealth from a potential loss in the event the retailer fails to perform his responsibilities.

1. Unless otherwise provided under subsection C of this section, the surety bond shall be in the amount and penalty of \$10,000 and shall be payable to the State Lottery Department and conditioned upon the faithful performance of the lottery retailer's duties.
2. Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "Bonding Requirement" portion of the "On-Line License Approval Notice" to the State Lottery Department to be filed with his record.

B. Continuation of surety bond on renewal of license.

A lottery retailer applying for renewal of a license shall:

1. Obtain a letter or certificate from the surety company to verify that the surety bond is being continued for the license renewal period; and
2. Submit the surety company's letter or certificate with the required license renewal fee to the State Lottery Department.

C. Sliding scale for surety bond amounts.

The department may establish a sliding scale for surety bonding requirements based on the average volume of lottery ticket sales by a retailer to ensure that the Commonwealth's interest in tickets to be sold by a licensed lottery retailer is adequately safeguarded. Such sliding scale may require a surety bond amount either greater or lesser than the amount fixed by subsection A of this section.

D. Effective date for sliding scale.

The sliding scale for surety bonding requirements will become effective when the director determines that sufficient data on lottery retailer ticket sales volume activity are available. Any changes in a retailer's surety bonding requirements that result from instituting the sliding scale will become effective only at the time of the retailer's next renewal action.

§ 2.5. Lottery bank accounts and EFT authorization.

A. Approved retailer to establish lottery bank account.

A lottery retailer approved for licensing shall establish a separate bank account to be used exclusively for lottery business in a bank participating in the automatic clearing house (ACH) system. A single bank account may be used for both on-line and instant lottery business.

B. Retailer's use of lottery account.

The lottery account will be used by the retailer to make funds available to permit withdrawals and deposits initiated by the department through the electronic funds transfer (EFT) process to settle a retailer's account for funds owed by or due to the retailer from the sale of tickets and the payment of prizes. All retailers shall make payments to the department through the electronic funds transfer (EFT) process unless the director designates another form of payment and settlement under terms and conditions he deems appropriate.

C. Retailer responsible for bank charges.

The retailer shall be responsible for payment of any fees or service charges assessed by the bank for maintaining the required account.

D. Retailer to authorize electronic funds transfer.

Within 15 calendar days of receipt of the "On-Line License Approval Notice," the lottery retailer shall return the properly executed "On-Line Electronic Funds Transfer Authorization" portion of the "License Approval Notice" to the department recording the establishment of his account.

E. Change in retailer's bank account.

If a retailer finds it necessary to change his bank

account from one bank account to another, he must submit a newly executed "Electronic Funds Transfer Authorization" form for the new bank account. The retailer may not discontinue use of his previously approved bank account until he receives notice from the department that the new account is approved for use.

F. Director to establish EFT account settlement schedule.

The director will establish a schedule for processing the EFT transactions against retailers' lottery bank accounts and issue instructions to retailers on how settlement of accounts will be made.

§ 2.6. Deposit of lottery receipts; interest and penalty for late payment; dishonored EFT transfers or checks.

A. Payment due date.

Payments shall be due as specified by the director in the instructions to retailers regarding the settlement of accounts.

B. Penalty and interest charge for late payment.

Any retailer who fails to make payment when payment is due will have his on-line terminal disconnected. The retailer will not be reconnected until payment is made by cashiers check, certified check or wire transfer. Additionally, interest will be charged on the moneys due plus a \$25 penalty. The interest charge will be equal to the "Underpayment Rate" established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. The interest charge will be calculated beginning the date following the retailer's due date for payment through the day preceding receipt of the late payment by the department for deposit.

C. Service charge for dishonored EFT transfer or bad check.

In addition to the penalty authorized by subsection B of this section, the director will assess a service charge of \$25 against any retailer whose payment through electronic funds transfer (EFT) or by check is dishonored.

D. Service charge for debts referred for collection.

If the department refers a debt of any retailer to the Attorney General, the Department of Taxation or any other central collection unit of the Commonwealth, the retailer owing the debt shall be liable for an additional service charge which shall be in the amount of the administrative costs associated with the collection of the debt incurred by the department and the agencies to which the debt is referred.

§ 2.7. License term and renewal.

A. License term.

A general on-line license for an approved lottery retailer shall be issued for a one-year period. A general on-line license requires the retailer to sell both on-line and instant lottery tickets.

B. License renewal.

A general on-line license shall be renewed annually at least 30 days prior to its expiration date and shall be accompanied by the appropriate fee(s) as specified elsewhere in these regulations. The director may implement a staggered, monthly basis for annual license renewals and allow for the proration of annual license fees to credit licensees for the time remaining on their current license when the staggered renewal requirement is imposed. This section shall not be deemed to allow for a refund of license fees when a license is terminated, revoked or suspended for any other reason.

C. Amended license term.

An amended license shall be valid for the remainder of the period of the license it replaces.

D. Special license.

The director may issue special licenses. Special licenses shall be for a limited duration and under terms and conditions that he determines appropriate to serve the public interest.

§ 2.8. License fees.

A. License fee.

The fee for a lottery retailer general license to sell on-line game tickets shall be \$25. The general license fee to sell on-line game tickets shall be paid for each location to be licensed. This fee is nonrefundable.

B. License renewal fee.

The annual fee for renewal of a lottery retailer general license to sell on-line game tickets shall be an amount determined by the board at its November meeting or as soon thereafter as practicable for all renewals occurring in the next calendar year. The renewal fee shall be designed to recover all or a portion of the annual costs of the department in providing services to the retailer. The renewal fee shall be paid for each location for which a license is renewed. This fee is nonrefundable. The renewal fee shall be submitted at least 30 days prior to the expiration of a retailer's general license.

C. Amended license fee.

The fee for processing an amended license for a lottery retailer general license shall be an amount as determined by the board at its November meeting or as soon thereafter as practicable for all amendments occurring in the next calendar year. The amended license fee shall be

State Lottery Department

paid for each location affected. This fee is nonrefundable. An amended license shall be submitted in cases where a business change has occurred.

§ 2.9. Fees for operational costs.

A. Installation fee.

The fee for initial terminal telecommunications installation for the on-line terminal shall be \$275. This fee may be subject to change based upon an annual cost review by the department.

1. If the retailer has purchased a business where a terminal is presently installed or telecommunication service is available, a fee of \$25 per year shall be charged upon issuance of a new license.

2. No installation fee will be charged if interruption of service to the terminal has not occurred.

B. Weekly on-line telecommunications line charge.

Each retailer shall be assessed a weekly charge of \$15 per week. This fee may be subject to change based upon an annual cost review by the department.

§ 2.10. Transfer of license prohibited; invalidation of license.

A. License not transferrable.

A license issued by the director authorizes a specified person to act as a lottery retailer at a specified location as set out in the license. The license is not transferrable to any other person or location.

B. License invalidated.

A license shall become invalid in the event of any of the following circumstances:

1. Change in business location;
2. Change in business structure (e.g., from a partnership to a sole proprietorship);
3. Change in the business owners listed on the original personal data forms for which submission of a personal data form is required under the license procedure.

C. Amended personal data form required.

A licensed lottery retailer who anticipates any change listed in subsection B must notify the department of the anticipated change at least 30 calendar days before it takes place and submit an amended personal data form. The director shall review the changed factors in the same manner that would be required for a review of an original personal data form.

§ 2.11. Denial, suspension, revocation or nonrenewal of license.

A. Grounds for refusal to license.

The director may refuse to issue a license to a person if the person has been:

1. Convicted of a felony;
2. Convicted of a crime involving moral turpitude;
3. Convicted of any fraud or misrepresentation in any connection;
4. Convicted of bookmaking or other forms of illegal gambling;
5. Convicted of knowingly and willfully falsifying, or misrepresenting, or concealing a material fact or makes a false, fictitious, or fraudulent statement or misrepresentation;
6. Determined not to meet the eligibility criteria or general standards for licensing.

B. Grounds for refusal to license partnership or corporation.

In addition to refusing a license to a partnership or corporation under subsection A of this section, the director may also refuse to issue a license to any partnership or corporation if he finds that any general or limited partner or officer or director of the partnership or corporation has been convicted of any of the offenses cited in subsection A of this section.

C. Appeals of refusal to license.

Any person refused a license under subsection A or B may appeal the director's decision in the manner provided by VR 447-01-02, Part III, Article 2, § 3.4.

D. Grounds for suspension, revocation or refusal to renew license.

After notice and a hearing, the director may suspend, revoke, or refuse to renew a license for any of the following reasons:

1. Failure to properly account for on-line terminal ticket roll stock, for cancelled ticket, for prizes claimed and paid, or for the proceeds of the sale of lottery tickets;
2. Failure to file or maintain the required bond or the required lottery bank account;
3. Failure to comply with applicable laws, instructions, terms or conditions of the license, or rules and regulations of the department concerning the licensed

activity, especially with regard to the prompt payment of claims;

4. Conviction, following the approval of the license, of any of the offenses cited in subsection A;

5. Failure to file any return or report or to keep records or to pay any fees or other charges as required by the state lottery law or the rules or regulations of the department or board;

6. Commission of any act of fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the state lottery;

7. Failure to maintain lottery ticket sales at a level sufficient to meet the department's administrative costs for servicing the retailer, provided that the public convenience is adequately served by other retailers. This failure may be determined by comparison of the retailer's sales to a sales quota established by the director;

8. Failure to notify the department of a material change, after the license is issued, of any matter required to be considered by the director in the licensing process;

9. Failure to comply with lottery game rules; and

10. Failure to meet minimum point of sale standards.

E. Notice of intent to suspend, revoke or deny renewal of license.

Before taking action under subsection C, the director will notify the retailer in writing of his intent to suspend, revoke or deny renewal of the license. The notification will include the reason or reasons for the proposed action and will provide the retailer with the procedures for requesting a hearing before the board. Such notice shall be given to the retailer at least 14 calendar days prior to the effective date of suspension, revocation or denial.

F. Temporary suspension without notice.

If the director deems it necessary in order to serve the public interest and maintain public trust in the lottery, he may temporarily suspend a license without first notifying the retailer. Such suspension will be in effect until any prosecution, hearing or investigation into possible violations is concluded.

G. Surrender of license and lottery property upon revocation or suspension.

A retailer shall surrender his license to the director by the date specified in the notice of revocation or suspension. The retailer shall also surrender the lottery property in his possession and give a final accounting of his lottery activities by the date specified by the director.

§ 2.12. Responsibility of lottery retailers.

Each retailer shall comply with all applicable state and federal laws, rules and regulations of the department, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the director.

§ 2.13. Display of license.

License displayed in general view. Every licensed lottery retailer shall conspicuously display his lottery license in an area visible to the general public where lottery tickets are sold.

§ 2.14. Display of material.

A. Material in general view.

Lottery retailers shall display lottery point-of-sale material provided by the director in a manner which is readily seen by and available to the public.

B. Prior approval for retailer-sponsored material.

A lottery retailer may use or display his own promotional and point-of-sale material, provided it has been submitted to and approved for use by the department in accordance with instructions issued by the director.

C. Removal of unapproved material.

The director may require removal of any licensed retailer's lottery promotional material that has not been approved for use by the department.

§ 2.15. Inspection of premises.

Access to premises by department. Each lottery retailer shall provide access during normal business hours or at such other times as may be required by the director or state lottery representatives to enter the premises of the licensed retailer. The premises include the licensed location where lottery tickets are sold or any other location under the control of the licensed retailer where the director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect the lottery materials or tickets and the licensed premises. -

§ 2.16. Examination of records; seizure of records.

A. Inspection, auditing or copying of records.

Each lottery retailer shall make all books and records pertaining to his lottery activities available for inspection, auditing or copying as required by the director between the hours of 8 a.m. and 5 p.m., Mondays through Fridays and during the normal business hours of the licensed retailer.

B. Records subject to seizure.

State Lottery Department

All books and records pertaining to the licensed retailer's lottery activities may be seized with good cause by the director without prior notice.

§ 2.17. Audit of records.

The director may require a lottery retailer to submit to the department an audit report conducted by an independent certified public accountant on the licensed retailer's lottery activities. The retailer shall be responsible for the cost of only the first such audit in any one license term.

§ 2.18. Reporting requirements and settlement procedures.

Instructions for ordering on-line terminal ticket roll stock, reporting transactions and settling accounts. Before a retailer may begin lottery sales, the director will issue to him instructions and report forms that specify the procedures for (i) ordering on-line terminal ticket roll stock; (ii) reporting receipts, transactions and disbursements pertaining to on-line lottery ticket sales; and (iii) settling the retailer's account with the department.

§ 2.19. Training of retailers and their employees.

Retailer training. Each retailer or anyone that operates an on-line terminal at the retailer's location will be required to participate in training given by the department for the operation of each game. The director may consider nonparticipation in the training as grounds for suspending or revoking the retailer's license.

§ 2.20. License termination by retailer.

Voluntary termination of license. The licensed retailer may voluntarily terminate his license with the department by first notifying the department in writing at least 30 calendar days before the proposed termination date. The department will then notify the retailer of the date by which settlement of the retailer's account will take place. The retailer shall maintain his bond and the required accounts and records until settlement is completed and all lottery property belonging to the department has been surrendered.

PART III.

ON-LINE TICKET VALIDATION REQUIREMENTS.

§ 3.1. Validation requirements.

To be valid, a Virginia lottery on-line game ticket shall meet all of the validation requirements listed here:

1. The original ticket must be presented for validation.
2. The ticket validation number shall be presented in its entirety and shall correspond using the computer validation file to the selected numbers printed on the ticket.

3. The ticket shall not be mutilated, altered, or tampered with in any manner. (see § 3.4)

4. The ticket shall not be counterfeited, forged, fraudulently made or a duplicate of another winning ticket.

5. The ticket shall have been issued by the department through a licensed on-line lottery retailer in an authorized manner.

6. The ticket shall not have been cancelled.

7. The ticket shall be validated in accordance with procedures for claiming and paying prizes. (see §§ 3.10 and 3.12)

8. The ticket data shall have been recorded in the central computer system before the drawing, and the ticket data shall match this computer record in every respect.

9. The player-selected items, the validation data, and the drawing date of an apparent winning ticket must appear on the official file of winning tickets and a ticket with that exact data must not have been previously paid.

10. The ticket may not be misregistered or defectively printed to an extent that it cannot be processed by the department.

11. The ticket shall pass any validation requirement contained in the rules published and posted by the director for the on-line game for which the ticket was issued.

12. The ticket shall pass all other confidential security checks of the department.

§ 3.2. Invalid ticket.

An on-line ticket which does not pass all the validation requirements listed in these regulations and any validation requirements contained in the rules for its on-line game is invalid. An invalid ticket is not eligible for any prize.

§ 3.3. Replacement of ticket.

The director may refund the purchase price of an invalid ticket. If a defective ticket is purchased, the department's only liability or responsibility shall be to refund the purchase price of the defective ticket.

§ 3.4. When ticket cannot be validated through normal procedures.

If an on-line ticket is partially mutilated or if the ticket cannot be validated through normal procedure but can still be validated by other validation tests, the director may pay the prize for that ticket.

§ 3.5. Director's decision final.

All decisions of the director regarding ticket validation shall be final.

§ 3.6. Prize winning tickets.

Prize winning on-line tickets are those that have been validated in accordance with these regulations and the rules of the department and determined to be official prize winners. Criteria and specific rules for winning prizes shall be published for each on-line game and available for all players. Final validation and determination of prize winning tickets remain with the department.

§ 3.7. Unclaimed prizes.

A. All claims for on-line game winning tickets must be postmarked or received for payment as prescribed in these regulations within 180 days after the date of the drawing for which the ticket was purchased. [In the event that the 180th day falls on a Saturday, Sunday or legal holiday, a claimant may redeem his prize-winning ticket on the next business day.]

B. Any on-line lottery prize which remains unclaimed after 180 days following the drawing which determined the prize shall revert to the State Literary Fund.

§ 3.8. Using winners' names.

The department shall have the right to use the names of prize winners and the city, town or county in which they live. Photographs of prize winners may be used with the written permission of the winners. No additional consideration shall be paid by the department for this purpose.

§ 3.9. No prize paid to people under 18.

No prize shall be claimed by or paid to any individual under 18 years of age.

§ 3.10. Where prizes claimed.

Winners may claim on-line game prizes from any licensed on-line retailer or the department in the manner specified in these regulations. Licensed on-line retailers are authorized and required to make payment of all validated prizes of less than \$600.

§ 3.11. Validating winning tickets.

Winning tickets shall be validated by the retailer or the department as set out in these regulations and in any other manner which the director may prescribe in the specific rules for each type of on-line game.

§ 3.12. How prize claim entered.

A prize claim shall be entered in the name of an individual person or legal entity. If the prize claimed is \$600 or greater, the person or entity also shall furnish a tax identification number.

A. An individual shall provide his social security number if a claim form is required by these regulations. A nonresident alien shall furnish their Immigration and Naturalization Service Number. This I.N.S. number begins with an A and is followed by numerical data.

B. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) issued by the Internal Revenue Service. If the department or these regulations require that a claim form be filed, the FEIN must be shown on the claim form.

C. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN may file Internal Revenue Service (IRS) Form 5754, "Statement by Person(s) Receiving Gambling Winnings," with the department. This form designates to whom winnings are to be paid and the person(s) to whom winnings are taxable.

D. A group, family unit, club or other organization which is not a legal entity or which does not possess a FEIN and which does not file IRS Form 5754 with the department shall designate one individual in whose name the claim shall be entered and that person's social security number shall be furnished.

§ 3.13. Right to prize not assignable.

No right of any person to a prize shall be assignable, except that:

1. The director may pay any prize to the estate of a deceased prize winner, and
2. The prize to which a winner is entitled may be paid to another person pursuant to an appropriate judicial order.

§ 3.14. No accelerated payments.

The director shall not accelerate payment of a prize for any reason.

§ 3.15. Liability ends with prize payment.

All liability of the Commonwealth, its officials, officers and employees, and of the department, the board, the director and employees of the department, terminates upon final payment of a lottery prize.

§ 3.16. Delay of payment allowed.

The director may refrain from making payment of the prize pending a final determination by the director, under

State Lottery Department

any of the following circumstances:

1. If a dispute occurs or it appears that a dispute may occur relative to any prize;
2. If there is any question regarding the identity of the claimant;
3. If there is any question regarding the validity of any ticket presented for payment; or
4. If the claim is subject to any set-off for delinquent debts owed to any agency eligible to participate in the Set-Off Debt Collection Act, when the agency has registered such debt with the Virginia Department of Taxation and timely notice of the debt has been furnished by the Virginia Department of Taxation to the State Lottery Department. No liability for interest for such delay shall accrue to the benefit of the claimant pending payment of the claim.

§ 3.17. When installment prize payment may be delayed.

The director may, at any time, delay any installment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that has been brought to the department's attention. All delayed installments shall be brought up to date immediately upon the director's confirmation. Delayed installments shall continue to be paid according to the original payment schedule after the director's decision is given.

§ 3.18. Ticket is bearer instrument.

A ticket that has been legally issued by a licensed lottery retailer is a bearer instrument until the ticket has been signed. The person who signs the ticket is considered the bearer of the ticket.

§ 3.19. Payment made to bearer.

Payment of any prize will be made to the bearer of the validated winning ticket for that prize upon submission of a prize claim form, if one is required, unless otherwise delayed in accordance with these regulations. If a validated winning ticket has been signed, the bearer may be required to present proper identification.

§ 3.20. Marking tickets prohibited; exceptions.

Marking of tickets in any way is prohibited except by a player to claim a prize or by the department or a retailer to identify or to void the ticket.

§ 3.21. Penalty for counterfeit, forged or altered ticket.

Forging, altering or fraudulently making any lottery ticket or knowingly presenting a counterfeit, forged or altered ticket for prize payment or transferring such a ticket to another person to be presented for prize payment

is a Class 6 felony in accordance with the state lottery law.

§ 3.22. Lost, stolen, destroyed tickets.

The department is not liable for lost, stolen or destroyed tickets.

§ 3.23. Retailer to pay all prizes less than \$600.

Prizes less than \$600 shall be paid by any licensed on-line retailer, or by the department at the option of the ticket holder, or by the department when the ticket cannot be validated by the retailer.

§ 3.24. Retailers' prize payment procedures.

Procedures for prize payments by retailers are as follows:

1. Retailers may pay prizes in cash, by certified check, cashier's check, business check, or money order, or by any combination of these methods.
2. If a check for payment of a prize by a retailer to a claimant is denied for any reason, the retailer is subject to the same service charge for referring a debt to the department for collection and penalty payments that would apply if the check were made payable to the department. A claimant whose prize check is denied shall notify the department to obtain the prize.
3. Retailers shall pay claims for all prizes under \$600 during all normal business hours of the lottery retailer when the on-line terminal is operational and the ticket claim can be validated.
4. Prize claims shall be payable only at the location specified on the license.
5. The department will reimburse a retailer for prizes paid up to 180 days after the drawing date.

§ 3.25. When retailer cannot validate ticket.

If, for any reason, a retailer is unable to validate a prize winning ticket, the retailer shall provide the ticket holder with a department claim form and instruct the ticket holder on how to file a claim with the department.

§ 3.26. No reimbursement for retailer errors.

The department shall not reimburse retailers for prize claims a retailer has paid in error.

§ 3.27. Retailer to void winning ticket.

After a winning ticket is validated and signed by the ticket holder, the retailer shall physically void the ticket to prevent it from being redeemed more than once. The

manner of voiding the ticket will be prescribed by the director.

§ 3.28. Prizes of less than \$600.

A retailer shall pay on-line prizes of less than \$600 won on tickets validated and determined by the department to be official prize winners, regardless of where the tickets were sold. The retailer shall display special informational material provided by or approved by the department informing the public that the retailer pays all prizes of less than \$600.

§ 3.29. When prize shall be claimed from the department.

The department will process claims for payment of prizes in any of the following circumstances:

1. If a retailer cannot validate a claim which the retailer otherwise would pay, the ticket holder shall send or present the ticket to the department for validation with a completed claim form.
2. If a ticket holder is unable to return to any on-line retailer, a completed claim form and the ticket may be presented or mailed to the department for validation.
3. If the prize amount is \$600 or more, a completed claim form with the ticket shall be presented or mailed to the department for validation.

§ 3.30. Prizes of \$25,000 or less.

Prizes of \$25,000 or less may be claimed from any of the department's regional offices. Regional offices will pay prizes by check after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.31. Prizes of more than \$25,000.

Prizes of more than \$25,000 and noncash prizes other than free lottery tickets may be claimed from the department's central office in Richmond. The central office will pay prizes by check, after tickets are validated and after any other applicable requirements contained in these regulations are met.

§ 3.32. Grand prize event.

If an on-line game includes a grand prize or jackpot event, the following general criteria shall be used:

1. Entrants in the event shall be selected from tickets which meet the criteria stated in specific game rules set by the director consistent with § 1.1 of these regulations.
2. Participation in the drawing(s) shall be limited to those tickets which are actually purchased by the

entrants on or before the date announced by the director.

3. If, after the event is held, the director determines that a ticket should have been entered into the event, the director may place that ticket into a grand prize drawing for the next equivalent event. That action is the extent of the department's liability.

4. The director shall determine the date(s), time(s) and procedures for selecting grand prize winner(s) for each on-line game. The proceedings for selection of the winners shall be open to members of the news media and to either the general public or entrants or both.

§ 3.33. When prize payable over time.

Unless the rules for any specific on-line game provide otherwise, any cash prize of \$500,000 or more will be paid in multiple payments over time. The schedule of payments shall be designed to pay the winner equal dollar amounts over a period of years until the total payments equal the prize amount.

§ 3.34. Rounding total prize payment.

When a prize or share is to be paid over time, except for the first payment, the director may round the actual amount of the prize or share to the nearest \$1,000 to facilitate purchase of an appropriate funding mechanism.

§ 3.35. When prize payable for "life."

If a prize is advertised as payable for the life of the winner, only an individual may claim the prize. If a claim is filed on behalf of a group, company, corporation or any other type of organization, the life of the claim shall be 20 years.

§ 3.36. When claims form required.

A claim form for a winning ticket may be obtained from any department office or any licensed lottery retailer. A claim form shall be required to claim any prize from the department's central and regional offices. A claim form shall be required to claim any prize of \$600 or more from the department's regional offices.

§ 3.37. Department action on claims for prizes submitted to department.

The department shall validate the winning ticket claim according to procedures contained in these regulations as follows:

1. If the claim is not valid, the department will promptly notify the ticket holder.
2. If the claim is mailed to the department and the department validates the claim, a check for the prize

State Lottery Department

amount will be mailed to the winner.

3. If an individual presents a claim to the department in person and the department validates the claim, a check for the prize amount will be presented to the bearer.

§ 3.38. Withholding, notification of prize payments.

When paying any prize of \$600 or more, the department shall:

1. File the appropriate income reporting form(s) with the Virginia Department of Taxation and the Federal Internal Revenue Service;

2. Withhold any moneys due for delinquent debts listed with the Commonwealth's Set-Off Debt Collection Program; and

3. Withhold federal and state taxes from any winnings over \$5,000.

§ 3.39. Director may postpone drawing.

The director may postpone any drawing to a certain time and publicize the postponement if he finds that the postponement will serve and protect the public interest.

State Lottery Department



SEAL VERIFICATION CHART PICK 3/4

DATE: SAT., _____ through SAT., _____, 19____

BALL SET:

SAT _____

MON _____

TUE _____

WED _____

THU _____

FRI _____

SAT _____

DISTRIBUTION: WHITE - Security CANARY - External Auditor PINK - Internal Auditor GOLDENROD - TV Studio Secure Room

X-9103 (6/89)

604.000 VSL (5-18-6)

X - 0116 (6/89)	REQUEST FOR INACTIVATING RETAILER TERMINAL TO: Peggy Bodie Data Center Operations Manager FROM: Kim Guines Licensing Coordinator DATE: _____	Retailer Name _____ Region _____ Retailer Number _____ INACTIVATE RETAILER'S TERMINAL DUE TO THE FOLLOWING: _____ Non-sufficient funds on EFT sweep _____ Retailer's request _____ Other _____ Recommended Date _____ Recommended Time _____ Approved By: _____ Deputy Director/Director _____ Date _____	REQUEST FOR RE - ACTIVATING RETAILER TERMINAL Re-Activate Date _____ Re-Activate Time _____ Approved By: _____ Deputy Director/Director _____ Date _____ BY: Dy Coleman Brent Pennington Bobby Vaughan Dennis Shaw Jim Bulch Nora Moon
-----------------	---	---	---



DRAW VERIFICATION SHEET

Date: ____/____/____ Draw Day: _____
 Lottery Drawing Specialist _____
 Lottery Security Official _____
 VCR Meter Reading: Start _____ Stop _____
 Tape VolSer Number: _____

Winning Numbers

Daily Pick 3 _____
 Daily Pick 4 _____
 Weekly Lotto _____
 Culling in Balance: Yes _____ No _____
 Daily 3 _____ Daily 4 _____ Lotto _____

Lotto Prize Information

Actual Jackpot _____
 Estimated Jackpot _____
 Handle _____
 % of Plays Covered _____
 Carryover to next Draw _____

Winners fa7004prizes & ga9001payout draw results

Lotto

Match 6 _____
 Match 5 _____
 Match 4 _____
 Match 3 _____

Data Center Operations Supervisor _____
 Lead Computer Operator _____
 Computer Operator _____

Original - Director of Security
 Yellow - Data Center Supervisor
 Goldenrod - Computer Systems Security
 Pink - Internal Auditor

Return To:
 Virginia Lottery
 1610 Ownby Lane
 Richmond, VA 23220

ORDER
 NUMBER

**VIRGINIA LOTTERY VIRGINIA LOTTERY ON-LINE PLAY CENTER
 AGREEMENT / ORDER FORM**

This agreement/order form between the State Lottery Department (Lottery) and the retailer named below provides for the placement of the on-line Play Center in the retailer's business.

RETAILER NAME: (trading as) _____ Phone #: (____) _____
 DELIVERY ADDRESS: _____
 CITY/STATE/ZIP: _____
 LOTTERY REGION NAME: _____ RETAILER NUMBER: _____

PLACE AN "X" BESIDE DESIRED ITEM:

____ PLAY CENTER (TOP & BASE (A/B)) ____ PLAY CENTER (TOP ONLY)
 ____ APPROXIMATE DELIVERY DATE (PLEASE ALLOW TWO WEEKS FROM ORDER)

PLAY CENTER PLACEMENT AND USAGE

A Lottery Play Center may be provided at no charge for each on-line retail location. The Lottery reserves the right to approve the Play Center placement. The Play Center may be used only for the display and use of approved Lottery materials. The Play Center remains the property of the Lottery.

The Play Center may be removed at the Lottery's request due to unauthorized use or the retailer no longer sells lottery on-line games.

RETAILER CONTACT

LOTTERY REPRESENTATIVE

Print Name _____ Date _____
 Signature _____
 Title _____

Print Name _____ Date _____
 Signature _____
 Title _____

WHITE - Central Warehouse GREEN - Retail Promotion Specialist CANARY - Regional Sales Office PINK - Sales Department GOLD - Retailer

State Lottery Department

VIRGINIA LOTTERY HOT LINE REPORT

VIRGINIA LOTTERY CONTROL NUMBER **C-100253**

DATE: _____ RETAILER NUMBER: _____

RETAILER NAME: _____

TICKET PROBLEM REPORT REFERENCE NUMBER **P.**

DATE PROBLEM OCCURRED: _____ HR: _____ MIN: _____ SEC: _____ A.M. / P.M.

TIME CALL RECEIVED: _____ HR: _____ MIN: _____ SEC: _____ A.M. / P.M.

VALUE OF TICKETS \$ _____

TYPE OF PROBLEM: _____

EXPLANATION/RECOMMENDATION: CREDIT DEBIT MISPRINT OTHER

TICKET INFORMATION

DRAW DATE: (PICK 3 / PICK 4) (PICK 5) (PICK 6) (PICK 7) (PICK 8) (PICK 9) (PICK 10) (PICK 11) (PICK 12) (PICK 13) (PICK 14) (PICK 15) (PICK 16) (PICK 17) (PICK 18) (PICK 19) (PICK 20) (PICK 21) (PICK 22) (PICK 23) (PICK 24) (PICK 25) (PICK 26) (PICK 27) (PICK 28) (PICK 29) (PICK 30) (PICK 31) (PICK 32) (PICK 33) (PICK 34) (PICK 35) (PICK 36) (PICK 37) (PICK 38) (PICK 39) (PICK 40) (PICK 41) (PICK 42) (PICK 43) (PICK 44) (PICK 45) (PICK 46) (PICK 47) (PICK 48) (PICK 49) (PICK 50) (PICK 51) (PICK 52) (PICK 53) (PICK 54) (PICK 55) (PICK 56) (PICK 57) (PICK 58) (PICK 59) (PICK 60) (PICK 61) (PICK 62) (PICK 63) (PICK 64) (PICK 65) (PICK 66) (PICK 67) (PICK 68) (PICK 69) (PICK 70) (PICK 71) (PICK 72) (PICK 73) (PICK 74) (PICK 75) (PICK 76) (PICK 77) (PICK 78) (PICK 79) (PICK 80) (PICK 81) (PICK 82) (PICK 83) (PICK 84) (PICK 85) (PICK 86) (PICK 87) (PICK 88) (PICK 89) (PICK 90) (PICK 91) (PICK 92) (PICK 93) (PICK 94) (PICK 95) (PICK 96) (PICK 97) (PICK 98) (PICK 99) (PICK 100)

LOTTO

Play A: _____ Play B: _____ Play C: _____ Play D: _____ Play E: _____

ON-LINE VALIDATION NUMBER (Number at Bottom of Ticket)

***** LOTTERY USE ONLY *****

ADJUSTMENT: APPROVED DENIED

TOTAL ADJUSTMENT APPROVED _____

LESS COMMISSION _____

NET ADJUSTMENT _____

EXPLANATION: _____

ACCOUNTING - 4444-1007 HOT LINE - 4444-1007 SECURITY - 4444-1007



ON-LINE WEEKLY SETTLEMENT ENVELOPE

ITEM 3: RETAILER BUSINESS PHONE _____

ITEM 4: RETAILER'S SIGNATURE _____

ITEM 1: RETAILER'S SIGNATURE _____

ITEM 2: RETAILER'S SIGNATURE _____

DO NOT MAIL
THIS ENVELOPE WILL BE PICKED UP BY YOUR LOTTERY SALES REPRESENTATIVE

- PLEASE CHECK ITEMS ENCLOSED**
- ITEM 5 DAILY SIGN-ON SLIPS
 - ITEM 6 CASH TICKETS ENVELOPE
 - ITEM 7 CANCELLED TICKETS ENVELOPE
 - ITEM 8 ON-LINE RETAILER TICKET PROBLEM REPORT
 - ITEM 9 ON-LINE WEEKLY SETTLEMENT REPORT

LOTTERY USE ONLY


USER'S SIGNATURE _____

REC'D BY _____

BILLING PROBLEM?
YES NO

SLD-3127

VIRGINIA LOTTERY ON-LINE GAME SURVEY

LSR NO.	RETAILER NUMBER	CITY/TOWN CODE #	MAJOR NEWSPAPER	DENSUS TRACT	INTERVIEW DATE
LEGAL BUSINESS NAME _____ DBA _____					
PHYSICAL LOCATION ADDRESS _____ CITY/TOWN _____ STATE _____ ZIP _____					
I WISH TO BE SURVEYED FOR ON-LINE GAMES <input type="checkbox"/> YES <input type="checkbox"/> NO			TELEPHONE NUMBERS		
NAME OF PERSON INTERVIEWED (Please Print)		SIGNATURE _____		BUSINESS ()	
TITLE _____		<input type="checkbox"/> PROPRIETOR OPERATED <input type="checkbox"/> MANAGER OPERATED		TERMINAL PHONE # ()	
		<input type="checkbox"/> CHAIN STORE		INTERVIEWED BY _____	
TYPE OF BUSINESS (NAME/NUMBER FROM BUSINESS CLASSIFICATION CODE)					
LENGTH OF TIME AT LOCATION CURRENT OWNERSHIP SAME BUSINESS STYLE					
TYPE OF AREA/NEIGHBORHOOD (Check One) <input type="checkbox"/> URBAN <input type="checkbox"/> SUBURBAN <input type="checkbox"/> RURAL <input type="checkbox"/> SEASONAL <input type="checkbox"/> RESIDENTIAL					
BRIEFLY DESCRIBE AREA BELOW:					
DEFINE TARGET MARKET PARAMETERS:					
DAILY VEHICLE COUNT ON STREET(S) (Obtain from CITY, COUNTY, OR STATE ROAD DEPT)			TRANSIT STOPS		
DEPT: _____ YEAR (Lastest Figure): _____			LAW ENFORCEMENT AGENCY <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY		
NEAREST MAJOR EMPLOYERS OF CUSTOMERS			NUMBER OF EMPLOYEES		
NAME _____ DISTANCE _____					
SKETCH MACHINE LOCATION WITHIN SITE: 		ANNUAL GROSS SALES \$ _____ <input type="checkbox"/> VIDEO RENTALS : _____ SOURCE : _____ <input type="checkbox"/> CHECK CASHING : _____ RESTAURANT: FOOD \$ _____ <input type="checkbox"/> PAY PHONES : _____ BEVERAGE \$ _____ <input type="checkbox"/> ATM : _____ <input type="checkbox"/> SERVICES : _____ (Approximate Percent Volume by Category) GAS SALES (Gal/Mo.) _____ STORES: TOTAL CUSTOMERS/WEEK _____ BEVERAGE: _____ % <input type="checkbox"/> YES <input type="checkbox"/> NO FRONT END: _____ % <input type="checkbox"/> READER BOARD <input type="checkbox"/> DAIRY: _____ % <input type="checkbox"/> WILL USE FOR JACKPOT <input type="checkbox"/> DELI: _____ % <input type="checkbox"/> MAKES OWN SIGNAGE <input type="checkbox"/> OTHER: _____ % GROCERY: _____ %			
POINT OF SALES CONVENIENCE AND VISIBILITY: Low <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 High <input type="checkbox"/>					

BLD-0120 NOTE: ALL SPACES MUST BE COMPLETED BEFORE FORM CAN BE PROCESSED. PAGE 1



TICKET PROBLEM REPORT

REFERENCE NO. P- _____

INSTRUCTIONS:

1. CALL VIRGINIA LOTTERY HOT-LINE AT 1-800-654-2500 AT THE TIME PROBLEM OCCURS TO OBTAIN A CONTROL NUMBER.
2. COMPLETE THE FORM AND EXPLAIN PROBLEM BELOW. STAPLE THE PROBLEM TICKETS TO THE FORM.
3. KEEP PINK AND GOLDENROD FOR YOUR RECORDS. FORWARD THE WHITE AND YELLOW COPIES IN WEEKLY SETTLEMENT ENVELOPE (TO BE PICKED UP BY LOTTERY SALES REPRESENTATIVE).

DATE _____ RETAILER _____
 RETAILER NO. _____ ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 PHONE (____) _____

LOTTERY CONTROL NO. _____	VALUE OF TICKET(S): \$ _____
DATE PROBLEM OCCURRED / /	
TIME PROBLEM OCCURRED _____ am _____ hr _____ min _____ sec _____ pm	DO NOT CHANGE AMOUNT DUE ON WEEKLY SETTLEMENT REPORT. ADJUSTMENTS WILL BE MADE BY LOTTERY HEADQUARTERS.

TYPE OF TICKET PROBLEM: No Print Misprinted Other

EXPLANATION _____

ON-LINE VALIDATION NUMBER _____
 (Number at Bottom of Ticket):

STAPLE TICKET HERE



RETAILER AGREEMENT FORM

This agreement between the State Lottery Department ("Department") and the Retailer ("Retailer") named below, in consideration of the \$275 non-refundable terminal installation fee paid by the Retailer, entitles the Retailer to an On-Line Retailer License to sell On-Line and Instant lottery tickets at the specified location.

1. **RETAILER'S BUSINESS NAME:** _____

ADDRESS: _____
Street City Zip Code

Retailer Identification Number: _____

2. Retailer shall comply with all applicable state and federal laws, Department rules and regulations, license terms and conditions, specific rules for all applicable lottery games, and directives and instructions which may be issued by the Department.

It is understood that this does not constitute a lease for on-line equipment but is an arrangement whereby the on-line retailer, as a licensee of the Department, maintains sole custody of the equipment during the active term of the license. All equipment, manuals, tapes, cards, computer printouts, ticket stock, and other items furnished to the Retailer for use with on-line and instant games shall at all times remain the sole property of the Department.

4. The Department reserves the right to discontinue operation of an on-line terminal without notice, order its removal from the Retailer's premises, and revoke the Retailer's license in the event that: a) the on-line Retailer fails to comply with any rule established by the Department, or any instruction issued by the Director of the Department; b) the Department suspends or revokes the Retailer's license to sell lottery tickets; or c) the Retailer fails to make payment of a prize or makes payment with a business check which is dishonored.

5. The Retailer agrees to submit the following forms:

- a. Signed EFT Authorization form with a voided check or deposit slip from the specified account.
- b. Executed bond requirement. (See On-Line Game Regulations-Part II, Section 2.4)
- c. Signed Retailer agreement.

6. The Retailer recognizes that this license is a privilege and not a right. The license issued by the Department authorizes the business named above to act as an on-line Retailer at the location specified in the license. The license is not transferrable to any other business, person, or location.

7. The Retailer understands and agrees that, in addition to the provisions of this Agreement, he has read, understands and agrees to abide and be bound by all rules and regulations adopted by the Department.

SIGNATURES: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

SLD-0130 (04/97)

WHITE-Department

PINK-Region

YELLOW-Retailer

X-0105 6/99 COMMONWEALTH of VIRGINIA STATE LOTTERY DEPARTMENT A/R ONLINE ACCOUNTING TRANSACTION FORM			
			REFERENCE # _____ DATE _____
AGENT NO:	AGENT NAME:	TRANSACTION AMOUNT:	
<input checked="" type="checkbox"/>	TRAN CODE	DESCRIPTION	GL JOURNAL NO.: _____
<input type="checkbox"/>	8	CM - Account Credit	
<input type="checkbox"/>	9	DM - Account Charge	
<input type="checkbox"/>	11	DM - Cash Transfer	
<input type="checkbox"/>	12	DM - Chargeback NSF	
<input type="checkbox"/>	13	DM - Interest on NSF	
<input type="checkbox"/>	14	DM - Penalty	
<input type="checkbox"/>	15	DM - Regional Adjustment	
Comments: _____ _____ _____			
Approved: _____		Date: _____	
Entered: _____		Date: _____	
White: Accounting Yellow: Retailer Pink: General Ledger			



COMMONWEALTH of VIRGINIA

State Lottery Department

P.O. Box 4689, Richmond, Virginia 23220

(804) 367-9130

Kenneth W. Thomson
Director

VIRGINIA LOTTERY BOARD
H. Stuart Knight
The Honorable William F. Parkerson, Jr.
Henry Thompson Tucker, Jr.
Dr. Cynthia Hildanby Tyson
The Honorable G. Wilson Whitehurst

ON-LINE LICENSE APPROVAL NOTICE

Dear Lottery Retailer:

Congratulations! Your business has been selected as an on-line retailer. Soon after you have signed and returned the enclosed agreement form and completed the requirements set forth below, the Lottery will initiate the steps necessary for installation of an on-line terminal for your location. This letter and the enclosed materials explain what you have to do to complete this process and receive your new license.

As an on-line retailer, you are required to provide \$10,000 surety bond coverage for your on-line terminal location(s). This may be done by having your current instant ticket \$5,000 bond amended to the \$10,000 amount or by securing a new bond.

You must also authorize access to an electronic funds transfer (EFT) bank account to be used exclusively for lottery settlement. You can use your current EFT account that you established for the instant games.

Also enclosed with this notice is a summary of the duties and responsibilities of the lottery and on-line retailers. Please take a few moments to read the enclosed information.

After you have reviewed this information, please do the following:

- (1) Complete and return the On-Line Agreement form;
- (2) Purchase or amend your bond to show \$10,000 coverage and provide the original of the surety bond certificate and the surety company's power of attorney;
- (3) Complete and return the on-line electronic funds transfer (EFT) agreement form; and
- (4) Return a check payable to the State Lottery Department in the amount of \$275.00.

If you have any questions, please contact our licensing service representative at (804) 367-9236.

Sincerely,

Larry J. Gray
Deputy Director

Enclosures

Page 2

1. THE LOTTERY WILL (at no cost to you):

- a. Provide an on-line terminal for the sale and cancellation of on-line tickets, the validation of winning tickets and the production of management reports.
- b. Arrange for the installation of the telecommunications lines.
- c. Provide advertising for the on-line games.
- d. Provide point-of-sale material, signage and other forms of merchant sale aids.
- e. Provide marketing and advertising assistance to the retailer.
- f. Provide training on the operation of the on-line terminal for the sale, redemption and cancellation of the on-line tickets.
- g. Supply the retailer playslips, ticket stock, weekly settlement envelopes, and all other forms required for on-line games.
- h. Provide mechanical and electrical maintenance and repairs to the on-line terminal.
- i. Provide funds to the retailer, when necessary, if any required payment of on-line prizes exceeds retailer's sales since the last settlement date.

2. THE RETAILER SHALL:

- a. Pay to the Lottery a non-refundable amount of \$275 in advance to cover the Lottery's cost for initial installation expenses and will be assessed a weekly charge of \$15 for the on-line telecommunication line charges.
- b. Attend such training sessions as the Lottery shall provide to ensure that the retailer and employees are properly trained in the operation of the on-line terminal.
- c. Provide secure storage for the on-line terminal supplies and a secure area for the on-line terminal, cancelled tickets, and tickets on which payments have been paid.
- d. Locate secure cash storage within close proximity to the on-line terminal.
- e. Provide for the sale of all Lottery products.
- f. Exercise due diligence in the operation of the on-line terminal and shall immediately notify the Lottery of any telephone line or on-line terminal malfunction.
- g. Not perform mechanical or electrical maintenance on the on-line terminal, but may replace ribbons and on-line ticket stock and minor machine corrections per the instructions provided by the Lottery.
- h. Conduct the sale, redemption, and cancellation of on-line tickets during all hours and days the retailer's business is open and the on-line system is functioning.

SURETY COMPANY BOND # _____

COMMONWEALTH OF VIRGINIA
LOTTERY RETAILER SURETY BOND

- i. Immediately pay each valid winning on-line ticket claim of less than \$600.
- j. Stamp, mark or otherwise identify all cancelled on-line tickets and winning on-line tickets that have been paid and submit these along with the "cancel" and "pay" tickets to the Lottery as part of the payment process.
- k. Provide the proper claim forms and instructions to each bearer of a winning ticket of \$600 or more.
- l. Post each winning number prominently where tickets are sold as soon as possible following the drawing.
- m. Be responsible for the loss of or damages to the on-line terminal equipment which results from the retailer's negligence or intentional acts.
- n. Provide a bond in the amount of \$10,000 made payable to the State Lottery Department.
- o. Establish and maintain a special electronic funds transfer bank account to be used exclusively for lottery business.

3. INSTALLATION:

- a. The retailer will provide, prior to installation of the on-line terminal, an electrical duplex-grounded outlet on a separate circuit that remains operational 24 hours a day. The circuit shall be 110 volts AC, 60 Hz nominal and a 20 amp circuit breaker. The outlet shall be located within six feet of the on-line terminal and in an area where the public does not have access.
- b. The retailer will locate the on-line terminal within the retailer's premises at a point of sale approved by the Lottery. The retailer shall not move the terminal unless the retailer follows the procedures established by the Director, including reimbursing the Lottery for any telephone charges associated with the change of location if the retailer requests the change.

4. COMPENSATION:

- a. In consideration for properly performing its duties and responsibilities, the licensed retailer shall receive 5.0% compensation on all net sales from on-line games. "Net sales" are gross sales less cancels.

KNOW ALL MEN BY THESE PRESENTS: That we, _____ as Principal and _____, incorporated under the laws of the State of _____ and authorized to do business in the Commonwealth of Virginia, as Surety, are held and firmly bound unto the State Lottery Department, Commonwealth of Virginia, as obligee, in the penal sum of Five Thousand and no/100 Dollars (\$5,000), lawful money of the United States of America, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrator, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bound Principal has obtained or is about to obtain from the Obligee a license as a Lottery Retailer at the following physical location: _____ and the term of said license shall be for a period of one year effective during the month of the lottery retailer's license approval,

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Principal shall make payment of all sums due the Obligee for lottery tickets and proceeds and comply with all statutes, rules, and regulations pertaining to said license, than this obligation shall be null and void, otherwise to remain in full force and effect.

PROVIDED, that this bond shall be effective on _____, 19____, and shall continue in force for one year; unless said bond is continued in force from year to year by the issuance of a continuation certificate executed by the Surety hereon; and

PROVIDED FURTHER, that regardless of the number of years this bond shall continue in force, the Surety shall not be liable hereunder for a larger amount, in the aggregate, than the amount of this bond, and

PROVIDED FURTHER, this bond may be cancelled by the Surety as to subsequent liability by giving thirty (30) days notice in writing by certified mail to the Director, State Lottery Department, P. O. Box 4689, Richmond, VA 23220.

Signed and sealed this ____ day of _____, 19____.

Surety (Seal) _____
By: _____ By: _____

SEE REVERSE SIDE FOR ACKNOWLEDGMENT OF SURETY
PLEASE RETURN THIS BOND TO THE LOTTERY

THINGS TO DO

ON-LINE RETAILER

**Check box
When Complete**

Task

Sign on-line Retailer agreement form.

Submit \$275.00 check for telecommunications installation fee.

Specify bank account number for electronic funds transfer settlement.

Provide lottery with proof of \$10,000 bond.

Mark area near terminal counter with stickers for Installers (TELCO and A.C. power).

Prepare counter space for terminal installation.

Attend training as scheduled.



CANCELLED TICKETS ENVELOPE

RETAILER NUMBER					

NUMBER OF TICKETS ENCLOSED					

RETAIL VALUE OF TICKETS ENCLOSED					

TUESDAY SETTLEMENT DATE					
Month	Day	Year			

STAPLE EACH CANCELLED TICKET TO THE CORRESPONDING PLAYER TICKET.



CASH TICKETS ENVELOPE

RETAILER NUMBER					

NUMBER OF TICKETS ENCLOSED					

PRIZE VALUE OF TICKETS ENCLOSED					

TUESDAY SETTLEMENT DATE					
Month	Day	Year			

EACH CASH TICKET MUST BE STAPLED TO THE CORRESPONDING PLAYER TICKET.

GOVERNOR

EXECUTIVE ORDER NUMBER ELEVEN (90)

PROVIDING FOR COOPERATION BETWEEN THE VIRGINIA NATIONAL GUARD AND THE VIRGINIA STATE POLICE IN SUPPRESSION OF DRUG TRAFFIC AND OTHER CRIMINAL ACTIVITIES WITHIN THE COMMONWEALTH

By virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by §§ 44-8 and 44-75.1(3) of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby authorize the Adjutant General of the Virginia Department of Military Affairs to employ the organized militia of the Commonwealth to assist the Department of State Police in locating and eradicating illegally-grown marijuana and cannabis in the Commonwealth of Virginia and in suppressing drug smuggling and trafficking, and related forms of crime within the Commonwealth.

The role and function of the Virginia National Guard shall be consistent with the guidelines established in this Executive Order and current or future memoranda of understanding between the Department of Military Affairs and the Department of State Police.

The Adjutant General shall have the following responsibilities:

1. To ensure that all operations of the Virginia National Guard undertaken pursuant to this Executive Order are consistent with regulations of the Department of Defense and with all applicable federal and state laws;
2. To maintain the integrity of the established military chain of command for all operations of the Virginia National Guard;
3. To prevent deterioration or impairment of the military preparedness or normal training missions of the Virginia National Guard; and
4. To assure that any loan of equipment or conduct of any special mission is in accordance with state and federal regulations and Virginia National Guard procedures.

The Superintendent of State Police shall have the following responsibilities:

1. To request assistance from the Office of the Adjutant General;
2. To coordinate and utilize, to the fullest extent possible, the resources of the Virginia National Guard in suppressing drug smuggling, drug trafficking, and illegal marijuana cultivation in the Commonwealth;
3. To provide information and training to the Virginia

National Guard concerning trends, patterns, methods and procedures being used to smuggle, distribute, and produce illegal drugs in Virginia; and

4. To conduct follow-up investigations on criminal activities detected during the course of National Guard missions.

The Adjutant General and the Superintendent of State Police shall be jointly responsible for developing procedures, to be set out in a memorandum of understanding, to implement this Executive Order. At minimum, these procedures shall address the following subjects:

1. Loaning military equipment to the State Police, under the conditions set forth in this Executive Order, as necessary to counter criminal activity;
2. Cross-training State Police officers and members of the Virginia National Guard;
3. Exchanging information gathered during routine missions of the Virginia National Guard;
4. Safeguarding the secrecy of information gathered during missions; and
5. Training State Police personnel in the operation, maintenance, and security of loaned military equipment.

Should service under this Executive Order result in the injury or death of any member of the National Guard, the following benefits will be provided to the member and his dependents or survivors:

1. Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers' Compensation Act; and, in addition,
2. The same benefits for injury, disability and/or death, or their equivalent, as would be provided by the federal government if the member were serving on federal active duty at the time of injury or death. Any such federal-type benefits due to a member and his/her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his/her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade of E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the Code of Virginia and

subject to the concurrence of the Board of Military Affairs, I now approve of such federal-type benefits as being manifestly for the benefit of the military service and direct that said federal-type benefits be funded.

This Executive Order will become effective on July 1, 1990 and will remain in full force and effect until June 30, 1994, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 30th day of June, 1990.

/s/ Lawrence Douglas Wilder
Governor

* * * * *

EXECUTIVE ORDER NUMBER TWELVE (90)

LEGISLATIVE COORDINATION

By virtue of the authority vested in me by Article V, Section 5 of the Constitution of Virginia and §§ 2.1-39.1 and 2.1-41.1 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby require each state agency or institution within the Executive Branch to notify the Office of the Governor regarding any legislation it proposes for adoption, all testimony relative to proposed legislation, and its assessment of the potential impacts of proposed legislation.

This requirement is intended to:

- Ensure that all proposed legislation is necessary for the efficient and effective operations of state government and is responsive to the needs of citizens of the Commonwealth;
- Fulfill my responsibility as the Chief Planning and Budget Officer of the Commonwealth;
- Facilitate the development of an official position on legislation before, during, and after each session of the General Assembly;
- Ensure appropriate consideration of the views of all affected agencies;
- Clarify the Administration's position on particular legislation for the guidance of the executive agencies and for the information of the General Assembly; and
- Assess the fiscal and policy implications of proposed legislation.

This requirement is not intended to restrict any state agency or institution from proposing to the Governor legislation deemed necessary to the efficient and effective operations of state government. This requirement also shall

not restrict the ability of any member of the General Assembly to gain access to or obtain information from any state agency or institution.

The Director of the Department of Planning and Budget is hereby delegated the responsibility for coordinating with and advising the Governor and the Governor's Secretaries regarding agency legislative proposals before each session of the General Assembly. The Director also shall be responsible for providing information and staff assistance as required during and after each session of the General Assembly.

The Director of the Department of Planning and Budget is hereby directed to develop and implement a legislative coordination process that includes policies and procedures necessary for the implementation of his assigned duties and responsibilities.

Agency legislative proposals shall be forwarded to the Department of Planning and Budget and the Governor's Policy Office concurrently. Any recommendations made by the Department of Planning and Budget or the Governor's Secretaries shall be forwarded to the Governor's Policy Office.

This Executive Order supersedes and rescinds Executive Order Number Nineteen (86), Legislative Coordination, issued June 26, 1986, by Governor Gerald L. Baliles.

This Executive Order will become effective upon its signing and will remain in full force and effect until June 30, 1994, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of July, 1990.

/s/ Lawrence Douglas Wilder
Governor

* * * * *

EXECUTIVE ORDER NUMBER NINETEEN (90)

PROMULGATION OF VOLUME II, EMERGENCY OPERATIONS PLAN FOR PEACETIME DISASTERS

By virtue of the authority vested in me by § 44-146.17 of the Code of Virginia as Governor and as Director of Emergency Services, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby promulgate and issue Volume II of the Commonwealth of Virginia Emergency Operations Plan for Peacetime Disasters, dated July 1982, as amended, as rules and regulations for operations should a peacetime disaster strike anywhere in the state.

The Plan is consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 1973 (Chapter 3.2, Title 44 of the Code), as amended, and with

Governor

the Federal Disaster Relief Act of 1974 (Public Law 93-288), as amended by the Stafford Act (PL 101-707) and its implementing federal regulations.

Heads of state agencies, in carrying out the provisions of the Commonwealth of Virginia Emergency Services and Disaster Law of 1973, Code of Virginia, § 44-146.13, et seq., are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state to the maximum extent possible. The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the State Department of Emergency Services upon request.

The State Coordinator of Emergency Services, in accordance with Code § 44-146.18, shall be responsible for maintaining and updating this Plan and coordinating its administration with the appropriate federal, state, and local agencies.

This Executive Order shall have the full force and effect of law.

This Executive Order shall become effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

This Executive Order rescinds Executive Order Number 61 (85), Emergency Operations Plan, Volume III, Operational Survival Plan, War-Caused Disasters, issued by Governor Charles S. Robb on August 31, 1985.

Given under my hand and the seal of Commonwealth of Virginia, this 18th day of July, 1990.

/s/ Lawrence Douglas Wilder
Governor

* * * * *

EXECUTIVE ORDER NUMBER TWENTY (90)

PROMULGATION OF THE COMMONWEALTH OF VIRGINIA EMERGENCY OPERATIONS PLAN, VOLUME III, OPERATIONAL SURVIVAL PLAN FOR WAR-CAUSED DISASTERS

By virtue of the authority vested in me by § 44-146.17 of the Commonwealth of Virginia Emergency Services and Disaster Law of 1973 (Code of Virginia, Chapter 3.2, Title 44), as amended, as Governor of the Commonwealth of Virginia and Director of Emergency Services, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby promulgate and issue the Commonwealth of Virginia Emergency Operations Plan, Volume III, Operational Survival Plan for War-Caused Disasters, dated August 1985, as amended, as rules and regulations for operations should a war-caused disaster strike anywhere in the state.

The Plan is consistent with both the Commonwealth of Virginia Emergency Services and Disaster Law of 1973, as amended, and the Federal Civil Defense Act of 1950 (Public Law 81-920), as amended.

The Plan is hereby applicable to all state agencies assigned emergency responsibilities in connection with war-caused disasters and the local governing officials of all political subdivisions. Heads of state agencies and governing bodies of all political subdivisions are hereby directed to prepare operating procedures for executing their emergency responsibilities and to implement the Plan upon direction.

Heads of state agencies, in carrying out the provisions of the Commonwealth of Virginia Emergency Services and Disaster Law of 1973, Code of Virginia, § 44-146.13, et seq., are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state to the maximum extent possible. The officers and agencies of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the State Department of Emergency Services upon request.

The State Coordinator of Emergency Services, in accordance with § 44-146.18 of the Code, shall be responsible for maintaining and updating this Plan, as required, and coordinating its administration with appropriate federal, state, and local agencies.

This Executive Order shall have the full force and effect of law.

This Executive Order shall become effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further executive order.

This Executive Order rescinds Executive Order Number 61 (85), Emergency Operations Plan, Volume III, Operational Survival Plan, War-Caused Disasters, issued by Governor Charles S. Robb on August 31, 1985.

Given under my hand and the seal of Commonwealth of Virginia, this 18th day of July, 1990.

/s/ Lawrence Douglas Wilder
Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

MARINE RESOURCES COMMISSION

Title of Regulation: VR 450-01-0058. Barrier Island Policy.

Governor's Comment:

Pending public comment, I recommend approval of this policy to regulate development on barrier islands, in order to protect these fragile natural areas and minimize the impact of development.

/s/ Lawrence Douglas Wilder
Governor
Date: August 2, 1990

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)**

Title of Regulation: **VR 460-03-4.1940:1 Nursing Home Payment System Methodology: PIRS.**

Governor's Comment:

I concur with the form and substance of these regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: August 7, 1990

STATE WATER CONTROL BOARD

Title of Regulation: **VR 680-21-00. Water Quality Standards (VR 680-21-01 through VR 680-21-08).**

Governor's Comment:

The intent of these regulations is to ensure that Virginia's water quality standards meet federal requirements and state commitments and that Virginia's waters are protected from toxic discharges. I endorse this intent. I also encourage the Board as it proceeds to listen carefully to comments from the public and other appropriate parties.

/s/ Lawrence Douglas Wilder
Governor
Date: August 7, 1990

* * * * *

Title of Regulation: **VR 680-14-01. Permit Regulation.**

Governor's Comment

The intent of these regulations is to ensure that Virginia meets all federal and state requirements and protects the quality of its waters. I endorse this intent. I also encourage the Board as it proceeds to listen carefully to comments from the public and other appropriate parties.

/s/ Lawrence Douglas Wilder
Governor
Date: August 7, 1990

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

COUNCIL ON THE ENVIRONMENT

† Notice of Intended Regulatory Action

Notice is hereby given that the Council on the Environment intends to consider promulgating regulations entitled: **Public Participation Guidelines**. The purpose of the proposed action is to establish public participation guidelines governing the Council on the Environment.

Statutory Authority: §§ 10.1-1206 and 62.1-195.1 of the Code of Virginia.

Written comments may be submitted until October 1, 1990.

Contact: Jay Roberts, Environmental Planner, 202 N. Ninth St., Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider amending regulations entitled: **VR 190-05-1. Virginia Asbestos Licensing Regulations**. The purpose of the proposed action is to amend the current regulations to include requirements created by legislative action.

Statutory Authority: § 54.1-501 of the Code of Virginia.

Written comments may be submitted until October 15, 1990.

Contact: Peggy J. Wood, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or toll-free 1-800-552-3106

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 promulgating regulations entitled: **Regulations Governing Athlete Agents**. The purpose of the proposed action is to regulate the activities of athlete agents in the Commonwealth of Virginia through the establishment of licensing requirements, to conform to HB 706 which becomes law January 1, 1991.

Statutory Authority: § 54.1-525 of the Code of Virginia.

Written comments may be submitted until September 3, 1990

Contact: Pamela M. Templin, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8531.

DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Conservation and Recreation intends to consider promulgating regulations entitled: **VR 215-03-00. Virginia Outdoors Fund Regulations**. The purpose of the proposed regulation is to provide uniform application procedures and uniform criteria and requirements for the administration and management of public recreational areas and facilities acquired or developed from the Commonwealth's general funds awarded through the Virginia Outdoors Fund.

Statutory Authority: §§ 10.1-104 and 10.1-200 of the Code of Virginia.

Written comments may be submitted until August 30, 1990, to Leon E. App, Executive Assistant, Department of Conservation and Recreation, 203 Governor Street, Suite 302, Richmond, Virginia 23219, FAX No. 804/786-6141.

Contact: John R. Poland, Recreation Resources Bureau Manager, Department of Conservation and Recreation Resources, Division of Planning and Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 371-7898.

BOARD OF CORRECTIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Corrections intends to consider promulgating regulations entitled: **Virginia Probation and Parole Standards**. The purpose of the proposed regulation is to provide procedural standards for Adult Probation and Parole Officers.

Statutory Authority: §§ 53.1-5, 53.1-140 and 53.1-141 of the Code of Virginia.

General Notices/Errata

Written comments may be submitted until August 31, 1990.

Contact: Andrew Molloy, Jr., Administrative Assistant, Adult Community Corrections, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3221.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **Regulations on Preneed Funeral Planning**. The purpose of the proposed action is to promulgate regulations for the practice of preneed funeral sales and arrangements by licensees of the Board of Funeral Directors and Embalmers. A committee meeting on the development of the regulations will be held on October 3, 1990 at 9 a.m.

Statutory Authority: § 54.1-2803 10 of the Code of Virginia.

Written comments may be submitted until September 28, 1990.

Contact: Meredyth P. Partridge, Executive Director of the Board, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9941

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **VR 355-34-02. Regulations Governing Sewage Handling and Disposal**. The purpose of the proposed action is to delete portions of Article 11 related to Nonpublic Drinking Water Supply Systems Utilized in conjunction with onsite sewage disposal systems, now included in private well regulations (VR 355-340-01).

Statutory Authority: § 32.1-176.4 of the Code of Virginia.

Written comments may be submitted until September 30, 1990.

Contact: Donald Alexander, Director, Bureau of Sewage and Water, Virginia Department of Health, 109 Governor St., Suite 500, Richmond, VA 23219, telephone (804) 786-3559.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of

Health intends to consider amending regulations entitled: **VR 355-39-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations**. The purpose of the proposed action is to amend the existing Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations so that the regulations are consistent with amended law. These amendments appeared as Emergency Regulations in the July 30, 1990, issue of the Virginia Register.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et. seq. of the Code of Virginia.

Written comments may be submitted until October 15, 1990.

Contact: Marilyn H. West, Director, Division of Resources Development, Virginia Department of Health, James Madison Bldg., Room 1005, 109 Governor St., Richmond, VA 23219, telephone (804) 786-7463.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider amending regulations entitled: **Boiler and Pressure Vessel Rules and Regulations**. The purpose of the proposed action is to amend the Boiler and Pressure Vessel Rules and Regulations; commissioner's approval of variances; exemptions; and regulatory review.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

Contact: Anna Bradley Johnson, Statistical Analyst Senior, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-0610.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Safety and Health Codes Board intends to consider amending regulations entitled: **General Industry Safety and Health Standard: Welding, Cutting and Brazing**. The purpose of the proposed action is to set out technical amendments to VOSH's General Industry Welding, Cutting and Brazing.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

Contact: Anna Bradley Johnson, Statistical Analyst Senior, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-0610.

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: **Client Appeals**. The purpose of the proposed action is to promulgate permanent final regulations to supersede the currently effective emergency regulation governing the client appeals process.

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

Written comments may be submitted until 4 p.m., August 31, 1990, to Marsha Vandervall, Director, Division of Client Appeals, DMAS, 600 East Broad Street, Suite 1300, Richmond, VA 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;

† 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: **Long-stay Acute Care Hospitals**. The purpose of the proposed action is to implement utilization review and develop an authorization process.

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

Written comments may be submitted until September 10, 1990, to Mary Chiles, Manager, Long-Term Care Section, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-03-19. Coal Surface Mining Reclamation Regulations**. The purpose of the proposed

action is to incorporate changes that have been made in the federal surface mining regulations, and to clarify the meaning or correct inconsistencies in the rules. Federal law requires state regulations to be consistent with the federal regulations.

The subjects addressed in the amendments that will be considered are: (i) fish and wildlife protection; (ii) civil penalties; (iii) repeal of the two-acre exemption, subsidence control, map certifications, and previously mined land; (iv) petitions to declare land unsuitable for mining; (v) bond-release notifications; (vi) revegetation; (vii) impoundments; (viii) ownership and control of mining operations; (ix) roads; (x) prime farmland; (xi) support facilities; (xii) permits for exploration; (xiii) permits for reclamation only; (xiv) termination of jurisdiction over operations; and (xv) incidental extraction of coal.

Statutory Authority: §§ 45.1-3(4) and 45.1-230 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

Contact: Conrad Spangler, Chief Engineer, Division of Mined Land Reclamation, P.O. Drawer U, Big Stone Gap, VA 24219, telephone (804) 523-8178.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider repealing regulations entitled: **VR 480-05-22. Rules and Regulations Governing Conservation of Oil and Gas Resources and Well Spacing**. The purpose of the proposed action is to repeal the regulation. VR 480-05-22.1. Gas and Oil Regulation will be promulgated concurrently with the repeal of this regulation.

Statutory Authority: §§ 45.1-3(4) and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115 or toll-free 1-800-552-3831/TDD ☎

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider promulgating regulations entitled: **VR 480-05-22.1. Gas and Oil Regulation**. The purpose of the proposed action is to govern gas and oil exploration, development, and production operations in Virginia. VR 480-05-22. Rules and Regulations Governing Conservation of Oil and Gas and Well Spacing, will be repealed concurrently with the promulgation of this regulation. This notice extends the

General Notices/Errata

comment period published 6:18 VA.R. 2963 July 4, 1990.

Statutory Authority: §§ 45.1-3(4) and 45.1-361.27 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

Contact: B. Thomas Fulmer, Virginia Gas and Oil Inspector, P.O. Box 1416, 230 Charwood Dr., Abingdon, VA 24210, telephone (703) 628-8115 or toll-free 1-800-552-3831/TDD ☎

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **VR 480-05-96. Rules and Regulations Governing Vertical Mine Ventilation Holes.** The purpose of the proposed action is to ensure the safety of underground coal miners by providing standards for the drilling and casing of vertical ventilation holes, and to protect groundwater resources.

The agency is considering the addition of a section to ensure the safety of underground coal miners while mining is conducted near or through gas or oil wells.

Statutory Authority: §§ 45.1-3(4) and 45.1-92.1 of the Code of Virginia.

Written comments may be submitted until August 28, 1990.

Contact: Harry Childress, Chief, Division of Mines, 219 Wood Ave., Big Stone Gap, VA 24219, telephone (703) 523-8200 or toll-free 1-800-552-3831/TDD ☎

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 promulgating regulations entitled: **Aid to Dependent Children - Unemployed Parent (ADC-UP) Program Limitation of Assistance.** The purpose of the proposed action is to formally adopt emergency regulation VR 615-01-34, "Aid to Dependent Children - Unemployed Parent (ADC-UP) Program - Limitation of Assistance," which limits the number of months to which a family may receive benefits to six months in a 12-consecutive-month period.

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

Written comments may be submitted until September 12, 1990, to I. Guy Lusk, Division of Benefit Programs, Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenberg, Agency Regulatory Liaison, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

VIRGINIA RACING COMMISSION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Part VIII Racehorses.** The purpose of the proposed regulation is to establish conditions under which racehorses will be identified, determined to be eligible for racing and under which horses may be barred.

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

Written comments may be submitted until September 1, 1990, to Don Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Claiming Races.** The purpose of the proposed regulation is to establish conditions under which claiming races may be run and eligibility to claim horses is established.

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

Written comments may be submitted until October 17, 1990.

Contact: William H. Anderson, Senior Policy Analyst Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Entries.** The purpose of the proposed regulation is to establish conditions under which horses may be entered for racing and their eligibility determined.

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

General Notices/Errata

Written comments may be submitted until October 17, 1990.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-01. Conduct of Flat Racing.** The purpose of the proposed action is to establish conditions under which horses, ridden by jockeys over flat surfaces, shall race.

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

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-02. Conduct of Standardbred Racing.** The purpose of the proposed action is to establish the specialized conditions under which trotting and pacing horses, hitched to sulkies, shall be driven in races.

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

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-03. Conduct of Steeplechase Racing.** The purpose of the proposed action is to establish the specialized conditions under which horses, ridden by jockeys and racing over fences, shall be conducted.

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

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Racing Commission intends to consider promulgating regulations entitled: **VR 662-05-04. Conduct of Quarter Horse Racing.** The purpose of the proposed action is to establish the specialized conditions under which Quarter Horses, ridden by jockeys, shall be raced.

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

Written comments may be submitted until November 21, 1990, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

VIRGINIA STATE LIBRARY AND ARCHIVES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.2. Archival Standards for Recording Deeds and other Writings by a Procedural Microphotographic Process.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-134.4. Standards for the Microfilming of Ended Law Chancery and Criminal Cases the Clerks of the Circuit Courts prior to**

General Notices/Errata

Disposition. The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.5. Standards for Computer Output Microfilm (COM) for Archival Retention.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.6. Standards for Plats.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.7. Standards for Recorded Instruments.** The purpose of the proposed action

is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia State Library and Archives intends to consider amending regulations entitled: **VR 440-01-137.1 Standards for the Microfilming of Public Records for Archival Retention.** The purpose of the proposed action is to update the current standard as part of the general five-year review.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia of Waste Management Board intends to consider promulgating regulations entitled: **VR 672-20-11. Solid Waste Management Permit Application Fees.** The purpose of the proposed regulation is to establish a fee schedule for Solid Waste Management Facility permit applications.

Statutory Authority: § 10.1-1402(16) of the Code of Virginia.

Written comments may be submitted until August 31, 1990.

Contact: Stuart T. Ashton IV, Environmental Program Analyst, Department of Waste Management, Division of Technical Services, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2867.

DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

Notice of Intended Regulatory Action

General Notices/Errata

Notice is hereby given that the Board of Youth and Family Services intends to consider promulgating regulations entitled: **VR 680-01-001. Public Participation Guidelines**. The purpose of the proposed regulation is to provide consistent, written procedures that will ensure input from interested parties during the development, review, and final stages of the regulatory process.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

Contact: Linda Nablo, Lead Analyst for Youth Services, Virginia Department of Youth and Family Services, P.O. Box 26963, Richmond, VA 23231, telephone (804) 674-3262

GENERAL NOTICES

NOTICE TO SUBSCRIBERS OF THE VIRGINIA REGISTER OF REGULATIONS

The Virginia Code Commission at its meeting on June 12, 1990, agreed to increase the annual subscription rate for the Virginia Register of Regulations to \$100 per year. This increase is the first since the Register began in October 1984. The increase will become effective on October 1, 1990.

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.

ERRATA

DEPARTMENT OF CONSERVATION AND RECREATION

Title of Regulation: **VR 215-02-00. Stormwater Management Regulations.**

Publication: 6:22 VA.R. 3427-3434 July 30, 1990.

Correction to the Proposed Regulation:

Page 3433, subdivision 1 of § 4.1A should read as follows:

1. Submitted to the department a stormwater *management plan for the state project and has obtained* approval of the plan from the department; or

Page 3433, subdivision 1 of § 4.1C should read as follows:

As of January 1, 1991, state projects subject to the capital outlay process described in the Department of General Services, Division of Engineering and Buildings' Capital Outlay Manual that have received approval of preplanning studies or schematic drawings by the Art and Architectural Review Board, and those capital outlay projects not subject to the capital outlay manual that have completed 50% or more of final *construction plans, shall make every effort to retrofit* their projects with the appropriate measures. (Note: The remainder of this subdivision is correct as printed in 6:22 VA.R.).

DEPARTMENT OF CORRECTIONS

Title of Regulation: **VR 230-30-007. Supervision Fee - Rules And Regulations And Procedures.**

Publication: 6:22 VA.R. 3511-3520 July 30, 1990.

Correction to the Final Regulation:

Page 3515, right column, § 4.4, first paragraph, third line. Change "renovation" to " *revocation* ."

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

VIRGINIA AGRICULTURAL COUNCIL

August 27, 1990 - 9 a.m. - Open Meeting (CANCELLED)
August 28, 1990 - 9 a.m. - Open Meeting (CANCELLED)
Holiday Inn-Airport, 5203 Williamsburg Road, Sandston, Virginia.

This meeting has been cancelled.

Contact: Henry H. Budd, Assistant Secretary, 7th Floor, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-0266.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

September 26, 1990 - 10 a.m. - Public Hearing
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, 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 155-04-09. Rules and Regulations for the Enforcement of the Virginia Seed Law.** The purpose of this amendment is to add Serrated tussock, Nassella trichotoma, to the list of prohibited noxious weed seeds.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Written comments may be submitted until September 19, 1990.

Contact: D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, PAIR Division, 1100 Bank St., Room 505, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3797.

September 26, 1990 - 10:30 a.m. - Public Hearing
Virginia Department of Agriculture and Consumer Services Board Room, Washington Building, Room 204, 1100 Bank Street, 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 155-04-12. Rules and Regulations for the Enforcement of the Gasoline and Motor Fuels Law.** The regulation amendments (i) change the volatility limit for gasoline from 11.5 pounds per square inch (psi) to 9.0 psi Reid vapor pressure (RVP) for the months of May, June, July, August, and September of each year, to be implemented May, 1991, contingent upon obtaining approval from the U.S. Environmental Protection Agency (EPA); (ii) change the distillation specifications to accommodate a new volatility limit; (iii) require the use of EPA-approved test methods for gasoline volatility measurement when the 9.0 psi RVP standard is in effect; and (iv) provide for a 1.0 psi RVP allowance for gasoline-ethanol blends.

Statutory Authority: §§ 59.1-153 and 59.1-156 of the Code of Virginia.

Written comments may be submitted until 5 p.m., September 18, 1990.

Contact: W. Penn Zentmeyer, Supervisor, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23209, telephone (804) 786-3511.

† December 6, 1990 - 2 p.m. - Public Hearing
1100 Bank Street, Room 204, Washington Building, 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

Calendar of Events

entitled: **VR 115-06-01. Rules Governing the Solicitation of Contributions.** The proposed amendments to the regulation are for the purpose of bringing the regulation into conformity with amendments in the statute; to define certain terms contained in the statute regarding exemption from annual registration; to specify, pursuant to § 57-55.2(i) of the Code of Virginia, the name or names by which a professional solicitor may identify himself and his employer; to standardize documentation required for filing with the Commissioner of the Department of Agriculture and Consumer Services; to establish procedures for compliance with the statute; to establish certain evidence deemed adequate to lift a suspension of registration; to consider other measures to enforce laws governing the solicitation of contributions in Virginia (§ 57-48 et seq. of the Code of Virginia), hereinafter referred to as the "Virginia Solicitation of Contributions Law"; and to assure uniform regulation of charitable solicitations throughout the Commonwealth.

STATEMENT

Based on the 1987 statistics provided by the American Association of Fund Raising Counsel, it is estimated that \$3.5 million is donated to charitable or civic organizations daily in the Commonwealth of Virginia. This estimate excludes religious contributions, which account for nearly one-half of all charitable contributions. Since 1978, charitable solicitation activities, which had been subject to fraud and abuse in the past, have been improved through registration of charitable and civic organizations, professional fund-raising counsel and professional solicitors; review and maintenance of records submitted by regulated organizations, along with public access to those records; investigations of any prohibited acts; coordination of enforcement with local governments and other states; and the publication of warnings to the public. Currently, the Department of Agriculture and Consumer Services registers in excess of 1,000 organizations annually, while maintaining records on approximately 6,000 organizations which are exempt from registration, but which are required to file an application for the exemption.

The proposed amended regulation will replace, in its entirety, the regulation adopted in 1978, which has never been amended, although the Virginia Solicitation of Contributions Law has been amended five times since its enactment in 1974.

Substance: The proposed amendments will bring the regulation into conformity with the amendments to the statute.

The regulation (i) defines certain terms contained in the statute regarding exemption from annual registration; (ii) specifies, pursuant to § 57-55.2(i) of the Code of Virginia, the name or names by which a professional solicitor may identify himself and his employer; (iii) standardizes documentation required for filing with the Commissioner;

(iv) establishes procedures for compliance with the statute; and (v) establishes certain evidence deemed adequate to lift a suspension of registration.

Issues: The current regulation was adopted in 1978. The Virginia Solicitation of Contributions Law has been amended five times since its enactment in 1974. The new regulation is needed to support the changes in the law and to clarify the statutory requirements.

In the absence of the regulation, charitable organizations that register annually would be required to resubmit information filed with the initial registration with each renewal registration. The proposed regulation stipulates that only amendments to previously submitted materials need to be filed.

The lack of clarity in certain definitions as to who is required to register would continue to result in exemption being granted to organizations that should register. The proposed regulation clarifies which organizations are required to register. The registration of some organizations that are currently exempt will result in more information available to the general public, since these affected organizations would be filing information annually.

Regarding disclosures required of professional solicitors, currently, the national trend is for professional solicitors to use a fictitious, or assumed, name that sounds like that of a charitable organization. The proposed amendment to the regulation requires professional solicitors to disclose the primary name under which they have registered with the Commissioner, which is defined in such a manner as to exclude using an assumed or deceptive name as the primary name. Without this provision, professional solicitors may continue to deceive the public through the use of assumed or deceptive names.

The Virginia Solicitation of Contributions Law was amended in 1990, in response to recent rulings by the Fourth Circuit Court of Appeals and the United States Supreme Court, which mandate that a state must have narrowly tailored guidelines to suspend the registration of a charitable organization or a professional solicitor. Without the provisions contained in this regulation, Virginia will not be able to avail itself fully of the ability to suspend the registration of a charitable organization or of a professional solicitor. Indeed, the Commonwealth may be found by a court of law as violating the constitutional rights of charitable organizations or professional solicitors.

Impact:

1. Number and types of regulated entities or persons affected:

All of the more than 1,000 currently registered organizations will be affected by the amended regulation in moderate degree, by the standardization of required documentation to effect a complete registration. The agency anticipates that approximately

10% of the approximately 6,000 exempted organizations currently exempt from registration may no longer qualify for exemption, and may be required to register. Approximately 10 of the 50 registered professional solicitors will be affected, due to a refinement in reporting and disclosure requirements.

2. Projected cost to regulated entities (and to the public, if applicable) for implementation and compliance:

The agency does not anticipate any change in cost to the organizations that currently register, and in fact there may be a small decrease in cost, due to new requirements contained in the proposed regulation that will make it no longer necessary to duplicate documents already on file with the Commissioner.

Any currently exempt charitable organization that no longer qualifies for exemption will incur costs of registration, which include, in addition to man-hours and cost of materials filed, an annual fee, ranging from \$20 to \$325, from which it was previously exempt, plus a one-time initial registration fee of \$100.

There will be no cost to the public.

3. Projected cost to agency for implementation and enforcement:

There is no anticipated increase in costs to the agency. The system for review and investigation contained in the proposal is currently in place.

4. Source of funds:

Although no increase in cost is anticipated by the agency, the program is operated through special funds, generated from the registration fees, as specified in §§ 57-49, 57-60, and 57-61 of the Code of Virginia.

Statutory Authority: § 57-66 of the Code of Virginia.

Written comments may be submitted until 2 p.m., December 6, 1990.

Contact: Jo Freeman, Chair, Revisions Committee, Virginia Department of Agriculture and Consumer Services, Division of Consumer Affairs, P.O. Box 1163, Richmond, VA 23209 or 1100 Bank Street, Room 204, Richmond, VA 23219, telephone (804) 786-1343 or toll-free 1-800-552-9963.

STATE AIR POLLUTION CONTROL BOARD

† **October 10, 1990 - 10 a.m.** – Public Hearing
Washington County, Board of Supervisors' Meeting Room,
205 Academy Drive, Abingdon, Virginia.

† **October 10, 1990 - 10 a.m.** – Public Hearing
Virginia Department of Transportation, Materials Lab
Building, 731 Harrison Avenue, Salem, Virginia.

† **October 10, 1990 - 10 a.m.** – Public Hearing
Lynchburg Recreation Center Auditorium, 301 Grove Street,
Lynchburg, Virginia.

† **October 10, 1990 - 10 a.m.** – Public Hearing
Central Rappahannock Regional Library, Administrative
Offices, 705 Princess Anne Street, Fredericksburg, Virginia.

† **October 10, 1990 - 10 a.m.** – Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere
Street, Richmond, Virginia.

† **October 10, 1990 - 2 p.m.** – Public Hearing
Hampton Roads Planning District Commission, Regional
Building, 723 Woodlake Drive, Chesapeake, Virginia.

† **October 10, 1990 - 2 p.m.** – Public Hearing
Pohick Regional Library Meeting Room, 6450 Sydenstricker
Road, Burke, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The proposed regulation requires a permit to operate for all stationary sources with exemptions for some smaller facilities. Operating permits will be issued for a period not to exceed five years and will be renewed if the facility meets the standards and conditions set out in the regulation. Emission limits will be set to restrict the emissions allowed for each existing facility to some level above the actual levels currently emitted but below the levels allowed now by regulation. Permit applications for larger facilities will be subject to a public comment period of 30 days, and a public hearing may be held if there is sufficient public interest. The program will be phased in slowly over its first four years, during which time only larger existing facilities will be issued operating permits.

STATEMENT

Purpose: The purpose of the proposed amendments is to (i) enhance the department's ability to ensure compliance with emission standards, (ii) reduce the levels of allowable emissions for existing stationary sources to provide for growth of new emissions, and (iii) provide a mechanism to substitute for consent orders when necessary to enforce source specific requirements by requiring a permit to operate.

Substance: The major provisions of the proposal are summarized below:

1. **Applicability.** All stationary sources must get an operating permit except those new and existing sources that fall below the new source exemption levels in Appendix R of the current regulations.

2. **Phase-in of the program.** The program will be phased

Calendar of Events

in slowly over its first four years. During this time operating permits will be issued only to major existing sources, those emitting 100 tons or more per year of volatile organic compounds, sulfur oxides, nitrogen oxides, particulate matter, or carbon monoxide, and any other sources that need to have operating permits issued to them in order to remedy a violation of the air quality standards. There are approximately 450 major stationary sources, of which about 350 are currently operating without a permit that covers the entire source. Many of these operating permits will be issued in conjunction with the issuance of new source construction permits as existing sources surrounding proposed new sources are evaluated. Following this initial phase a schedule will be set for the rest of the sources that will be required to get an operating permit, approximately 4300 sources.

3. Expiration and renewability. Operating permits will be issued for a period not to exceed five years but will be renewed if the source meets the standards and conditions set out in the regulation.

4. Standards and conditions for granting the permit. To obtain the operating permit, each owner must be able to operate without violating any provisions of the regulations applicable to the source; must be in compliance with all applicable emission standards; must not cause or contribute to violations of applicable air quality standards; and must not prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.

5. Limits on emissions of sources. Each operating permit will set out for the various facilities within each source the emission limits and other regulatory requirements to be met. Emission limits will be set to restrict the emissions allowed for each existing source to some level above the actual levels currently emitted by the source but below that allowed by regulations now in effect.

6. Emission tests. The owner may be required to conduct emission or other tests to determine if the source is meeting applicable emission limits.

7. Monitoring requirements. The owner may be required to install and operate emission monitoring or process parameter monitoring equipment so that it can be determined at regular intervals whether the source is meeting applicable emission limits on a continuous basis.

8. Reporting requirements. The owner may be required to maintain records and provide reports on emission levels or process parameters that are being monitored and the results of emission tests performed.

9. Enforcement. The department may revoke an operating permit if the permittee fails to comply with the terms or conditions of the permit or with the requirements of the regulations. Under the Administrative Process Act, appeals to the board and subsequent appeals to the judicial system are both available. The board has the

authority to use these enforcement mechanisms now.

10. Public participation. To make the operating permits issued under this program federally enforceable, permit applications for major stationary sources will be subject to a public comment period of 30 days. During the public comment period, affected parties may request that a public hearing be held.

Issues: The issue is whether the department should (i) ensure its ability to obtain compliance with emission standards from each source, (ii) reduce the levels of allowable emissions for existing stationary sources to provide for growth of new emissions, and (iii) provide a mechanism to substitute for consent orders when necessary to enforce source specific requirements, through the establishment of an operating permit program as set out in this proposed regulation. The issue further concerns whether the features of the proposed operating program are adequate to carry out the program.

Basis: The legal basis for the proposed regulation amendments is the Virginia Air Pollution Control Law, Chapter 13 of Title 10.1 of the Code of Virginia.

Impact:

Sources affected and their costs. Most stationary sources, those that are not exempted by the new source exemption levels in Appendix R of the regulations, will have to obtain an operating permit. For new sources, the permit issued under the new source review program will be considered the initial operating permit, and subsequent renewals will come under the operating permit program. Permits will expire five years from the issuance date or in the case of new sources the date the source began to operate. There are approximately 4,800 existing sources in the state that will have to get an operating permit under the requirements of this proposed regulation.

During the first four years of the proposed operating permit program, the department will issue operating permits only to major existing sources, those emitting 100 or more tons per year of volatile organic compounds, sulfur oxides, nitrogen oxides, particulate matter, or carbon monoxide, and any other sources that need to have operating permits issued to them in order to remedy a violation of the air quality standards. There are approximately 450 major stationary sources, of which about 350 are currently operating without a permit that covers the entire source. Many of these operating permits will be issued in conjunction with the issuance of new source construction permits as existing sources surrounding proposed new sources are evaluated.

The costs of this regulation for affected entities will depend entirely on the specific situation for each source. Costs will vary from source to source due to the size and complexity of each source. Costs will also vary from source to source depending on whether the source wants to negotiate any increases in emission limits from the

actual levels emitted in the past five years. The highest costs incurred will be the costs to obtain the initial operating permit. When the operating permit is renewed the costs will be considerably lower unless the owner wishes to renegotiate the terms and conditions of the operating permit.

For many existing sources, costs will increase over the next decade for reasons apart from the operating permit program. First major existing sources located in areas of high growth will incur costs as a result of changing air quality requirements and the air quality evaluations that result as a part of new source permitting process. Second the requirements of an amended Clean Air Act will also be a factor in increasing costs for existing as well as new sources. These costs will be incurred whether or not the operating program exists.

Due to the variability among the entities affected by this proposed regulation, an estimation of costs is given by a range from small to large or more complex sources or facilities. To estimate the costs to affected entities, the operating permit regulation requirements that will increase costs are listed by category. Each category is then described along with the costs that can be estimated.

1. Costs of preparing a permit application and providing data to the agency so that the application can be evaluated.
2. Costs of negotiating emission standards for existing sources.
3. Costs of fulfilling any additional requirements:
 - a. testing
 - b. monitoring
 - c. reporting
4. Associated costs including (i) the costs of controls for sources found to be in violation of the standards and (ii) the possible cost of losing the opportunity to sell emissions for offsets to incoming new sources.

Category 1. The department's operating permit application was developed from the new source permit application. The only additional information requested is the actual emissions history of the source over the previous five years. Filling out the operating permit application initially will take considerable time for those existing sources without any permits. However, each existing source now reports certain emissions and operational data to the department at specific intervals depending on the size of the source. This data is required to maintain the state's emissions inventory and to verify compliance with the regulations. For sources with fully permitted facilities, the operating permit application will mean organizing and verifying information already set out in the permits in effect for the source. While this effort may be time consuming it probably will not take as much effort as initially developing the data.

The cost of getting the initial operating permit will be

substantially greater than the cost of renewing the operating permit. In most cases a source will not change its operations substantially at renewal; the department will have to verify the current permit data in these cases. Costs of applying for a renewal of an operating permit will be minimal. The source owner will have to provide new data on the last five years' emissions plus any other changes since the last permit issued. Additional costs will be incurred if the source wishes to change the emission limits set in the permit or some other aspect of the permit.

The cost to prepare the initial operating permit application ranges from \$800 for a small source to \$80,000 for a large source. The cost for an operating permit renewal ranges from \$160 for a small source to \$4,200 for a large source assuming no renegotiation of the permit. A small source is assumed here to mean one site where one stack from a simple process emits either one or a few pollutants. A large source is assumed here to mean one site where hundreds of stacks emit a multiplicity of pollutants and where the processes creating these emissions are complex.

Category 2. For each existing source, a revised emission standard limiting its emissions to the highest actual level emitted over the past five years is required by the proposed regulation. This requirement can be considered the focus of the operating permit program proposal because its implementation satisfies the most current critical need of the department in the new source permitting program. This need, which is explained in more detail elsewhere in this document, is stimulated by the discovery through the new source permitting program that many existing sources have levels of allowable emissions that by themselves violate ambient air quality standards.

The emission standard will be set by the department but may not be readily acceptable to the source owner. If the owner chooses not to accept the standard, he may propose an alternative standard and will have to negotiate the final standard with the department. The cost of this negotiation will be determined by the circumstances of the individual source. Associated costs relevant to negotiating an emissions standard are discussed in Category 4.

Category 3. The proposed regulation provides that the department may require as part of a source's operating permit conditions that testing, monitoring or reporting be required. These conditions will not be a part of all operating permits but most likely will be included when there is no other way to get emissions data or for the source to provide needed data over the operating life of the source. The costs for testing, monitoring and reporting vary considerably from one source to another and from one pollutant to another. These requirements are not new but are a reaffirmation of authority that exists elsewhere in the current regulations. A single stack test, for pollutants such as particulate matter, sulfur oxides, or nitrogen dioxide, may cost anywhere from \$2,000 to \$10,000 per pollutant depending on the pollutant emitted,

Calendar of Events

stack size, and complexity of the test required. Installing continuous emission monitors for a single point in a facility may cost anywhere from \$25,000 to \$150,000 per pollutant, without a data acquisition system. The cost of additional reporting requirements would depend entirely on the specific requirement for the source.

Category 4. There are a number of associated costs that could be incurred by those affected by this proposal.

While additional emission controls are not required in order to get an operating permit under the proposed regulation, it is possible that when the department evaluates an existing source it will find that emission controls must be added to the source in order to meet the air quality standards set by the regulations. These control costs are not costs incurred as a result of this proposal but costs that would be incurred if the source were found to be out of compliance under the current requirements. The department does not anticipate that any existing sources will be found in violation of the standards when their actual emissions are considered because it does not believe that the levels of actual emissions from existing sources are currently violating the regulations. The department's monitoring program measures the levels of pollutants in the ambient atmosphere and has found exceedances of the National Ambient Air Quality Standards only in two Air Quality Control Regions for ozone and one Air Quality Control Region for carbon monoxide. If any existing sources are required to install control equipment during the operating permit review, the costs will not be an increase in cost over the current requirements of the regulations because any source now found to be in violation of the regulations would have to put on emissions controls.

The proposed operating permit regulation may impose costs on sources that are not directly related to the costs of complying with the regulations. For instance, an emissions limit that restricts emissions below that currently allowed by the existing source regulations may be seen by existing source owners to deprive them of the opportunity to sell these emissions as offsets to a new source coming into an area. While this may be true, there will be a corresponding benefit to a new source. By not having to address the issue of offsets in issuing a new source permit, the result will be faster processing of the permit and less cost to both the department and the new source applicant.

Another associated cost that may be assumed for existing sources is the lost opportunity to expand. The emissions standard that will be set for each existing source will lower the level of allowable emissions to the highest actual emissions of the source in the five years prior to the issuance of the permit. This lost opportunity may create costs for an existing source if the source finds that it must purchase fuel that is more expensive than previously purchased to meet the emissions standard or install additional controls to lower emissions so that it can increase its operational capacity. It is possible for a source to avoid these costs in most cases by using the opportunity

when obtaining an operating permit to negotiate a standard sufficient to allow for growth.

Impact on the department. The program will be phased in slowly over its first four years and during this time the department will issue operating permits only to major existing sources, those emitting 100 tons or more per year of volatile organic compounds, sulfur oxides, nitrogen oxides, particulate matter, or carbon monoxide, and any other sources that need to have operating permits issued to them in order to remedy a violation of the air quality standards. Many of these operating permits will be issued in conjunction with the issuance of new source construction permits as existing sources surrounding proposed new sources are evaluated. During the first year following the effective date of the proposed regulation, the cost to the department will be the staff time spent to schedule the applications for and issuance of the operating permits, and to issue any operating permits that would have to be issued coincidentally with new source construction permits. The planning that must be done and the operating permits that will be issued during this time will be carried out by the current resources available to the department. The department's workload will not be increased by the evaluation of existing sources that is done when any new source permit application is submitted because these evaluations would be done under current permit requirements.

Of the 4,800 sources that will need an operating permit, about 450 are among the larger sources in the state. The current plan is to focus on 350 of these larger sources which are not fully permitted (the other 100 are fully permitted under the new source review program) in the early years of the program and phase-in the remaining smaller ones (about 4,300) as planning efforts and resources permit. Some permits for these 350 sources will have to be issued during the 1991-1992 fiscal year in conjunction with the new source review program, but these will be very few. Most of the 350 permits will be issued during the 1992-1994 biennium (175 a year). The program requires that these major unpermitted sources be issued operating permits by January 1, 1995. The schedule to issue operating permits to the rest of the existing sources (about 4,300) must be approved by the board by July 1, 1994. When the program is fully implemented to issue permits to the 4,800 sources, about 960 permits will be issued each year.

The initial operating permit issued by the department will take substantial organizational and evaluation effort by the department because the information available on each source both on the application and in the source's file will have to be reviewed and organized prior to the evaluation. Decisions on setting emission standards for the source's initial permit will take a longer time to evaluate than in subsequent renewals. Subsequent renewals of operating permits should be substantially less costly to the department. Unless a source's operation has changed, subsequent renewals should include only an inspection, if there has not been an inspection in six months, and

verification of data before reissuing the permit, unless the source wishes to change the level of emissions or operating parameters set out in the permit.

In considering the costs to the department, there will be two categories of operating permits issued. One type is referred to by the department as type 10. Sources requiring type 10 permits are larger and more technologically complex and involve review by both the regional offices and the central office. The other type is referred to by the department as type 10A. The 10A type sources are usually smaller and simpler to review and are generally reviewed by only the regional offices. The department estimates that it will take about two months to process type 10 permits and one week to process type 10A permits. These estimates apply to the operating permit program once it is fully implemented. In the early years of the program, existing sources which have no permit or are partially permitted will require more departmental resources to review than a new source review permit.

The operating permit program will be phased in and, in the early years, address only the larger type 10 facilities which have no permit or have only a portion permitted (about 350 total) and this will cost about \$2,300,000 a year. The cost of the initial permit for these facilities will generally be higher than a modification under the new source review program because the entire facility must be reviewed. The proposed operating permit program, when fully implemented, will cost about \$2,200,000 a year.

The department's costs will decrease if the proposed operating permit program is federally approved by the U.S. Environmental Protection Agency (EPA). If the program is approved, the need will be eliminated for the department to submit individual permits as individual State Implementation Plan submittals to EPA for their approval. These submittals require substantial negotiation involving the source, the department and EPA. EPA has approved two state operating permit programs under § 110 (a)(2)(B) of the Clean Air Act, when the states have voluntarily asked for EPA's approval. The department will submit the board-approved proposal to EPA for approval.

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

Written comments may be submitted until October 26, 1990, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23208.

Contact: Nancy S. Saylor, Policy Analyst, Department of Air Pollution Control, Division of Program Development, P.O. Box 10089, Richmond, VA 23240, telephone (804) 786-1249.

ALCOHOLIC BEVERAGE CONTROL BOARD

October 15, 1990 - 10 a.m. - Public Hearing
First Floor Hearing Room, 2901 Hermitage Road,

Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Alcoholic Beverage Control Board intends to amend regulations entitled: **VR 125-01-2. Advertising; VR 125-01-3. Tied-House; VR 125-01-5. Retail Operations; VR 125-01-6. Manufacturers and Wholesalers Operations; and VR 125-01-7. Other Provisions.** The amendments relate to the (i) expansion of size limitations and types of advertising materials that manufacturers, bottlers and wholesalers may supply to retail licensees, (ii) definition of "college student publication," (iii) prohibition of reference to brands or prices for alcoholic beverage advertising by a dining establishment in college student publications, (iv) sponsorship of government-endorsed civic events and advertising related to such events, (v) limitations on distribution of novelty and specialty items to retailers, their employees and patrons by manufacturers, importers, bottlers, brokers, and wholesalers, (vi) restrictions on nonmember use of licensed club premises, (vii) compliance with 1990 statutory changes involving the mixed beverage food to alcoholic beverage ratio, bed and breakfast licenses and the number of additional retail establishments allowed farm wineries, and (viii) mixed licensee being left with one, unopened, 50 milliliter sample of each brand of distilled spirits being promoted by the permittee.

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted until 10 a.m., October 15, 1990.

Contact: Robert N. Swinson, Secretary to the Board, P.O. Box 27491, 2901 Hermitage Rd., Richmond, VA 23261, telephone (804) 367-0616.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† **September 13, 1990 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes of the May 17, 1990, meeting; (ii) review correspondence; (iii) review enforcement files; and (iv) review applications.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8515 or toll-free 1-800-552-3016.

Board for Land Surveyors

† **September 14, 1990 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

Calendar of Events

A meeting to (i) approve minutes of the August 17, 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., Richmond, VA 23230, telephone (804) 367-8514 or toll-free 1-800-552-3016.

ASAP POLICY BOARD - VALLEY

† September 10, 1990 - 8 a.m. - Open Meeting
2 Holiday Court, Staunton, Virginia. ☒

A regular meeting of the local policy board which conducts business pertaining to (i) court referrals; (ii) financial report; (iii) director's report; and (iv) statistical reports.

Contact: Mrs. Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or (703) 943-4405 (Waynesboro).

DEPARTMENT OF AVIATION

August 27, 1990 - 9 a.m. - Open Meeting
August 28, 1990 - 9 a.m. - Open Meeting
August 29, 1990 - 9 a.m. - Open Meeting
Sheraton-Fredericksburg, Rt. 3 at I-95, Fredericksburg, Virginia.

17th Annual Virginia Aviation Conference and board meeting.

Contact: Nancy Brent, 4508 S. Laburnum Ave., Richmond, VA 23231-2422, telephone (804) 786-6284.

CHESAPEAKE BAY COMMISSION

September 6, 1990 - 10 a.m. - Open Meeting
September 7, 1990 - 9 a.m. - Open Meeting
The Tides Inn, Irvington, Virginia.

A quarterly meeting. Agenda items include (i) update on work of VA and MD Growth Commissions; (ii) preliminary findings of Nonpoint Source Program Evaluation Committee; (iii) CBC recommendations on oil spill preventions; (iv) recreational boat pollution; and (v) 1991 legislative agenda.

Contact: Ann Pesiri Swanson, 60 West St., Suite 200, Annapolis, MD 21401, telephone (301) 263-3420.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† September 13, 1990 - 1 p.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol

Street, Richmond, Virginia. ☒

The board will consider local government program progress. Public comment will be heard at the end of the meeting.

Contact: Tina Halsted, Staff Specialist, 701 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD#FT1121 1/3

DEPARTMENT FOR CHILDREN

Consortium on Child Mental Health

September 5, 1990 - 9 a.m. - Open Meeting
October 3, 1990 - 9 a.m. - Open Meeting
Eighth Street Office Building, 11th Floor Conference Room, 805 East Broad Street, Richmond, Virginia. ☒

A regular business meeting open to the public, followed by an executive session, for purposes of confidentiality, to review applications for funding of services to individuals.

Contact: Wenda Singer, Chair, Department for Children, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-2208.

DEPARTMENT OF COMMERCE

† September 26, 1990 - 9 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Commerce intends to consider amending regulations entitled: **VR 190-05-1. Asbestos Licensing Regulations.** The amendments to the Virginia Asbestos Licensing Regulations include the licensure of RFS Inspectors, Project Monitors, Asbestos Analytical Laboratories, Conflict of Interest within the Asbestos Industry and adjustments of all fees.

STATEMENT

Purpose: Statutory changes enacted following the 1990 session of the Virginia General Assembly added three categories of licensure: roofing, flooring and siding inspectors known as "RFS inspectors," asbestos project monitors, and asbestos analytical laboratories. The changes also included a directive to the Department of Commerce to develop "conflict of interest" language and adjustments in all fees of all license categories. These regulations become effective January 1, 1991.

Impact: The regulations apply directly to approximately 9,965 individuals licensed as project designers, asbestos supervisors, asbestos workers and asbestos inspectors,

approximately 386 licensed asbestos contractors and approximately 60 licensed analytical laboratories. The regulations will also directly affect approximately 790 potential licensees in the newly established license categories of project monitor and RFS inspector.

Legal authority: The legal authority for the Department of Commerce to promulgate the regulations is found in Chapter 3, § 36-99.7 of Title 36 of the Code of Virginia and Chapter 5, §§ 54.1-500 through 54.1-517 of Title 54.1 of the Code of Virginia.

Forms: The forms, reports or procedural requirements mandated by the regulations, are the forms necessary to apply for and renew a license and to certify training. Each form requires identifying and other information necessary to determine qualification, account for fees, and issue licenses.

Statutory Authority: §§ 54.1-500 through 54.1-517 of the Code of Virginia.

Written comments may be submitted until October 26, 1990.

Contact: Peggy J. Wood, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or toll-free 1-800-552-3016.

STATE BOARD FOR COMMUNITY COLLEGES

† **September 19, 1990 - time to be determined - Open Meeting**
101 North 14th Street, Monroe Building, 15th Floor, Board Room, Richmond, Virginia.

A working session.

† **September 20, 1990 - 9 a.m. - Open Meeting**
101 North 14th Street, Monroe Building, 15th Floor, Board Room, Richmond, Virginia.

A meeting of the board. The agenda is unavailable.

Contact: Mrs. Joy Graham, 101 North 14th Street, Monroe Building, Richmond, VA 23219, telephone (804) 225-2126.

DEPARTMENT OF CONSERVATION AND RECREATION

Catoctin Creek Scenic River Advisory Board

September 7, 1990 - 2 p.m. - Open Meeting
Junelia Farm, Rt. 7, across from Asburn Village, located 6 1/2 miles east of Leesburg, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203

Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Goose Creek Scenic River Advisory Board

September 5, 1990 - Noon - Open Meeting
Offices of Shaw-Pittman, 201 Liberty Street, S.W., Leesburg, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

† **September 12, 1990 - 9 a.m. - Open Meeting**
3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

A special called meeting of the board to adopt final regulations.

Applications Review Committee

† **August 28, 1990 - 1 p.m. - Open Meeting**
3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

A meeting to review application with convictions or complaints for Class A Contractor licenses and Class B Contractor registrations. The meeting will immediately follow a meeting of the Recovery Fund Committee.

Contact: Kelly G. Ragsdale, Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8557 or toll-free 1-800-552-3016.

Recovery Fund Committee

August 28, 1990 - 9 a.m. - Open Meeting
3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

A meeting to review and consider recovery fund claims against the Virginia Contractor Transaction Recovery Fund.

Complaints Committee

September 12, 1990 - 11 a.m. - Open Meeting
3600 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

A meeting to review and consider complaints filed by consumers against licensed contractors.

Contact: A. R. Wade, Recovery Fund/Complaints

Calendar of Events

Administrator, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561 or toll-free 1-800-552-3016.

COMMUNITY CORRECTIONS RESOURCES BOARD - MIDDLE VIRGINIA

September 6, 1990 - 7 p.m. - Open Meeting
† October 4, 1990 - 7 p.m. - Open Meeting
† November 1, 1990 - 7 p.m. - Open Meeting
502 South Main Street, No. 4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 S. Main St., No. 4, Culpeper, VA 22701, telephone (703) 825-4562.

BOARD OF CORRECTIONS

September 12, 1990 - 10 a.m. - Open Meeting
† October 10, 1990 - 10 a.m. - Open Meeting
Board of Corrections Board Room, 6900 Atmore Drive, Richmond, Virginia. ☒

A regular monthly meeting.

Contact: Ms. Vivian Toler, Secretary of the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† August 27, 1990 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to discuss Nail Technician Regulations.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or 1-800-552-3016 (VA only).

BOARD OF DENTISTRY

September 12, 1990 - 2 p.m. - Open Meeting
Omni Hotel, 777 Waterfront Drive, Brandon Room, Norfolk, Virginia. ☒

Informal conferences. No public comment will be heard.

September 13, 1990 - 9 a.m. - Open Meeting

Omni Hotel, 777 Waterfront Drive, Brandon Room, Norfolk, Virginia. ☒

9 a.m. Endorsement Committee meeting.
4 p.m. Executive Committee meeting.
No public comment will be heard.

September 14, 1990 - 1:30 p.m. - Open Meeting
September 15, 1990 - 9 a.m. - Open Meeting
September 16, 1990 - 9 a.m. - Open Meeting
Omni Hotel, 777 Waterfront Drive, Brandon Room, Norfolk, Virginia. ☒

The meeting will consist of (i) board business; (ii) formal hearing; and (iii) committee reports relating to endorsement, RFP, advertising, executive, budget, legislative, and exams. Public comment will be heard at the conclusion of the meeting.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9906.

BOARD OF EDUCATION

† September 5, 1990 - 2 p.m. - Open Meeting
State Capitol, Capitol Square, Richmond, Virginia. ☒
September 27, 1990 - 9 a.m. - Open Meeting
September 28, 1990 - 9 a.m. - Open Meeting
October 25, 1990 - 9 a.m. - Open Meeting
October 26, 1990 - 9 a.m. - Open Meeting
General Assembly Building, 910 Capitol Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request.

Contact: Margaret Roberts, Executive Director, Board of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

GOVERNOR'S COMMISSION ON EDUCATIONAL OPPORTUNITY FOR ALL VIRGINIANS

September 26, 1990 - 9:30 a.m. - Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

A full commission meeting.

October 3, 1990 - 4 p.m. - Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☒

A commission public hearing.

Contact: Kris Ragan, Staff, P.O. Box 1422, Ninth Street

Office Bldg., Room 329, Richmond, VA 23211, telephone (804) 786-1688.

LOCAL EMERGENCY PLANNING COMMITTEE - ALEXANDRIA

September 12, 1990 - 6 p.m. - Open Meeting
Chesapeake and Potomac Telephone Company, 4242 Duke Street, Alexandria, Virginia.

A regular meeting. A tour of the facility will be conducted after the meeting.

Contact: Chap Coleman, Emergency Preparedness Coordinator, Fire Department, 900 Second St., Alexandria, VA 22314-1395, Telephone (703) 838-3825.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

September 6, 1990 - 5:30 p.m. - Open Meeting
October 4, 1990 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10,001 Ironbridge Road, Chesterfield, Virginia. ☒

Local emergency preparedness committee meeting as required by SARA Title III.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

FAMILY AND CHILDREN'S TRUST FUND OF VIRGINIA

Board of Trustees

September 7, 1990 - 10 a.m. - Open Meeting
October 12, 1990 - 10 a.m. - Open Meeting
† **November 9, 1990 - 10 a.m. - Open Meeting**
† **December 7, 1990 - 10 a.m. - Open Meeting**
Koger Executive Center, West End, Blair Building, Conference Room C, 8007 Discovery Drive, Richmond, Virginia. ☒

The board will plan and evaluate its fund raising campaign. It will carry out all the activities necessary for implementation of this project.

Contact: Molly Moncure Jennings, Executive Director, Family and Children's Trust Fund, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **August 27, 1990 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Room 3, Richmond, Virginia. ☒

FDE Trainee/Education Committee meeting.

† **August 30, 1990 - 11 a.m. - Open Meeting**
1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

FDE Examination Committee meeting.

September 19, 1990 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A regularly scheduled board meeting.

† **September 20, 1990 - 9 a.m. - Public Hearing**
1601 Rolling Hills Drive, Richmond, Virginia. ☒

Preneed public hearing.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111.

DEPARTMENT OF GAME AND INLAND FISHERIES

† **August 30, 1990 - 9:30 a.m. - Open Meeting**
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The following committees will meet to discuss general and administrative matters. In addition, the proposed migratory waterfowl season and proposed fish regulations will be discussed in the Wildlife and Boat Committee meeting. Committee meetings will begin at 9:30 a.m. with the Planning Committee, followed immediately by the Finance Committee, then Wildlife and Boat, ending with the Law and Education Committee meeting.

August 31, 1990 - 9:30 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will meet to adopt the 1990-91 migratory waterfowl season and to propose fish regulations. In addition, general and administrative matters will be discussed.

Contact: Belle Harding, Secretary to Director, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000/TDD ☎ or toll-free 1-800-237-5712.

BOARD FOR GEOLOGY

† **September 21, 1990 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) approve minutes from May 8, 1990, meeting; (ii) review applications; and (iii) review correspondence.

Calendar of Events

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

STATE BOARD OF HEALTH

† September 13, 1990 - 9:30 - Open Meeting
† September 14, 1990 - 10 a.m. - Open Meeting
Ramada Oceanside, 57th and Oceanfront, Virginia Beach, Virginia. ☐

A work session is planned for Thursday and a regular business meeting will be held on Friday.

Contact: Susan R. Rowland, Acting Legislative Analyst, 109 Governor St., Suite 400, Richmond, VA 23219, telephone (804) 786-3561.

* * * * *

† October 15, 1990 - 10 a.m. - Public Hearing
James Madison Building, Main Floor Conference Room, 109 Governor Street, 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 355-30-01. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of this action is to amend the existing Virginia Medical Care Facilities Certificate of Public Need (COPN) Rules and Regulations in order to implement the COPN program consistent with amended COPN Law that became effective on July 1, 1990.

STATEMENT

The regulations incorporate amendments to the certificate of public need law that became effective on July 1, 1990, in order to assure compliance with the law. Amendments to these regulations were first promulgated as emergency regulations effective July 5, 1990. The amendments extend the previously imposed nursing home moratorium through June 30, 1991, and provide additional exceptions for the filing of nursing home applications during the moratorium. One exception provides for the replacement off-site of an existing nursing home within the same city or county and within reasonable proximity to the current site when replacement on the current site is proven unfeasible. Such replacement must be for the purpose of complying with life safety codes, licensure, certification or accreditation standards.

The other exception provides for the conversion on site of existing beds in a home for adults (HFA) facility licensed pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia as of March 1, 1990, to nursing facility beds. In filing the application for the HFA facility, there must be demonstration that (i) the total number of beds to be converted does not exceed the lesser of 30

beds or 25% of the beds in the HFA facility; (ii) the nursing facility beds are necessary to serve a patient population of AIDS, or ventilator-dependent or head and spinal cord injured patients or any combination of the three and that such patients otherwise will not have access to such services in existing or approved facilities; (iii) there is a commitment to admit the patient population identified in subdivision (ii) to the nursing facility beds once certified and operational; and (iv) the licensed HFA facility otherwise meets the standards for nursing facility beds as set forth in the regulations of the Board of Health.

The amendments also exempt the state home for aged and infirm veterans authorized by Chapter 668, 1989 Acts of the Assembly from any certificate of public need review requirement.

Impact: All changes proposed at this time are made to bring the rules and regulations in compliance with recent amendments to the Virginia Medical Care Facilities Certificate of Public Need Law. These amendments focus entirely on the nursing home moratorium.

The costs to the agency in implementing the amendments are related to review of applications for off-site replacement of existing nursing homes and the conversion of existing home for adults beds to nursing home facility beds and will be absorbed within the current budget structure.

Forms: The amended regulations will not require the addition of any new forms or any change in forms currently used.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 et seq. of the Code of Virginia.

Written comments may be submitted until October 26, 1990.

Contact: Marilyn H. West, Director, Division of Resources Development, Virginia Department of Health, James Madison Bldg., Room 1005, 109 Governor St., Richmond, VA 23219, telephone (804) 786-7463.

BOARD OF HEALTH PROFESSIONS

Public and Professional Information and Education Committee

August 29, 1990 - 7 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 1, Richmond, Virginia. ☐

The committee has invited presentations from selected organizations and individuals on public information programs and policies of the Department of Health Professions including: (i) the content and distribution of public information materials for the general public and for specific groups; (ii) the content and

distribution of public notifications of disciplinary actions taken by health regulatory boards; (iii) the coordination of systems to address concerns with health care quality and competence, and the role of public informational activity to promote public understanding of these systems; (iv) the use of public information activity to foster a better understanding of the range of sanctions determined by health regulatory boards; and (v) mechanisms for informing agencies, organizations and individuals of federal and state reporting requirements pertaining to licensed health care providers.

A background statement on these issues is available on request.

Written comments are invited from all interested organizations and individuals, and may be sent to the address below. The deadline for receipt of all comments is Friday, September 14, 1990.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918.

Regulatory Research Committee

August 29, 1990 - 2:30 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The committee will consider further proposals for the statutory certification of athletic trainers and therapeutic recreation specialists, and review regulations promulgated or proposed by health regulatory boards as appropriate.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918.

DEPARTMENT OF HEALTH PROFESSIONS

Advisory Board on Physical Therapy

October 5, 1990 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Room 2, Richmond, Virginia. ☒

The advisory board will review and discuss regulations, bylaws, procedural manuals, receive reports, and other items. The advisory board will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

August 28, 1990 - 8:30 a.m. – CANCELLED
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. ☒

The meeting of the Policy and Public Information Task Force of the council to review the draft of the Annual Charge Survey has been cancelled.

August 28, 1990 - 9:30 a.m. – Open Meeting
† **September 25, 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, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☒

BOARD FOR HEARING AID SPECIALISTS

† **September 17, 1990 - 8:30 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open board meeting to (i) administer examinations to eligible candidates; (ii) review enforcement cases; (iii) sign certificates; and (iv) consider other matters which require board action.

Contact: Mr. 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

August 30, 1990 - 10:30 a.m. – Open Meeting
CIT Building, 6th Floor Conference Room, Dulles Airport, Washington, D.C.

A general business meeting.

Contact: Margaret Peters, Information Director, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143 or (804) 786-1934/TDD ☒

HOPEWELL INDUSTRIAL SAFETY COUNCIL

September 4, 1990 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided upon request)

Calendar of Events

Local Emergency Preparedness Community meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Regulatory Effectiveness Advisory Committee

† September 26, 1990 - 1 p.m. – Open Meeting
† September 27, 1990 - 9 a.m. – Open Meeting
Virginia Housing Development Authority, 601 Belvidere Street, Training Room, Richmond, Virginia. ☐

A meeting to develop proposed changes to the BOCA model codes for the 1991 code change cycle.

Contact: Carolyn R. Williams, Building Code Supervisor, 205 N. 4th St., Richmond, VA 23219, telephone (804) 371-7772 or (804) 786-5405/TDD ☎

COUNCIL ON INDIANS

October 10, 1990 - 2 p.m. – Open Meeting
Koger Executive Complex, Blair Building, 8007 Discovery Drive, Conference Room C, Richmond, Virginia.

A regular meeting to conduct general business and to receive reports from the council standing committees.

Contact: Mary Zoller, Information Director, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9285 or toll-free 1-800-552-7096.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

September 12, 1990 - 7 p.m. – Open Meeting
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

September 19, 1990 - 7 p.m. – Open Meeting
Department of Motor Vehicles, Military Circle Branch Office, 5754 Poplar Hall Drive, Norfolk, Virginia.

September 26, 1990 - 7 p.m. – Open Meeting
Fairfax City Council Chambers, 10455 Armstrong Street, Fairfax, Virginia.

NOTE: CHANGE IN MEETING DATE

October 10, 1990 - 7 p.m. – Open Meeting
Roanoke County Administration Building, 3738 Brambleton Avenue, S.W., Roanoke, Virginia.

In accordance with this agency's Public Participation Guidelines, comments on the proposed changes to the proposed regulation concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees (VR 425-01-74) will be accepted at the open meetings listed. The proposed regulation appears in this issue of the Register. Oral comments to be presented must be accompanied by a written copy. Written copies will be accepted at the meetings or by mail prior to the meeting date.

September 18, 1990 - 10 a.m. – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

The preliminary agenda consists of: (i) amendment to the Boiler and Pressure Vessel Rules and Regulations; (ii) commissioner's approval of variances, exemptions, regulatory review; (iii) amendment to Construction Standard for Sanitation; (iv) amendment to Control of Hazardous Energy Source (Lockout/Tagout); and (v) technical amendments to General Industry Safety and Health Standards: Welding, Cutting and Brazing.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384.

* * * * *

September 18, 1990 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia or the requirements of federal law that the Department of Labor and Industry intends to amend regulations entitled: VR 425-02-71. **The Control of Hazardous Energy (Lockout/Tagout).** The proposed amendment eliminates reference which permit an employee to tagout rather than lockout energy isolating devices in order to disable machinery or equipment during maintenance or servicing.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until July 8, 1990

Contact: John J. Crisanti, Senior Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384

* * * * *

September 18, 1990 - 10 a.m. – Public Hearing
General Assembly Building, House Room C, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: VR

425-02-72. Virginia Occupational Safety and Health Standards for the Construction Industry, Sanitation.

This action will amend the current Sanitation Standard for Construction Industry, § 1926.51 to include additional sanitary requirements for potable water and toilet and handwashing facilities.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until July 8, 1990.

Contact: John J. Crisanti, Senior Policy Analyst, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384

* * * * *

January 8, 1991 - 10 a.m. – Public Hearing
Virginia Housing and Development Authority Conference Center, 601 South Belvidere Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to amend regulations entitled: VR 425-01-74. **Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees.** The proposed regulation provides a procedure for notification to the Department of Labor and Industry of asbestos projects and establishes permit fees for those projects.

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Written comments may be submitted until October 15, 1990.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, P.O. Box 12064, Richmond, VA 23241-0064, telephone (804) 786-2384.

STATE LAND EVALUATION ADVISORY COUNCIL

September 10, 1990 - 10 a.m. – Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☐

To adopt ranges of values to be recommended to localities for application to agricultural, horticultural, forest, and open-space land participating in use-value assessment programs.

Contact: David E. Jordan, Assistant Director, Property Tax Division, Department of Taxation, P.O. Box 1-K, Richmond, VA 23201, telephone (804) 367-8020.

LIBRARY BOARD

† **September 12, 1990 - 9:30 a.m. – Open Meeting**
Jefferson-Madison Regional Library, 201 East Market Street, Charlottesville, 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.

LOCAL GOVERNMENT ADVISORY COUNCIL

† **September 10, 1990 - 1 p.m. – Open Meeting**
Colonial Williamsburg Conference Center, The Lodge Auditorium, Williamsburg, Virginia.

Agenda items include public comment by Virginia Municipal League officials; report on the Commission on Population Growth and Development; the Register Act and Administrative Process Act; and a report from the Commission on Local Government.

Persons desiring to participate in the council's public comment period and require special accommodations or interpreter services should contact the council's offices by September 4, 1990.

Contact: Robert H. Kirby, Secretary, 702 Eighth Street Office Bldg., 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

September 26, 1990 - 10 a.m. – Open Meeting
† **October 24, 1990 - 10 a.m. – Open Meeting**
† **November 28, 1990 - 10 a.m. – Open Meeting**
† **December 19, 1990 - 10 a.m. – Open Meeting**
State Lottery Department, 2201 West Broad Street, Conference Room, Richmond, Virginia. ☐

A regular monthly meeting to conduct business according to items listed on 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

August 28, 1990 - 9:30 a.m. – Open Meeting
VMRC Headquarters, 2600 Washington Avenue, Room 403, 4th Floor, Newport News, Virginia.

9:30 a.m. - The commission will hear and decide

Calendar of Events

marine environmental matters: permit application for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

2 p.m. - The commission will hear and decide fishery management items: regulatory proposals; fishery management plans; fishery conservation issues; licensing; shellfish leasing.

Meeting are open to the public. Testimony is taken under oath from parties addressing agenda items on permits, licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing.

The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 247-8088.

* * * * *

August 28, 1990 - 9:30 a.m. - Public Hearing
VMRC Headquarters, 2600 Washington Avenue, Newport News, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Marine Resources Commission intends to consider adopting new regulations entitled: **VR 450-01-0058. Barrier Island Policy (A part of the Commission's Coastal Primary Sand Dune/Reaches Guidelines)**. The regulation will (i) assist the agency in implementing the policy set forth in § 62.1-13.21 of the Code of Virginia; (ii) assist localities in regulating activities that impact coastal primary sand dunes, beaches or barrier islands; and (iii) enable the public to self-evaluate the acceptability and consequences of such proposed uses.

Statutory Authority: §§ 62.1-13.4 and 62.1-13.24 of the Code of Virginia.

Written comments may be submitted until August 3, 1990.

Contact: Robert W. Grabb, Chief, Habitat Management Division, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2252.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Technical Advisory Panel

NOTE: CHANGE IN MEETING DATE
August 30, 1990 - 10 a.m. - Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

Orientation session for new Technical Advisory Panel members and briefing on activities of the Technical Advisory Panel up to the current date.

Contact: David Coronado, Director, Division of Policy and Research, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **September 11, 1990 - 2 p.m. - Open Meeting**
Marriott Hotel, 500 East Broad Street, Richmond, Virginia. ☒

A meeting to consider (i) Medicaid update on future cost containment initiatives; and (ii) update on private sector initiatives for long-term care, Blue Cross/Blue Shield of Virginia.

Contact: Paige Jones, Executive Secretary Senior, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or (804) 343-0634/TDD ☎

BOARD OF MEDICINE

Informal Conference Committee

September 21, 1990 - 9:30 a.m. - Open Meeting
Fort Magruder Inn, Route 60 East, Williamsburg, Virginia. ☒

† **September 28, 1990 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

† **October 11, 1990 - 9 a.m. - Open Meeting**
Fredericksburg Resort and Conference Center, I-95 and Rt. 3, Fredericksburg, Virginia. ☒

The committee will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen D. Waldron, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9908 or 662-9943/TDD ☎

Credentials Committee

September 15, 1990 - 8:15 a.m. - Open Meeting
Department of Health Professions, Surry Building, 1st Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will meet to conduct general business,

interview, and review medical credentials of applicants applying for licensure in Virginia in open and executive session and discuss any other items which may come before this committee.

The committee will not receive public comments.

Executive Committee

September 14, 1990 - 9 a.m. - Open Meeting
Department of Health Professions, Surry Building, 1st Floor, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

The committee will meet in open session to review closed cases, cases/files requiring administrative actions, procedures for examination for optometry, and consider any other items which may come before the committee.

The committee will not receive public comments.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **September 25, 1990 - 6 p.m. - Open Meeting**
† **September 26, 1990 - 9:30 a.m. - Open Meeting**
Dickenson County Community Services Board, Clintwood, Virginia. ☒

September 25
6 p.m. - Committee meeting.
8:30 p.m. - Informal Session.

September 26
7:30 a.m. - Legislative Breakfast.
9:30 a.m. - Regular Session. See agenda for location.

The agenda will be published on September 19 and can be obtained by calling Jane Helfrich.

Contact: Jane Helfrich, Board Administrator, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

Joint Board Liaison Committee

† **September 4, 1990 - 10 a.m. - Open Meeting**
Koger Executive Center, Blair Building, Richmond, Virginia. ☒

A quarterly meeting of the committee comprised of representatives of the Boards of Education; Health; Mental Health, Mental Retardation and Substance Abuse Services; Rehabilitative Services; and Social Services. Agenda items include topics of common interest and the development of joint policies relative to clients who are mutually served.

Contact: Jane V. Helfrich, Administrative Staff, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3921.

State Human Rights Committee

† **September 7, 1990 - 9 a.m. - Open Meeting**
Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor Street, James Madison Building, 13th Floor Conference Room, Richmond, Virginia. ☒

A regular meeting to discuss business relating to human rights issues. Agenda items are listed prior to the meeting.

Contact: Elsie D. Little, ACSW, State Human Rights Director, Office of Human Rights, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3988.

TASK FORCE TO STUDY THE EFFECTS OF METHYLPHENIDATE (RITALIN)

† **September 12, 1990 - 6 p.m. - Public Hearing**
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

In response to HJR 146, a special task force to study the effects of Methylphenidate (Ritalin) in the treatment of Attention Deficit Hypotensive Disorder (ADD or ADHD) invites written or oral comments. Testimony should be limited to five minutes and may be accompanied by written submissions. Written comments must be received by October 1, 1990.

Contact: George J. Stukenborg, Research Associate, Department of Health Professions, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9956.

† **September 13, 1990 - 10 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

The task force will meet to continue its study pursuant to HJR 146 of the General Assembly.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9918.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

September 1, 1990 - 8:30 a.m. - Open Meeting
Smith Hall Board Room, Virginia Military Institute, Lexington, Virginia. ☒

Calendar of Events

A regular meeting of the VMI Board of Visitors to consider election of president and committee reports. The Board of Visitors will provide an opportunity for public comment at this meeting immediately after the superintendent's comments (about 9 a.m.).

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MINORITY BUSINESS ENTERPRISE

September 28, 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 Minority Business Enterprise intends to adopt regulations entitled: **VR 486-01-01. Public Participation Guidelines**. These proposed regulations will outline the procedure in which the Department of Minority Business Enterprise will involve interested persons in developing or amending agency regulations.

Statutory Authority: § 2.1-64.35:8 of the Code of Virginia.

Written comments may be submitted until September 28, 1990.

Contact: Garland W. Curtis, Deputy Director, Department of Minority Business Enterprise, Ninth Street Office Bldg., Suite 200-202, Richmond, VA 23219, telephone (804) 786-5560 or toll-free 1-800-223-0671.

BOARD OF NURSING

August 28, 1990 - 9:30 a.m. – Open Meeting
Christopher Newport College, Campus Center Room 214, 50 Shoe Lane, Newport News, Virginia. ☒ (Interpreter for deaf provided upon request)

August 29, 1990 - 10:30 a.m. – Open Meeting
Community Hospital of Roanoke Valley, Gray Room, 4th Floor, 101 Elm Avenue, S.E., Roanoke Virginia. ☒ (Interpreter for deaf provided upon request)

August 30, 1990 - 9:30 a.m. – Open Meeting
The Martha Washington Inn, Board Room, 150 Main Street, Abingdon, Virginia. ☒ (Interpreter for deaf provided upon request)

Formal hearings will be held to inquire into allegations that certain laws and regulations governing the practice of nursing in Virginia may have been violated.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560.

* * * * *

† **September 26, 1990 - 10 a.m.** – Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive, Board Room 1, 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 485-01-1. Board of Nursing Regulations**. The purpose of these regulations is to amend the requirements for instructional personnel in nurse aide education programs by establishing standards for licensed practical nurses to teach nurse aides.

STATEMENT

Estimated Impact:

A. Regulated Entities.

Nurse Aide Education Programs - 244

B. Projected costs to regulated entities.

The proposed new and amended regulations should not result in increased costs to the nurse aide education programs. Existing regulations require instructional personnel to be registered nurses. Proposed changes establish the standards for licensed practical nurses to assist with the instruction of nurse aides. In most instances, the salary for licensed practical nurses is less.

C. Projected costs to agency for implementation and enforcement.

Implementing and enforcing the new and modified regulations will not increase the operating costs to the board since they can be implemented under existing programs.

D. Source of funds.

Funds to support the activities related to the program for the certification of nurse aides are provided under an interagency agreement between the Department of Health Professions, the Board of Nursing, the Department of Health, and the Department of Medical Assistance Services. A small amount of revenue is derived from fees charges to nurse aides.

Legal authority: Sections 54.1-2400 and 54.1-3005 of the Code of Virginia authorize the Board of Nursing to adopt and revise rules and regulations.

Explanation of need of proposed regulations: The proposed new regulations are needed to implement the changes in §§ 54.1-3000 and 54.1-3005 of the Code of Virginia which were effective on July 1, 1990. The proposed regulations establish the qualifications and responsibilities of the

licensed practical nurse as instructional personnel in nurse aide education programs. Since Virginia law requires that licensed practical nurses practice under the direction or supervision of a registered nurse, § 5.4 C 1 and 2 have been amended to clarify the responsibilities of the primary instructor, who is a registered nurse.

Amendments to § 5.4 C 4 establish the requirements to be met by all instructional personnel prior to being assigned to teach in a nurse aide education program. The board is of the opinion that these proposed regulations are responsive to the changes in the law as well as to comments that have been submitted both prior to and since the changes in the law.

Assurance of clarity and simplicity: Several of the changes proposed are for the purpose of clarity. A number of reviewers have examined the proposed new and amended regulations, and the board is satisfied that they meet appropriate standards for clarity and simplicity.

Impact on small business: To the extent that nurse aide education programs are small businesses, the discussion found in the Estimated Impact section of this analysis is applicable.

Alternatives considered: The board gave careful consideration to the recommendations of the advisory committee and to comments submitted from a variety of sources. The board is of the opinion that the proposed regulations are the least burdensome alternatives consistent with public protection.

Evaluation schedule: In accordance with the board's Public Participation Guidelines, an informational proceeding to receive public comments on existing regulations will be held at least once each biennium. It is anticipated that such a proceeding will be scheduled no later than 1992 to evaluate the effectiveness, efficiency, necessity, clarity, and cost of compliance of the regulations.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Written comments may be submitted until October 27, 1990.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9909 or toll-free 1-800-533-1560.

BOARD OF NURSING HOME ADMINISTRATORS

† August 28, 1990 - 9 a.m. - Open Meeting
† August 29, 1990 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☐

NHA Informals - both days.

September 5, 1990 - 8 a.m. - Open Meeting

September 6, 1990 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☐

National and state examinations will be given to applicants for licensure for Nursing Home Administrators on September 5.

A regularly scheduled board meeting will be held on Thursday.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229-5005, telephone (804) 662-9111.

OLD DOMINION UNIVERSITY

Executive Committee

August 28, 1990 - 3 p.m. - Open Meeting
Old Dominion University, New Administration Building,
Board Room 226, Norfolk, Virginia. ☐

A meeting of the committee to conduct university business on behalf of the full board. Agendas should be available at least five working days prior to the meeting.

Contact: Donna W. Meeks, Secretary to the Board, Old Dominion University, Norfolk, VA 23529-0029, telephone (804) 683-3072.

PERINATAL SERVICES ADVISORY BOARD

† September 13, 1990 - 12:30 p.m. - Open Meeting
James Madison Building, Main Floor Auditorium,
Richmond, Virginia. ☐

A regular meeting of the board. Subcommittees of the board will be meeting in various rooms throughout the Madison Building beginning at 10:30 a.m. Please contact the Division of Maternal and Child Health for additional information.

Contact: Alice S. Linyear, M.D., M.P.H., Director, Division of Maternal and Child Health, 109 Governor St., Richmond, VA 23219, telephone (804) 786-7367.

VIRGINIA PESTICIDE CONTROL BOARD

August 27, 1990 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol
Square, Richmond, Virginia. ☐

An informational proceeding to gather data specifically pertaining to the use of granular carbofuran and granular carbofuran's effect on avians and to consider proposals by FMC, the manufacturer of granular carbofuran, and others to reduce or to eliminate the

Calendar of Events

toxic or other harmful effects of granular carbofuran on avians or on the environment. The board desires to hear comments on, but not limited to, the following specific issues: efficacy of granular carbofuran and alternative pesticides, avian toxicology of granular carbofuran and alternative pesticides, interactions among other alternative pesticides, and any increased environmental risks which may be caused by the use of alternative pesticides.

In order to speak at this proceeding, speakers must submit a written outline of their comments by 5 p.m., August 22, 1990. Written comments and requests to speak should be submitted to Dr. Marvin A. Lawson, Office of Pesticide Management, P.O. Box 1163, Room 403, Richmond, VA 23209.

The board may consider other procedures necessary for the conduct of these proceedings.

† **September 12, 1990 - 10 a.m. – Open Meeting**
Lancaster Farms, Inc., 5800 Knotts Neck Road, Suffolk, Virginia. ☒

Depart from the Radisson Hotel - Hampton for a tour of the Lancaster Farms. Beginning at 1 p.m. the board will hold committee meetings and conduct general business at the Radisson Hotel - Hampton.

† **September 13, 1990 - 9 a.m. – Open Meeting**
Radisson Hotel - Hampton, 700 Settlers Landing, Hampton, Virginia. ☒

The board will hold committee meetings and conduct general business from the previous day.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, P.O. Box 1163, Room 403, Richmond, VA 23209, telephone (804) 371-6558.

BOARD OF PHARMACY

September 12, 1990 - 9 a.m. – Public Hearing
September 13, 1990 - 9 a.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Rooms 1 and 2, Richmond, Virginia. ☒

September 12 - A public hearing on regulatory review and board meeting (conference room 1).

September 13 - A routine board business meeting (conference room 2).

September 12, 1990 - 9 a.m. – Public Hearing
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

Pursuant to its Public Participation Guidelines, the Board of Pharmacy will hold a public hearing to receive public comments on all existing regulations as

to their effectiveness, efficiency, necessity, clarity and cost of compliance.

Interested parties may appear at the hearing and offer oral or written comments. Written comments may be submitted directly to the board office until September 17, 1990.

Contact: Jack B. Carson, Executive Director, Board of Pharmacy, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9911.

BOARD OF PROFESSIONAL COUNSELORS

† **September 14, 1990 - 9 a.m. – Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences - Public comment will not be accepted.

Contact: Evelyn B. Brown or Joyce D. Williams, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9912.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **September 18, 1990 - 9:30 a.m. – Open Meeting**
Department of Commerce, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☒

A meeting to (i) approve minutes from the May 24, 1990 meeting; (ii) review applications; and (iii) review correspondence.

Contact: Peggy J. Wood, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT FOR RIGHTS OF VIRGINIANS WITH DISABILITIES

Protection and Advocacy for Mentally Ill Individuals Advisory Council

August 30, 1990 - 10 a.m. – Open Meeting
"On Our Own, Charlottesville," 310 East Market Street, Charlottesville, Virginia. ☒ (Interpreter for deaf provided upon request)

A regularly scheduled meeting for the conduct of business. Public participation welcomed. For directions please call (804) 979-2440.

Contact: Barbara Hoban, PAMI Program Manager, Department for Rights of Virginians with Disabilities, James Monroe Building, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2042/TDD ☎ or

toll-free 1-800-552-3962/TDD ☎

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† September 12, 1990 - 9 a.m. - Open Meeting
† September 13, 1990 - 9 a.m. - Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, 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)

September 16, 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 amend regulations entitled: **VR 615-01-32. Aid to Dependent Children (ADC) Program - Deprivation Due to Continued Absence.** The purpose of this amendment is to clarify policy regarding the determination of deprivation when the continued absence of a parent is due to separation.

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

Written comments may be submitted until September 16, 1990, to I. Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Drive, Richmond, Virginia 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

September 20, 1990 - 9 a.m. - Open Meeting
Colonial Farm Credit Office, Mechanicsville, Virginia.

A regular bi-monthly meeting.

Contact: Donald L. Wells, Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

DEPARTMENT OF TAXATION

September 18, 1990 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol

Square, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-6-4006. Virginia Income Tax Withholding: Lottery Winnings.** This regulation will establish the application of withholding requirements on lottery prizes of the Virginia State Lottery Department.

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

Written comments may be submitted until September 18, 1990.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

* * * * *

September 18, 1990 - 10 a.m. - Open Meeting
General Assembly Building, House Room D, Capitol Square, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to amend regulations entitled: **VR 630-10-31. Retail Sales and Use Tax: Dealer's Returns and Payment of the Tax.** This regulation sets forth the sliding scale dealer's discount that ranges from 2.0% to 4.0% based upon dealers' monthly sales volume.

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

Written comments may be submitted until September 18, 1990.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

VIRGINIA'S TRANSITION TASK FORCE

September 13, 1990 - 10 a.m. - Open Meeting
The James Monroe Building, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Virginia's Transition Task Force comprised of representatives from 13 state agencies and the community will meet to develop strategies for implementing transition planning and service statewide for youth and young adults with disabilities. Public comment is invited between 11:30 a.m. and 12:30 p.m.

Contact: Sharon deFur, Coordinator of Transition Services, Virginia Department of Education, P.O. Box 6-Q, Monroe Building, 23rd Floor, Richmond, VA 23216, telephone (804)

Calendar of Events

225-2880, toll-free 1-800-422-2083 or 1-800-422-1098/TDD ☎

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

August 27, 1990 - 7 p.m. – Public Hearing
Suffolk District Transportation Office, Suffolk, Virginia.

August 29, 1990 - 7 p.m. – Public Hearing
Richmond Central Transportation Office, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to adopt regulations entitled: **VR 385-01-22. Vegetation Control Regulations.** The regulation defines a set of rules to be followed by businesses and owners of outdoor advertising signs and other advertising when trimming vegetation on state-owned rights of way to make visible billboards or businesses located on private property.

Statutory Authority: §§ 33.1-12 and 33.1-351 of the Code of Virginia.

Written comments may be submitted until August 29, 1990.

Contact: Mr. J.R. Barrett, Environmental Program Planner, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 371-6826.

COMMONWEALTH TRANSPORTATION BOARD

September 20, 1990 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. (Interpreter for deaf provided if requested)

Monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval.

Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-9950.

TRANSPORTATION SAFETY BOARD

September 14, 1990 - 9:30 a.m. – Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,

Room 702, Richmond, Virginia. ☒

A meeting to discuss the distribution of the USDOT Highway Safety Funds.

Contact: William H. Leighty, Deputy Commissioner for Transportation Safety, 2300 W. Broad St., Richmond, VA 23269-0001, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

TREASURY BOARD

September 19, 1990 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A monthly meeting of the board.

Contact: Laura Wagner-Lockwood, Senior Debt Manager, Department of the Treasury, P.O. Box 6-H, Richmond, VA 23215, telephone (804) 225-4931.

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

August 31, 1990 - 10 a.m. – Public Hearing
Chrysler Museum, Norfolk, Virginia.

September 6, 1990 - 10 a.m. – Public Hearing
100 Arbor Street, Suite 6, Christiansburg, Virginia.

September 12, 1990 - 10 a.m. – Public Hearing
Manassas Park, City Hall, Manassas Park, Virginia.

October 15, 1990 - 10 a.m. – Public Hearing
October 16, 1990 - 10 a.m. – Public Hearing
Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: **VR 647-01-02. Commission on VASAP Policy and Procedure Manual.** These regulations describe policies and direction for operation of local ASAPs and procedures to be utilized when conforming to policy directives.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001 E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

* * * * *

August 31, 1990 - 10 a.m. - Public Hearing
Chrysler Museum, Norfolk, Virginia.

September 6, 1990 - 10 a.m. - Public Hearing
100 Arbor Street, Suite 6, Christiansburg, Virginia.

September 12, 1990 - 10 a.m. - Public Hearing
Manassas Park, City Hall, Manassas Park, Virginia.

October 15, 1990 - 10 a.m. - Public Hearing
October 16, 1990 - 10 a.m. - Public Hearing
Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: VR 647-01-03. VASAP Case Management Policy and Procedure Manual. These regulations provide policy and guidance to local ASAP programs and the process for handling offenders referred for education and treatment of convictions for driving under the influence (DUI).

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001 E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

* * * * *

August 31, 1990 - 10 a.m. - Public Hearing
Chrysler Museum, Norfolk, Virginia.

September 6, 1990 - 10 a.m. - Public Hearing
100 Arbor Street, Suite 6, Christiansburg, Virginia.

September 12, 1990 - 10 a.m. - Public Hearing
Manassas Park, City Hall, Manassas Park, Virginia.

October 15, 1990 - 10 a.m. - Public Hearing
October 16, 1990 - 10 a.m. - Public Hearing
Richmond, Virginia (Site to be determined).

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to amend regulations entitled: VR 647-01-04. Certification Requirements Manual. All programs are established under § 18.2-271.1 of the Code of Virginia and are required to be certified by the Commission on VASAP. These regulations provide guidance for meeting the

certification requirements.

Statutory Authority: §§ 18.2-271.1 and 18.2-271.2 of the Code of Virginia.

Written comments may be submitted until September 28, 1990, to William T. McCollum, Commission on VASAP, 1001 E. Broad St., Suite 245, Box 28, Old City Hall Bldg., Richmond, VA 23219.

Contact: Kimberly A. Morris, Executive Assistant, Commission on VASAP, 1001 E. Broad St., Suite 245, Old City Hall Bldg., Box 28, Richmond, VA 23219, telephone (804) 786-5895.

VIRGINIA RACING COMMISSION

September 19, 1990 - 9:30 a.m. - Public Hearing
VSRS Building, 1204 East Main Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to adopt regulations entitled: VR 662-03-01. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials. This regulation sets forth the qualifications, duties and responsibilities of racing officials who will serve at race meetings licensed by the commission.

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

Written comments may be submitted until September 30, 1990, to Chairman, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208.

Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Interagency Coordinating Council on Delivery of Related Services to Handicapped Children

August 28, 1990 - 2 p.m. - Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☐

A regular monthly meeting.

Contact: Glen R. Slonneger, Jr., Program and Policy Specialist/Program for Infants, Children and Youth, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140.

VIRGINIA VOLUNTARY FORMULARY BOARD

September 14, 1990 - 10 a.m. - Public Hearing

Calendar of Events

James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia.

A hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the Formulary add and delete drugs and drug products to the Formulary that became effective on April 23, 1990. Copies of the proposed revisions to the Formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on September 14, 1990, will be made a part of the hearing record and considered by the board.

October 4, 1990 - 10:30 a.m. - Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B 1-9, Richmond, VA 23219, telephone (804) 786-4326.

DEPARTMENT OF VOLUNTEERISM

† **September 25, 1990 - 2 p.m. - Open Meeting**
Northern Virginia Planning District Commission, 7535 Little River Turnpike, Annandale, Virginia.

The department is conducting a public meeting to identify the current activities and concerns of the Virginia volunteer community. The department is seeking comments and suggestions from the public on: increasing volunteerism, training needs for volunteers and volunteer leaders, incentives to volunteering, barriers to volunteerism, liability issues, other subjects related to volunteerism, and Department of Volunteerism training, activities, and services.

The department encourages attendance and participation from concerned individuals and representatives of volunteer organizations, nonprofit associations, corporations, and government agencies.

The results of the meeting will be compiled and shared with those who are developing public policy which impacts the volunteer community.

Those wishing to address the meeting should submit a written request, including a short paragraph summarizing points to be covered, by September 17, 1990. Persons selected to be heard will be notified when they will be speaking and requested to submit a copy of their statement at the beginning of the

meeting.

Written comments may be submitted until September 25, 1990.

Contact: Beth Hayes, Director, Virginia Department of Volunteerism, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-1431.

VIRGINIA WASTE MANAGEMENT BOARD

† **September 19, 1990 - 10 a.m. - Open Meeting**
State Capitol Building, House Room 2, Capitol Square, Richmond, Virginia. ☒

A general business meeting.

Contact: Loraine Williams, Secretary, 101 N. 14th St., Monroe Bldg., 11th Floor, Richmond, VA 23219, telephone (804) 225-2667, (804) 225-3753/TDD ☎ or toll-free 1-800-552-2075.

STATE WATER CONTROL BOARD

† **September 5, 1990 - 7 p.m. - Public Hearing**
Norfolk City Council Chambers, 1006 City Hall Building, 810 Union Street, Norfolk, Virginia. ☒

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) permits for Hampton Roads Sanitation District's Atlantic (VA0081248), Army-Base (VA0081230), Chesapeake-Elizabeth (VA0081264) and Williamsburg (VA0081302) Sewage Treatment Plants, the issuance or denial of the permits, and the effect of the discharges on water quality or beneficial uses of state waters.

Contact: Lori A. Freeman, Hearings Reporter, Office of Policy Analysis, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230-1143, telephone (804) 367-6815.

* * * * *

August 28, 1990 - 7 p.m. - Public Hearing
Franklin General District Courtroom, City Hall, 2nd Floor, 207 West 2nd Avenue, Franklin, 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 680-15-01. Water Withdrawal Reporting.** The purpose of the proposed amendment is to extend the reporting requirement to specified crop irrigators and to withdrawers of saline surface waters. A further purpose is to conform with the style and formal requirements of the Virginia Registrar of Regulations.

Statutory Authority: § 62.1-44.38 C of the Code of Virginia.

Written comments may be submitted until 4 p.m., August 31, 1990, to Ms. Doneva Dalton, Office of Water Resources Planning, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Julian Alexander, Office of Water Resources Planning, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6424.

* * * * *

September 11, 1990 - 2 p.m. - Public Hearing
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **VR 680-14-03. Toxics Management Regulation.** The purpose of this proposed regulatory action is to repeal the Toxics Management Regulation. The intent and scope of the regulation will be concurrently incorporated into the Permit Regulation through a separate rulemaking.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Written comments may be submitted until 4 p.m., September 17, 1990, to Ms. Doneva Dalton, State Water Control Board, P.O. Box 11143, Richmond, VA 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6302.

STATE BOARD OF YOUTH AND FAMILY SERVICES

September 14, 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 State Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-01-001. Public Participation Guidelines.** These guidelines establish the procedures for public participation in the development of regulations.

Statutory Authority: § 66-10 of the Code of Virginia.

Written comments may be submitted until September 14, 1990.

Contact: Linda Nablo, Lead Analyst, Virginia Department of Youth and Family Services, P.O. Box 26963, Richmond, VA 23261, telephone (804) 674-3262.

LEGISLATIVE

**SENATE EDUCATION AND HEALTH SUBCOMMITTEE
STUDYING PARENTAL CONSENT FOR ABORTION**

† September 17, 1990 - 10 a.m. - Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☐

Senate Bill No. 151 was continued in the Senate Committee on Education and Health from the 1990 Session to the 1991 Session of the General Assembly.

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Amy W. Rider, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838.

**HOUSE AGRICULTURE SUBCOMMITTEE STUDYING
COMMISSIONS ON THE SALE OF BURLEY TOBACCO**

August 29, 1990 - 9:30 a.m. - Public Hearing
Virginia Highlands Community College, Auditorium, Room 605, Learning Resources/Business Technologies Building, Abingdon, Virginia (exit 7 from I-81).

This is the first of a series of public hearings to be held in Southwest Virginia by the special subcommittee.

August 29, 1990 - 2 p.m. - Public Hearing
Russell County General District Court Room, 121 East Main Street, Lebanon, Virginia.

This is the second of a series of public hearings to be held in Southwest Virginia by the special subcommittee.

August 30, 1990 - 10 a.m. - Public Hearing
Board of Supervisors Room, Lower Level, Public Library, Suite 1, 112 Water Street, Gate City, Virginia.

This is the third of a series of public hearings to be held in Southwest Virginia by the special subcommittee.

Contact: Deanna S. Byrne, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

**HOUSE LABOR AND COMMERCE SUBCOMMITTEE
STUDYING CHILD LABOR LAWS OF VIRGINIA**

† September 11, 1990 - 7 p.m. - Public Hearing
Eastern Shore Community College, Onancock, Virginia. ☐

Calendar of Events

A public hearing to learn citizen views regarding child labor laws of Virginia.

Contact: Arlen K. Bolstad, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING EARLY CHILDHOOD AND DAY CARE PROGRAMS

† **October 2, 1990 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

This is the first meeting of the subcommittee. The main agenda items will be to organize, identify the subcommittee's objectives, and establish a meeting schedule for the rest of the year. HJR 124.

Contact: Brenda Edwards, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227.

VIRGINIA COAL AND ENERGY COMMISSION

August 28, 1990 - 9:30 a.m. – Open Meeting
Martha Washington Inn, Ballroom, Abingdon, Virginia.

A business meeting in the morning on acid rain legislation pending in Congress followed by an afternoon public hearing on the topic of how best to prepare for that point in time when Virginia's coal reserves have been depleted. Persons wishing to address the Commission during the public hearing may preregister with Mr. Heard at (804) 786-3591.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING CREDIT CARD FRAUD

September 12, 1990 - 1 p.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☒

An open meeting to consider SJR 131.

Contact: Mary P. Devine, Staff Attorney, Division of Legislative Services, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Amy W. Rider, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838.

JOINT SUBCOMMITTEE STUDYING MATERNAL AND PERINATAL DRUG EXPOSURE

† **September 19, 1990 - 10 a.m.** – Open Meeting
State Capitol Building, House Room 4, Capitol Square, Richmond, Virginia. ☒

The joint subcommittee will continue its study. HJR 41.

Contact: Norma Szakal, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING EARLY INTERVENTION SERVICES TO INFANTS AND TODDLERS WITH HANDICAPPING CONDITIONS

† **August 30, 1990 - 10 a.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☒

The joint subcommittee will meet to study early intervention services to infants and toddlers with handicapping conditions. HJR 164

Contact: Jessica F. Bolecek, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING ELECTION LAWS

August 27, 1990 - 10 a.m. – Open Meeting
September 24, 1990 - 10 a.m. – Open Meeting
October 24, 1990 - 10 a.m. – Open Meeting
† **November 27, 1990 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

An open meeting to consider SJR 82.

Contact: Mary Spain, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or John McE. Garrett, Deputy Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-4638.

SENATE SUBCOMMITTEE STUDYING HIGHER EDUCATION IN AREAS OF SUBSTANTIAL INCREASE IN ENROLLMENT

† **September 13, 1990 - 10 a.m.** – Open Meeting
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☒

Open meeting regarding SR 28.

Contact: Elizabeth Daley, Senate Finance Office, 10th

Floor, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-4400 or Amy W. Rider, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3838.

JOINT SUBCOMMITTEE STUDYING PROVISIONS OF THE CODE OF VIRGINIA RELATING TO HORSE RACING AND PARI-MUTUEL WAGERING

† **October 1, 1990 - 10 a.m.** – Public Hearing
General Assembly Building, House Room D, 910 Capitol Street, Richmond, Virginia. ☐

A public hearing is being held so that citizens may express their views relating to horse racing and pari-mutuel wagering. HJR 178.

Contact: Angela P. Bowser, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591. Persons wishing to speak should contact Anne N. Howard, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-7681.

VIRGINIA HOUSING STUDY COMMISSION

† **September 5, 1990 - 10 a.m.** – Public Hearing
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

† **September 12, 1990 - 2:30 p.m.** – Public Hearing
Christopher Newport College, Anderson Auditorium, Newport News, Virginia. ☐

† **September 25, 1990 - 10 a.m.** – Public Hearing
University of Virginia Center for Continuing Education, Abingdon, Virginia. ☐

A public hearing relating to housing issues in Virginia and HJR 84.

Contact: Nancy M. Ambler, Director, VHSC, 205 N. 4th St., Richmond, VA 23219, telephone (804) 225-3797. Persons wishing to speak should contact Sharon Kelleher, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-7891.

JOINT SUBCOMMITTEE STUDYING THE USE OF JET SKIS

September 14, 1990 - 9 a.m. – Public Hearing
Marine Science Museum, 717 General Booth Boulevard, Virginia Beach, Virginia.

A public hearing to consider SJR 29.

Contact: Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, Va 23203, telephone (804) 786-7869. Those persons wishing to speak should

contact: Deanna S. Byrne, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SENATE COURTS OF JUSTICE SUBCOMMITTEE STUDYING PUBLICATION OF LEGAL NOTICES IN NEWSPAPERS

† **September 26, 1990 - 10 a.m.** – Public Hearing
General Assembly Building, Senate Room A, 910 Capitol Street, Richmond, Virginia. ☐

Senate Bill No. 198 was continued in the Senate Committee for Courts of Justice from the 1990 Session to the 1991 Session of the General Assembly.

Contact: Mary Devine, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Thomas Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869.

JOINT SUBCOMMITTEE STUDYING THE ENVIRONMENTAL IMPACT OF OIL AND GAS DRILLING UNDER THE CHESAPEAKE BAY

† **September 19, 1990 - 1:30 p.m.** – Open Meeting
General Assembly Building, House Room C, 910 Capitol Street, Richmond, Virginia. ☐

The joint subcommittee will have its first meeting to study the environmental impact of oil and gas drilling under the Chesapeake Bay. HJR 251.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

COMMISSION ON OIL SPILL READINESS

August 28, 1990 - 10 a.m. – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia. ☐

An open meeting to consider SJR 56.

Contact: John McConnell, Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Thomas C. Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-3591.

COMMISSION ON POPULATION GROWTH AND DEVELOPMENT

† **September 14, 1990 - 10 a.m.** – Open Meeting
General Assembly Building, House Room D, 910 Capitol

Calendar of Events

Street, Richmond, Virginia. ☒

The commission is a five-year statutory commission established by Chapter 833 of the 1990 Acts of Assembly and is cited in §§ 9-145.11 through 9-145.15 of the Code of Virginia.

This meeting is for the purpose of organizing the commission, electing a chairman and vice-chairman and adopting a search and selection process for hiring an executive director.

Contact: Marty Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or Jeffrey A. Finch, House of Delegates, P.O. Box 406, Richmond, VA 23203, telephone (804) 786-2227.

JOINT SUBCOMMITTEE STUDYING TRANSFERABLE DEVELOPMENT RIGHTS AND OTHER LAND-USE CARRYOVER LEGISLATION

† September 10, 1990 - 10:30 a.m. - Open Meeting
William and Mary, Campus Center, Conference Rooms A and B, Jamestown Road, Williamsburg, Virginia. ☒

Members of the joint subcommittee will conduct a working session.

Contact: C.M. Conner, Jr., Staff Attorney, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING TRANSPORTATION NEEDS OF THE HAMPTON ROADS AREA

† September 5, 1990 - 7 p.m. - Public Hearing
Christopher Newport College, 50 Shoe Lane, Administration Building, Room 105, Newport News, Virginia.

A public hearing to consider SJR 94.

Contact: Thomas Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869. Persons wishing to speak should contact: Dr. Alan B. Wambold, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING THE USE OF VEHICLES POWERED BY CLEAN TRANSPORTATION FUELS

† September 6, 1990 - 10 a.m. - Public Hearing
Virginia Beach Center for the Arts, 2200 Park Avenue, Price Auditorium, Virginia Beach, Virginia.

A public hearing is being held so that citizens may

express their views on the use of vehicles powered by clean transportation fuels. HJR 113.

Contact: Dr. Alan B. Wambold, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 27

Agricultural Council, Virginia
Aviation, Department of
† Cosmetology, Board for
Election Laws, Joint Subcommittee Studying
† Health Professions, Board of
Pesticide Control Board, Virginia

August 28

Agricultural Council, Virginia
Aviation, Department of
Coal and Energy Commission, Virginia
Contractors, Board for
† - Applications Review Committee
- Recovery Fund Committee
Health Services Cost Review Council, Virginia
Marine Resources Commission
Nursing, Board of
† Nursing Home Administrators, Board of
Oil Spill Readiness, Commission on
Old Dominion University
- Executive Committee
Visually Handicapped, Department for the
- Interagency Coordinating Council on Delivery of
Related Services to Handicapped Children

August 29

Aviation, Department of
Health Professions, Board of
- Public and Professional Information and Education
Committee
- Regulatory Research Committee
Nursing, Board of
† Nursing Home Administrators, Board of

August 30

† Early Intervention Services to Infants and Toddlers with Handicapping Conditions, Joint Subcommittee Studying
† Game and Inland Fisheries, Department of
† Health Professions, Board of
Historic Preservation Foundation, Virginia
Medical Assistance Services, Department of
- Technical Advisory Panel
Nursing, Board of
Rights of Virginians with Disabilities, Department for
- Protection and Advocacy for Mentally Ill

Calendar of Events

Individuals Advisory Council

August 31

Game and Inland Fisheries, Department of

September 1

Military Institute, Virginia
- Board of Visitors

September 4

Hopewell Industrial Safety Council
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† - Joint Board Liaison Committee

September 5

Children, Department for
- Consortium on Child Mental Health
Conservation and Recreation, Department of
- Goose Creek Scenic River Advisory Board
† Education, Board of
Nursing Home Administrators, Board of

September 6

Chesapeake Bay Commission
Community Corrections Resources Board - Middle Virginia
Emergency Planning Committee, Local - Chesterfield County
Nursing Home Administrators, Board of

September 7

Chesapeake Bay Commission
Conservation and Recreation, Department of
- Catoctin Creek Scenic River Advisory Board
Family and Children's Trust Fund of Virginia
- Board of Trustees
† Mental Health, Mental Retardation and Substance Abuse Services, Department of
† - State Human Rights Committee

September 10

† ASAP Policy Board - Valley
Land Evaluation Advisory Council, State
† Local Government Advisory Council
† Transferable Development Rights and Other Land-Use Carryover Legislation, Joint Subcommittee Studying

September 11

† Medicare and Medicaid, Governor's Advisory Board on

September 12

Contractors, Board for
- Complaints Committee
Corrections, Board of
Credit Card Fraud, Joint Subcommittee Studying
Dentistry, Board of
Emergency Planning Committee, Local - Alexandria
Labor and Industry, Department of

- Safety and Health Codes Board

† Library Board

† Pesticide Control Board, Virginia

† Sewage Handling and Disposal Appeals Review Board, State

September 13

† Architects, Professional Engineers, Land Surveyors, and Landscape Architects, Board for
† Chesapeake Bay Local Assistance Board
Dentistry, Board of
† Health, State Board of
† Higher Education in Areas of Substantial Increase in Enrollment, Senate Subcommittee Studying
† Methylphenidate (Ritalin), Task Force to Study the Effects of
† Perinatal Services Advisory
† Pesticide Control Board, Virginia
† Sewage Handling and Disposal Appeals Review Board, State
Transition Task Force, Virginia's

September 14

† Architects, Professional Engineers, Land Surveyors, and Landscape Architects, Board for
† - Board for Land Surveyors
Dentistry, Board of
† Health, State Board of
Medicine, Board of
- Executive Committee
Pharmacy, Board of
† Population Growth and Development, Commission on
† Professional Counselors, Board of
Transportation Safety Board

September 15

Dentistry, Board of
Medicine, Board of
- Credentials Committee

September 16

Dentistry, Board of

September 17

† Hearing Aid Specialists, Board for
† Parental Consent for Abortion, Senate Education and Health Subcommittee Studying

September 18

Labor and Industry, Department of
- Safety and Health Codes Board
† Professional Soil Scientists, Board for

September 19

† Community Colleges, State Board for
† Drug Exposure, Maternal and Perinatal, Joint Subcommittee Studying
Funeral Directors and Embalmers, Board of
Labor and Industry, Department of
- Safety and Health Codes Board
† Oil and Gas Drilling Under the Chesapeake Bay,

Calendar of Events

- Environmental Impact of, Joint Subcommittee Studying the
Treasury Board
† Waste Management Board, Virginia
- September 20**
† Community Colleges, State Board for
Soil and Water Conservation Board, Virginia
Transportation Board, Commonwealth
- September 21**
† Geology, Board for
Medicine, Board of
- Informal Conference Committee
- September 24**
Election Laws, Joint Subcommittee Studying
- September 25**
† Health Services Cost Review Council, Virginia
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Volunteerism, Department of
- September 26**
Educational Opportunity for All Virginians, Governor's Commission on
† Housing and Community Development, Department of
of
† - Regulatory Effectiveness Advisory Committee
Labor and Industry, Department of
- Safety and Health Codes Board
Lottery Board, State
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
- September 27**
Education, Board of
† Housing and Community Development, Department of
of
† Regulatory Effectiveness Advisory Committee
† Publication of Legal Notices in Newspapers, Senate Courts of Justice Subcommittee Studying
- September 28**
Education, Board of
† Medicine, Board of
† - Informal Conference Committee
- October 2**
† Early Childhood and Day Care Programs, Joint Subcommittee Studying
- October 3**
Children, Department for
- Consortium on Child Mental Health
- October 4**
† Corrections Resources Board, Community - Middle Virginia
Emergency Planning Committee, Local - Chesterfield
- County
Voluntary Formulary Board, Virginia
- October 5**
Health Professions, Department of
- Advisory Board on Physical Therapy
- October 10**
† Corrections, Board of
Indians, Council On
Labor and Industry, Department of
- Safety and Health Codes Board
- October 11**
† Medicine, Board of
† - Informal Conference Committee
- October 12**
Family and Children's Trust Fund of Virginia
- Board of Trustees
- October 24**
Election Laws, Joint Subcommittee Studying
† Lottery Board, State
- October 25**
Education, Board of
- October 26**
Education, Board of
- November 1**
† Corrections Resources Board, Community - Middle Virginia
- November 9**
† Family and Children's Trust Fund of Virginia
† - Board of Trustees
- November 27**
† Election Laws, Joint Subcommittee Studying
- November 28**
† Lottery Board, State
- December 7**
† Family and Children's Trust Fund of Virginia
† - Board of Trustees
- December 19**
† Lottery Board, State

PUBLIC HEARINGS

- August 27**
Transportation, Department of
- August 28**

Calendar of Events

Marine Resources Commission
Water Control Board, State

August 29

Burley Tobacco, House Agriculture Subcommittee
Studying Commissions on the Sale of
Transportation, Department of

August 30

Burley Tobacco, House Agriculture Subcommittee
Studying Commissions on the Sale of

August 31

Virginia Alcohol Safety Action Program, Commission
on the

September 5

† Housing Study Commission, Virginia
† Transportation Needs of the Hampton Roads Area,
Joint Subcommittee Studying
† Water Control Board, State

September 6

† Vehicles Powered by Clean Transportation Fuels,
Joint Subcommittee Studying the Use of
Virginia Alcohol Safety Action Program, Commission
on the

September 11

† Child Labor Laws of Virginia, House Labor and
Commerce Subcommittee Studying
Water Control Board, State

September 12

† Housing Study Commission, Virginia
† Methylphenidate (Ritalin), Task Force to Study the
Effects of
Pharmacy, Board of
Virginia Alcohol Safety Action Program, Commission
on the

September 14

Use of Jet Skis, Joint Subcommittee Studying the
Voluntary Formulary Board, Virginia

September 18

Labor and Industry, Department of
Taxation, Department of

September 19

Racing Commission, Virginia

September 20

† Funeral Directors and Embalmers, Board of

September 25

† Housing Study Commission, Virginia

September 26

Agriculture and Consumer Services, Department of
† Commerce, Department of

† Nursing, Board of

October 1

† Horse Racing and Pari-Mutuel Wagering, Joint
Subcommittee Studying Provisions of the Code of
Virginia Relating to

October 3

Educational Opportunities for All Virginians,
Governor's Commission on

October 10

† Air Pollution Control Board, State

October 15

Alcoholic Beverage Control, Department of
Virginia Alcohol Safety Action Program, Commission
on the
† Health, Board of

October 16

Virginia Alcohol Safety Action Program, Commission
on the

December 6

† Agriculture and Consumer Services, Department of

January 8, 1991

Labor and Industry, Department of
- Safety and Health Codes Board

Calendar of Events
