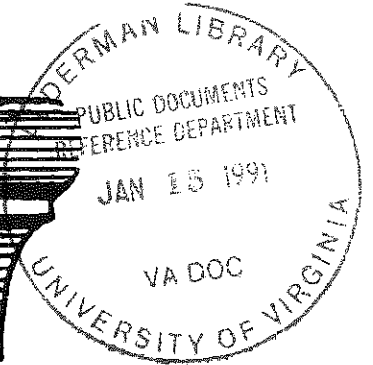


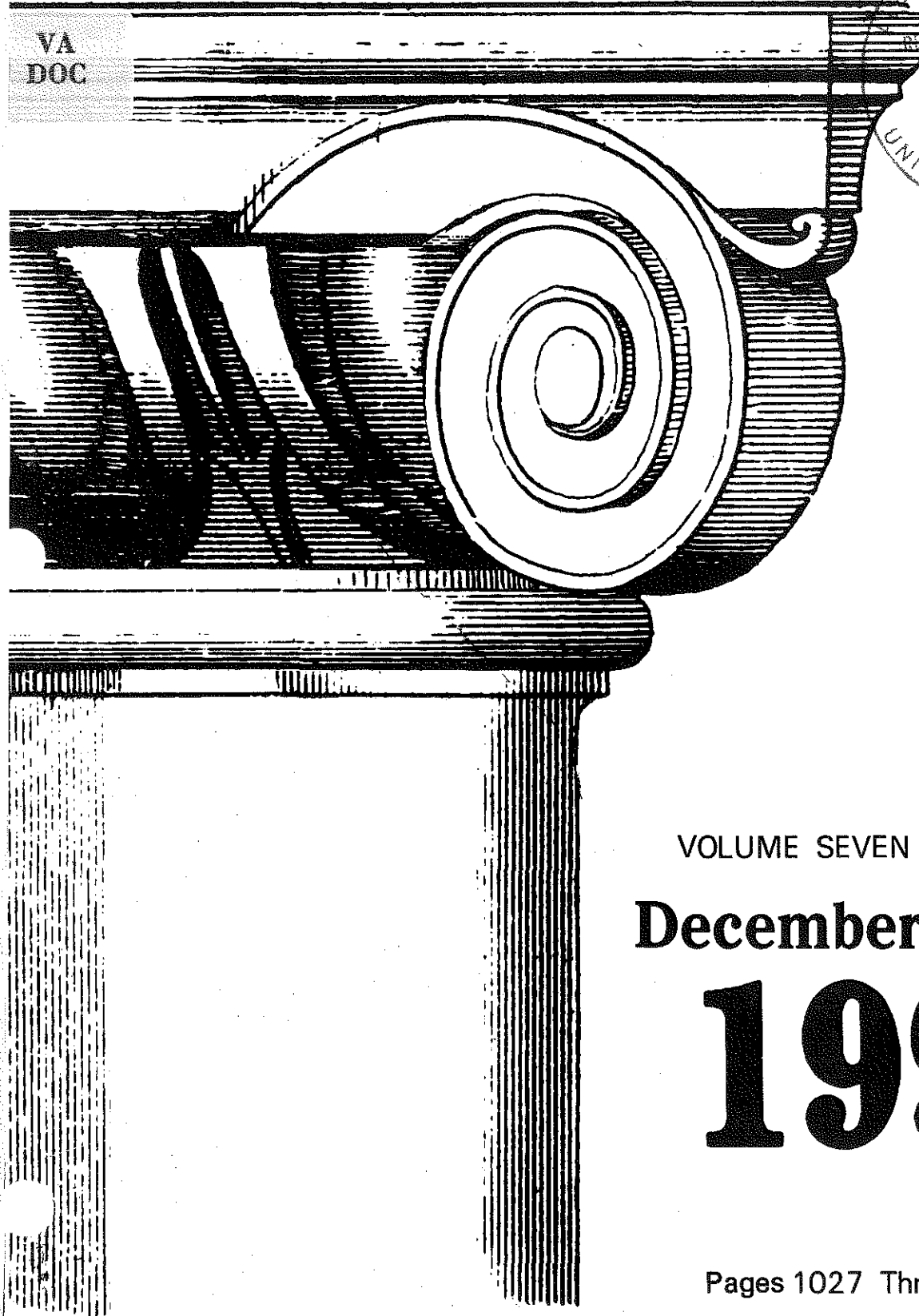
THE VIRGINIA REGISTER

OF REGULATIONS

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VIRGINIA REGISTER

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

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

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

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PROPOSED REGULATIONS

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Symbol Key

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

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

Title of Regulation: VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.

Statutory Authority: §§ 54.1-113 and 54.1-404 of the Code of Virginia.

Public Hearing Date: March 14, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply directly to approximately 24,000 licensed, certified or registered architects, professional engineers, land surveyors, landscape architects and the professional corporations and business entities that offer those professional services in Virginia. The only substantive changes in the regulations are proposed increases in application, examination and renewal fees for architects, professional engineers, land surveyors and application and renewal fees for professional corporations and business entities in order to assure the board's compliance with the requirements of § 54.1-113 of the Code of Virginia.

VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.

PART I. GENERAL DEFINITIONS.

§ 1.1. As used in these regulations, unless the context requires a different meaning:

"Direct control and personal supervision" shall be that degree of supervision by a person overseeing the work of another whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his supervision.

"Full time" means 60% or more of a licensee's gainfully employed time.

"Good moral character" shall include, but shall not be limited to, compliance with the standards of practice and conduct as set forth in these regulations.

"Place of business" means any location which offers to practice or practices through licensed or certified professionals the services of architecture, professional engineering, land surveying and landscape architecture. A temporary field office set up for construction-related or land surveying services is not a place of business.

"Regulant" means licensee, certificate holder or registrant.

"Responsible charge" means the direct control and personal supervision of the practice of architecture, professional engineering, land surveying and certified landscape architecture.

PART II. GENERAL ENTRY REQUIREMENTS.

§ 2.1. Application requirements.

A. Fully documented applications with the noted exception shall be submitted by applicants seeking consideration for licensure, certification or registration with the appropriate fee(s) (check or money order only made payable to the Treasurer of Virginia) to be received in the board's office no later than 120 days prior to the scheduled examination. Applicants for the Fundamentals of Engineering examination enrolled in an ABET accredited curriculum who are within 12 months of completion of degree requirements may submit applications to be received in the board's office no later than 60 days prior to the scheduled examination. The date the completely documented application and fee are received in the board's office shall determine if an application has been received by the deadline set by the board. All applications should be completed according to the instructions contained herein. Applications are not considered complete until all required documents, including but not limited to references, employment verifications and verification of registration are received by the board. All applications, accompanying materials and references are the property of the board.

B. Applicants shall meet applicable entry requirements at the time application is made.

C. Applicants who have been found ineligible for any reason, may request further consideration by submitting in writing evidence of additional qualifications, training or experience. No additional fee will be required provided the requirements for licensure, certification or registration are met within a period of three years from the date the original application is received by the board. After such period, a new application shall be required.

Proposed Regulations

D. The board may make further inquiries and investigations with respect to the qualifications of the applicant and all references, etc., to confirm or amplify information supplied. The board may also require a personal interview with the applicant.

E. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

F. Applicants shall be held to the same standards of practice and conduct as set forth in these regulations.

G. National council information.

1. Architect applicants may obtain information concerning NCARB certification and the Intern Development Program from:

National Council of Architectural Registration Boards
(NCARB)
1735 New York Avenue, N.W., Suite 700
Washington, DC 20006
(202) 783-6500

2. Engineer and land surveyor applicants may obtain information concerning NCEES certificates from:

National Council of Examiners for Engineering and
Surveying
(NCEES)
P.O. Box 1686
Clemson, South Carolina 29633-1686
(803) 654-6824

3. Landscape architect applicants may obtain information concerning CLARB registration from:

Council of Landscape Architectural Registration Boards
(CLARB)
Suite 110, 12700 Fair Lakes Circle
Fairfax, Virginia 22033
(703) 818-1300

§ 2.2. Determining qualifications of applicants.

In determining the qualifications of an applicant for a license as an architect, a majority vote of only the architect members of the board shall be required. In determining the qualifications of an applicant for a license as a professional engineer, a majority vote of only the professional engineer members of the board shall be required. In determining the qualifications of an applicant for a license as a land surveyor, a majority vote of only the land surveyor members of the board shall be required, and in determining the qualifications of an applicant for certification as a landscape architect, a majority vote of only the certified landscape architect members shall be

required.

§ 2.3. Good standing of comity applicants.

An applicant licensed, certified or registered to practice architecture, professional engineering, land surveying or landscape architecture in another jurisdiction shall be in good standing in every jurisdiction where licensed, certified or registered, and shall not have had a license certificate or registration suspended, revoked or surrendered in connection with a disciplinary action or who has been the subject of discipline in another jurisdiction prior to applying for licensure, certification or registration in Virginia.

§ 2.4. Transfer of scores to other boards.

The board, in its discretion and upon proper application, may forward the grades achieved by an applicant in the various examinations given under the board's jurisdiction to any other duly constituted registration board for use in evaluating such applicant's eligibility for registration within such board's jurisdiction or evaluation of such applicant's national certification. The applicant shall state his reason for requesting transfer and such transfer shall terminate the applicant's application pending before the board.

PART III.

QUALIFICATIONS FOR LICENSING OF ARCHITECTS.

§ 3.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$	40	45	
Renewal		55	75	
ARE Exam(all divisions)	(1990)	340	(1991)	490 435
Division A		72		82
Division B written		57		67
Division B graphic		92		102
Division C		125		135 140
Division D/F		67		77
Division E		52		62
Division G		73		83
Division H		74		84
Division I		71		81
Out of State proctor		50		

§ 3.2. Character.

Applicants must be of good moral character.

§ 3.3. Education.

Proposed Regulations

A. All applicants shall obtain five years of professional education or equivalent education credits. Education credits shall be calculated in accordance with Table I.

B. On or after January 1, 1993, all applicants shall hold a professional degree in architecture where the degree program has been accredited by the National Architectural Accrediting Board (NAAB) not later than two years after termination of enrollment.

§ 3.4. Experience.

A. All applicants shall have three years of training in the essential areas of architectural practice as defined below. Evidence shall be in the form of official records of a structured internship development program approved by the board, or incorporated in the candidate's application and verified by employers. Experience shall include:

1. A minimum of 18 months in the area of design and construction documents directly related to the practice of architecture; and
2. A minimum of five months in the area of construction administration directly related to the practice of architecture; and
3. A minimum of three months in the area of office management directly related to the practice of architecture.

Training credits shall be calculated in accordance with Table I.

B. The Intern-architect Development Program (IDP) shall be required of all applicants on or after January 1, 1993. An applicant shall be enrolled in IDP for a period of one year or more prior to submitting an application for examination in Virginia. IDP training requirements shall be in accordance with Part II of Table I.

§ 3.5. References.

Eligibility for licensure is determined in part by the applicant's demonstrated competence and integrity to engage in the practice of architecture. Applicants shall submit three references with the application, all of whom are licensed architects in a jurisdiction or territory of the United States. These professionals shall have personal knowledge of the applicant's architectural experience and have known the applicant for at least one year. References shall be current for one year.

§ 3.6. Examination.

A. All applicants for original licensing in Virginia are required to pass an Architect Registration Examination (ARE) after meeting the education and training requirements as provided in these regulations.

B. The Virginia board is a member of the National

Council of Architectural Registration Boards (NCARB) and as such is authorized to administer the NCARB examinations.

C. Grading of the examination shall be in accordance with the national grading procedure administered by NCARB. The board shall adopt the scoring procedures recommended by NCARB.

D. The Architect Registration Examination (ARE) will be offered at least once a year at a time designated by the board.

E. The board may approve transfer credits for parts of the examination taken prior to the 1983 ARE. Transfer of credits will be in accordance with national standards.

F. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

G. Examinees will be given specific instructions as to the conduct of each division of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

H. Scores.

Examinees will be advised only of passing or failing the examination. Only the board and its staff shall have access to examination papers, scores and answer sheets.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 3.7. License by comity.

A. Any person licensed in another state, jurisdiction or territory of the United States may be granted a license without written examination, provided that:

1. The applicant meets all the requirements for licensing in Virginia or possesses an NCARB certificate; and
2. The applicant holds a currently active valid license in good standing in the jurisdiction of original licensure.
3. Applicants who were registered in their base state without IDP must submit a verified record of experience in accordance with § 3.4.

B. The board may accept a currently valid license in good standing from the applicant's current base state if

Proposed Regulations

transferred from the jurisdiction of original licensure.

C. Applicants licensed in foreign countries may be granted a license in Virginia based on an NCARB certificate.

A-9 Experience, other than A-5, A-6, A-7 or A-8 experience, directly related to on-site building construction projects involving physical analyses of existing buildings 0 50% 6 months

A-10 Other Education or Training Experience (see B-3.2)

EXPLANATION OF REQUIREMENTS

B-1 Education Credits Education Credits shall be subject to the following conditions:

- .1 No education credits may be earned prior to graduation from high school.
- .2 Applicants with the degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of time since graduation. Applicants without the degree specified in A-1 or A-2 may not accumulate more than 3 years of education credits in the aggregate from all degree programs.
- .3 32 semester credit hours or 48 quarter credit hours are considered to be 1 year. Fractions of a year of one-half or greater will be considered one-half year, and smaller fractions will not be counted.
- .4 Foreign education credits will be granted only under classifications A-2 and A-4. Any cost of translation and evaluation will be borne by the applicant.

B-2 Training Credits Training credits shall be subject to the following conditions:

- .1 No training credits may be earned prior to accumulating 2 1/2 education credits.
- .2 Every applicant must earn at least one year of training credit under A-5 or A-6 and must earn it after earning 5 years of education credits.
- .3 No credit used as an education credit may be used as a training credit.
- .4 Organizations will be considered to be "offices of registered architects": (a) the architectural practice of the organization in which the applicant works under the direct supervision of a registered architect, and (b) the organization is not engaged in construction, and (c) the organization has no affiliate engaged in construction which has a substantial economic impact upon the person or persons in the organization practicing as a principal.
- .5 An organization (or an affiliate) is engaged in construction if it customarily engages in either of the following activities:
 - (a) providing labor and/or material for all or any significant portion of a construction project, whether on lump sum, cost plus or other basis of compensation.
 - (b) agrees to guarantee to an owner the maximum construction cost for all or any significant portion of a construction project.

- .6 A person practicing as a "principal" will be being a registered architect and the person in charge of the organization's architectural practice, either alone or with other registered architects.
- .7 In evaluating training credits the Board may, prior to licensure, require the applicant to substantiate training experience by comparing this experience to the training requirements set forth for the Intern-Architect Development Program (IDP). See IDP Training Requirements below.

TABLE I. REQUIREMENTS FOR ARCHITECTURAL LICENSURE

EDUCATION AND TRAINING REQUIREMENTS RELEASED: JANUARY, 1990; THIS EDITION SUPERSEDES ALL PREVIOUS TABLES OF EQUIVALENTS. INTERN-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS REFER TO PART II FOR THEIR TRAINING REQUIREMENTS. (Complete information may be obtained from NCARB.)

	Education Credits		Training Credits	
	First 2 Years	Successing Years	Max. Credit Allowed	Max. Credit Allowed
A-1 First professional degree in architecture, where the degree program has been approved by the board not later than two years after termination of enrollment.	75%	100%	5 years	
A-2 First professional degree in architecture, or credits toward that degree, where the degree program has not been approved by the board.	75%	75%	4 years	
A-3 Bachelor degree, or credits toward that degree, in architectural engineering, architectural technology, or in civil, mechanical, or electrical engineering, or in interior architecture, each of the above being approved by the board.	50%	75%	3 years	
A-4 Any other bachelor degree.			2 years	
A-5 Diversified experience in architecture as an employee in the offices of licensed architects.	50%	50%	5 years	no limit
A-6 Diversified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	50%	50%	5 years	no limit
A-7 Verified experience in architecture as an employee of an organization (other than offices of registered architects) when the experience is under the direct supervision of a registered architect.	50%	50%	4 years	2 years
A-8 Experience directly related to architecture, when under the direct supervision of a licensed architect but not qualifying under A-7, or under the direct supervision of a professional engineer, landscape architect, interior designer, or planner.	0	0	50%	1 year

See B-1,2

Proposed Regulations

B-3 General Evaluation Criteria

B-3

1. To earn full education or training credits under A-5, A-6, A-7, A-8 and A-9 an applicant must work at least 35 hours per week for a minimum period of ten consecutive weeks under A-5 or 6 consecutive months under A-6, A-7, A-8 or A-9. An applicant may earn one-half the credit specified under A-5 for work of at least 20 hours per week for two consecutive weeks consecutive months; no credit will be given for part-time work in any category other than A-5.

2. Other education and training may be substituted for the requirements outlined above only insofar as the board considers these to be equivalent to the required qualifications.

3. In evaluating credits, the board may, prior to registration, require substantiation of the quality and character of the applicant's experience, notwithstanding the fact that the applicant has complied with the technical education and training requirements set forth above.

PART II TRAINING REQUIREMENTS FOR INTER-ARCHITECT DEVELOPMENT PROGRAM (IDP) APPLICANTS

An IDP applicant for registration is a person who has completed the IDP training requirements listed below and satisfied the requirements of Part I.

In IDP applicant must acquire a total of 700 value units (VU's) to satisfy the training requirements. An IDP applicant must acquire 8 units of acceptable activity. See Part I for acceptable experience descriptions.

The following chart lists the IDP training categories and areas and the value unit requirements for each.

CATEGORY A		CATEGORY C	
Design and Construction Documents	Minimum VU's Required	Office Management	
1. Programming-Client Contact.....	10	13. Office Procedures.....	15
2. Site and Environmental Analysis.....	10	14. Professional Activities.....	10
3. Schematic Design.....	15	Minimum Total VU's Required	35*
4. Building Cost Analysis.....	15	*The differences between the minimum total VU's required in each of categories A, B and C and the sum of the minimums required in each category are the VU's in category D that must be acquired by earning VU's from training areas within the same category.	
5. Design Development.....	40	CATEGORY D	
6. Construction Documents.....	155	Related Special Activities	
7. Specifications & Materials Research.....	15	No Minimum Required	
8. Research, Planning and Coordination.....	15	The above listing of required minimums in categories A, B and C totals 455 VU's, allowing for 245 additional VU's to be acquired in any of the listed categories. All of the 245 additional VU's may be acquired in any one category or distributed among the categories.	
Minimum Total VU's Required		360*	
CATEGORY B		CATEGORY D	
Construction Administration		Related Special Activities	
10. Bidding & Contract Negotiation.....	15	No Minimum Required	
11. Construction Administration.....	15	The above listing of required minimums in categories A, B and C totals 455 VU's, allowing for 245 additional VU's to be acquired in any of the listed categories. All of the 245 additional VU's may be acquired in any one category or distributed among the categories.	
12. Construction Phase-Observation.....	15	Minimum Total VU's Required	
Minimum Total VU's Required		70*	

Explanation of Requirements

1. VU's in categories A, B and C may be acquired only if the applicant meets the time requirements of B-3.1 of Part I. VU's may be acquired in category D only if the activity is substantial and continuous.

Full VU credit is earned for acceptable full-time employment in the settings described in A-8 and A-9 of Part I, and for acceptable part-time employment in the setting described in A-5 of Part I.

2. No VU's may be acquired prior to satisfactory completion of:

- three years in an NAB accredited bachelor degree program, or
- the third year of four years in a degree program in architecture accepted for direct entry to an NAB accredited master's degree program, or
- one year in an NAB accredited master's degree program, or
- 96 semester credit hours as evaluated by EESB in accordance with NCARB Circular of Information No. 3 of which no more than 50 hours can be in the general education category or
- five education credits as of June 30, 1994.

32 semester credit hours or 48 quarter credit hours shall equal one year in an academic program.

3. A master's or doctoral degree in architecture (except where the degree is the first professional degree) qualifies for 235 VU's under category D.

4. An IDP applicant may earn VU's by completing NCARB-approved supplementary education programs; credit to be in accordance with a table of credits established by NCARB. Supplementary education credits may be used to satisfy the minimum VU requirements in training areas 1-14. No VU's may be earned for supplementary education prior to achieving the requirements of A-1 of Part I or while enrolled in a second professional degree program in architecture.

5. The VU's which may be earned under paragraph 3 and 4 may not exceed in the aggregate 235 VU's.

6. To satisfy categories A and B of the training requirements, VU's (including VU's earned from supplementary education) in these categories must be acquired while employed in the settings described in A-5 or A-7 of Part I.

7. A minimum of 235 VU's must be acquired in the setting described in A-5 of Part I after having satisfied A-1.

8. In evaluating training, NCARB may, prior to certification, require substantiation of the quality and character of the training, notwithstanding the fact that the IDP applicant has complied with the technical training requirements set forth above.

9. For detailed descriptions of the IDP training categories and supplementary education requirements, see IDP guidelines available through NCARB.

**PART IV.
QUALIFICATIONS FOR LICENSING OF
PROFESSIONAL ENGINEERS.**

§ 4.1. Definitions.

The following definitions shall apply in the regulations relating to the licensing of professional engineers.

“ABET” means the Accreditation Board for Engineering and Technology.

“Approved engineering curriculum” means an engineering curriculum of four years or more approved by the board. ABET approved engineering curricula are approved by the board.

“Approved engineering technology curriculum” means an ABET approved engineering technology curriculum.

“Approved professional experience” means a specific record of acceptable professional experience which the board, in its discretion, judges to be pertinent in acquiring engineering skills, on engineering projects of a grade and character indicating that the applicant may be competent to practice engineering.

“Engineering examination” means an eight-hour written examination in the Fundamentals of Engineering and an eight-hour written examination in the Principles and Practice of Engineering where required.

“Engineer-in-training (EIT) designation” means the designation of an applicant who completes any one of several combinations of education, or education and experience, and passes the Fundamentals of Engineering examination.

§ 4.2. Fee schedule.

All fees are nonrefundable and shall not be prorated.

FE Application	\$ 25	
PE Application	50	65
Renewal	45	65
FE Examination	65	45
PE Examination	90	100
PE Exam rescore	50	
FE/PE Out of State Proctor	50	
Oral Examination	100	

§ 4.3. Character.

Applicants must be of good moral character.

§ 4.4. Requirements for Fundamentals of Engineering (FE) exam.

Applicants who are enrolled in an ABET accredited curriculum and are within 12 months of completion of degree requirements are eligible for the FE exam. Applications must be accompanied by a certificate of good standing from the dean of the engineering school.

All other applicants must meet the eligibility requirements in § 4.5 below.

§ 4.5. Requirements for engineer-in-training (EIT) designation.

The minimum education, experience and examination requirements for the engineer-in-training (EIT) designation are as follows:

1. An applicant who has graduated from an approved engineering or approved engineering technology curriculum of four years or more and has passed an eight-hour written examination in the Fundamentals of Engineering; or
2. An applicant who has graduated from a nonapproved engineering curriculum or a related science curriculum of four years or more, with a specific record of two or more years of approved professional experience and has passed the Fundamentals of Engineering examination; or
3. An applicant who has graduated from a nonapproved engineering technology curriculum or who has not graduated from an engineering or related science curriculum of four years or more but who, in the judgment of the board, has obtained the equivalent of such graduation as described, by self-study or otherwise, and has acquired six additional years of approved professional experience and has passed the Fundamentals of Engineering examination. Experience used to determine educational equivalency shall not be used in satisfying professional experience.

The engineer-in-training (EIT) designation shall remain valid indefinitely.

§ 4.6. Requirements for professional engineering license.

The minimum education, experience and examination requirements for licensing as a professional engineer are as follows:

1. An applicant who has graduated from an approved engineering curriculum, has passed the Fundamentals of Engineering examination or an equivalent exam, has a specific record of at least four years of progressive approved professional experience, and has passed the Principles and Practice of Engineering examination, provided, however, any applicant who has been awarded both an ABET accredited

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undergraduate engineering degree and a doctorate degree in engineering from an engineering curriculum which is ABET accredited at the undergraduate level may have the Fundamentals of Engineering examination waived; or

2. An applicant who has graduated from a nonapproved engineering curriculum, a related science curriculum of four years or more, or an approved engineering technology curriculum, who has passed the Fundamentals of Engineering examination or an equivalent exam, has acquired a specific record of at least six years of progressive approved professional experience, and has passed the Principles and Practice of Engineering examination; or

3. An applicant who has not graduated from an approved engineering curriculum of four years or more but who has obtained the equivalent of such graduation by self-study or otherwise, has passed the Fundamentals of Engineering exam or an equivalent examination, has acquired 10 years of approved professional experience, and has passed the Principles and Practice of Engineering examination. Experience used to determine educational equivalency shall not be used in satisfying professional experience; or

4. An applicant who has graduated from an engineering, engineering technology or related science curriculum of four years or more, who has acquired a specific record of 20 years or more of approved progressive professional experience on engineering projects of a grade and character which the board judges to be pertinent to acquiring professional skills, such that the applicant may be competent to practice engineering, and has passed the examination in the Principles and Practice of Engineering; or

5. An applicant who has graduated from an engineering, engineering technology, or related science curriculum of four years or more, and who has acquired a specific record of 30 years or more of approved progressive professional experience on engineering projects of grade and character which the board judges to be pertinent to acquiring professional skills, demonstrating that the applicant is eminently qualified to practice engineering, shall pass an oral examination which indicates to the board that the applicant is eminently qualified to practice engineering. If the board has any doubt concerning an applicant's eminent qualifications, the applicant shall be reclassified as an examination candidate.

§ 4.7. References.

A. References for Fundamentals of Engineering examination.

Applicants for the Fundamentals of Engineering examination only shall provide one reference from a professional engineer, or from the dean of the engineering

school or a departmental professor in the school attended by the applicant, or an immediate work supervisor. Any reference provided shall be from a person who has known the applicant for at least one year. References may not also verify professional experience.

B. References for Principles and Practice of Engineering examination.

To be eligible for admission to the Principles and Practice of Engineering examination, an applicant must indicate competence and integrity to engage in the engineering profession by submitting three references with the application, all of whom shall be licensed professional engineers in a state or territory of the United States. The professional engineers providing the references shall have personal knowledge of the applicant's engineering experience and shall have known the applicant for at least one year. References shall be no more than one year old at the time the applicant is approved to take the requisite examination. References may not also verify professional experience.

§ 4.8. Education.

Any applicant who has attended an institution not located in the United States shall have his degree evaluated by an educational evaluation service or by ABET if credit for such education is sought. The board reserves the right to reject any evaluation submitted by the applicant.

§ 4.9. Training and experience.

Professional engineering training and experience shall be progressive in complexity and based on a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and fundamental principles of engineering design, provided:

1. In general, experience in sales, drafting, estimating, field surveying, nonengineering military service, and inspection are considered nonqualifying;

2. Engineering experience gained by graduate engineering study or by engineering teaching as an instructor or higher in an institution approved by the board may be deemed professional experience;

3. Engineering experience gained during a board-approved co-op program may be deemed professional experience to a maximum of one year of credit;

4. The board, in its sole discretion, may permit partial credit, not to exceed 1/4 of that required, for approved professional experience obtained prior to graduation from an engineering curriculum.

§ 4.10. Language and comprehension.

Every applicant shall be able to speak and write English. An applicant from a non-English speaking country or a country wherein the primary language is other than English shall submit to the board a TOEFL (Test of English as a Foreign Language) score report with a minimum score of 560, and a TSE (Test of Spoken English) score report with a minimum score of 255. Score reports shall not be over two years old at the time of application.

§ 4.11. Examinations.

A. The Virginia board is a member of the National Council of Examiners for Engineering and Surveying (NCEES) and as such is authorized to administer the NCEES examinations.

B. The Fundamentals of Engineering examination consists of an eight-hour test period on the fundamentals of engineering, and is given semiannually at times designated by the board.

C. The Principles and Practice of Engineering examination consists of an eight-hour test period on applied engineering and is given semiannually at times designated by the board.

D. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

E. A candidate eligible for admission to both parts of the examination must first successfully complete the fundamentals of engineering examination before being admitted to the principles and practice of engineering examination.

F. Examinees will be given specific instructions as to the conduct of each examination at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

G. The oral exam shall consist of a review of the engineering background and examples of the work of the professional engineering candidate in the presence of the Professional Engineer Section of the board. This examination may encompass any facts appearing in the application and supporting papers of the candidate and such direct evidence as the candidate may desire to present to the board to substantiate the breadth and depth of professional engineering experience, primarily in experience in engineering design and analysis.

1. Substantiating evidence shall be in the form of drawings, sketches, reports, specifications, calculations,

published articles, textbooks, or other suitable information demonstrating the engineering experience of the candidate. Based upon this information, the candidate will be subject to questions regarding principles of engineering followed in the execution of such work.

2. The candidate shall demonstrate that the experience record is of a professional level and shall leave no doubt as to the ability to protect the public in the practice of engineering. Failure to demonstrate this ability shall result in reclassification.

H. Grading.

Grading of the examinations shall be in accordance with national grading procedures established by NCEES.

Each part of the written examination will have a value of 100. A passing score shall be 70 and above. Candidates will be notified of passing or failing and their actual scores.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

J. Examination reviews.

The Fundamentals of Engineering examination may not be reviewed by the candidates. Examination scores are final and are not subject to change.

Upon written request to the board within 30 days of receiving exam results, candidates for the Principles and Practice of Engineering examination will be permitted to review only their own failed examination. Score appeals may be accepted in accordance with board policy.

§ 4.12. License by comity.

A person holding a license to engage in the practice of engineering, issued to the applicant by another state, territory or possession of the United States, or the District of Columbia, based on requirements that do not conflict with and are at least as vigorous as these regulations and supporting statutes of this board, may be licensed without further examination. No person shall be so licensed, however, who has not passed a written examination in another jurisdiction which is substantially equivalent to that administered by the board.

PART V. QUALIFICATIONS FOR LICENSING AND STANDARDS OF PROCEDURE FOR LAND SURVEYORS.

§ 5.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application for Fundamentals of Surveying\$ 35-00 60

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Application for Principles of Surveying	70-00	95
Renewal	135-00	155
Fundamentals of Surveying Examination	57-50	65
Principles of Surveying Examination	57-50	65
Principles (AM) and/or Colonial Domain Exam	57-50	65
Virginia State Examination	25-00	30
Application for Land Surveyor B	70-00	95
Examination for Land Surveyor B	25-00	35
Out of State Proctor	50 -00	

§ 5.2. Character.

Applicants must be of good moral character.

§ 5.3. Requirements for land surveyor-in-training.

The education or experience, or both, and examination requirements for land surveyor-in-training status are as follows:

1. An applicant who has graduated from a surveying or surveying technology curriculum of four years or more approved by the board as being of satisfactory standing shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

2. An applicant who has graduated from a curriculum related to surveying of four years or more as approved by the board and with a specific record of two years of progressive, approved professional experience in land surveying shall be admitted to an eight-hour examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

3. An applicant who has graduated from an unrelated to surveying curriculum of four years or more as acceptable to the board with a specific record of four years of approved professional experience in land surveying of which three of these years shall be progressive, shall be admitted to an eight-hour examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

4. An applicant who has graduated from a surveying curriculum of two years or more approved by the board with a specific record of six years of approved professional experience in land surveying of which four of these years shall be progressive, shall be admitted to an eight-hour written examination in the

Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

5. An applicant who has successfully completed a survey apprenticeship program approved by the board with at least 480 hours of surveying related classroom instruction with a specific record of eight years of approved professional experience in land surveying of which six of these years shall be progressive, shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

6. An applicant who has graduated from high school with evidence of successful completion of courses in algebra, geometry and trigonometry with a specific record of ten years of approved professional experience in land surveying of which eight of these years shall be progressive, shall be admitted to an eight-hour written examination in the Fundamentals of Land Surveying. Applicants who have accumulated college credits may apply credit hours approved by the board to help meet the experience requirement. One year of experience credit will be given for 40 semester hours of approved college credit. Upon passing such examination, the applicant shall be enrolled as a land surveyor-in-training, if he is otherwise qualified.

§ 5.4. Requirements for a licensed land surveyor.

A land surveyor-in-training with a specific record of four years of approved professional experience, of which a minimum of three years of progressive experience has been on land surveying projects under the supervision of a licensed land surveyor, shall be admitted to an eight-hour written examination in the Principles and Practice of Land Surveying. Upon passing such examination the applicant shall be granted a license to practice land surveying, provided the applicant is otherwise qualified.

§ 5.5. Requirements for a licensed land surveyor B.

A. An applicant shall hold a valid license as a land surveyor and present satisfactory evidence of two years of progressive professional experience in land surveyor B professional land surveying, as defined in § 54.1-408 of the Code of Virginia, under the supervision and direction of a licensed land surveyor B or professional engineer.

B. An applicant shall also present satisfactory evidence of having passed college level courses in hydraulics, acceptable to the board.

C. An applicant shall pass an eight-hour written examination as developed by the board. Upon passing such examination the applicant shall be granted a license as a Land Surveyor B, if he is otherwise qualified.

§ 5.6. Education.

Any applicant who has attended an institution not located in the United States shall have his degree evaluated by an education evaluation service if credit for such education is sought. The board reserves the right to reject any evaluation submitted by the applicant.

§ 5.7. Experience standards.

A. "Approved professional experience" means diversified training in land surveying under the supervision and direction of a licensed land surveyor. This experience shall have been acquired in positions requiring the exercise of independent judgment, initiative and professional skill in the office and field. Experience may be gained either prior to or after education is obtained.

B. An applicant shall submit written verification from a licensed land surveyor of work experience from each employment engagement utilized as professional experience on forms provided by the board.

§ 5.8. Examinations.

A. The examination for land surveying under § 54.1-400 of the Code of Virginia shall consist of two parts, each part being of eight hours duration. Part I shall consist of an eight-hour examination in the Fundamentals of Land Surveying. Part II shall consist of a four-hour examination in the Principles and Practice of Land Surveying, a three-hour Colonial Domain examination, and a one-hour Virginia State examination. These examinations shall be given semiannually at times designated by the board.

B. The examination for land surveying under § 54.1-408 of the Code of Virginia (Land Surveyor B) shall be of eight hours duration and shall be given annually at a time designated by the board.

C. Unless otherwise stated, applicants approved to sit for an examination must register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

D. Grading.

Candidates shall be notified of passing or failing but shall not be notified of actual scores. Only the board and its staff shall have access to examination papers, scores and answer sheets. Examinations may not be reviewed.

1. Part I of the written examination shall have a value of 100. The passing grade shall be 70 or above.
2. Each portion of the Part II of the written examination shall have a value of 100. The passing grade shall be 70 or above.
3. For the Land Surveyor B examination, each

applicant must obtain a minimum passing grade of 75 out of 100 for the entire eight-hour examination.

E. Reexamination.

Upon payment of a reexamination fee, an applicant may retake parts of the written examination which may have been failed. Should the applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 5.9. Licensure by comity.

A person holding a license to engage in the practice of land surveying issued on comparable qualifications from a state, territory or possession of the United States and experience satisfactory to the board, will be given comity consideration. Full credit will be given to an applicant who has passed the NCEES examinations for surveyors in other jurisdictions as required in Virginia. However, the applicant may be required to take such examinations as the board deems necessary to determine his qualifications, but in any event, he shall be required to pass a written Virginia State examination of not less than one hour in duration. The examination shall include questions on law, procedures and practices pertaining to land surveying in Virginia.

§ 5.10. Minimum standards and procedures for land boundary surveying practice.

The following minimum standards and procedures are to be used in the Commonwealth of Virginia. The application of the land surveyor's seal and signature as required by these regulations shall be evidence that the boundary survey or other land survey to be used for conveyance of title or mortgage purposes is correct to the best of the land surveyor's knowledge and belief, and complies with the minimum standards and procedures.

A. Research procedure.

The land surveyor shall search the land records for the proper description of the land to be surveyed and obtain the description of adjoining land as it pertains to the common boundaries. The land surveyor shall have the additional responsibility to utilize any other available data pertinent to the survey being performed from any other source that is known. Evidence found, from all sources, shall be carefully compared with that located and found in the field survey in order to establish the correct boundaries of the land being surveyed. It is not the intent of this regulation to require the land surveyor to research the question of title or encumbrances on the land involved.

B. Minimum field procedures.

1. Angular measurement. Angle measurements made for traverse or boundary survey lines will be made by using a properly adjusted transit type instrument

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which allows a direct reading to a minimum accuracy of 30 seconds of arc or metric equivalent. The number of angles turned a given station or corner will be the number which, in the judgment of the land surveyor, can be used to substantiate the average true angle considering the condition of the instrument being used and the existing field conditions.

2. Linear measurement. Distance measurement for the lines of traverse or boundary surveys shall be made with metal tapes which have been checked and are properly calibrated as to incremental distances, or with properly calibrated electronic distance measuring equipment following instructions and procedures established by the manufacturer of such equipment. All linear measurements shall be reduced to the horizontal plane and other necessary corrections performed before using for computing purposes.

3. Field traverse and boundary closure. The maximum permissible error of closure for a field traverse in connection with a boundary survey located in a rural area shall be one foot in 5,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/5,000 foot closure. The maximum permissible error of closure for a traverse in connection with a boundary survey located in an urban area shall be one foot in 10,000 feet or metric equivalent of perimeter length. The attendant angular closure shall be that which will sustain the 1/10,000 foot closure.

C. Office procedures.

1. Computations. The computation of field work data shall be accomplished by using the mathematical routines that produce closures and mathematical results that can be compared with descriptions and data of record. Such computations shall be used to determine the final boundary of the land involved.

2. Plats and maps. The following information shall be shown on all plats or maps, or both, used to depict the results of the boundary survey:

a. The title of the boundary plat identifying the land surveyed and showing the district and county or city in which the land is located.

b. The owner's name and deed book referenced where the acquisition was recorded.

c. Names of all adjacent owners or subdivision lot designations.

d. Names of highways and roads with route number, railroads, streams adjoining or running through the land, and other prominent or well-known objects or areas which are informative as to the location of the boundary survey.

e. Bearings of all property lines to nearest 10 seconds, or metric equivalent.

f. Distances of all property lines to the nearest one hundredth (.01) of a foot or metric equivalent.

g. Area to the nearest hundredth (.01) of an acre or metric equivalent for rural located surveys.

h. Area to the nearest square foot or decimal of an acre or metric equivalent for urban located surveys.

i. North arrow and source of meridian used for the survey.

j. On interior surveys, a reference distance to a property corner of an adjoining owner.

k. Tax map designation of parcel number if available.

l. Each monument found and each monument set by the land surveyor.

m. A statement that the boundary survey shown is based on a current field survey. If the land boundaries shown on the plat are the result of a compilation from deed or plats, or both, by others, that fact will be clearly stated and the title of plat shall not represent a current boundary survey.

n. Name and address of the land surveyor.

D. Monumentation.

1. Each boundary survey of a tract or parcel of land shall be monumented with objects made of permanent material at all corners and changes in direction on the boundary with the exceptions of meanders of streams, tidelands, swamps, and roads. Where it is not feasible to set actual corners, appropriate reference markers shall be set, preferably on line, and the location of each shown on the plat or map of the boundary.

2. Original subdivision surveys shall be monumented in accordance with subdivision 1 above. Corner monuments are required to be set on subdivision lots or parcels of land to be used for conveyance of title or mortgage purposes, or, if found to be correctly in place, identified by witness stakes. The plat of such survey shall show corner monuments found and those set.

PART VI. QUALIFICATIONS FOR CERTIFICATION OF LANDSCAPE ARCHITECTS.

§ 6.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

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Application	\$75	
Renewal	105	
UNE Examination	(1990) 285 (1991)	303
Section 1	43	44
Section 2	49	51
Section 3	95	100
Section 4	110	116
Section 5	93	97
Out of State Proctor	50	

§ 6.2. Character.

Applicants must be of good moral character.

§ 6.3. Requirements for certification.

The education or experience, or both, and examination requirements for certification as a landscape architect are as follows:

1. An applicant who has graduated from an accredited landscape architecture curriculum approved by the board shall be admitted to a written examination. Upon passing such examination, the applicant shall be certified as a landscape architect, if he is otherwise qualified.
2. An applicant who has obtained eight years of combined education and experience, evaluated in accordance with Table II, shall be admitted to a written examination approved by the board. Upon passing such examination, the applicant shall be certified as a landscape architect, if he is otherwise qualified.

§ 6.4. Experience standard.

Professional landscape architectural training and experience shall be progressive in complexity and based on a knowledge of natural, physical and mathematic sciences, and the principles and methodology of landscape architecture.

§ 6.5. Examination.

A. All applicants for original certification in Virginia are required to pass a Uniform National Examination (UNE) after meeting the education and experience requirements as provided in these regulations.

B. The Virginia board is a member of the Council of Landscape Architectural Registration Boards (CLARB) and as such is authorized to administer the CLARB examinations.

C. The Uniform National Examination (UNE) will be

offered at least once per year at a time designated by the board.

D. Grading of the examination shall be in accordance with the national grading procedures established by CLARB. The board shall adopt the scoring procedures recommended by CLARB.

E. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office at a time designated by the board. Applicants not properly registered shall not be allowed into the examination site.

F. Examinees will be given specific instructions as to the conduct of each section of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in voided examination scores or other appropriate disciplinary action.

G. Examinees will be advised only of passing or failing the examination. Only the board and its staff shall have access to examination papers, scores and answer sheets.

H. Examination reviews.

Upon written request to the board within 30 days of receiving examination results, examinees will be permitted to individually view only their own failed performance problems for informational purposes only. Examination appeals for grade changes are not permitted.

I. Should an applicant not pass an examination within three years after being approved, the applicant must reapply and meet all current entry requirements.

§ 6.6. Certification by comity.

Any applicant who has passed an examination in another jurisdiction of the United States comparable to the examination required by these regulations or who is CLARB certified and who is currently licensed or certified in another jurisdiction of the United States may have the required Virginia examinations waived, provided that he meets all other qualifications.

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PART VII. QUALIFICATIONS FOR REGISTRATION AS A PROFESSIONAL CORPORATION.

TABLE II.
TABLE OF EQUIVALENTS FOR EDUCATION AND EXPERIENCE
FOR CERTIFIED LANDSCAPE ARCHITECTS.

DESCRIPTION	EDUCATION CREDITS			EXPERIENCE CREDITS		
	FIRST 2 YEARS	SUCCESSIVE YEARS	MAXIMUM CREDIT ALLOWED	CREDIT ALLOWED	MAXIMUM CREDIT ALLOWED	
A-1. Credits toward a degree in landscape architecture from an accredited school of landscape architecture.	100%	100%	4 years			
A-2. Degree in landscape architecture or credits toward that degree from a non-accredited school of landscape architecture.	100%	100%	4 years			
A-3. Degree or credits toward that degree in an allied professional discipline, i.e. architecture, civil engineering, environmental science, approved by the board	75%	100%	3 years			
A-4. Any other bachelor degree, or credits toward that degree.	50%	75%	2 years			
A-5. Diversified experience in landscape architecture under the direct supervision of a certified landscape architect.				100%	no limit	
A-6. Diversified experience directly related to landscape architecture when under the direct supervision of an architect, civil engineer or "credentialed" planner.				50%	4 years	

EXPLANATION OF REQUIREMENTS

B-1 Education Credits. Education credits shall be subject to the following conditions:

B-1.1. Applicants with a degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program.

.2. With a passing grade, 32 semester credit hours or 48 quarter credit hours is considered to be one year. Fractions greater than one-half year will be counted one-half year and smaller fractions will not be counted.

B-2 Experience Credits. Experience credits shall be subject to the following conditions:

B-2.1. Every applicant must earn at least two years of experience credit under category A-5.

§ 7.1. Definitions.

"Employee" of a corporation, for purposes of stock ownership, is a person regularly employed by the corporation who devotes 60% or more of his gainfully employed time to that of the corporation.

§ 7.2. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$ 60	90
Renewal	95	100

§ 7.3. Application requirements.

A. All applicants shall have been incorporated in the Commonwealth of Virginia, or, if a foreign professional corporation, shall have obtained a certificate of authority to do business in Virginia from the State Corporation Commission, in accordance with § 13.1-544.2 of the Code of Virginia.

B. Each application shall include certified true copies of the articles of incorporation, bylaws and charter, and, if a foreign professional corporation, the certificate of authority issued by the State Corporation Commission.

C. Articles of incorporation and bylaws.

The following statements are required:

1. The articles of incorporation or bylaws shall specifically state that cumulative voting is prohibited.
2. The bylaws shall state that at least 2/3 of the capital stock must be held by persons duly licensed or certified to render the services of an architect, professional engineer, land surveyor or landscape architect. The remainder of the stock may be issued only to and held by individuals who are employees of the corporation.
3. The bylaws shall state that nonlicensed or noncertified individuals will not have a voice or standing in any matter affecting the practice of the corporation requiring professional expertise or considered professional practice, or both.

D. Board of directors.

A corporation may elect to its board of directors not more than 1/3 of its members who are employees of the corporation and are not authorized to render professional services.

At least 2/3 of the board of directors shall be licensed or certified to render the services of architecture, professional engineering, land surveying or landscape architecture, or any combination thereof.

At least one director currently licensed or certified in each profession offered or practiced shall devote substantially full time to the business of the corporation to provide effective supervision and control of the final professional product.

E. Joint ownership of stock.

Any type of joint ownership of the stock of the corporation is prohibited. Ownership of stock by nonlicensed or noncertified employees shall not entitle those employees to vote in any matter affecting the practice of the professions herein regulated.

§ 7.4. Certificates of authority.

Certificates of authority shall be issued in two categories, general or limited. A general certificate of authority will entitle the corporation to practice the professions of architecture, professional engineering, land surveying and landscape architecture. A limited certificate of authority will permit a corporation to practice only the professions shown on its certificate of authority, architecture, engineering, land surveying, landscape architecture or in any combination thereof.

§ 7.5. Foreign corporations.

In addition to these regulations, the bylaws shall state that the corporation's activities shall be limited to rendering the services of architecture, professional engineering, land surveying and landscape architecture, or any combination thereof.

The corporation shall provide the name and address of each stockholder of the corporation who will be providing the professional service(s) in Virginia and whether such stockholder is licensed or certified to perform the professional service(s) in Virginia.

§ 7.6. Amendments and changes.

A. Amendments to charter, articles of incorporation or bylaws.

A corporation holding a certificate of authority to practice in one or in any combination of the professions covered in these regulations shall file with the board, within 30 days of its adoption, a certified true copy of any amendment to the articles of incorporation, bylaws or charter.

B. Change in directors or shareholders.

In the event there is a change in corporate directors or shareholders, whether the change is temporary or

permanent and whether it may be caused by death, resignation or otherwise, the certificate of authority shall be automatically modified to be limited to that professional practice permitted by those pertinent licenses or certificates held by the remaining directors and shareholders of the corporation. Unless otherwise provided, in the event that such change results in noncompliance with these regulations and applicable statutes, the certificate of authority shall be automatically suspended until such time as the corporation comes into compliance with these regulations. The corporation shall notify the board within 30 days of any such change.

C. Change of name, address and place of business.

Any change of name (including assumed names) address, place of business in Virginia, or person(s) in responsible charge of the profession(s) practiced or offered at each place of business shall be reported to the board within 30 days of such an occurrence.

PART VIII. QUALIFICATIONS FOR REGISTRATION AS A BUSINESS ENTITY.

§ 8.1. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$ 40	75
Renewal	45	55

§ 8.2. Application requirements.

A. In accordance with § 54.1-411 of the Code of Virginia, applicants shall register with the board on a form approved by the board.

B. If a partnership, a copy of the partnership agreement shall be included with the application. Not less than 2/3 of the general partners shall be licensed professionals.

C. If a corporation, the application shall include certified true copies of the articles of incorporation, bylaws and charter, and if a foreign corporation, a certificate of authority issued by the State Corporation Commission.

§ 8.3. Registration certification.

The application shall contain an affidavit by an authorized official in the corporation, partnership, sole proprietorship, or other entity unit that the practice of architecture, professional engineering, land surveying or certified landscape architecture to be done by that entity shall be under the direct control and personal supervision of the licensed or certified full-time employees identified in the application as responsible for the practice. In addition, the licensed or certified employees responsible for the practice shall sign their names indicating that they are full-time employees and in responsible charge, and

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that they understand and shall comply with all statutes and regulations of the board.

§ 8.4. Change of status.

Any changes of status, including but not limited to change in entity, name (including assumed names), address, place of business or persons in responsible charge of the professions practiced or offered at each place of business, shall be reported to the board within 30 days of such an occurrence.

In the event there is a change in the licensed or certified employees in responsible charge, whether the change is temporary or permanent and whether it may be caused by death, resignation or otherwise, the registration shall be automatically modified to be limited to that professional practice permitted by the remaining licensed or certified employees, or shall be automatically suspended until such time as the entity comes into compliance with these regulations.

PART IX. RENEWAL AND REINSTATEMENT.

§ 9.1. Expiration and renewal.

A. Prior to the expiration date shown on the license, certificate or registration, licenses, certificates or registrations shall be renewed for a two-year period upon completion of a renewal application and payment of a fee established by the board. An applicant must certify that he continues to comply with the Standards of Practice and Conduct as established by the board. Registrations for professional corporations and business entities shall expire on December 31 of each odd-numbered year.

B. Failure to receive a renewal notice and application shall not relieve the regulant of the responsibility to renew. If the regulant fails to receive the renewal notice, a copy of the license, certificate or registration may be submitted with the required fee as an application for renewal, accompanied by a signed statement indicating that the applicant continues to comply with the Standards of Practice and Conduct of the board under whose authority the license, certificate or registration is issued.

C. Board discretion to deny renewal.

The board may deny renewal of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

§ 9.2. Reinstatement.

A. If the renewal fee is not received by the board within 30 days following the date noted on the license, certificate or registration, a reinstatement fee equal to the renewal fee plus \$ 85 100 shall be required.

B. If the license, certificate or registration has expired for six months or more, but less than five years, the regulant shall be required to submit a new application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements. In addition, a fee equal to the regular renewal fee plus \$ 85 100, times the number of renewal cycles the license, certificate or registration has expired shall be required.

C. If the license, certificate or registration has expired for five years or more, the regulant will be required to submit a new application, meet current entry requirements, and submit a fee equal to the regular renewal fee plus \$ 85 100, times the number of renewal cycles the license, certificate or registration has expired. In addition, the board may require the applicant to submit to an examination.

D. Board discretion to deny reinstatement.

The board may deny reinstatement of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

E. The date the renewal application and fee are received in the office of the board shall determine whether a license, certificate or registration shall be renewed without reinstatement or shall be subject to reinstatement application procedures.

PART X. STANDARDS OF PRACTICE AND CONDUCT.

§ 10.1. Responsibility to the public.

The primary obligation of the professional is to the public. If the professional judgment of the regulant is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the professional shall inform the employer or client of the possible consequences and notify appropriate authorities.

§ 10.2. Public statements.

The professional shall be truthful in all professional matters.

A. When serving as an expert or technical witness, the professional shall express an opinion only when it is based on an adequate knowledge of the facts in the issue and on a background of technical competence in the subject matter. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the professional shall issue no statements, reports, criticisms, or arguments on matters relating to professional practice which are inspired or paid for by an interested party or parties, unless the regulant has prefaced the comment by disclosing the identities of the party or parties on whose behalf the professional is speaking, and by revealing any self-interest.

B. A professional shall not knowingly make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for licensure, certification, registration, renewal or reinstatement.

C. A professional shall not knowingly make a materially false statement or fail to deliberately disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure, certification, registration, renewal or reinstatement.

§ 10.3. Conflicts of interest.

The professional shall promptly and fully inform an employer or client of any business association, interest, or circumstances which may influence the professional's judgment or the quality of service.

A. The professional shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to all parties of current interest.

B. The professional shall neither solicit nor accept financial or other valuable consideration from suppliers for specifying their products or services.

C. The professional shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the professional is responsible.

§ 10.4. Solicitation of work.

In the course of soliciting work:

1. The professional shall not bribe.
2. The professional shall not falsify or permit misrepresentation of the professional's work or an associate's academic or professional qualifications, nor shall the professional misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.

§ 10.5. Competency for assignments.

A. The professional shall undertake to perform professional assignments only when qualified by education or experience and licensed or certified in the profession involved. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that services are restricted to those phases of the project in which the professional is qualified. All other phases of

such project shall be the responsibility of licensed or certified associates, consultants or employees.

B. A professional shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

§ 10.6. Professional responsibility.

A. The professional shall not knowingly associate in a business venture with, or permit the use of the professional's name or firm name by any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

B. A professional who has direct knowledge that another individual or firm may be violating any of these provisions, or the provisions of Chapters 1 through 3 of Title 54.1, or Chapter 7 of Title 13.1 of the Code of Virginia, shall immediately inform the secretary of the board in writing and shall cooperate in furnishing any further information or assistance that may be required.

C. The professional shall, upon request or demand, produce to the board, or any of its agents, any plan, document, book, record or copy thereof in his possession concerning a transaction covered by these regulations, and shall cooperate in the investigation of a complaint filed with the board against a licensee.

D. A professional shall not knowingly use the design, plans or work of another professional without the original professional's knowledge and consent and after consent, a thorough review to the extent that full responsibility may be assumed.

§ 10.7. Good standing in other jurisdictions.

A professional licensed or certified to practice architecture, professional engineering, land surveying or landscape architecture in other jurisdictions shall be in good standing in every jurisdiction where licensed or certified, and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action or who has been the subject of discipline in another jurisdiction prior to applying for licensure or certification in Virginia.

§ 10.8. Use of seal.

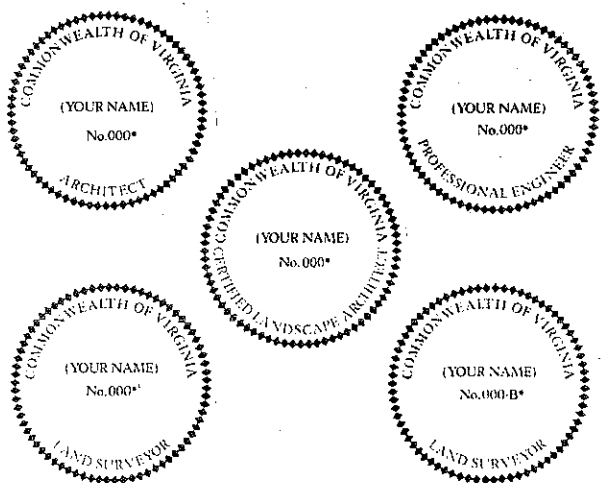
A. The application of a professional seal shall indicate that the professional has exercised complete direction and control over the work to which it is affixed. Therefore, no regulant shall affix a name, seal or certification to a plat, design, specification or other work constituting the practice of the professions regulated which has been prepared by an unlicensed or uncertified person or firm unless such work was performed under the direction and supervision of the regulant while under the regulant's contract or

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while employed by the same firm as the regulant. If a regulant is unable to seal completed professional work, such work may be sealed by another regulant only after thorough review and verification of the work has been accomplished to the same extent that would have been exercised if the work had been done under the complete direction and control of the regulant affixing the professional seal.

B. A principal or authorized licensed or certified employee shall apply a stamp or preprinted seal to final and complete cover sheets of plans, drawings, plats, technical reports and specifications and to each original sheet of plans, drawings or plats, prepared by the regulant or someone under his direct control and personal supervision.

1. All seal imprints on final documents shall bear an original signature and date.
2. Incomplete plans, documents and sketches, whether advance or preliminary copies, shall be so identified and need not be sealed or signed.
3. All plans, drawings or plats prepared by the regulant shall bear the regulant's name or firm name, address and project name.
4. The seal of each regulant responsible for each profession shall be used.
5. Application of the seal and signature indicates acceptance of responsibility for work shown thereon.
6. The seal shall conform in detail and size to the design illustrated below: (Size has been reduced for publication.)



* The number referred to is the six digit number as

shown on the license, certificate or registration. The number is permanent.

§ 10.9. Organization and styling of practice.

Nothing shall be contained in the name, letterhead or other styling of a professional practice implying a relationship, ability or condition which does not exist.

An assumed, fictitious or corporate name shall not be misleading as to the identity, responsibility or status of those practicing thereunder.

§ 10.10. Licensee required at each place of business.

A. Corporations, partnerships, firms or other legal entities maintaining a place of business in the Commonwealth of Virginia for the purpose of offering to provide architectural, engineering, land surveying or landscape architectural services practiced at another location shall have an authorized full-time licensed or certified professional in that place of business.

B. Corporations, partnerships, firms or other legal entities maintaining any place of business in the Commonwealth of Virginia for the purpose of practicing architecture, engineering, land surveying or landscape architecture at that location, shall have in responsible charge at each place of business a full-time resident licensed or certified professional exercising supervision and control of work in each profession being practiced.

§ 10.11. Sanctions.

A. No license, certification, registration or regulant shall be fined, suspended or revoked unless a majority of the members of the entire board and a majority of the board members of the profession involved vote for the action. The board may fine, suspend or revoke any license, certification, certificate of authority or registration, if the board finds that:

1. The license, certification or registration was obtained or renewed through fraud or misrepresentation; or
2. The regulant has been found guilty by the board, or by a court of competent jurisdiction, of any material misrepresentation in the course of professional practice, or has been convicted, pleaded guilty or found guilty regardless of adjudication or deferred adjudication of any felony or misdemeanor which, in the judgment of the board, adversely affects the regulant's ability to perform satisfactorily within the regulated discipline; or
3. The regulant is guilty of professional incompetence or negligence; or
4. The regulant has abused drugs or alcohol to the extent that professional competence is adversely

affected; or

5. The regulant violates any standard of practice and conduct, as defined in these regulations; or

6. The regulant violates or induces others to violate any provision of Chapters 1 through 3 of Title 54.1, or Chapter 7 of Title 13.1 of the Code of Virginia, or any other statute applicable to the practice of the professions herein regulated or any provision of these rules and regulations.

B. If evidence is furnished to the board which creates doubt as to the competency of a regulant to perform professional assignments in a technical field, the board may require the regulant to prove competence by interview, presentation or examination. Failure to appear before the board, pass an examination, or otherwise demonstrate competency to the board shall be basis for revocation or suspension of the license, certification or registration.

NOTICE: The forms referenced in the subject regulations are not being published due to volume. The forms are available for public inspection at the Department of Commerce, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS FOR: Virginia State Board of Architects, Professional Engineers, Land Surveyors and Landscape Architects

Application for Architect Registration.
Application for Licensing as a Professional Engineer.
Application for Licensing as a Land Surveyor.
Application for Licensing as a Land Surveyor B.
Application for Certification as a Landscape Architect.
Application for a Certificate of Authority to Practice Architecture, Professional Engineering, Land Surveying and Landscape Architecture as a Professional Corporation.
Application for Registration to Provide Professional Services as a Business Entity.

BOARD FOR BARBERS

Title of Regulation: VR 170-01-1. Board for Barbers Regulations. **REPEALED**

Title of Regulation: VR 170-01-1:1. Board for Barbers Regulations.

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

Public Hearing Date: February 11, 1991 - 11 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply directly to approximately 3,415 licensed barbers, 66 licensed barber teachers, 8 licensed barber schools and 1,055 licensed barber shops. Regulations currently in effect are being repealed, and the proposed regulations are submitted as new, in order to accommodate format changes developed by the Department of Commerce. Substantive changes found in the proposed regulations include requiring experience as a barber in the armed forces instead of training to be eligible for examination, authorizing cosmetologists with two years of experience to sit for the barber examination, requiring as a prerequisite for taking the barber teacher examination that an individual be a currently licensed barber for two years, establishing a temporary student teacher permit, requiring barber shops and schools to provide in writing within 30 days any changes in name, address or ownership of the business, requiring a school to have a separate classroom and clinic area, modifying the barber curriculum, specifying number of hours of instruction per subject, requiring barber schools to maintain student records for a period of five years, requiring number of hours to be reported to the student and the board, and includes fee adjustments necessary for compliance with § 54.1-113 of the Code of Virginia.

VR 170-01-1:1. Board for Barbers Regulations.

PART I. ENTRY.

§ 1.1. General requirements for a barber license.

Upon filing an application with the board on forms approved by the board, and upon paying the required fee, any person shall be granted a license provided the application contains evidence satisfactory to the board that an applicant has passed the examination administered by the board or by independent examiners after having completed one of the following:

- 1. Has graduated from a school of barbering approved by the board; or*
- 2. Has completed a course in a public school with a curriculum in barbering approved by the State Department of Education; or*
- 3. Has been trained as a barber at any state institution; or*
- 4. Has experience as a barber in the armed forces; or*
- 5. Has completed an apprenticeship program approved by the board.*

§ 1.2. Apprenticeship training.

Licensed barbers training apprentices shall comply with the standards established by the Division of

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Apprenticeship Training of the Department of Labor and Industry and the Virginia Board for Barbers.

§ 1.3. School training.

Any person trained at an approved school for barbers shall be eligible for licensing provided the school maintains the minimum standards of operation set forth in Part III of these regulations.

§ 1.4. Exceptions to training requirements.

A. Licensed cosmetologists with two years of work experience shall be eligible for examination.

B. Cosmetology students wishing to enroll for barber training, shall be given credit by the barber school for a maximum of 50% of the hours required of cosmetology students.

C. Persons with two years of barber training or experience outside the territorial limits of the United States shall be eligible for examination upon submission of satisfactory documentary evidence of the training or experience.

§ 1.5. Examination required.

A. Applicants for licensing shall pass a practical and written examination approved by the board.

B. Any applicant who passes one part of the examination shall not be required to take that part again provided both parts are passed within one year.

C. The fee for initial examination shall be \$100. All fees are nonrefundable and shall not be prorated.

§ 1.6. Reexamination.

A. If the applicant does not pass a reexamination within a one-year period, he will be required to submit another initial application/examination fee and repeat the entire examination.

B. The fee for reexamination of the written portion shall be \$40. The fee for reexamination of the practical portion shall be \$60. All fees are nonrefundable and shall not be prorated.

§ 1.7. Examination administration.

A. The examination shall be conducted by independent examiners or board members.

B. Each independent examiner shall complete a period of training specified by the board.

C. Every independent examiner shall have at least three years of active experience as a licensed barber and be currently licensed by the board.

D. The results of the examination shall be submitted to the board's office where the grades shall be compiled and the results released.

§ 1.8. Barber temporary permit.

A. A temporary permit to work under the supervision of a currently licensed barber may be issued to any person that the board finds eligible for examination.

B. The request for a temporary permit shall be accompanied with the examination application.

C. The temporary permit shall remain in force until 20 days following the next examination for which the applicant would be eligible.

D. Any person continuing to practice barbering after a temporary permit has expired may be prosecuted under § 54.1-20 of the Code of Virginia.

E. No applicant for examination shall be issued more than one temporary permit.

§ 1.9. General requirements for a barber-teacher's license.

A. An applicant for a barber-teacher's license shall pass a barber-teacher examination administered by the board or by independent examiners.

B. A prerequisite to taking the examination shall be that the applicant has been a currently licensed Virginia barber for two years.

C. Applicants passing the examination for a barber-teacher's license shall not be required to maintain a barber license.

§ 1.10. Student teacher temporary permit.

A. A licensed barber or person holding a temporary permit may be granted a student teacher temporary permit to function under the direct supervision of a barber-teacher. The student teacher temporary permit shall remain in force for not more than 24 months after the date of issuance and shall be nontransferable. Failure to maintain a barber license or a temporary permit pending examination shall disqualify an individual from holding a student teacher temporary permit.

B. The fee for a student teacher temporary permit shall be \$50. All fees are nonrefundable and shall not be prorated.

§ 1.11. License by endorsement.

Any person currently licensed to practice as a barber in any other state in the United States, the District of Columbia, or Puerto Rico may, upon proper application to the board, be issued a license to practice as a barber in this Commonwealth without being required to pass an

examination.

1. The application fee for a license by endorsement shall be \$50. All fees are nonrefundable and shall not be prorated.

§ 1.12. Shop license.

Any person, firm, or corporation operating any place or establishment providing barber services must have a valid shop or school license. The barber shop license shall not be transferable and shall bear the same name and address as the business. An application for a barber shop license shall be accompanied by an affidavit of inspection required by any local health department. Any changes in the name of the salon, address, or owners shall be reported to the board in writing within 30 days of such changes.

The application fee for a shop license shall be \$20. All fees are nonrefundable and shall not be prorated.

§ 1.13. School license.

A license may be issued to any school approved by the board as meeting the standards set forth in Part III of these regulations. The barber school license shall not be transferable and shall bear the same name and address as the business. Any changes in the name of the school, address, or owners shall be reported to the board in writing within 30 days of such changes.

1. The application fee for a school license shall be \$100. All fees are nonrefundable and shall not be prorated.

PART II. RENEWAL/REINSTATEMENT.

§ 2.1. License renewal required.

A. All licenses issued by the board will expire on March 31 of each odd-numbered year.

B. The renewal fee for a barber license shall be \$45, for a teacher license shall be \$55, for a shop license shall be \$35, and for a school license shall be \$110.

§ 2.2. Notice of renewal.

The Department of Commerce will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

§ 2.3. Failure to renew.

A. Any licensee who fails to renew a license within one month after the license expires will be required to pay a

late renewal fee which shall be equal to twice the regular renewal fee. The late renewal for a barber license shall be \$45, for a teacher license shall be \$55, for a shop license shall be \$35, and for a school license shall be \$110.

B. Any licensee who fails to renew his license within six months after the expiration date of his license must apply for reinstatement of the license by submitting to the Department of Commerce a reinstatement application and fee which shall be equal to twice the regular renewal fee with a statement of the reasons for failing to renew prior to the expiration date. The fee for reinstatement of a barber license shall be \$90, for a teacher license shall be \$110, for a shop license shall be \$70, and for a school license shall be \$220.

C. Upon receipt of the reinstatement application, fee, and statement, the board may grant reinstatement of the license or require requalification, reexamination, or both before granting the reinstatement.

D. When an individual licensee fails to renew his license after a two-year period, the licensee must pass both a practical and written examination in order to be reinstated unless the requirement is waived by the board.

E. The date the renewal application is received by the Department of Commerce or its agent shall be the factor determining whether a license shall be renewed without penalty fees or shall be subject to reinstatement procedures.

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

PART III BARBER SCHOOLS.

§ 3.1. Applicants for state approval.

Any person, firm, or corporation desiring to operate a barber school shall submit an application to the board at least 60 days prior to the date for which approval is sought. Exception: Schools subject to regulation by the State Department of Education.

§ 3.2. General curriculum.

A. A school of barbering shall be approved by the board after having been inspected to determine if it meets all of the following requirements:

1. It has a classroom and clinic area;
2. Its faculty is made up of licensed barber teachers;
3. It accepts no more than 16 students per barber teacher; and
4. It requires its students to obtain not less than 1,500 hours of approved instruction.

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§ 3.3. Curriculum requirements.

Each school shall submit with its application a course of instruction which shall include the following subjects:

1. School policies.
2. State law, regulations and professional ethics.
3. Business and salon management.
4. Client consultation.
5. Personal hygiene.
6. Cutting the hair with a razor, clippers, shears.
7. Tapering the hair.
8. Thinning the hair.
9. Shampooing the hair.
10. Styling the hair with a hand hair dryer.
11. Thermal waving.
12. Permanent waving with chemicals.
13. Shaving.
14. Trimming a moustache or beard.
15. Applying hair colors.
16. Lightening or toning the hair.
17. Analyzing skin or scalp conditions.
18. Giving scalp treatments.
19. Giving facial massage or treatment.
20. Sanitizing and maintaining implements and equipment.
21. Honing and stropping a razor.

§ 3.4. Hours of instruction.

Practical and classroom instruction shall consist of the following hours:

1. Haircutting and grooming 600 hours
2. Orientation, hygiene, skin disease, muscle and bone structure and shaving 300 hours
3. Chemical relaxers, perms, and color 400 hours
4. Business and salon management 200 hours

TOTAL 1,500 hours

§ 3.5. School identification.

Each barber school approved by the board shall identify itself to the public as a teaching institution.

§ 3.6. Records.

Schools are required to keep upon graduation, termination or withdrawal, records showing what instruction the student has received for five years. These records shall be available for inspection by the department. All records shall be kept on the premises of each school.

§ 3.7. Hours reported.

Upon completion of 25%, 50% and 75% of hours completed by a student in a licensed school, the school shall provide an individualized written report to the student of hours completed. Upon termination from a licensed school, for any reason, the school shall provide a written report to the student and the board on the number of hours completed.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Display of license.

All current licenses and permits issued by the board shall be visibly displayed in the school or establishment where business is conducted.

§ 4.2. Sanitation.

Barbershops and barber schools shall comply with the following sanitation standards:

A. Premises and equipment.

1. Wash basins. There shall be a sufficient number of wash basins to provide hot and cold running water, under pressure, to adequately accommodate the clientele.
2. General cleanliness. All furniture, walls, floors, and windows shall be clean and in good repair. Wash basins and sinks shall be clean.
3. Cabinets. Cleaned instruments, such as combs, brushes, shears, towels, etc., shall be kept free from contamination until used.
4. Towel receptacles. Soiled towels shall be kept in a closed container except if the towels are in a separate laundry rooms.

B. Operations and services.

1. *Towels.* Clean towels shall be used for each patron.

2. *Haircloth.* Whenever a haircloth is used in cutting, shampooing, etc., a clean towel or a neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.

3. *Astringent use.* No alum or other astringent shall be used in stick form. Liquid or powder astringent must be used.

4. *Brushes and combs.* Brushes shall be washed in soap and hot water after each use on a patron. Combs shall be washed in soap and hot water or shall be kept immersed in a properly maintained sanitizing solution.

5. *Permanent wave equipment.* Permanent wave rods shall be rinsed after each use. End papers shall be destroyed after each use.

§ 4.3. Discipline.

The board may revoke, suspend, or fail to renew a barber license, or impose a fine as permitted by law if, after a hearing, it finds that:

1. The licensee is incompetent, or negligent in practice, or incapable mentally or physically to practice as a barber; or

2. The licensee is guilty of fraud or deceit in the practice or teaching of barbering; or

3. The licensee violates or induces others to violate, or cooperates with others in violating, any of the provisions of these regulations, or of Chapter 7 of Title 54.1 of the Code of Virginia, or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber may practice or offer to practice; or

§ 4.4. Discipline.

The board may revoke, suspend or fail to renew the license of any school or impose a fine as permitted by law when:

1. An instructor of the approved school fails to teach the curriculum as provided for in these regulations; or

2. The owner or director of the approved school permits or allows a person to teach in the school without a current teacher license.

3. The teacher, owner or director is guilty of fraud or deceit in the teaching of barbering.

§ 4.5. Discipline.

The board may revoke, suspend, or refuse to renew the

license of any barbershop or impose a fine as permitted by law when there is a finding that:

1. The owner or operator of the shop fails to comply with the sanitary requirements of barbershops provided for in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license or a temporary permit to practice as a barber unless the person is duly indentured as an apprentice.

Certificate No. _____
 Date _____
 For office use only

APPLICATION FOR ENDORSEMENT

FEE: \$50.00
 (make check or money
 order payable to the
 Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Board for Barbers
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 Section I

Applicant's Last Name (Place one letter in each block) _____ Phone No. () _____

First Name _____ Middle Name _____

Street Address _____

City _____ State _____ Zip Code _____

Date of Birth: _____ Social Security No. _____

Section II

1. Attach copy of current barber license.

FOR OFFICE USE ONLY
 _____ Approved for Endorsement _____ State _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

Section III

(To Be Executed By Applicant) Have this AFFIDAVIT completed by a Notary Public

State or _____
 County or City or _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant _____ Signature of Notary Public _____

My commission expires: _____

Revised 04-87
 Certificate No. _____
 Date _____
 For office use only

FEE: \$100.00
 (Make check or money
 order payable to The
 Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Virginia Board of Barber Examiners
 Post Office Box 11066
 Richmond, Virginia 23230-1066

FEE: \$100.00

APPLICATION FOR LICENSE TO OPERATE A BARBER SCHOOL

NAME OF SCHOOL: _____ PHONE NO. _____

ADDRESS OF SCHOOL: _____
 Street and Number City County Zip Code

OWNER'S NAME: _____
 Last Name First Name Middle

OWNER'S MAILING ADDRESS: _____
 Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
 (If required by Local Ordinance)

This is to certify _____ cosmetology salon

 (Address)

has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).

State and/or Local Health Department _____
 Signature of Inspector _____

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.

Signature of Applicant _____ Signature of Notary Public _____

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

My commission expires: _____

DO NOT WRITE BELOW THIS LINE

LIST FACULTY MEMBERS:

Name	Address	Barber Teacher Certificate Number

Revised 04-87

Certificate No. _____
 Date _____
 For office use only

FEE: \$15.00 **FEE: \$15.00**
 (Make check or money order payable to The Treasurer of Virginia)
 COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF COMMERCE
 Virginia Board of Barber Examiners
 Post Office Box 11066
 Richmond, Virginia 23230-1066

APPLICATION FOR LICENSE TO OPERATE A BARBER SHOP

NAME OF SHOP: _____ PHONE NO. _____
 ADDRESS OF SHOP: _____
 Street and Number City County Zip Code
 OWNER'S NAME: _____
 Last Name First Name Middle
 OWNER'S MAILING ADDRESS: _____
 Street and Number City County Zip Code

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
 ALL FEES ARE NONREFUNDABLE.

AFFIDAVIT OF INSPECTION
 (If required by Local Ordinance)

This is to certify _____ barber shop

 (Address)
 has been inspected and found to comply with the regulations of the Local and/or State Health Department(s).
 State and/or Local Health Department _____ Signature of Inspector _____

AFFIDAVIT

I do hereby certify that the information given by me in this application is true to the best of my knowledge and belief.
 Signature of Applicant _____ Signature of Notary Public _____
 Subscribed and sworn to before me this ____ day of _____, 19____
 My commission expires: _____

Certificate No. _____
Date _____
For office use only

APPLICATION FOR BARBER TEACHER EXAMINATION

FEE \$50.00
(make check or money
order payable to The
Treasurer of Virginia)

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
Virginia Board of Barber Examiners
Post Office Box 11066
Richmond, Virginia 23230-1066
Section I

Applicant's Last Name (Place one letter in each block)

Grid for last name

Phone No. _____

First Name

Grid for first name

Middle Name

Grid for middle name

Street Address

Grid for street address

City

Grid for city

State

Grid for state

Zip Code

Grid for zip code

Date of Birth:

Grid for date of birth

Social Security No.

Grid for social security number

FOR OFFICE USE ONLY

Approved for EXAMINATION _____ Area No. _____ Date of Exam _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

EXAMINATION RESULTS

DATE	WRITTEN GRADE
_____	_____
_____	_____
_____	_____
_____	_____

Section II

Prerequisite for taking the Barber Teacher Examination is that you be a currently licensed Virginia Barber.

1. I am a currently licensed Barber holding Certificate # _____

Section III

(To Be Executed By all Applicants) Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant _____

Signature of Notary Public _____

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

My commission expires: _____

REVISED 03-87

REVISED 07-87

COMMONWEALTH OF VIRGINIA
VIRGINIA BOARD OF BARBER EXAMINERS

Post Office Box 11066
Richmond, Virginia 23230-1066

INSTRUCTIONS FOR REINSTATEMENT OF LICENSE

The Individual Application for Reinstatement form must be completed in its entirety.

- 1. An individual licensee reinstatement fee of sixty dollars (\$60.00) is required.

GUIDELINES FOR REINSTATEMENT OF AN INDIVIDUAL LICENSE

- A. Persons whose license is not current in Virginia, who show proof of a current license in another jurisdiction, may obtain a Virginia license by endorsement.
 - B. Any licensee who fails to renew their license within six months after the expiration date, must apply for reinstatement of the license by submitting to the Department of Commerce a renewal application and a fee of \$60.00 with a statement detailing the reasons for failing to renew prior to the expiration date. Upon receipt of the renewal application, fee, and statement, the Virginia Board of Barber Examiners may grant reinstatement of the license or require requalification, reexamination, or both before granting reinstatement.
- 2. A Barber Shop reinstatement fee of fifty (\$50.00) is required.
 - 3. This application and the appropriate fee should be returned in the enclosed envelope.
 - 4. Make checks payable to the "Treasurer of Virginia." All fees are nonrefundable, including cases when the application is denied.

APPLICATION FOR REINSTATEMENT OF LICENSE
ANSWER ALL QUESTIONS

Name: _____ Date: _____, 19____
Address: _____

NOTE: DEPOSIT OF APPLICANT PROCESSING FEE DOES NOT INDICATE LICENSE HAS BEEN APPROVED.
ALL FEES ARE NONREFUNDABLE.

<input type="checkbox"/> Barber	Certificate Number:	Date Issued:
<input type="checkbox"/> Shop		

CENTRAL FEE PROCESSING SECTION ONLY

Give reasons for failure to renew. (Use a separate sheet if necessary.) _____

Do you wish to appear before the Board to discuss this matter? Yes ___ No ___

List the States where you are now currently licensed and your license number:

State	License No.	Expiration Date

AFFIDAVIT AND NOTARIZATION

(To Be Executed By all Applicants Have this AFFIDAVIT completed by a Notary Public

State of _____

County or City of _____

The undersigned applicant, being duly sworn deposes and says that they are the person who executed this application, that the statements herein contained are true, that they have not suppressed any information that might affect this application, and that they have read and understand this affidavit.

Signature of Applicant _____ Signature of Notary Public _____

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

My commission expires: _____

For Official Use Only		
Date	Approved	Disapproved

Proposed Regulations

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Public Hearing Date: February 13, 1991 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed regulations apply to approximately 4,500 licensed waterworks and wastewater works operators in Virginia. The only substantive changes in the regulations are proposed increases in original application, reexamination, renewal, and late renewal fees in order to assure the board's compliance with requirements of § 54.1-113 of the Code of Virginia.

VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.

PART I. DEFINITIONS, LICENSING AND CLASSIFICATION REQUIREMENTS.

§ 1.1. Definitions.

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

"Board" means the Board for Waterworks and Wastewater Works Operators.

"Category" means the two divisions of waterworks and wastewater works and operators' licenses, one being waterworks and the second being wastewater works.

"Classification" means the four divisions of each category of waterworks and wastewater works and operators' licenses, Classification "I" representing the highest and Classification "IV" representing the lowest.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation which is unlawful to practice without a license.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works,

city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Operator-in-training" means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, firm or company organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

"Person" means any individual, group of individuals, a corporation, a partnership, a business trust, an association or other similar legal entity engaged in operating waterworks or wastewater works.

"Responsible charge" means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks or wastewater works processes.

"Wastewater works" means each system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge to state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

"Waterworks" means each system of structures and appliances used in connection with the collection, storage, purification, and treatment of water for drinking or domestic use and the distribution thereof to the public, except distribution piping. Systems serving fewer than 400 persons shall not be considered to be a waterworks unless certified by the Department of Health to be such.

§ 1.2. License required.

To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board of a classification equal to or greater than the classification of the waterworks or wastewater works and in the appropriate category.

§ 1.3. License renewal required.

A. Licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses

for wastewater works operators shall expire on the last day of February of each even-numbered year. The Department of Commerce shall mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice shall not relieve the licensee of the obligation to renew.

B. Each licensee applying for renewal shall return the renewal notice and fee established in § 1.4 of these regulations to the Department of Commerce prior to the expiration date shown on the license. If the licensee fails to receive the renewal notice, a copy of the expired license may be submitted with the required fee.

C. If the operator fails to renew the license within 30 days after the expiration date on the license, a penalty fee as established in § 1.4 of these regulations shall be required, in addition to the renewal fee.

D. Any operator failing to renew within one year of the expiration date on the license must apply for a new license by examination in accordance with Part II of these regulations. Such an individual shall be deemed to be eligible to sit for the same category and class of license as the expired license.

E. Limited waterworks operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1993, will not be renewed. Limited wastewater works operator licenses, issued under the authority of § 4.02.2 of the Rules and Regulations of the State Board for Certification of Operators of Water and Wastewater Works (effective March 1, 1977), expiring on February 28, 1994, will not be renewed. A holder of a limited license shall be deemed to have met the experience and education requirements of these regulations and shall be eligible to sit for an examination upon application in the same category and in the same or lower classification as the limited license currently held.

§ 1.4. Fees.

A. Fees are nonrefundable and shall not be prorated.

1. The following fees shall apply:

- a. Application for licensure by examination
or by reciprocity \$ ~~55~~ 65.
- b. Application for reexamination \$ ~~35~~ 45.
- c. Renewal of license \$ ~~35~~ 55.
- d. Penalty for failure to renew license
within 30 days of expiration \$ ~~35~~ 55.

§ 1.5. Waterworks.

A. Class IV shall mean any waterworks as follows:

- 1. Waterworks employing disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment, or any combination thereof, except fluoridation, serving less than 5,000 persons and classified by the Department of Health as public water supplies; or
- 2. Waterworks classified by the Department of Health as Class IV facilities.

B. Class III shall mean any waterworks as follows:

- 1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of less than 5,000, or having a rated capacity of less than 0.5 mgd; or
- 2. Waterworks employing processes including disinfection, corrosion control, iron and manganese removal, softening, rechlorination, and other approved methods of treatment serving 5,000 persons or more; or
- 3. Waterworks employing fluoridation which are not under a higher classification and which are classified by the Department of Health as public water supplies; or
- 4. Waterworks classified by the Department of Health as Class III facilities.

C. Class II shall mean any waterworks as follows:

- 1. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of at least 5,000 persons, but less than 50,000 persons, or having a rated capacity of at least 0.5 mgd, but less than 5.0 mgd; or
- 2. Waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, and disinfection, employing the high rate filtration process, and having a filter rate greater than 2.0 gpm/sq. ft., serving a population less than 50,000 persons, or having a rated capacity less than 5.0 mgd; or
- 3. Waterworks classified by the Department of Health as Class II facilities.

D. Class I shall mean any waterworks employing processes including, but not limited to, chemical coagulation, sedimentation, filtration, disinfection, fluoridation, aeration, corrosion control, or any combination thereof, serving a population of 50,000 persons or more or having a rated capacity of 5.0 mgd or more.

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§ 1.6. Wastewater works.

A. Class IV shall mean any wastewater works as follows:

1. Raw sewage stabilization ponds with a design hydraulic capacity greater than 0.04 mgd but equal to or less than 1.0 mgd; or
2. Wastewater works classified by the State Water Control Board as Class IV wastewater works.

B. Class III shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.5 mgd; or
3. Wastewater works using combinations of biological and physical/chemical treatment methods having a design hydraulic capacity greater than 0.04 mgd, but equal to or less than 0.1 mgd; or
4. Raw sewage stabilization ponds, with a design hydraulic capacity greater than 1.0 mgd; or
5. Wastewater works that do not use biological or physical/chemical treatment methods but are classified by the State Water Control Board as Class III wastewater works.

C. Class II shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 0.5 mgd, but equal to or less than 5.0 mgd; or
3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a design hydraulic capacity greater than 0.1 mgd, but equal to or less than 2.5 mgd.

D. Class I shall mean any wastewater works as follows:

1. Wastewater works using biological treatment methods having a design hydraulic capacity greater than 5.0 mgd; or
2. Wastewater works using physical/chemical treatment methods having a design hydraulic capacity greater than 5.0 mgd; or
3. Wastewater works using combinations of biological and physical/chemical treatment methods, having a

design hydraulic capacity greater than 2.5 mgd.

E. Biological treatment methods as used in this section shall mean a fixed film or suspended growth biological treatment process, such as:

1. Activated sludge.
2. Trickling filter.
3. Aerated lagoon.
4. Rotating biological contactor.
5. Land application.
6. Biological nutrient removal process.

F. Physical/chemical treatment methods as used in this section shall mean a treatment process such as:

1. Chemical coagulation, flocculation and precipitation.
2. Filtration.
3. Carbon adsorption.
4. Breakpoint chlorination.
5. Demineralization (including but not limited to ion exchange, reverse osmosis, electrodialysis).

PART II ENTRY REQUIREMENTS.

§ 2.1. Licensure.

The board shall issue a Class IV, III, II, or I license only after an individual has met all education, experience and examination requirements as set forth in these regulations. Each license shall be in the appropriate category and classification and shall indicate the highest classification of works the holder is qualified to operate.

§ 2.2. Licensure by reciprocity.

The board may issue a license to any person holding a license or certificate in any state, territory, or possession of the United States, or in any foreign country, or a certificate issued by the Association of Boards of Certification, provided the requirements and standards under which the license or certificate was issued are equivalent to those established by these regulations.

§ 2.3. Licensure by education, experience, and examination.

The education and experience requirements are summarized in Table 1.

- A. Specific requirements for a Class IV license.

Applicants for licensure as a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or
2. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher.

B. Specific requirements for a Class III license.

Applicants for licensure as a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, and (ii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or
2. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class IV license, and (iii) at least six months of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or
3. Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training of waterworks or wastewater works of Class IV or higher; or
4. Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) at least 1-1/2 years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I; or
5. Have (i) no high school diploma, (ii) a Class IV license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class IV or as an operator-in-training of waterworks or wastewater works of Class III, Class II, or Class I.

C. Specific requirements for Class II license.

Applicants for licensure as a Class II waterworks or

wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, and (ii) at least 1-1/2 years of experience as an operator-in-training of waterworks or wastewater works of Class III or higher; or
2. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class III license, and (iii) at least six months of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or
3. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class IV license, and (iii) at least one year of experience as an operator-in-training of waterworks or wastewater works of Class III, Class II or Class I; or
4. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I; or
5. Have (i) no high school diploma, (ii) a Class III license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class III or as an operator-in-training of waterworks or wastewater works of Class II or Class I.

D. Specific requirements for a Class I license.

Applicants for licensure as a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

1. Have (i) a bachelor's degree in civil, environmental or sanitary engineering, or a bachelor's degree in physical, biological or chemical science or engineering with three semester hours in either water or wastewater treatment technology, or both, (ii) a Class II license, and (iii) at least one year of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works

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of Class I; or

2. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) at least two years of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or as an operator-in-training of waterworks or wastewater works of Class I; or

3. Have (i) no high school diploma, (ii) a Class II license, and (iii) at least three years of experience as an operator or operator-in-training of waterworks or wastewater works of Class II or higher as an operator-in-training of waterworks or wastewater works of Class I.

§ 2.4. Education.

Education may be substituted for experience as follows:

A. Education or specialized training may not reduce the actual operating experience required for licensure to less than two and one-half years for Class I, to less than one and one-half years for Class II, to less than one year for Class III, or to less than six months for Class IV.

B. Education substituted for experience may not be used to meet the education requirement.

C. Specialized training.

Waterworks or wastewater works operator training courses, seminars, workshops, technical conferences, or similar specialized training, specifically approved by the board may be substituted for the required experience.

1. Time calculations shall be based on the continuing education unit (CEU).

2. Ten classroom hours shall equal one CEU (10 hours = 1.0 CEU).

3. One CEU may be substituted for one month of operating experience.

D. Formal education.

Formal courses at a post-secondary level in physical, biological or chemical science, engineering, engineering technology, or public health may be substituted for a part of the required experience.

1. Calculations shall be based on semester hours (one quarter hour = 2/3 of a semester hour).

2. One semester hour may be substituted for one month of operating experience.

E. Specialized training and formal courses used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class

license.

§ 2.5. Experience.

Required work experience is based on full-time work. Full-time work is defined as not less than 1760 hours per year. Experience gained as an operator-in-training shall be certified on the application form by an operator holding a valid license of the proper category and and classification.

A. Partial credit will be given for actual hours of work experience if less than full-time.

B. At least 50% of the experience required for a license shall be obtained in the category of the license, with not less than six months of full-time employment (880 man-hours) in the category of the license. Partial credit may be given for related experience in the other category at a rate of up to 50% of the actual experience gained in the other category.

C. Experience used in qualifying for a lower class license shall not be used again to meet the additional requirements for a higher class license.

D. Experience limited to distribution and collection system operation and maintenance, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator.

§ 2.6. Examination.

A board-approved examination shall be administered at least twice a year.

A. An individual may take the examination prior to fulfilling the education and experience requirements, provided all requirements will be met within three months after the date the applicant will take the examination. The results of the examination and the license shall not be issued until all applicable requirements have been met and satisfactorily verified.

B. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees, in accordance with §§ 1.4 and 2.7 A.

C. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake any examination(s) given within two years of the date of notification of initial unsuccessful examination results. After the two-year period has elapsed, an applicant will be required to submit a new application with fee in accordance with these regulations in order to take an examination. Applications for reexamination must be received in the Department of Commerce at least 60 days

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prior to a scheduled examination in order to be eligible to sit for that examination.

§ 2.7. Application.

A. Any person seeking licensure by reciprocity or by education, experience, and examination shall submit a fully-completed application with the appropriate fee(s) attached. Incomplete applications will be returned to the applicant. Application for licensure by examination must be received in the Department of Commerce 60 days prior to a scheduled examination in order to be eligible to sit for that examination.

B. All applications of candidates will be reviewed by the Department of Commerce staff to determine eligibility for licensure and examination within 50 days of receipt at the offices of the Department of Commerce. Any applicant may appeal the initial review, in writing, to the board within 60 days of the staff's determination. No applicant will be approved for licensure unless he meets all of the requirements of Part II of these regulations.

C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications, training, or experience. No additional fee will be required, provided all requirements for licensing are met within two years from the date of original application.

Table 1. Summary of education and experience requirements for operator's license by class.

License Class	Education ¹	Current License	Minimum Total Years Experience Required	Experience must be at this class facility or higher (time in years)		
				Cl. IV	Cl. III	Cl. II
IV	BS degree	None	0.5	0.5		
	High School	None	0.5	0.5		
	None	None	1.0	1.0		
III	BS degree	None	1.0	1.0		
	IV	IV	1.0	1.0		
	High School	None	2.0	2.0		
II	IV	IV	2.0	2.0		
	None	IV	4.0	4.0		
	BS degree	None	1.5	—	1.5	
I	IV	IV	1.5	0.5	1.0	
	III	III	1.5	1.0	0.5	
	High School	III	4.0	2.0	2.0	
I	None	III	7.0	4.0	3.0	
	BS degree	II ²	2.5	—	1.5	1.0
	II ³	2.5	1.0	0.5	1.0	
I	II ⁴	2.5	0.5	1.0	1.0	
	High School	II	6.0	2.0	2.0	2.0
	None	II	10.0	4.0	3.0	3.0

This table is provided for information only, and does not supersede the text of the regulations.

¹ BS degree = bachelor's degree in civil, environmental or sanitary engineering, or in physical, biological or chemical science or engineering, with at least 3 semester hours in water and/or wastewater treatment technology. All other bachelor's degrees will be considered the equivalent of high school education for the purpose of meeting the education requirement.

High school = high school diploma or GED or college degree other than BS degree defined above.

² First license was Class II.

³ First license was Class III.

⁴ First license was Class IV.

All experience must be at a waterworks or wastewater works of the appropriate category and of the class indicated. Experience gained at the waterworks or wastewater works of higher class than currently held license must be under direct supervision and direction of a properly licensed operator.

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PART III. STANDARDS OF PRACTICE.

§ 3.1. Discipline.

A. The Board, in its discretion, may fine any licensee, or may suspend or revoke a license, either or both, if it finds that:

1. The license was obtained or renewed through fraud or misrepresentation; or
2. The licensed operator has been found guilty by the board, or by a court of any material misrepresentation in the course of performing his operating duties; or
3. The licensed operator has not demonstrated reasonable care, judgment or application of his knowledge and ability in the performance of his operating duties; or
4. The licensed operator violates or induces another person to violate any provisions of Chapters 1, 2, 3, and 23 of Title 54.1 of the Code of Virginia, or any provisions of these regulations.

B. The board, in its discretion, may refuse to grant or renew a license of any person for any of the reasons specified in subsection A of this section.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulations: VR 115-04-09. Rules and Regulations for the Enforcement of the Virginia Seed Law.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Effective Date: January 31, 1991.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. It was adopted as it was proposed in 6:21 V.A.R. 3303-3315 July 16, 1990, with minor corrections as published in 6:23 V.A.R. 3714 August 13, 1990.

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-06-01. Regulations Governing Athlete Agents.

Statutory Authority: § 54.1-525 of the Code of Virginia.

Effective Date: January 31, 1991.

Summary:

The regulations governing athlete agents will affect individuals or firms desiring to act as an athlete agent in the Commonwealth and will apply to an estimated 15 to 60 athlete agents. The regulations establish qualifications for initial licensure for individuals or firms, including the requirement for a surety bond or equivalent professional liability insurance in the amount of \$100,000, and assurance that the applicant is in good standing as an athlete agent in any jurisdiction where licensed or registered. The regulations include the addition of a "designated" individual in a firm who will be responsible for compliance with the statute and regulations and who will also be responsible for signing the contract negotiated with an athlete. Fees for initial licensure and renewal have been adjusted to assure compliance with § 54.1-113 of the Code of Virginia. The regulation establishes the requirements for renewal of a license and the consequences of failing to renew in a timely manner. Requirements for record-keeping, conducting contracting activities, and standards for maintenance of the license are also identified. The final section of the regulations identifies prohibited acts which could result in disciplinary action against the licensee.

VR 190-06-01. Regulations Governing Athlete Agents.

PART I. GENERAL.

§ 1.1. Definitions.

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

"Firm" means any partnership, association, corporation, or other legal entity.

"Institution of higher education" means an accredited university, college or community college located in the Commonwealth.

"Licensee" means a person holding a license issued by the director to act as an athlete agent in the Commonwealth.

PART II. ENTRY.

§ 2.1. Qualifications for individual licensure.

Every individual seeking to be licensed as an athlete agent shall submit, on a form provided by the director, the information required by § 54.1-519 of the Code of Virginia and shall meet the following criteria:

1. The applicant shall be at least 18 years old.
2. The applicant shall demonstrate knowledge and expertise in the following areas: contract negotiation, complaint resolution, arbitration or civil resolution of contract disputes, federal taxation and federal estate planning.

§ 2.2. Qualification for firm licensure.

[A.] Every firm seeking to be licensed as an athlete agent shall submit, on a form provided by the director, the information required by § 54.1-519 of the Code of Virginia and shall meet the following requirements:

1. For a corporation, [~~an~~ a designated] officer of the corporation shall meet the requirements of § 2.1.
2. For a partnership, a [designated] general partner shall meet the requirements of § 2.1.

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3. For an association, a [~~member~~ designated management official] of the association shall meet the requirements of § 2.1.

[B. All activities undertaken by a firm acting as an athlete agent shall be conducted under the direct supervision of the designated officer of the corporation, the designated general partner of a partnership or the designated management official of an association. This designated individual shall be responsible for compliance with the provisions of Chapter 5.1 (§ 54.1-518 et seq.) of Title 54.1 of the Code of Virginia and these regulations.]

§ 2.3. Criminal convictions.

The director may deny licensure to any applicant who has been convicted of a misdemeanor involving moral turpitude, or of any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

§ 2.4. Good standing requirement.

All applicants for licensure as an athlete agent shall be in good standing in every jurisdiction where licensed/registered to perform negotiations on behalf of an athlete with a professional sports team. The applicant shall not have had a license which was suspended, revoked or surrendered in conjunction with any disciplinary action involving his performance as an athlete agent in any jurisdiction prior to applying for licensure in the Commonwealth.

§ 2.5. Bond requirements.

Prior to licensure, the applicant shall be required to deposit with the director, a \$100,000 surety bond on the form provided by the director, or provide proof of equivalent professional liability insurance, and shall comply with the criteria set forth in § 54.1-519 G of the Code of Virginia.

§ 2.6. Reciprocity.

A. An applicant for individual licensure by reciprocity shall meet the conditions set forth in §§ 2.1, 2.3, 2.4 and 2.5 of these regulations or meet conditions deemed by the director to be substantially equivalent to these criteria.

B. A firm applying for licensure by reciprocity shall meet the appropriate conditions set forth in §§ 2.2, 2.3, 2.4 and 2.5 of these regulations or meet conditions deemed by the director to be substantially equivalent to these criteria.

§ 2.7. Fee.

The fee for licensure as an athlete agent shall be \$550 whether by experience/education or by reciprocity, and

shall be paid at the time of application. Payment shall be by check, money order or bank draft made payable to the Treasurer of Virginia. All fees are nonrefundable.

PART III. RENEWAL.

§ 3.1. Renewal required.

Licenses for athlete agents are issued for a period of one year and shall be renewed annually on or before the expiration date indicated on the license.

§ 3.2. Qualification for renewal.

An applicant applying for license renewal as an athlete agent shall meet the following requirements:

1. An individual applying for renewal shall certify that he continues to meet the conditions of §§ 2.3 [~~and~~ ,] 2.4 [~~and~~ 2.5] of these regulations.

2. When a firm applies for renewal, [~~as the~~ designated] officer of the corporation, [~~a the~~ designated] general partner of the partnership, or [~~a member the~~ designated management official] of the association shall certify that he continues to meet the conditions of §§ 2.3 and 2.4 of these regulations, and that the firm continues to meet the requirement of § 2.5 of these regulations.

§ 3.3. Procedures for renewal.

A. The Department of Commerce shall mail a renewal notice [outlining the procedure for renewal and the appropriate form] to the licensee at the last known address of record. [~~This notice will outline the procedures for renewal.~~] Failure to receive [~~a this~~] notice [~~of renewal~~] shall not relieve the licensee of the obligation to renew the license before its expiration date.

[~~B. Applicants shall apply for renewal on a form provided by the director.~~]

[~~C. B.] The applicant shall [~~also~~] certify [~~; on the form provided by the director,~~] that the required surety bond in the amount of \$100,000 or equivalent professional liability insurance remains in force.~~

[~~D. C.] When submitting a request for renewal, the licensee shall also submit [~~; on a form provided by the director,~~] the name and address of each person employing the licensee, the amount of fee received and the professional services performed on behalf of that person as required by § 54.1-524 of the Code of Virginia.~~

§ 3.4. Renewal fee.

The applicant shall submit a renewal fee in the amount of \$450 [~~at the time of renewal~~] .

§ 3.5. Failure to renew license.

If the license is not renewed before its expiration date, or within 30 days thereafter, the license shall be considered void and the licensee shall be required to submit a new application form, a new surety bond in the amount of \$100,000 or proof of equivalent professional liability insurance, and pay an application fee of \$550.

§ 3.6. Denial of renewal.

The director may deny renewal of a license for the same reasons as he may refuse initial licensure or discipline a licensee.

PART IV. STANDARDS OF PRACTICE.

§ 4.1. Maintenance of license.

A. All licensees shall notify the director, in writing, of a change of address within 30 days of that change.

B. A licensed firm shall notify the director in writing of any change in the following personnel:

1. [~~Any~~ The designated] general partner [of the partnership] ;
2. [~~Any member~~ The designated management official] of the association; and
3. [~~Any~~ The designated] officer of the corporation.

This information shall be submitted, within 30 days of the change, on a form provided by the director. The director shall promptly notify the firm in writing that the continuation of the license has been granted or denied in accordance with the requirements of §§ 2.2, 2.3 and 2.4 of these regulations.

C. A licensee [~~must~~ shall] operate under the name in which the license is issued. As long as there is no change in the legal entity, a licensee may secure a name change by submitting a written request to the director for such a change. The request must show the name as it then appears on the license and the new name, and must be accompanied by a Certificate of Amendment from the State Corporation Commission if the licensee is a corporation, or certification by a local court on a form provided by the director if a licensee other than a corporation is trading under a fictitious name.

D. No license issued by the director may be assigned or otherwise transferred. Licenses are issued to legal business entities whether they be sole proprietorships, partnerships, corporations, associations or other legal entities. Whenever there is a change in the sole proprietorship, partnership, or association, a new license is required. Whenever a corporation is dissolved and a new corporation formed, a new license is required.

E. Any evidence of licensure remains the property of the Department of Commerce and upon termination of a license, the closure of a firm, the death of the licensee, or a change in license name or address, the license must be returned to the director by certified mail with the appropriate information within 10 days of the event.

§ 4.2. Contracting with an athlete.

A. The contract between a licensee and an amateur athlete shall be on a form provided by the director [and shall be signed by the designated general partner of a partnership, the designated officer of the corporation, the designated management official of the association or the individual in a sole proprietorship] .

B. Within five days of fully executing a contract with an amateur athlete, a licensee shall file with the director a copy of that contract.

C. If the amateur athlete is a student at an institution of higher education located in the Commonwealth, the licensee shall also file a copy of the contract with the athletic director of the institution not later than the fifth day after the contract is fully signed by the athlete.

[~~D.~~ Each licensee shall provide to the director a written schedule of the professional services offered by the licensee and the charges for these services. This schedule may only be amended in accordance with the provisions of § 54.1-520 C of the Code of Virginia.]

[~~E. D.~~ Fees for negotiating a multi-year professional sport services contract shall only be charged in accordance with the requirements of § 54.1-520 D of the Code of Virginia.

[~~F. E.~~ Any contract between an amateur athlete and a licensee may be cancelled by the amateur athlete within 10 days after the filing of the contract with the licensee. The licensee shall notify the director in writing within 15 days of the licensee's receipt of the cancellation from the athlete.

[~~G. F.~~ The licensee shall file with the director a schedule of fees which states the amount of fee charged and the professional services rendered for each fee. Changes to this fee schedule will become effective only on the seventh day after such changes have been filed with the director [in accordance with § 54.1-520 of the Code of Virginia] .

§ 4.3. Record keeping requirements.

A. Licensees shall, upon request or demand of the director [; or any of his agents] promptly produce to the director or any of his agents, the records required by § 54.1-524 of the Code of Virginia, as well as copies of all fee schedules and all contracts between the licensee and the amateur athlete. These records shall be made available at the licensee's place of business during regular

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business hours.

B. The records required by § 54.1-524 of the Code of Virginia shall be kept by the licensee for the life of the contract made with an amateur athlete and for a period of three years thereafter.

PART V. STANDARDS OF CONDUCT.

§ 5.1. Prohibited acts.

The following are grounds for disciplinary action by the director:

1. Engaging in any of the prohibited acts identified in § 54.1-521 of the Code of Virginia.
2. Failing to comply with the provisions of [~~Title 54.1,~~] Chapter 5.1 [(§ 54.1-518 et seq.) of Title 54.1] of the Code of Virginia, or any of these regulations.
3. Furnishing substantially inaccurate or incomplete information when applying for initial licensure or for renewal of licensure as an athlete agent.
4. Aiding and abetting an unlicensed person in the violation of any provision of [~~Title 54.1,~~] Chapter 5.1 [(§ 54.1-518 et seq.) of Title 54.1] of the Code of Virginia, or these regulations.
5. Combining or conspiring with, or acting as an agent, partner, or associate for an unlicensed athlete agent, or allowing one's license to be used by an unlicensed athlete agent.
6. Having been convicted or found guilty, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving moral turpitude, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.
7. Failing to inform the director in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor identified in [~~subsection F~~ subdivision 6] of this section.
8. Having an ownership or financial interest in any entity, directly or indirectly, that is involved in the same sport for which the athlete agent is negotiating a contract on behalf of an athlete.

§ 5.2. Permitted contact with an amateur athlete.

Prior to an amateur athlete's last intercollegiate contest

including postseason games, contact between a licensee and an amateur athlete located in the Commonwealth shall be made only in accordance with § 54.1-522 of the Code of Virginia.

These regulations shall be effective January 31, 1991.

NOTICE: The forms referenced in the subject regulations are not being published due to volume. The forms are available for public inspection at the Department of Commerce, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

Forms for: Regulation governing athlete agents.

General Instructions.

Instruction for obtaining additional information.

Application Form-Athlete Agent (Form No. 11 1 (12-11-90))

Records (Form No. AA 2 (12-11-90))

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Title of Regulation: VR 385-01-22. Vegetation Control Regulations.

Statutory Authority: §§ 33.1-12 and 33.1-351 of the Code of Virginia.

Effective Date: January 30, 1991.

Summary:

The general rules and regulations of the Commonwealth Transportation Board identify the conditions under which land use permits may be granted, conditions under which permits are needed, and the manuals, namely the Land Use Permit Manual, which govern or restrict activities carried out by permit. The regulations restrict the types of activities which can take place on state rights-of-way. The Commonwealth Transportation Board, the Commissioner, or his designee are given authority to determine if the activity is in conformance with public safety, interferes with highway maintenance, and is in compliance with these regulations.

VR 385-01-22. Vegetation Control Regulations.

§ 1. Definitions.

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

"Board" means the Commonwealth Transportation Board as defined in § 33.1-1 of the Code of Virginia.

"Boundary of any locality" means the limits of the jurisdiction of any local board of supervisors, town council, or city council.

"Conforming outdoor advertising signs" means signs, advertisements, or advertising structures which were lawfully erected, have been lawfully maintained, and which comply with current state law, state regulations, and local ordinances.

"Department" means the Virginia Department of Transportation.

"District administrator" means the chief executive officer in each transportation construction district.

"Environmental manager-field" means the chief environmental manager in each transportation construction district.

"Federal-aid primary highway" means any highway as defined in § 33.1-351(b)(18) of the Code of Virginia.

"Inspector" means any employee designated by the district administrator or environmental manager-field, to inspect the work performed under authority of these regulations.

"Interstate system" means any highway as defined in § 33.1-48 of the Code of Virginia.

"Land Use Permit Manual" means the manual maintained by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.1-57 of the Code of Virginia.

"Nonconforming outdoor advertising sign, advertisement or advertising structure" means one as defined in § 33.1-351(b)(29) of the Code of Virginia.

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Resident engineer" means the chief executive officer of any transportation residency within the Commonwealth of Virginia.

"Specifications" means the current Virginia Department of Transportation's Road and Bridge Specifications.

§ 2. General provisions.

A. Permits will be issued to control vegetation in front of a sign/structure or business provided the vegetation

control work meets the criteria set forth in these regulations. An application may be filed by an agent, including, but not limited to, companies which trim trees. No permit shall be issued to cut, prune or selectively thin trees for a nonconforming outdoor advertising sign/structure.

B. No trees that are more than two inches in diameter will be eliminated. Selective thinning of small trees will be allowed on an individual basis to enhance the health and growth of the best trees. Brush and limbs up to two inches in diameter may be removed on a site-by-site basis. No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree. Certain larger trees that are diseased or unsightly may be removed when approved by the district administrator.

C. When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside.

D. A permit must be obtained from the Virginia Department of Transportation prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at his expense, including permit and inspection fees.

[Permits will not be issued for sites within the boundary of any locality which has enacted an ordinance prohibiting the cutting, pruning or selective thinning of vegetation on public streets and roads under its control.]

A violation of these regulations may result in a permittee or its agent or both losing its vegetation control permit privilege for five years. Inadvertent violations of this permit will require replacement on a four-to-one basis with [white flowering dogwood (*Cornus Florida*), redbud (*Cereis canadensis*) or] other suitable small trees approved by the district administrator to enhance the roadside beauty. [The district administrator shall have full authority to determine specie and size of all replacement vegetation.]

§ 3. Special provisions.

A. The permittee shall attach two 8" x 10" color glossy photographs (a closeup and a distant view) immediately before the work is performed showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting will be inspected by the resident engineer and environmental manager-field, then forwarded with their recommendations to the district administrator for approval or denial.

A permit may be denied any applicant, and all permits issued by the Commonwealth Transportation Board may be revoked whenever, in the opinion of the Commonwealth Transportation Commission or his authorized representative, the safety, use, or maintenance of the

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highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department to assign inspectors to the work, the permittee shall pay the department to assign inspectors to the work, the permittee shall pay the department an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the inspector(s) assigned by the department for handling work covered by this regulation. Said inspection fee to be paid promptly each month on bills rendered by the department.

The absence of a state inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of these regulations or permit.

B. The resident engineer and the environmental manager-field shall be notified at least three days in advance of the date any work is to be performed and when completed, in order than an inspection may be made.

C. No trees, shrubs, vines, or plant material, except as covered by this regulation, shall be cut or disturbed. Stubs and dead wood in trees covered by this regulation must be removed, whether occasioned by present requirements or not.

Where permit covers the selective thinning or removal of trees, shrubs, vines, including brush to enhance the healthy growth of the best trees, brush and limbs up to two inches in diameter may be removed. Certain diseased or unsightly trees and shrubs may also be removed when approved as a part of this regulation.

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor and tree workers shall be approved by the environmental manager-field, prior to issuance of a permit to perform work under this regulation.

All brush, wood, etc., shall be chipped and beneficially used or removed immediately and disposed of in a landfill which has a permit from the Virginia Department of Waste Management.

The use of climbing irons or spurs is positively forbidden in any tree.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways. Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this regulation on the right-of-way shall in all respects be subject to department directions and shall be completed to the satisfaction of the environmental manager-field, or his representative.

E. The department reserves the right to stop the work at any time the terms of the regulations are not satisfactorily complied with, and the department may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the department may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately have corrected any condition which may arise as a result of this work that the inspector or resident engineer deem hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in these regulations or in the Land Use Permit Manual .

G. Applicants and their agents to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others.

All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the department by the permittee.

All trees and brush removed shall be cut at ground level.

Dogwood or other small flowering trees on the site shall not be removed.

H. The permittee agrees that if the work authorized by this regulation including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the resident engineer, the department will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain which will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for the safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the

department.

J. Road drainage shall not be blocked. The shoulders, ditches, roadside and drainage facilities, as well as the pavement, shall be kept in an operable condition satisfactory to the department. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Virginia Erosion and Sediment Control Handbook .

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved.

Where landscape is disturbed on state rights-of-way, it shall be replaced with a minimum of two inches of topsoil and reseeded according to department specifications.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

Title of Regulation: VR 394-01-02. Virginia Certification Standards for Building [~~Inspection Personnel, and~~] Amusement Device Inspectors, Blasters [; Plumbers, Electricians and Building Related Mechanical Workers/1990 and Tradesmen]. (Formerly: Certification of Tradesmen Standards/1987).

Statutory Authority: §§ 27-97, 36-98.3, 36-137 and 36-139 of the Code of Virginia.

Effective Date: March 1, 1991.

Summary:

The 1990 edition of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters, and Tradesmen is a statewide, uniform regulation that must be used by every local governing body that chooses to require certification of plumbers, electricians and building related mechanical workers as to ability, proficiency and qualifications. The regulation also provides for certification by the Department of Housing and Community Development of building inspection personnel, amusement device inspectors and blasters.

Changes made to Part II, Certification of Tradesmen, of the final regulations as a result of public comment include reinstating the exemption for duct workers from the building-related mechanical trade (§ 2.1 D), establishing gasfitting as a division of the plumbing or building-related mechanical trades and adding a reciprocity provision to recognize other states' certification programs (§2.6). The requirements for certification of amusement device inspectors have been relocated from Part III to a new part V.

VR 394-01-02. Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and

Tradesmen.

PART I. GENERAL.

§ 1. § 1.1. Definitions.

The terms used in these standards shall have the following meaning:

"Agent" means the person designated by the county, city, or town, according to local ordinance, to examine and determine an applicant's qualifications for certification.

"Agricultural blasting" means any blasting operation which is conducted on real estate devoted to agricultural or horticultural use as defined in § 58.1-3230 of the Code of Virginia, and no less than five acres in area.

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training and related instruction in accordance with the Voluntary Apprenticeship Act, § 40.1-120 of the Code of Virginia.

"Approved" means approved by the Department of Housing and Community Development.

"Blaster (shot firer)" means the qualified person in charge of, and responsible for, the loading and firing of an explosive or blasting agent.

"Board" means the board established by a county, city, or town, according to local ordinance, to examine and determine an applicant's qualification for certification Board of Housing and Community Development .

["Building official" means the executive official in charge of the local building department.]

"Building-related mechanical worker" means a tradesman who does building-related mechanical work, including heating, air conditioning, and ventilation.

"Contractor" means a person licensed according to § 54-113 § 54.1-1100 of the Code of Virginia who for a fixed price, commission, fee or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing or superintending the construction, removal, repair or improvement of any building or structure owned, controlled or leased by another person.

"Department" means the Department of Housing and Community Development.

"Division" means a subcategory within a trade as designated in the publication "Tradesman Certification Program" published by the Division of Building Regulatory Services limited certification subcategory within any of the trades, as approved by the department .

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“Electrical work” consists of, but is not limited to the following: Plan and layout of detail for installation or modifications of electrical apparatus and controls, preparation of sketches showing location of wiring and equipment. Measures, cuts, bends, threads, assembles and installs electrical conduits. Performs maintenance on electrical systems and apparatus. Observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement. Repairs faulty systems or apparatus.

[*“Electrical work”* consists of, but is not limited to the following: (i) plan and layout of detail for installation or modifications of electrical apparatus and controls, preparation of sketches showing location of wiring and equipment; (ii) measures, cuts, bends, threads, assembles and installs electrical conduits; (iii) performs maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; (v) repairs faulty systems or apparatus.]

“Electrician” means a tradesman who does electrical work including, but not limited to, installing, repairing and maintaining electrical systems and equipment .

“Formal vocational training” means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, military, correspondence schools, or other similar training organizations.

[*“Gasfitter”* means a tradesman who does gasfitting related work as a subdivision within the building-related mechanical or plumbing trades.]

“Helper” or *“ laborer”* means a person who assists a tradesman certified according to these standards.

[*“Inspector”* means a person authorized by the building official to perform the inspections required in the Virginia Uniform Statewide Building Code.]

“Journeyman” [*“Journeyman”* *“Journeyman”*] means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment, utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications. A tradesman shall be certified as a journeyman in each of the trades for which local certification is required in order to practice such trades as a journeyman.

“Local board” means the board established by a county, city or town, according to local ordinance, to examine and determine an applicant’s qualifications for certification.

“Master” means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of

installing, repairing, and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Uniform Statewide Building Code ; and to plan and lay out the details for installation of specific types of materials and equipment that comply with the Virginia Uniform Statewide Building Code. A tradesman shall be certified as a master in each of the trades for which local certification is required in order to practice such trades as a master .

[*“National testing organization”* means an independent testing organization whose main function is the development and administration of to develop and administer examinations on a national basis.]

“Plumber” means a tradesman who does plumbing work[as defined by Volume I of the Uniform Statewide Building Code] .

“Plumbing work” means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage facilities, the venting system and the public or private water-supply systems within or adjacent to any building or structure.

[*“Plumbing work”* means the practice, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage facilities, the venting system and the public or private water-supply systems within or adjacent to any building or structure.]

“Supervision” means monitoring of the work in progress to determine assure that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

“Supervisor” means the certified master tradesman who has the responsibility to determine that the final installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code.

[*“Technical assistant”* means any person employed by, or under contract to, a Virginia governing body as an inspector for determining compliance with the building, electrical, plumbing, mechanical or fire protection provisions, including plans examination, of the Virginia Uniform Statewide Building Code.]

[*“Testing organization”* means an independent testing organization whose main function is to develop and administer examinations.]

“Trade” means any of the following: plumbing, building-related mechanical or electrical work, and divisions within the trade them .

"Tradesman" ["Tradesmen""Tradesman"] means a person who engages in or offers to engage in, for the general public or for compensation, any of the trades covered by these standards.

§ 2. § 1.2. Authority and application .

A. These standards are established in accordance with The tradesmen standards are adopted under authority [given granted] by Chapter 1, § 15.1-11.4 of the Code of Virginia for use by counties, cities, and towns to be used for the certification of plumbing, building-related mechanical and electrical workers. These standards are not intended to affect licensing by local governments under other provisions of the Code of Virginia by local governments .

B. Localities shall forward a copy of their certification ordinance upon adoption or amendment to the Office of Professional Services.

B. The building official, technical assistants, and amusement device inspectors standards are adopted under authority granted by Chapter 6, §§ 36-137(6) and 36-98.3 of the Code of Virginia for the certification of building officials, technical assistants and amusement device inspectors.

C. The certification standards for blasters are adopted under Chapter 9 of Title 27 of the Code of Virginia.

G. [D: The Department of Housing and Community Development shall be the administrative agency providing advisory interpretations concerning the application of these standards.]

[E: D.] These standards were adopted by order of the Board of Housing and Community Development on [(DATE TO BE INSERTED) November 19, 1990] . 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.

[F: E.] The 1990 edition of these standards replaces previous editions. It shall become effective on [(DATE TO BE INSERTED) March 1, 1991] . Persons already enrolled in a certification program shall remain subject to the edition in effect at the time of enrollment. Subsequent enrollment shall be subject to the pertinent provisions of the standards in effect at the time of such action.

[F. The Department of Housing and Community Development shall be the administrative agency providing advisory interpretations concerning the application of these standards.

G. The Department of Housing and Community Development may utilize testing organizations that develop and administer examinations based on the current

provisions of the Virginia Uniform Statewide Building Code, Virginia Statewide Fire Prevention Code, Virginia Amusement Device Regulations, and the model codes and standards referenced by those regulations including standards for plumbing, building-related mechanical and electrical work. The department may designate divisional examinations within these trades.]

§ 1.3. Appeals:

Any person aggrieved by a decision based upon these certification standards may appeal that decision, in writing, within 90 days to the State Building Code Technical Review Board. The appeals process shall be made in accordance with the Virginia Uniform Statewide Building Code, Volume I.]

PART II. CERTIFICATION OF TRADESMAN STANDARDS.

§ 2. § 2.1. Exemption from certification.

A. Plumbers, [plumber-gasfitters,] building-related mechanical workers, [building-related mechanical gas-fitters] or electricians who were certified or licensed prior to July 1, 1978, in accordance with the certification or license provisions of the Commonwealth or any local government, shall be exempt from any further local certification requirement for the same trade.

B. Helpers or laborers who assist [certified] tradesmen [that are required to be certified by local government] shall be exempt [from local certification] .

C. Any person that performs plumbing, [plumbing gas-fitting, building-related mechanical gas-fitting,] building-related mechanical, or electrical work on their own property rather than for the general public or for compensation shall be exempt from local certification.

D. Any person who installs television or telephone cables, or lightning arrestor systems shall be exempt from certification as an electrician. Installers of wood stove equipment, masonry or prefabricated chimneys, or duct systems shall be exempt from certification as a building-related mechanical worker. [Installers of wood stove equipment, masonry or prefabricated chimneys, or duct systems shall be exempt from certification as a building-related mechanical worker.]

E. Upon the adoption of a local ordinance pursuant to these standards, local governing bodies may exempt tradesmen, working in the trade, at the level of their expertise.

[§ 2.2. Temporary certification.]

[E: A.] Upon initial adoption of the Tradesmen Certification Standards, a locality shall be entitled to issue temporary journeymen and master tradesmen certificates to applicants that furnish evidence documenting their

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competence to perform work at their desired level of certification.

[1. B.] Temporary journeymen and master tradesmen certificates shall be effective for a period of six months from the date of issuance. Localities may extend a temporary tradesmen certificate for no longer than one additional six-month period, if the locality determines that the certificate holder is making an effort towards certification [and or] special circumstances exist [, or both] .

[2. C.] Temporary journeymen and master tradesmen certificates shall be valid only in the jurisdiction of the issuing locality.

[3. D.] A temporary journeymen or master tradesmen certificate shall entitle the certificate holder to take the corresponding journeymen or master tradesmen certification examination.

[4. E.] Should the holder of a temporary journeymen or master tradesmen certificate fail to pass the appropriate certification examination by the expiration date of their temporary certificate, the individual shall be subject to the requirements of [§§ 2.2.1 and 2.2.2 § 2.3] of these standards.

§ 4. [§ 2.2. § 2.3.] Evidence of ability and proficiency.

[A. An applicant must successfully complete an examination based on the edition of the Virginia Uniform Statewide Building Code in effect at the time of application in order to be issued a certificate and deemed certified.

B. The Department of Housing and Community Development may utilize national testing organizations that develop and administer examinations based on the current provisions of the Virginia Uniform Statewide Building Code and related standards, for plumbing, building related mechanical and electrical work and divisions within these trades.]

§ 4.1. Journeyman [§ 2.2.1. Journeymen :]

[A.] Applicants desiring to obtain certification for examination as a journeyman shall furnish evidence that one of the following experience and education standards have been attained:

A. 1. Four years of practical experience in the trade, and 240 [480 240] hours of formal vocational training in the trade; however, experience [in excess of four years] may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed [440 200] hours; or

B. 2. Successful completion of a Registered Apprenticeship Program established in accordance

with the Virginia Voluntary Apprenticeship Act : Apprentices that have completed a program prior to July 1, 1981, are to make application for certification with a locality; apprentices completing programs after July 1, 1981 are to make application with the Department of Labor and Industry, Apprenticeship Division ; or

C. 3. A Bachelor's Degree in the study of [an] engineering [in a] curriculum related to the trade for which certification is desired, and one year of practical experience in the trade for which certification is desired [; or]

[4. Ten years of practical experience in the trade for which certification is desired.]

§ 4.2. [§ 2.2.2. Master.]

[A. B.] Applicants desiring to obtain certification as a Master shall furnish evidence that they have one year of experience as a certified journeyman.

[B. C.] Individuals who have successfully passed the Class A contractors exam prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with these standards.

§ 5. Alternate qualification method.

Individuals who have successfully passed the Class A contractor's exam administered by the Virginia Board for Contractors in a certified trade shall be qualified as masters in that trade in accordance with these standards.

§ 6. Examination and testing for determination of qualifications.

A. An applicant shall successfully complete an examination to be issued a card and deemed certified.

B. The Department of Housing and Community Development may utilize national testing organizations that develop and administer examinations based on the current provisions of the Virginia Uniform Statewide Building Code, and related standards, for plumbing, building-related mechanical and electrical, and divisions within these trades.

C. The local agent or board shall:

1. Forward qualifying applications to the national testing organizations, designated by the department, which will administer the appropriate examination.

2. Receive and examine the test results from the organization.

3. Issue certificates, provided by the department, to applicants successfully completing the examination.

D. In case of failure of an examination, the applicant shall be eligible for reexamination at the next designated examination date. One who fails such reexamination, or subsequent reexaminations, will not be eligible for one year from the date of the last examination.

§ 7. Certificates.

A. The governing body of any county, city or town that has adopted a local ordinance to certify tradesmen shall issue to persons complying with these standards the certificate provided by the department. Such certificate shall be filled in by the agent or board. In lieu of the social security number, a number unique to the applicant and acceptable to the agent or board may be used.

§ 7.1. Temporary certificates.

A. The agent or board may issue a temporary certificate, furnished by the department, to an applicant who holds a license or certificate issued by another state in the trade for which certification is desired, or to an applicant who furnishes evidence to the agent or board that documents the applicant's competence to perform work at the level of certification.

§ 7.2. Exemption card.

Section 36-99.1 of the Code of Virginia establishes that tradesmen who were certified or licensed prior to July 1, 1978, according to the certification or licensing provisions of the Commonwealth or any local government shall be exempt from any further local certification requirement for the same trade. The department will provide certificates to localities for individuals who are exempt in accordance with § 36-99.1 of the Code of Virginia or by action of local ordinance in accordance with § 3(E) of these standards.

[§ 2.2. § 2.4.] Application and issuance of certificates.

[A. An applicant must successfully complete an examination to be issued a card and deemed certified.

B. The local agent or board shall receive and review applications and forward applications to the national testing organizations designated by the department.]

[A. C.] The applicant shall present to the local agent [or board] evidence of successful completion of an examination based on the current edition of the Virginia Statewide Building Code.

[B. The local agent shall receive and review the applications and issue certificates, provided by the department, to applicants who have successfully completed the appropriate examination.]

[D. The local agent or board shall issue certificates provided by the department to applicants successfully completing the examination.]

[C. E.] Apprentices that completed a program prior to July 1, 1981, shall make application for certification with a locality; apprentices completing programs after July 1, 1981, shall make application with the Department of Labor and Industry, Apprenticeship Division.

§ 8. [§ 2.4. § 2.5.] Revocation of certification.

[A.] Certification may be revoked for misrepresentation or fraud upon a fraudulent application, or for incompetence as demonstrated by an egregious or repeated violations of the Virginia Uniform Statewide Building Code.

[B.] The Department of Housing and Community Development shall be notified by the local board or agent when a certification has been revoked in accordance with provisions of these standards.

§ 9. Appeals.

Each local governing body shall establish a Board of Appeals. The local Board of Appeals shall consist of not less than five members appointed by the local government. Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the Board of Appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the Board of Appeals, who shall keep a detailed record of all proceedings. The Board of Appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 90 days of receipt of the decision of the agent or certification board. The appeals board must meet within 20 working days of the filing of an appeal. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14 of the Code of Virginia. The agent or certification board shall take immediate action in accordance with the decision of the Board of Appeals. Appeals from the local Board of Appeals shall be made to the department within 15 days of receipt of the decision of the local appeals board. Appeals from a decision of the department shall be to the court of the original jurisdiction in accordance with the Administrative Process Act.

[§ 2.6. Reciprocity.

Individuals certified as a journeyman or master by governing bodies located outside the Commonwealth of Virginia shall be considered to be in compliance with these standards, if the Department of Housing and Community Development has determined the certifying system to be equivalent to the Virginia system.

§ 2.7. Appeals

A. Each local governing body shall establish a board of appeals. The local board of appeals shall consist of not less than five members appointed by the local government.

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Members shall be selected on the basis of their ability to render fair and competent decisions. Employees or officials of the local government appointing the board of appeals shall not serve as members. The agent shall designate an employee to serve as secretary to the board of appeals, who shall keep a detailed record of all proceedings. The board of appeals shall hear appeals concerning the application of these standards or from a decision of the local agent or certification board. Application for appeals shall be in writing and made within 20 working days of the filing of an appeal. All hearings shall be public and conducted in accordance with the applicable provisions of the Administrative Process Act, § 9-6.14:1 of the Code of Virginia.

B. Any person aggrieved by a decision of a local board of appeals may appeal to the State Building Code Technical Review Board in accordance with § 117.0 of the Uniform Statewide Building Code, Volume I.]

PART III. CERTIFICATION PROGRAM FOR BUILDING OFFICIALS AND INSPECTORS.

§ 3.1. Exemption from certification.

A. An individual employed as the building official in any locality in Virginia prior to April 1, 1983, shall be exempt from certification while employed as the building official in that jurisdiction. This exemption shall not apply to subsequent employment in another jurisdiction, or a change in area of inspection discipline.

B. An individual employed as the building, electrical, plumbing, mechanical, fire protection systems inspector or plans examiner in Virginia prior to March 1, 1988, shall be exempt from certification while employed as the technical assistant in that jurisdiction. This exemption shall not apply to subsequent employment as a technical assistant in another jurisdiction.

§ 3.2. Certification.

To be eligible for certification an applicant shall meet the following criteria:

1. The applicant shall be qualified according to Volume I of the Uniform Statewide Building Code (USBC).
2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A.
3. The applicant shall complete designated programs of the Virginia Code Academy.
4. The applicant shall submit an Application for Certification along with a copy of examination results from the testing agency to the Professional Services Office.

§ 3.3. Maintenance of certification.

A. A certificate issued under the Virginia Certification Standards shall expire three years from January 1 of the year in which the certificate is issued.

B. To maintain certification a certificate holder shall attend programs of instruction approved by the Department of Housing and Community Development after each code change cycle of the Uniform Statewide Building Code (USBC) and Virginia Statewide Fire Prevention Code (VFPC).

C. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes prior to the renewal date of their certification.

§ 3.4. Revocation of certification.

The board may revoke the certification for any of the following:

1. Any willful misrepresentation in obtaining or renewing the certification.
2. Gross negligence or continued incompetence in the practice of the profession.

[§ 3.5. Appeals.

Any person aggrieved by a decision based upon these certification standards may appeal that decision, in writing, in accordance with the appeals process outlined in §§ 116.0 and 117.0 of the Virginia Uniform Statewide Building Code, Volume I.]

PART IV. BLASTER CERTIFICATION.

§ 4.1. Exemption from certification.

Individuals conducting agricultural blasting operations on their own property are not required to be certified as a blaster.

§ 4.2. Certification.

An applicant shall successfully complete an examination developed and administered by a recognized and approved testing agency listed in Appendix A.

§ 4.3. Qualifications of candidates.

An applicant for a blaster's certification shall meet the following criteria:

1. Be at least 21 years of age;
2. Be able to understand and give written and oral instructions in the English language;

3. Have worked at least one year under the direct supervision of a blaster certified by the Commonwealth of Virginia or another authority recognized by the Department of Housing and Community Development;

4. Have a working knowledge of federal, state, and local laws and regulations pertaining to explosive materials.

§ 4.4. Temporary certification.

A temporary certificate may be issued to any person who meets the applicant criteria listed in § 4.3 and who was employed as a blaster prior to filing the application for the temporary certificate. Any temporary certificate issued before January 1, 1992, shall expire on January 1, 1993. Any temporary certificate issued after January 1, 1992, shall expire 12 months from the date of issuance.

§ 4.5. Renewal.

A blasters certificate shall be renewed every three years. Requests for renewal shall be submitted on forms provided by the department.

§ 4.6. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this regulation if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based.

[PART V. CERTIFICATION OF AMUSEMENT DEVICE INSPECTOR STANDARDS.

§ 5.1. Certification.

A. To be eligible for certification, an applicant shall meet the following criteria:

1. The applicant shall have at least three years of experience in general building construction or any combination of education and experience which would confer equivalent knowledge and ability;

2. The applicant shall successfully complete an examination developed and administered by an approved testing agency listed in Appendix A; and

3. The applicant shall submit an Application for Certification and a copy of examination results from the testing agency to the Professional Services Offices.

B. Notwithstanding any regulations to the contrary, no exemption shall be permitted from the requirements for certification for any person, including local building officials and their representatives, to inspect amusement

devices.

§ 5.2. Maintenance of certification.

A. A certificate issued under the Virginia Amusement Device Certification Standards shall expire three years from January 1 of the year in which the certificate is issued.

B. To maintain certification, a certificate holder shall attend programs of instruction approved by the Department of Housing and Community Development after each code change cycle of the Virginia Amusement Device Regulations.

C. Certificate holders are responsible for notifying the Department of Housing and Community Development of address changes prior to the renewal date of their certification.

§ 5.3. Revocation or suspension of certification.

The Department of Housing and Community Development may revoke or suspend certification issued under the provisions of this code if conditions of the certification have been violated, or if there has been any false statement or misrepresentation in the application on which the certification was based.]

APPENDIX A. TESTING AGENCIES.

The following testing agencies have been approved by the Department of Housing and Community Development for administering the exams. Other exams may be approved on an individual basis. Requests for exam approval shall be submitted to the department.

Professional Code Administrator

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
2817 Parham Road
Richmond, VA 23294
(804) 747-3297

Council of American Building Officials (CABO)
5203 Leesburg Pike
Suite 708
Falls Church, VA 22041
(703) 931-4533

Inspection Certification Program

Information and registration forms may be obtained from:

Certification Training and Education Services
BOCA International
4051 West Flossmoor Road

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Country Club Hills, IL 60477
(708) 799-2300

Educational Testing Service
(National Certification Program for Construction Code Inspectors)
CN 6508
Princeton, New Jersey 08541-6508
(609) 921-9000

National Association of Elevator Safety Authorities
P.O. Box 15643
Phoenix, Arizona 85060
(602) 266-9701

Amusement Device Inspector Program

Information and registration forms may be obtained from:

NAI, Inc.
National Assessment Institute
2817 Parham Road
Richmond, VA 23294
(804) 747-3297

Blaster Certification Program

[~~(Test currently under development by NAI)~~ Information and registration forms may be obtained from:

NAI, Inc.
National Amusement Institute
2817 Parham Road
Richmond, VA 23294
(804) 747-3297]

* * * * *

Title of Regulation: VR 394-01-04. Virginia Amusement Device Regulations/ 1987 1990 .

Statutory Authority: §§ 36-98, 36-98.3 and 36-137 of the Code of Virginia.

Effective Date: March 1, 1991.

Summary:

The 1990 edition of the Virginia Amusement Device Regulations provide for the administration and enforcement of uniform, statewide standards for the construction, maintenance, operation and inspection of amusement devices, whether mobile or affixed to a site. These regulations supplement the provisions of the Uniform Statewide Building Code for the purpose of protecting the health, safety, and welfare of amusement device users. The technical requirements of the Amusement Device Regulations are based on standards developed by the American Society for Testing and Materials (ASTM). Provisions are included

in the regulations for the inspection of amusement devices, reports and investigation of accidents, certification and conduct of operators, and an administrative appeals system for the resolution of disagreements between building officials and amusement device owners and operators.

The major change in this edition was to adopt the 1989 ASTM Standards on Amusement Rides and Devices. Language was added to § 400.1 to require operators of amusement devices manufactured prior to 1978 to provide specific information to persons inspecting the rides. Changes were made to §§ 700.3 and 1600.1 to delete the "per person" insurance requirement.

The final draft of the Amusement Device Regulations amended § 1100.2 to change the accident notification provisions from 24 hours to the next working day, and clarified the text of § 1500.3 requiring annual inspections of portable kiddie rides.

VR 394-01-04. Virginia Amusement Device Regulations/1990.

1987 1990 EDITION.

VIRGINIA AMUSEMENT DEVICE REGULATIONS.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as the Virginia Amusement Device Regulations ("VADR"). Except as otherwise indicated, VADR and regulations, as used herein, shall mean the Virginia Amusement Device Regulations.

100.2. Authority: The VADR is adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia. The VADR is intended to supplement the provisions of the Virginia Uniform Statewide Building Code (USBC).

100.3. Adoption: The 1990 edition of the VADR was adopted by order of the Board of Housing and Community Development on December 14, 1987 [~~(DATE TO BE INSERTED)~~ November 19, 1990]. This order was prepared according to 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 1987 1990 edition of the VADR shall become effective on March 1, 1991 [~~(DATE TO BE INSERTED)~~ March 1, 1991]. The construction of any amusement device that was subject to a previous edition of the USBC when constructed, shall remain subject to the edition of the USBC in effect at the time of construction. Subsequent reconstruction, reassembly, maintenance,

operation and inspection of such devices shall be subject to the pertinent provisions of the VADR in effect at the time of such action.

100.5. Application: The VADR shall govern the construction, maintenance, operation and inspection of amusement devices, whether mobile or permanently fixed to a site including kiddie rides defined by § 200.0 of these regulations. These regulations do not apply to any single passenger coin-operated ride, manually, mechanically, or electrically operated, which customarily is placed, singularly or in groups, in a public location and which does not normally require the supervision or service of an amusement ride operator and is not considered a kiddie ride for the purpose of these regulations, or to nonmechanized playground equipment, including swings, stationary spring-mounted animal features, rider propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located. To the extent they are not superseded by the provisions of these regulations, all other state and local laws and regulations shall apply to amusement devices. The VADR does not supersede zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the construction, maintenance, operation and inspection of amusement devices.

SECTION 200.0. DEFINITIONS.

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

"Amusement attraction" means any building or structure around, over or through which people may move or walk, without the aid of any moving device integral to the building structure, that provides amusement, pleasure, thrills, or excitement.

"Amusement device" means a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion.

"Amusement park" means a tract or area used principally as a location for amusement devices permanently fixed to the site.

"ASTM" means American Society for Testing and Materials.

"Board" means the Board of Housing and Community Development.

"Carnival" means an itinerant enterprise consisting principally of portable amusement devices temporarily situated at a site.

"Certificate of inspection" means a certificate issued by the building official, pursuant to § 1500.0 of these

regulations.

"Committee" means the Amusement Device Technical Advisory Committee.

"Construction" means the initial construction or manufacture of amusement devices. "Construction" does not include reassembly of existing devices.

"Director" means the Director of the Department of Housing and Community Development or his designee.

"Fair" means an enterprise principally devoted to the periodic and recurring exhibition of products of agriculture, industry, education, science, religion, or the arts that has one or more amusement devices, either portable or permanently fixed to the site, operated in conjunction with the exhibition.

"First aid" means the one time treatment or subsequent observation of scratches, cuts not requiring stitches, burns, splinters, or a diagnostic procedure, including examination and X-rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed professional personnel.

"Inspector" means a person authorized by the building official to perform the inspections required herein.

"Kiddie ride" means an amusement ride designed primarily for use by children up to 12 years of age, that requires simple reassembly procedures prior to operation, and that does not require complex inspections prior to operation.

"Major modification" means any change in either the structural or operational characteristics of the ride or device which will alter its performance or structural integrity from that specified in the manufacturer's design criteria.

"Minor injury" means sprains, abrasions, bruises, and lacerations less than three inches.

"Operator" means any person or persons actually engaged in or directly controlling the operation of an amusement device.

"Owner" means a person who owns an amusement device, including the state or its political subdivision, or in the event the amusement device is leased, the lessee, or the agent of either.

"Permit" means written authorization given by the local building official to construct, reassemble or locate an amusement device so as to make ready for operation. Issuance of a permit does not give authority to operate without a certificate of inspection.

"Reassembly" means the act of placing the component parts of an existing device into a configuration which

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allows its use and operation.

"Review board" means the State Building Code Technical Review Board as established by § 36-108 of the Code of Virginia.

"Serious injury" means an injury that requires medical treatment by a physician other than minor injuries or first aid.

SECTION 300.0. TECHNICAL ADVISORY COMMITTEE.

300.1. Membership: In appointing an Amusement Device Technical Advisory Committee, the board shall include representatives from the following groups:

1. Ride manufacturers,
2. Owners or operators of carnivals, amusement parks and fairs,
3. Mechanical or structural engineers,
4. Insurance underwriters, and
5. Members of the general public.

300.2. Term of membership: The members of the Technical Advisory Committee established by § 36-98.3(C) of the Code of Virginia, shall each serve for initial staggered terms of two and three years. Thereafter, appointments shall be for three years, with a provision for reappointment at the pleasure of the board.

SECTION 400.0. REFERENCE STANDARDS.

400.1. Adoption of standards: The construction, maintenance, operation and inspection of amusement devices shall be done in accordance with the standards adopted by ASTM and which are set forth in ~~Addendum~~ Appendix A.

If a ride was manufactured prior to the development of the ASTM standards (1978), the information listed in the referenced edition of ASTM 698, §§ 3.1 through 3.6, shall be available at the time of inspection.

Where differences occur between provisions of the VADR and the referenced standards, the provisions of the VADR shall apply.

SECTION 500.0. ENFORCEMENT.

500.1. Responsibility of local governments: Enforcement of these regulations shall be the responsibility of the local building department in accordance with § 36-105 of the Code of Virginia. Inspections under these regulations shall be performed by:

1. The local building official or his representative when such official or representative has been certified

by the board to inspect amusement devices pursuant to ~~§ 36-137(G)~~ § 36-137(6) of the Code of Virginia; or, at the option of the owner or lessee or agent of either.

2. Persons from other departments of state government, local government, or private industry, when such personnel have been certified by the board to inspect amusement devices pursuant to ~~§ 36-137(G)~~ § 36-137(6) of the Code of Virginia; or

3. Employees of insurance companies providing coverage for claims arising out of the use of the amusement device being inspected, when such personnel have been certified by the board to inspect amusement devices pursuant to ~~§ 36-137(G)~~ § 36-137(6) of the Code of Virginia.

500.2. Qualifications of inspectors:

1. Any person seeking to become qualified to perform amusement device inspections pursuant to § 500.1 of these regulations shall successfully complete certification requirements in accordance with [~~the Board of Housing and Community Development's certification program for building officials and inspectors Part V of the Virginia Certification Standards for Building and Amusement Device Inspectors, Blasters and Tradesmen (VR 394-01-02)~~].

2. Notwithstanding any regulation to the contrary, no exemption shall be permitted from the requirements for certification for any person including local building officials and their representatives to inspect amusement devices.

500.3. Credentials: The building official, state personnel, or any certified inspector shall carry proper credentials of authorization provided by the Department of Housing and Community Development when enforcing any provision of these regulations.

SECTION 600.0. DUTIES AND POWERS OF THE BUILDING OFFICIAL.

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

600.2. Applications and permits: The building official shall receive applications and issue permits for the construction, reassembly, operation and inspection of amusement devices.

600.3. Notices and orders: The building official shall issue necessary notices or orders to remove unsafe conditions, to require the necessary safeguards during construction or reassembly and to ensure compliance with all the VADR requirements for the health, safety and general welfare of the public.

600.4. Inspections: The building official shall make or cause the required inspections to be conducted in accordance with § 1000.0 of these regulations, or shall accept reports of inspection by individuals certified to perform amusement device inspections when the owner or lessee of the amusement device has exercised the option of using private inspectors. Reports of such inspections shall be in writing and signed by the certified individual.

600.5. Delegation of duties and powers: The building 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 VADR.

600.6. Fees: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals in accordance with § 36-105 of the Code of Virginia.

600.6.1. Fee schedule: A schedule of fees shall be established by the local government and shall be made available to the public upon request. The fee schedule adopted by the local government shall not exceed the fee schedule set by the Board of Housing and Community Development. The board shall review the fee schedule at least tri-annually and shall adjust the fee schedule as proven necessary. The fees shall be based on the actual cost of administrative activities and inspections performed by local government personnel. The local government shall not establish a fee schedule resulting in fees that exceed the actual costs of the activities performed by local government personnel. The fee schedule shall have provisions for fee reduction if private inspectors are utilized by the owner or lessee. When an inspector not an employee of the local governing body is retained by an owner, the owner shall pay the inspector's fees directly. When an inspector not an employee of the local governing body is retained by the local building department, that department shall pay the inspector's fees.

SECTION 700.0. APPLICATION FOR PERMIT.

700.1. When permit is required: Written application shall be made to the building official when a permit is required. A permit shall be issued by the building official before any of the following actions subject to the VADR may be commenced:

1. Constructing and operating an amusement device permanently fixed to a site.
2. Reassembling and operating any portable amusement device.

700.2. Who may apply for a permit: Application for a permit shall be made by the owner or lessee of the amusement device or agent of either.

700.3. Information for application: The application for a permit shall be submitted on forms supplied by the

building official. The forms shall require the following information:

1. Name of the owner, lessee, or agent of either.
2. Identification of the person(s) authorized to accept service of process on behalf of the owner or lessee.
3. A general description of the amusement devices, their location, and the work or operation proposed.
4. Proof of financial responsibility in a minimum amount of ~~\$100,000 per person~~ and \$300,000 per occurrence. Such proof may be demonstrated by a bond or cash reserve, or certificate or policy of insurance providing coverage for liability arising out of the use or operation of the amusement device.

SECTION 800.0. MODIFICATION.

800.1. Modifications: If an owner or operator finds that compliance with the amusement device regulations or decision of the local building official presents a practical difficulty or undue hardship, the owner or operator may apply to the local building official for a modification of the regulation or decision. Such modification may be granted provided the spirit and intent of these regulations are observed, and public health, welfare and safety are assured.

800.2. Alternative design, materials, and equipment: Where there is an alternative design, material or equipment, the owner may apply to the local building official for a modification of the VADR relating to such design, material or equipment. Upon application of the owner, the building official may modify the provisions of the VADR relating to amusement device design or building materials, equipment, devices or assemblies provided the proposed alternatives are satisfactory and comply with the intent of the VADR and the standards incorporated therein, and are, for the purposes intended, at least the equivalent of that prescribed in the VADR for quality, strength, effectiveness, durability and safety.

800.3. Records: The application for modification and the final decision of the building official shall be in writing and shall be officially recorded with the copy of the certificate of inspection in the permanent records of the local building department.

SECTION 900.0. AMUSEMENT DEVICE PERMITS.

900.1. Action on application: The building official shall examine all applications for permits within five days after filing. If the application does not conform to the requirements of the VADR, the building official shall reject such application in writing, stating the reasons for rejection. If the building official is satisfied that the proposed work or operation conforms to the requirements of the VADR and all applicable laws and ordinances, a permit shall be issued as soon as practicable. For purposes

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of coordination, the local governing body may require reports to the building official by other departments as a condition for issuance of a permit and certificate of inspection. Such reports shall be based upon review of the application or inspection of the project as determined by the local governing body.

Note: Before issuing a permit, the building official should consider the effects of any applicable regulations of other governmental agencies so that proper coordination may be achieved before the work is commenced.

900.2. Signature on permit: The signature of the building official or his authorized representative shall be attached to every permit.

900.3. Annual permit: Instead of an individual permit for each reassembly of an already approved amusement device, the building official may issue an annual permit.

900.4. Revocation of permits: The building official may revoke a permit or approval issued under the provisions of the VADR in case of any false statement or misrepresentation of fact in the application on which the permit or approval was based.

SECTION 1000.0. INSPECTIONS.

1000.1. Preliminary inspection: Before issuing a permit, the building official may examine all sites for which an application has been filed for a permit to construct, reassemble or operate an amusement device.

1000.2. Required inspections: After issuing a permit, the building official shall conduct inspections from time to time during construction or reassembly or shall accept inspection reports from *independent* private inspectors employed by the owner or lessee, and may conduct inspections of the operation of amusement devices or may require the owner or lessee to provide reports from private inspectors for inspections conducted during operation of the amusement device(s). A record of such inspections shall be maintained by the building official.

1000.2.1. Right of entry: The building official may inspect amusement devices for the purpose of enforcing the VADR in accordance with the authority granted by §§ 36-105 and 36-98.3(D) of the Code of Virginia.

1000.3. Minimum inspections: As part of their inspections, inspectors shall perform, but are not limited to the following actions:

1. Inspect all amusement devices permanently fixed to a site,
 - a. Prior to each seasonal operation; and
 - b. Prior to operation following any major modification; and

c. At least once during the operating season.

2. Inspect all portable amusement devices after each reassembly and prior to operation except that the inspector may accept a valid certificate of inspection which was issued with respect to a "kiddie ride" by another inspector certified in Virginia. If an inspector chooses to inspect a kiddie ride which has a valid certificate of inspection, no fee shall be charged. If upon inspection, the inspector finds that a device is not in compliance with applicable standards, the certificate of inspection may be declared invalid.

3. Verify that nondestructive testing has been conducted by a recognized testing agency as prescribed by the device manufacturer and in accordance with ASTM.

4. At the discretion of the inspector, verify that the operation and maintenance of amusement devices is in accordance with the requirements of these regulations and the standards referenced therein.

5. Inspect any amusement device upon the request of the director or local building official following a report or other notification that the device or one of substantially similar design and construction has been involved in an accident resulting in a fatality or serious injury.

6. Investigate any report or other notification of a problem or a defect with respect to an amusement device and inspect the device at the request of the director or the building official to determine whether it poses a hazard or threat of injury to the public.

7. Upon completion of the amusement device, and before issuance of the certificate of inspection, a final inspection shall be made to ensure that the device conforms with the VADR.

1000.4. Notice of readiness for inspection: Every owner or operator of an amusement device shall notify the local building official when an amusement device or one that has undergone major modifications is scheduled to be ready and available for inspection.

In addition, every owner or operator of an amusement park shall notify the local building official when each amusement device located within the park is scheduled to be ready for inspection prior to its seasonal operation.

Every owner or operator of a carnival or fair shall notify the local building official of the date each amusement device is scheduled to be reassembled and ready for inspection on a site.

Note: Although no requirements are imposed on owners or operators with respect to time for giving notice of readiness for inspection, owners and operators are cautioned to refer to §§ 900.1 and 1000.5

of these regulations which require the building official to perform certain duties within five days of application or notice. Owners or operators failing to give at least five days notice of readiness for inspection will only be inspected by the building official or his authorized representative at their pleasure or convenience.

1000.5. Inspections to be prompt: The inspector shall respond to inspection requests without unreasonable delay. When given at least five days notice of readiness for inspection, the inspector shall inspect on the date designated by the owner or operator. The inspector shall approve the device or give written notice of defects to the owner or operator. Such defects shall be corrected and the amusement device reinspected before operation or proceeding with any work that would conceal the defects.

SECTION 1100.0. ACCIDENTS.

1100.1. Owner/operator to suspend operation: An owner or operator shall immediately suspend operation of any amusement device which is involved in an accident resulting in fatality or serious injury.

1100.2. Reports: Every owner or operator of an amusement device shall report to the director and the local building official [; within 24 hours of learning of any accident involving the amusement device which results in a fatality or serious injury the details of any accident involving an amusement device which results in a fatality or serious injury. The report shall be submitted in writing to the local building official within 24 hours, and to the director the next working day]. Such report shall include but is not limited to the following information:

1. A description of the amusement device including the name of the manufacturer [, the serial number] and the date the device was originally constructed, if available.
2. A description of the accident including the number of people involved, number and type of injuries, number of fatalities.
3. Cause of accident if determined.

1100.3. Owner's authority to resume operation: The owner, lessee or agent of either may resume operation of an amusement device following suspension of operation under this section if, after conducting an investigation, the owner, lessee, or agent determines that the incident was in no way the result of a failure or malfunction of the device or any of its operating or safety equipment. Any investigation conducted under this section shall include (i) examination of the accident scene, (ii) interviews with witnesses, if any, (iii) review of statements made by the injured person, if any, and (iv) trial operation and inspection of the amusement device. A written record of such investigation shall be made and submitted to the local building official or his designee.

The decision of the owner or operator not to resume operation of the amusement device shall not be construed as an admission that the incident was caused by the failure or malfunction of the device. Nothing in this section shall be construed to waive the requirements of notification of the occurrence set forth in § 1100.2.

SECTION 1200.0. QUALIFICATION OF OPERATORS.

1200.1. Minimum age: No amusement device shall be operated by a person under 16 years of age, except that this provision shall not apply to a child under 16 years of age employed by his parents in an occupation not declared hazardous by the Commissioner of Labor and Industry.

1200.2. Requirements:

1. An operator may not operate more than one amusement device at a time unless the devices are within the sight of the operator and are operated by a common control panel or station, except that in the case of kiddie rides, two rides may be operated in unison under the continuous and common control of one operator provided that the farthest point of operation of either device is no more than 35 feet and the control is equipped with a positive pressure switch.

2. An amusement device shall be attended by an operator at all times during operation.

1200.3. Conduct; authority:

1. No amusement device shall be operated by an operator while under the influence of alcohol.
2. No amusement device shall be operated by an operator while under the influence of drugs which may affect the operator's judgment or ability to assure patrons' safety.
3. The operator has the authority to prohibit use of amusement devices by individuals who may present a safety threat to others or to themselves.

1200.4. Training: The ride operator shall be trained in the proper use and operation of the ride as required by ASTM F770 and ASTM F853 listed in Addendum 1 Appendix A .

SECTION 1300.0. SUSPENSION OF OPERATION.

1300.1. When director or local building official may order: The director or local building official shall order, in writing, a temporary suspension of operation of an amusement device if the director or local building official has reason to believe that the device is hazardous or unsafe, or if the director or local building official receives a report or is otherwise notified that the amusement device has been involved in an accident resulting in fatality or serious injury.

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The director or local building official may order, in writing, a temporary suspension of operation of an amusement device if (i) the director or local building official receives a report or is otherwise notified that an amusement device or one of substantially similar design has been involved in an accident resulting in a fatality or serious injury; and (ii) an inspection conducted in accordance with § 1000.0 of these regulations reveals that the ride is hazardous or poses a threat to the safety of the public.

1300.2. When operation to resume: When the operation of an amusement device has been suspended under this section, such operation shall not resume until any hazardous or unsafe condition has been corrected and a certificate of inspection has been issued with respect to such device.

SECTION 1400.0. VIOLATIONS.

1400.1. Code violations prohibited: No person, firm or corporation shall construct, reassemble, maintain, operate or inspect any amusement device regulated by the VADR, or cause same to be done in conflict with or in violation of any of the provisions of the VADR.

1400.2. Notice of violation: The building official shall serve a notice of violation on the person responsible for the construction, reassembly, maintenance, operation or inspection of any amusement device in violation of the provisions of the VADR, or in violation of plans and specifications approved thereunder, or in violation of a permit or certificate issued under the provisions of the VADR. Such order shall direct the discontinuance and abatement of the violation.

1400.3. Prosecution of violation: If the notice of violation is not complied with promptly, the building 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 any amusement device in violation of the provisions of the VADR.

1400.4. Violation penalties: Violations are a misdemeanor in accordance with § 36-106 of the Code of Virginia. Violators, upon conviction, may be punished by a fine of not more than \$1,000.

1400.5. Abatement of violation: Conviction of a violation of the VADR shall not preclude the institution of appropriate legal action to prevent other violations or recurring violations of the VADR relating to construction, reassembly, maintenance, operation or inspection of any amusement device.

SECTION 1500.0. CERTIFICATES OF INSPECTION.

1500.1. When certificate required: No amusement device shall be operated unless a certificate of inspection has been issued with respect to that device. A copy of the

certificate shall be affixed to the entrance of the device in plain view of riders or patrons.

1500.2. Requirements: A certificate of inspection shall be issued to an owner or operator after an inspection conducted pursuant to § 1000.0 of these regulations indicates that the device is in satisfactory working order and poses no hazard or threat to the safety of the public.

1500.3. Term: A certificate of inspection will be valid:

1. Until the device is disassembled except that a certificate of inspection issued with respect to a [*portable*] kiddie ride shall be valid [~~until July 31 of the calendar year in which it was issued for one year after the issue date~~], regardless of whether the device is disassembled; or

2. Until any major modification or alteration is made to the device; or

3. Until the inspection required by § 1000.0 is conducted on fixed site devices; or

4. Until termination of the proof of financial responsibility required by § 1600.0.

1500.4. Contents of the certificate of inspection: When an amusement device is entitled thereto, the building official shall issue a certificate of inspection. When the certificate is issued, the device shall be deemed in compliance with the VADR. The certificate shall specify the use of the amusement device, the type of construction, the occupancy load of the device, the date on which the certificate was issued, the term of the certificate, and any special stipulations and conditions. The certificate shall also include the name of the building official or his representative and a telephone number where they may be reached in case of an emergency or accident.

SECTION 1600.0. FINANCIAL RESPONSIBILITY.

1600.1. Proof of financial responsibility: The owner shall provide proof of financial responsibility in a minimum amount of ~~\$100,000 per person~~ and \$300,000 per occurrence. Such proof shall be demonstrated by a bond or cash reserve, or certificate of insurance providing coverage for liability arising out of the use or operation of the amusement device.

1600.2. Termination of financial responsibility: Each owner or operator of an amusement device shall report immediately to the director and to the local building official that the proof of financial responsibility required by this section will be terminated and shall include in the report the date of such termination.

SECTION 1700.0. APPEALS.

1700.1. Assistance from director: An owner of an amusement device aggrieved by a decision of the building

official may request the director to assist the building official and the owner in resolving any questions arising from the interpretation and application of these regulations. The director may request advice or assistance from members of the Technical Advisory Committee in resolving any questions.

1700.2. Appeal to review board: When the questions cannot be resolved with the assistance of the director, the owner may appeal to the State Building Code Technical Review Board. Application for review shall be made to the review board within 15 days of the decision of the building official. The review board may request advice or assistance from members of the Technical Advisory Committee when rendering a decision.

1700.3. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the building official shall take immediate action in accordance with the decision.

1700.4. 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 may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act.

SECTION 1800.0. CONTINUATION OF COMPLIANCE.

1800.1. Continued compliance required: Amusement devices constructed or manufactured before the effective date of the VADR shall be maintained, reassembled, operated and inspected in accordance with the provisions of the VADR. The construction and manufacture of such devices shall remain subject to the previous edition of the USBC in effect at the time the device was constructed or manufactured.

APPENDIX A Referenced Standards

The following is a listing of the standards referenced in this code, the date of the applicable edition of the standard, and the promulgating agency of the standard.

ASTM - American Society of Testing and Materials
1916 Race Street
Philadelphia, Pennsylvania 19103

F 698-88 Specification for Physical Information to be Provided for Amusement Rides and Devices

F 747-86 Definitions of Terms Relating to Amusement Rides and Devices

F 770-88 Practice for Operation Procedures for Amusement Rides and Devices

F 846-86 Guide for Testing Performance of Amusement Rides and Devices

F 853-86 Practice for Maintenance Procedures for Amusement Rides and Devices

F 893-87 Guide for Inspection of Amusement Rides and Devices

F 1159-88 Practice for the Design and Manufacture of Amusement Rides and Devices

F 1193-88 Practice for an Amusement Ride and Device Manufacturer Quality Assurance Program

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REGISTRAR'S NOTICE: The Virginia Public Building Safety Regulations are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Department of Housing and Community Development will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Due to the length, the Virginia Public Building Safety Regulations filed by the Board of Housing and Community Development are not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, a summary is being published in lieu of the full text. The full text of the regulations 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 394-01-05. Virginia Public Building Safety Regulations.

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

Effective Date: March 1, 1991.

Summary:

The Virginia Public Building Safety Regulations existed as an addendum to the Statewide Fire Prevention Code (SFPC) when the SFPC was proposed in 6:19 VA.R. 3040-3041 June 18, 1990. Due to the length, the Public Building Safety Regulations have been moved from the SFPC, made into a separate document (VR 394-01-05), and incorporated by reference into the SFPC. No changes have been made to the Public Building Safety Regulations.

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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

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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 1990 .

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

Effective Date: March 1, 1991.

Summary:

The 1990 edition of the Virginia Statewide Fire Prevention Code is a mandatory, statewide set of regulations that must be complied with for the protection of life and property from the hazards of fire or explosion. Technical requirements of the Statewide Fire Prevention Code are based on the BOCA National Fire Prevention Code, a companion document to the BOCA National Building Code which is incorporated by the Uniform Statewide Building Code. The Fire Prevention Code supersedes all fire prevention regulations heretofore adopted by local government or other political subdivisions. Local governments are empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure. Local enforcement of this code is optional. The State Fire Marshal shall have authority to enforce the Fire Prevention Code in those jurisdictions in which the local governments do not enforce the code. An administrative appeals system is established for resolution of disagreements between the enforcing agency and aggrieved party.

The major change in this edition was to adopt the 1990 BOCA National Fire Prevention Code to update the reference standard. Due to its length, Addendum 2 of the regulation has been submitted as the Virginia Public Building Safety Regulations (VR 394-01-05) and has been incorporated into the Fire Prevention Code by reference (§ F-100.8) rather than contained in Addendum 2. No changes have been made to this existing document and it will be available as a separate publication.

* * * * *

NOTICE: Due to its length the 1990 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/1990.

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

Effective Date: March 1, 1991.

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/1990 and the CABO One- and Two-Family Dwelling Code/1989 with 1990 Amendments, and an administrative appeals system is provided for resolution of disagreements between building officials and building owners or their agents.

The proposed 1990 edition of this regulation added language to § 105.1 to provide an exemption to permit requirements for low voltage wiring. A new § 105.10.1 was added to allow statements by RFS inspectors to satisfy permit requirements in asbestos projects involving roofing, siding or flooring materials in accordance with changes in state law. Changes concerning fire protection and floodproofing made to the 1987 editions of BOCA in Addendum 1 have been deleted due to consistent changes contained in the 1990 BOCA codes.

The final draft of this regulation amended § 1308.0 of the BOCA Building Code and §§ 106.1 and 110.3 of Volume I to require special inspections for buildings only when professional architectural design is required for the building construction by state law. Group homes licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services which house no more than eight residents are permitted to be classified as Use Group R-3 instead of I-1, and the handicap accessibility requirements for multifamily housing (Use Group R-2) will remain as in the 1987 USBC due to the fact that the federal government has not completed development of their guidelines for compliance with the Fair Housing Act.

* * * * *

Title of Regulation: VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.

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

Effective Date: March 1, 1991.

Summary:

The Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use. Enforcement procedures are provided that must be used when the Building Maintenance Code is enforced by local agencies.

The proposed draft of the 1990 edition of this regulation adopted the 1990 BOCA Property Maintenance Code as a referenced standard for the technical provisions of the code, and added a new § PM-603.3 to that code to require elevator and escalator inspections to be in accordance with the American Society of Mechanical Engineer's standard number A-171. New administrative provisions were also added to § 104.2 to clarify the procedure for notification of violations.

Changes to the final draft as a result of public comment were made to § 104.1 to clarify the code official's authority in regards to buildings found to be in violation of the code, and text was deleted from the BOCA Property Maintenance Code, §§ PM-601.1 and PM-601.2, which required heat to be supplied in all buildings, rather than just those being rented or leased. This change was necessary to be consistent with Volume I of the Uniform Statewide Building Code.

VR 394-01-22. Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code/1990.

Article I.

Adoption, Administration and Enforcement.

SECTION 100.0. GENERAL.

100.1. Title: These regulations shall be known as Volume II - Building Maintenance Code of the 1987 1990 edition of the Virginia Uniform Statewide Building Code (USBC) . Except as otherwise indicated, Building Maintenance Code or code, shall mean Volume II - Building Maintenance Code of the 1987 1990 edition of the Virginia Uniform Statewide Building Code USBC .

Note: See Volume I - New Construction Code of the USBC 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 [~~(DATE TO BE INSERTED)~~ November 19, 1990]. 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, 1991 [~~DATE TO BE INSERTED March 1, 1991~~].

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 Section 100.6~~], below.

Note: This will not prevent adoption in accordance with Chapter 1, Title [~~15 15.1~~] of the Code of Virginia or other special or general legislation, or 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.

100.6. 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) 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 . No provisions of the Building Maintenance Code shall require alterations to buildings or equipment unless an unsafe or unhealthy condition exists.

100.6.1. Hotels and motels: Pre-USBC hotels and motels shall also comply with applicable provisions of Section 109.0.

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 [~~§ 111-0 section 109.0~~].

100.7. Application to post-USBC buildings: Buildings or portions thereof that were subject to the Uniform Statewide Building Code USBC when constructed, altered, converted or repaired shall be maintained in compliance

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with the Building Maintenance Code and with the edition of the USBC that was in effect at that time.

100.7.1 Hotels and motels: Post-USBC hotels and motels shall also comply with applicable provisions of [~~§ 111-0~~ section 109.0].

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~~ section 109.0].

100.8. Exemptions for certain equipment: The provisions of the Buildings 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.~~

Exception: Buildings or service equipment associated with the exempt equipment.

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.~~

Exception: Farm structures lying within a flood plain or in a mudslide prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable.

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. 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

PROPERTY MAINTENANCE CODE/ 1987 1990 EDITION

Published by:

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

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

101.3. Other amendments to the referenced model code: The amendments noted in Addendum 1 shall be made to the specified articles and sections of the BOCA National ~~Existing Structures Property Maintenance Code/ 1987 1990~~ 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~~ 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~~ When 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 that 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 Volume I of the USBC.

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. (Note: It is recommended that the code official have at least five years of building maintenance related experience. Consideration should be given to the use of certification programs offered by the Department of Housing and Community Development.)

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 Professional Services Office 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.

103.4 Modifications: The code official may grant modifications to any of the provisions of this code upon application by the owner or the owner's agent provided the spirit and intent of the Building Maintenance Code are observed and public health, welfare, and safety are assured. A copy of the application for a modification and a copy of the final decision of the code official shall be kept in the permanent records of the enforcing agency.

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 USBC, and when such condition

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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 USBC. 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 Volume I of the USBC, 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.

103.7 103.6 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) (a) 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) (b) 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 106.0 104.0 . 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.

104.1. Code violations prohibited: Buildings and equipment in violation of the provisions of this code shall not be used except as [permitted approved] by the code official.

106.2 104.2 . 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 reference the code section that serves as a basis for the violation and specify a time limit for the discontinuance and abatement of the violation. Such notice of violation shall be in writing, and be served by either delivering a copy of the notice to such person by mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or by posting the notice in a conspicuous place at the entrance door or accessway if such person cannot be found on the premises.

106.3 104.3 . Prosecution of violation: If the notice of violation is not complied with promptly, the code official shall request, in writing, 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.

106.4 104.4 . 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.

106.5 104.5 . Abatement of violation: Conviction of a violation of this code shall not preclude the institution of appropriate legal action to require correction or abatement of the violation or to prevent other violations or recurring violations of this code relating to maintenance and use of the building or premises.

SECTION 107.0 105.0 . UNSAFE BUILDINGS.

107.1 105.1 . 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~~ 105.2 . Inspection of unsafe buildings: The code official shall examine every such any 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~~ 105.3 . 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~~ 105.4 . Posting of unsafe building notice: If the person named in the notice of an unsafe building cannot be found after diligent search, such , the 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~~ 105.5 . Disregard of notice: Upon refusal or neglect of If the person served with a notice of unsafe building refuses or neglects 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~~ 105.6 . 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~~ 105.7 . 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~~ 106.0 . APPEAL TO THE LOCAL BOARD OF BUILDING CODE APPEALS.

~~108-1~~ 106.1 . 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 USBC within 20 21 calendar days after the day the notice was is 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~~ 106.2 . Form of application: Applications for appeals shall be submitted in writing to the Local Building Code Board of Appeals.

~~108-3~~ 106.3 . 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 30 calendar days of the filing of an appeal.

~~108-4~~ 106.4 . Hearing open to public: All hearings shall be public in accordance with the Virginia Freedom of Information Act. The appellant, the appellant's

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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~~ 106.5 . 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~~ 14 calendar 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~~ 106.6 . 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~~ 106.7 . Enforcement of decision: The code official shall take immediate action in accordance with the decision of the board.

SECTION ~~109.0~~ 107.0 . APPEAL TO THE STATE BUILDING CODE TECHNICAL REVIEW BOARD.

~~109.1~~ 107.1 . 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~~ 21 calendar days of receipt of the decision of the local appeals board by the aggrieved party.

~~109.2~~ 107.2 . 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~~ 107.3 . 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~~ 108.0 . DEMOLITION OF BUILDINGS.

~~110.1~~ 108.1 . 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 USBC .

SECTION [~~111.0~~ 109.0.] SPECIAL PROVISIONS.

[~~111.1~~ 109.1.] 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~~ 109.2.] Hotels and motels: Existing hotels and motels shall comply with the provisions of this section.

[~~111.2.1~~ 109.2.1.] 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~~ 109.2.2.] 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~~ 109.3.] 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~~ 109.3.1.] Automatic sprinkler system: An automatic 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.

[~~11.3.1.1.~~ 109.3.1.1.] Quick response sprinklers; Quick response sprinklers shall be installed in patient sleeping rooms of buildings subject to § ~~11.3.1.~~ section 109.3.1.

[~~11.3.1.2.~~ 109.3.1.2.] Exceptions provided for: Buildings equipped throughout with an automatic fire sprinkler system meeting the requirements of NFPA 13 shall be permitted to use the exceptions provided in the USBC, Volume I, 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)

[~~11.3.2.~~ 109.3.2.] Fire protective signaling system: A fire protective signaling system meeting the requirements of the USBC, Volume I, 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.

[~~11.3.3.~~ 109.3.3.] Fire detection system: An automatic fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Third Amendment, for Use Group I-2, shall be installed in existing nursing homes and nursing facilities by August 1, 1994.

[~~11.3.3.1.~~ 109.3.3.1.] Fire detection system in existing sprinklered facilities: Nursing homes and nursing facilities that are exempt from § ~~11.3.1~~ 109.3.1 because of an existing automatic sprinkler system shall install a fire detection system meeting the requirements of the USBC, Volume I, 1987 Edition, Second Amendment, for Use Group I-2.

[~~11.4.~~ 109.4.] Homes for Adults: Existing Homes for Adults licensed by the Virginia Department of Social Services shall comply with this section.

[~~11.4.1.~~ 109.4.1.] 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 I, 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.

[~~11.4.2.~~ 109.4.2.] Single and multiple station smoke detectors meeting the requirements of the USBC, Volume I, 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 PROPERTY MAINTENANCE CODE/ ~~1987~~ 1990 EDITION.

As provided in Section 101.3 of Volume II - Building Maintenance Code of the ~~1987~~ 1990 edition of the ~~Virginia~~ Uniform Statewide Building Code USBC, the amendments noted in this Addendum shall be made to the BOCA National ~~Existing Structures Property Maintenance Code/~~ 1987 1990 edition for use as part of the Building Maintenance Code.

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT.

~~1.~~ (A) 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.~~ (A) Delete Section ~~ES-301.1.~~ PM-301.1.
- ~~2.~~ Delete Section ~~ES-301.1.1.~~
- ~~3.~~ Delete Section ~~ES-301.3.~~
- ~~4.~~ (B) Delete Section ~~ES-301.4.~~ PM-301.4.
- ~~5.~~ (C) Delete Section ~~ES-301.6.~~ PM-301.5.
- ~~6.~~ (D) Delete Section ~~ES-301.7.~~ PM-301.8.

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)~~ § 36-97(7) of the Code of Virginia.

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7. Delete Section ES-301.10.

8. Delete Section ES-301.10.1.

9. Delete Section ES-301.10.2.

(E) Change Section PM-302.12 to read:

PM-302.12 Insect screens: During the period from April 1 to December 1 every door, window and other outside opening required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

ARTICLE 4

LIGHT, VENTILATION AND SPACE REQUIREMENTS

(A) Change Section ES-401.2 PM-401.1 to read:

ES-401.2. PM-401.1. 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.

(B) Delete Section PM-403.10.

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.

(A) Change Section PM-601.1 to read:

PM-601.1. Residential buildings: [Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 65°F (18°C) at a level of 3 feet (914 mm) above the floor and a distance of 3 feet (914 mm) from the exterior walls on all habitable rooms, bathrooms, and toilet rooms based on the outside design temperature required for the locality by the mechanical code listed in Appendix A.] Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 15 to maintain a room temperature of not less than 65°F (18°C) in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60°F (16°C) during other hours. The temperature shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls. When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Appendix A, the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in a full open position.

(B) Change Section PM-601.2 to read:

PM-601.2. Nonresidential structures: [Every enclosed occupied work space shall be supplied with Every owner of any structure who rents, leases, or lets the structure or any part thereof on terms, either express or implied, to furnish heat to the occupants thereof shall supply] sufficient heat during the period from October 1 to May 15 to maintain a temperature of not less than 65°F (18°C) during all working hours. The temperature shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls.

Exceptions

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

(C) Add new Section PM-603-3 to read:

PM-603.3. Inspection: Routine and periodic inspections shall be performed in accordance with Part X of ASME A-17.1 listed in Appendix A.

ARTICLE 7.

(A) Add new Section ~~ES-704.2.1~~ PM-704.5.2.

~~ES-704.2.1.~~ PM-704.5.2. Visual and audible alarms: Visual and audible alarms meeting the requirements of ANSI/UL Standard 1638 and ANSI/NFIPA 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.~~ (A) Delete Section ~~ES-801.2~~ PM-801.2.

~~2.~~ (B) Delete Section ~~ES-801.3~~ PM-801.3.

ARTICLE 9.

(A) Delete Article 9.

APPENDIX A - REFERENCED STANDARDS.

(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.

1. Delete standard reference number BOCA NBC-90, BOCA National Building Code and substitute the Virginia Uniform Statewide Building Code, Volume I 1990 edition.

2. Delete standard reference number BOCA NFPC-90, BOCA National Fire Prevention Code and substitute the Virginia Statewide Fire

Title of Regulation: VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies/1990.

Statutory Authority: §§ 36-137 and 36-139 of the Code of Virginia.

Effective Date: March 1, 1991.

Summary:

The 1990 edition of the Standards for Governing Operation of Individual and Regional Code Academies are new regulations adopted by the Board of Housing and Community Development pursuant to §§ 36-137

and 36-139 of the Code of Virginia and provides a uniform, statewide standard for the operation of individual and regional code academies. These regulations establish requirements for localities to meet in order to receive accreditation from the Department of Housing and Community Development for local or regional training programs to provide for certification of persons enforcing the building regulations promulgated by the Board of Housing and Community Development. Accreditation is based on information submitted to the Department of Housing and Community Development relating to financial resources, educational and teaching qualifications, instruction courses provided, and anticipated enrollment. The department will issue accreditation certificates on an annual basis and monitor the operation of approved academies.

No substantial changes were made to the final regulation as a result of the public hearing and public comment period.

VR 394-01-23. Standards Governing Operation of Individual and Regional Code Academies/1990.

§ 1. Definitions.

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

"Code Academy" means an educational institution established in accordance with § 36-137 [of the Code of Virginia] which is accredited to conduct classes to prepare an individual to pursue an occupation in the building inspection profession, or to upgrade an individual in technical phases of building regulations and codes.

"Department" means the Department of Housing and Community Development.

"Operator" means the person designated as the executive official in charge of the academy.

§ 2. Authority.

The standards governing operation of individual and regional code academies are adopted under authority granted the Board of Housing and Community Development by the Uniform Statewide Building Code Law, Chapter 6, § 36-139 of the Code of Virginia.

§ 3. Adoption.

These standards were adopted by order of the Board of Housing and Community Development on [~~(DATE TO BE INSERTED)~~ November 19, 1990] . 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

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inspection.

§ 4. Appeals.

Any operator aggrieved by a decision of the department may file an appeal to the State Building Code Technical Review Board. Such appeal shall be filed within 30 calendar days of the issuance of the department's written decision.

§ 5. Listing of certified academies.

The department shall maintain a list of code academies that hold valid Certificates of Accreditation, which shall be available for public review.

§ 6. Application for accreditation.

A. Any Code Academy seeking a Certificate of Accreditation shall submit the information required by these standards, on forms provided by the department, 120 calendar days prior to the date for which approval is requested.

B. The operator shall reimburse the department for the cost of processing and monitoring the accreditation.

C. The following information shall be submitted as part of the application:

1. A budget documenting the financial resources available to equip, maintain, and operate the academy;
2. The educational and teaching qualifications of the operator and instructors;
3. The individual courses of instruction which will be offered, and the purpose of such instructions;
4. A listing of any equipment available to aid instruction in each field;
5. The maximum anticipated enrollment to be accommodated with the equipment available in each specified field, and the ratio of students to instructors which shall not exceed 50 to 1 for lecture format courses, and 20 to 1 for interactive courses;
6. The location(s) where such instruction will take place;
7. Any additional information that the department may deem necessary to carry out the provisions of these standards.

D. Each application for a Certificate of Accreditation shall also include the following commitments:

1. Conduct the academy in accordance with all standards promulgated by the department;

2. Permit the department to inspect the academy at any time, and to provide all information pertaining to the activities of the academy or its financial condition as requested by the department;

3. The levy shall not be used for purposes other than directly relating to the operation of the Code Academy;

4. Carry forward no more than 25% of the previous fiscal year's levy;

5. In the event that the academy should close, a list of enrolled students who have not completed their program of study, and the amount of the course which they have completed, shall be submitted to the department;

6. Maintain current, complete and accurate student records, including a record of all hours of work completed by each student.

§ 7. Certificate display.

The Certificate of Accreditation shall be displayed on the premises of the academy in an area which is readily accessible to the public.

§ 8. Renewal of certificate.

A. Every Code Academy shall apply for renewal of its Certificate of Accreditation no later than April 15 of each year, on forms provided by the department. The application for renewal shall include a current training schedule.

B. Every Certificate of Accreditation shall expire upon failure to obtain renewal by June 30 of each year.

§ 9. Personnel qualifications.

A. Any director of the Code Academy shall demonstrate a working knowledge of Building Code technology and shall possess a minimum of two years of supervisory experience. Managerial experience and a college degree from an accredited college or university are preferred.

B. All instructors shall have knowledge and experience in the trade or profession in which the instructor teaches. Instructors shall have experience as an instructor, or shall have successfully completed a "Train the Trainer" or equivalent course.

C. The department shall be notified of any staff changes within the academy subsequent to receiving accreditation. Staff changes forwarded to the department shall include qualifications of the instructors.

§ 10. Instructional program.

The instructional program shall consist of those courses

and subjects, related to the technical provisions of the national model codes and referenced standards, which the academy has been accredited to offer, and be consistent with the instructional programs offered by the department. The department reserves the sole right to provide programs based on Article 1 of the Virginia Uniform Statewide Building Code. Attendance at any local or regional academy shall not satisfy mandatory attendance at programs administered by the department on any changes to the Virginia Uniform Statewide Building Code.

§ 11. Application for additional courses.

The operator shall present a supplementary application to the department for approval of additional courses of instruction.

§ 12. Withdrawal of course approval and revocation, suspension, or refusal to renew a certificate of accreditation.

A. The department may withdraw course approval, or revoke, suspend, or refuse to renew, any academy's Certificate of Accreditation for any of the following:

1. Violation of any provision of these standards;
2. Furnishing false, misleading, or incomplete information to the department, or failure to furnish information requested by the department within a reasonable time;
3. Presenting any information to students which is false, misleading or fraudulent;
4. Failure to maintain the premises in a safe and sanitary condition as required by law, state regulation or local ordinance;
5. Failing to maintain adequate financial resources to satisfactorily conduct the courses of instruction offered, or to retain an adequate, qualified staff.

B. The department shall notify the operator by certified mail 30 calendar days prior to the effective date of any withdrawal of course approval, or revocation, suspension, or refusal to renew, a Certificate of Accreditation.

§ 13. Return of certificate.

Any Certificate of Accreditation issued to an academy shall be returned to the department immediately, by registered mail, for the following:

1. Revocation; or
2. Voluntary closure of institution; or
3. Any other cause deemed sufficient by the department.

§ 14. Records.

The department shall maintain records on all actions, findings and recommendations concerning the approval, revocation, suspension, or refusal to renew any Certificate of Accreditation. All records shall be available to the public, upon request.

§ 15. Transmitting documents and other materials.

All applications, forms, appeals, letters or other papers shall be addressed to the Supervisor of Training Programs, Department of Housing and Community Development, 205 North Fourth Street, Richmond, Virginia 23219.

* * * * *

Title of Regulation: VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1987 1990 .

Statutory Authority: §§ 36-73 and 36-85.7 of the Code of Virginia.

Effective Date: March 1, 1991.

Summary:

The Virginia Industrialized Building and Manufactured Home Safety Regulations provide for the administration and enforcement of uniform, statewide, health and safety standards for industrialized buildings and manufactured homes, wherever produced. A major purpose of the regulations is to make good quality housing more affordable for residents of Virginia. It does so by providing precertification of manufactured buildings that contain concealed parts which can not be readily inspected at the point of use. Such units must be accepted by the local building official without disassembly. The enforcement system includes: (i) state accreditation, use, and monitoring of independent third-party compliance assurance agencies to review the design of manufactured buildings and to inspect their production for code compliance; (ii) assignment of responsibility for safe installation to local building department, and (iii) state action to secure correction of defects discovered after installation.

The major change in this edition was to adopt the 1990 BOCA National Building Code to update the reference standard. A new Article 6 (Installation Requirements) was added to Part One to clarify the manufacturer and installer's responsibilities.

No substantial changes were made to the final regulation due to the lack of comment received during the public comment period.

VR 394-01-31. Virginia Industrialized Building and Manufactured Home Safety Regulations/1990.

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PART ONE. INDUSTRIALIZED BUILDINGS.

ARTICLE 1. ADMINISTRATION.

SECTION 100.0. GENERAL.

100.1. Title: Articles 1 through 5 of these regulations shall be known as the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part One. Except as otherwise indicated, regulations, or these regulations, as used in Articles 1 through 5, shall mean the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part One.

100.2. Authority: These regulations are adopted according to the authority granted the Board of Housing and Community Development by the Virginia Industrialized Building Safety Law, Chapter 4, Title 36 of the Code of Virginia.

100.3. Adoption: The Virginia Industrialized Building and Manufactured Home Safety Regulations were adopted by order of the Board of Housing and Community Development on ~~December 14, 1987~~ [~~(DATE TO BE INSERTED)~~ November 19, 1990]. 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. Application: Part One shall apply to industrialized buildings, as defined in Section 200.0.

100.5. Effective date: The effective date of Part One of these regulations is ~~March 1, 1988~~ [~~(DATE TO BE INSERTED)~~ March 1, 1991].

100.5.1. Compliance after effective date: No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building produced after the effective date of any provision of these regulations unless it conforms with such provision of the regulations.

~~100.5.2. Local regulations: Nothing in these regulations shall prevent the local adoption of requirements for industrialized buildings or mobile homes produced before the effective date of these regulations where necessary to provide for adequate safety to life, health and property.~~

100.6. Continued compliance: Industrialized buildings and mobile homes subject to any edition of these regulations when constructed shall be maintained in compliance with the applicable edition by the owners and/or occupants.

[100.6.1. Relocated industrialized buildings and mobile homes: Industrialized buildings and mobile homes constructed prior to the effective date of the first edition of these standards (January 1, 1972) when relocated shall

be subject to Section 119.0 of the Virginia Uniform Statewide Building Code, Volume I.]

100.7. Purpose: The purpose of these regulations is to ensure safety to life, health, and property through compliance with uniform statewide construction standards for industrialized buildings.

SECTION 101.0. ENFORCEMENT GENERALLY.

101.1. General: These regulations shall be enforced as authorized by Chapter 4 of Title 36 of the Code of Virginia. (Note: See Addendum 3, "Virginia Industrialized Building Safety Law.")

101.2. Inspection and enforcement: The ~~Office of State Building Code Enforcement~~ Office is designated as the administrator's representative for the enforcement of these regulations. It shall have authority to make such inspections and to take such other actions as are required to enforce the regulations.

Note: The ~~Office of State Building Code Enforcement~~ Office shall act as the Building Official for registered industrialized buildings.

101.2.1. Factory inspections: The administrator's representative shall, during reasonable hours, make such inspections of factories producing industrialized buildings as may be necessary to determine whether the compliance assurance agency having jurisdiction is performing its evaluation and compliance assurance functions in a satisfactory manner.

101.2.2. Field inspections: The administrator's representative may, during reasonable hours, make inspections to determine whether industrialized buildings, not at the time occupied as dwellings, are in compliance with these regulations. Such inspections may include but are not limited to: industrialized buildings on dealer lots, or industrialized buildings that are otherwise offered for sale to the public. Industrialized buildings that are occupied as dwellings may be inspected at the request of the owners or occupants.

101.2.3. Notice of violation: Where the administrator finds any violation of the provisions of these regulations, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.

101.2.4. Placarding units in violation: Wherever the administrator finds any violations of the regulations, placards may be required on the noncomplying unit. Such placards shall not be removed except upon permission of the administrator. The placard shall list the violations and may prohibit the use of any unit, until the necessary corrections have been made.

101.2.5. Referral to local building officials: If the nature of the violation is such that it may be remedied under

Section 102.0 of these regulations, the administrator may refer the matter to the local building official for enforcement.

101.3. Appeals: Local building officials, compliance assurance agencies or manufacturers of industrialized buildings may appeal the department's application of these regulations or notice of violation to the State Building Code Technical Review Board established by § 36-108 of the Code of Virginia. Such appeals shall be according to the procedures and time limits established in the Uniform Statewide Building Code, Volume I - New Construction, Section ~~119.0~~ 117.0 .

101.3.1. Enforcement of decision: Upon receipt of the written decision of the State Building Code Technical Review Board, the administrator shall take immediate action in accordance with the decision.

101.3.2. 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 may be presented to the court of the original jurisdiction in accordance with the provisions of the Administrative Process Act, Article 4, § 9-6.14:1 of Title 9 of the Code of Virginia.

101.4. Limitation of manufacturer's liability: The manufacturer of the building shall not be required to remedy violations caused by on-site work by others not under his control or violations involving components and materials furnished by others and not included with the registered industrialized building.

101.5. Penalty for violation: Any person, firm or corporation violating any provisions of these regulations shall be considered guilty of a Class 1 misdemeanor and, upon conviction, shall be fined not more than \$1,000 (§ 36-83 of the Code of Virginia).

SECTION 102.0. ENFORCEMENT IN LOCALITIES.

102.1. Responsibility of local building officials: Every local building official is authorized to and shall enforce the provisions of these regulations within the limits of his jurisdiction. He shall not permit the use of any industrialized building that does not comply with these regulations.

102.2. Registered industrialized buildings: Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, local building officials are authorized to carry out the following functions that apply to registered , industrialized buildings provided such functions do not involve disassembly of the registered building or change of design, or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by these regulations.

1. They shall verify that it has not been damaged in

transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for shorts at the meter connection in the electrical system.

2. They shall verify that supplemental components required by the label or by these regulations are properly provided.

3. They shall verify that the instructions of the label for installation and erection are observed.

4. They shall verify that any special conditions or limitations of use that are stipulated by the label in accordance with the standards of Article 3 of these regulations are observed.

5. They may require submission and approval of plans and specifications for the supporting structures, foundations including anchorages, and all other components necessary to form the completed building. They may require such architectural and engineering services as may be specifically authorized by the standards of Article 3 of these regulations to assure that the supporting structures, foundations including anchorages, and other components necessary to form the completed building are designed in accordance with these regulations.

6. They shall enforce applicable requirements of these regulations and the USBC - Volume I for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.

7. They shall enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.

8. They shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.

102.3. Unregistered industrialized buildings : : The building official shall determine whether any unregistered industrialized building complies with these regulations and shall require any noncomplying unregistered building to be brought into compliance with these regulations. The building official shall enforce all applicable requirements of these regulations including those relating to the sale, rental and disposition of noncomplying buildings. The building official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable

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requirements. The government of any locality for which a building official has not been appointed may exercise the powers of enforcement for unregistered industrialized buildings that are granted to the local building official, except for inspection.

102.3.1. Unregistered industrialized buildings offered for sale: Unregistered industrialized buildings offered for sale by dealers in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with these regulations and must be inspected and approved by the local building official having jurisdiction. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

102.4. Disposition of noncomplying building: When a building is found to be in violation of these regulations, the local building official may require the violations to be corrected before occupancy of the building is permitted and may require the building to be conspicuously placarded to indicate that it may not be used in this Commonwealth until the corrections have been made. If the building is moved to another locality before the violations are corrected, such placard shall not be removed except upon permission of the building official in the new locality. If such locality has no building official, permission shall be obtained from the department before the placard is removed.

102.5. Report to the Office of State Building Code Enforcement Office: If the building is moved from the jurisdiction before the violations have been corrected, the local building official shall make a prompt report of the circumstances to the Office of State Building Code Enforcement Office. The report shall include the following:

1. A list of the uncorrected violations.
2. All information contained on the label pertinent to the identification of the building, the manufacturer and the compliance assurance agency.
3. The number of the Virginia registration seal.
4. The new destination of the building, if known.
5. The party responsible for moving the building.
6. Whether the building was placarded for violation.

SECTION 103.0. MODIFICATION OF THE REGULATIONS.

103.1. When modification may be granted: The administrator shall have the power upon request in specific cases to authorize modification of the regulations so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request

shall be in writing and shall be accompanied by the plans, specifications and other information necessary for an adequate evaluation of the modification requested.

103.1.1. Input by local building official: Before a modification is authorized, the building official having local jurisdiction may be afforded an opportunity to present his views and recommendations.

ARTICLE 2. DEFINITIONS.

SECTION 200.0. DEFINITIONS.

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

"Administrator" means the Director of the Department of Housing and Community Development or his designee.

"Approved" as applied to a material, device, method of construction, registered building or as otherwise used in these regulations means approved by the administrator, unless the context clearly indicates another meaning.

"Board" means the Board of Housing and Community Development.

"Code Enforcement Office" means the office of the Department of Housing and Community Development which has been designated to carry out the state plan for enforcement of the Virginia Industrialized Building and Manufactured Home Safety Regulations.

"Compliance assurance agency" means an architect or professional engineer registered in Virginia, or an organization, determined by the department to be specially qualified by reason of facilities, personnel, experience and demonstrated reliability, to investigate, test and evaluate industrialized buildings; to list such buildings complying with standards at least equal to those promulgated by the board; to provide adequate follow-up services at the point of manufacture to ensure that production units are in full compliance; and to provide a label as evidence of compliance on each manufactured section or module.

"Department" means the Department of Housing and Community Development.

"Industrialized building" means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in § 36-85.3 and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act shall not be considered industrialized buildings for the purpose of this law.

"Local building official" means an official designated by any city, town, or county to enforce structural, plumbing, electrical, mechanical or other building regulations for safety to life, health and property.

"Model" means a specific design, as designated by the producer, of an industrialized building. Production buildings of any model may include variations and options that do not affect compliance with the standards governing structural, plumbing, mechanical or electrical systems or any other items governed by these regulations.

"Office of State Building Code" means the Office of the Department of Housing and Community Development which has been designated to carry out the state plan for enforcement of the Virginia Industrialized Building and Manufactured Home Safety Regulations.

"Registered" means an industrialized building which displays a registration seal issued by the Department of Housing and Community Development in accordance with Article 5 of these regulations.

"Regulations" means regulations as defined by Section 100.1.

"State building official" means the Office of State Building Code Enforcement Office.

"The law" or "this law" means the Virginia Industrialized Building Safety Law as embraced in Chapter 4 (§ 36-70 et seq.) of the Code of Virginia.

ARTICLE 3. SAFETY STANDARDS FOR INDUSTRIALIZED BUILDINGS.

SECTION 300.0. REQUIREMENTS.

300.1. Hazards prohibited and standards specified: Industrialized buildings produced after the effective date of these regulations shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the code codes and standards specified in Section 301.0, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision.

SECTION 301.0. REFERENCE STANDARDS.

301.1. Reference standards and time limits established: The standards and time limitations specified below are those referred to in Section 300.0:

BOCA NATIONAL BUILDING CODE

Published by: Building Officials and Code Administrators International, Inc. (BOCA), 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795

1. 1984 Edition - until June 1, 1988

2. 1987 Edition - no time limit

1. 1987 Edition - until April 1, 1991

2. 1990 Edition - no time limit

BOCA NATIONAL PLUMBING CODE

1. 1984 Edition - until June 1, 1988

2. 1987 Edition - no time limit

1. 1984 Edition - until April 1, 1991

2. 1990 Edition - no time limit

BOCA NATIONAL MECHANICAL CODE

1. 1984 Edition - until June 1, 1988

2. 1987 Edition - no time limit

1. 1987 Edition - until April 1, 1991

2. 1990 Edition - no time limit

NATIONAL ELECTRICAL CODE - NFPA NO. 70

Published by: National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269

1. 1984 Edition - until June 1, 1988

2. 1987 Edition - no time limit

1. 1987 Edition - until April 1, 1991

2. 1990 Edition - no time limit

301.2. Optional standard: The following standard may be used for one and two family dwellings only, as an alternative to the standards specified in Section 301.1.

ONE AND TWO FAMILY DWELLING CODE

Jointly published by: BOCA; Southern Building Code Congress International, 900 Montclair Road, Birmingham, Alabama 35213; International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601

1. 1983 Edition and 1984 Supplement - until June 1, 1988

2. 1986 Edition and 1987 Supplement - no time limit

1. 1986 Edition and 1987 Supplement - until April 1, 1991

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2. 1989 Edition and 1990 Supplement - no time limit

301.3. General amendment to reference codes and standards: All requirements of the referenced model codes and standards that relate to fees, permits, certificates of use and occupancy, approval of plans and specifications and other procedural, administrative and enforcement matters are deleted and replaced by the procedural, administrative and enforcement provisions of these regulations and the applicable provisions of Article 1 of the Virginia Uniform Statewide Building Code.

301.4. Soldered joints: Solder or flux containing greater than 0.2% lead shall not be used in potable water service or potable water distribution piping.

301.5. Insect screens: Every door and window or other outside opening used for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch.

ARTICLE 4. COMPLIANCE ASSURANCE AGENCIES.

SECTION 400.0. PROCEDURES FOR APPROVAL.

400.1. Application to administrator: Application may be made to the administrator for acceptance as a compliance assurance agency as defined in Article 2. Application shall be made under oath and shall be accompanied by information and evidence that is adequate for the administrator to ~~determine whether~~ *determine whether* the applicant is specially qualified by reason of facilities, personnel, experience and demonstrated reliability to investigate, test and evaluate industrialized ~~building~~ *buildings* for compliance with these regulations, and to provide adequate follow-up and compliance assurance services at the point of manufacture.

Note: A suggested format for the application for acceptance as a compliance assurance agency may be obtained from the Office of State Building Code Enforcement Office.

400.2. Freedom from conflict of interest: A compliance assurance agency shall not be affiliated with nor influenced or controlled by producers, suppliers, or vendors of products in any manner which might affect its capacity to render reports of findings objectively and without bias. A compliance assurance agency is judged to be free of such affiliation, influence, and control if it complies with all of the following conditions:

1. It has no managerial affiliation with producers, suppliers or vendors, and is not engaged in the sale or promotion of any product or material.

2. The results of its work accrue no financial benefits to the agency through stock ownership and the like, of any producer, supplier or vendor of the product involved.

3. Its directors and other management personnel, in such capacities, receive no stock option, or other financial benefit from any producer, supplier, or vendor of the product involved.

4. It has sufficient interest or activity that the loss or award of a specific contract to determine compliance of a producer's, supplier's or vendor's product with these regulations would not be a determining factor in its financial well-being.

5. The employment security status of its personnel is free of influence or control by producers, suppliers, or vendors.

400.3. Information required by the administrator: The following information and criteria will be considered by the administrator in designating compliance assurance agencies:

1. Names of officers and location of offices.
2. Specification and description of services proposed to be furnished under these regulations.
3. Description of qualifications of personnel and their responsibilities. Personnel involved in system analysis, design and plans review, compliance assurance inspections, and their supervisors shall meet the requirements of the American Society for Testing and Materials (ASTM) Standards E-541-84, Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings.
4. Summary of experience within the organization.
5. General description of procedures and facilities to be used in proposed services, including evaluation of the model, factory follow-up, quality assurance, labeling of production buildings, and specific information to be furnished on or with labels.
6. Procedures to deal with any defective buildings resulting from oversight.
7. Acceptance of these services by independent accrediting organizations and by other jurisdictions.
8. Proof of independence and absence of conflict of interest.

ARTICLE 5. LABELING, REGISTRATION AND FEES.

SECTION 500.0. LABELS.

500.1. Minimum information required: Every registered industrialized building shall be marked with a label, seal, or similar evidence of compliance supplied by the compliance assurance agency that includes the following information directly or by reference:

1. Name and address of compliance assurance agency.
2. List of codes and standards for which the building has been evaluated, inspected and found in compliance by the compliance assurance agency and the type of construction classification, the use group classification and occupancy under those codes and standards.
3. Serial number of label.
4. Special instructions for handling, installation and erection, or list of such instructions that are furnished separately with the building.
5. Special conditions or limitations of use of the building under the standards for which the building has been evaluated, or list of such conditions and limitations that are furnished separately with the building.

500.2. Mounting of label: To the extent practicable, the label shall be so installed that it cannot be removed without destroying it. It shall be applied in the vicinity of the electrical distribution panel or other location that is readily accessible for inspection. When a building is comprised of more than one section or module, the required label may be furnished as a single label for the entire building, provided each section or module is marked by the compliance assurance agency in a clearly identifiable manner that is listed with the label.

500.3. Manufacturer's data plate and other markings: The following information shall be placed on one or more permanent manufacturer's data plates in the vicinity of the electrical distribution panel or in some other location that is readily accessible for inspection. The compliance assurance agency shall approve the form, completeness and location of the data plate to include the information listed below:

1. Manufacturer's name and address.
2. Serial number of the label of the compliance assurance agency.
3. Serial number of the building.
4. Name of manufacturer and model designation of major factory installed appliances.
5. Where applicable, identification of permissible type of gas for appliances, designation of electrical ratings for single and multiple cord entrance, and directions for water and drain connections.

6. Serial number of the registration seal.

7. Seismic design zone number.

8. Design Loads: Live load, Dead load, Snow load, and Wind load.

500.4. Label control: The labels shall be under direct control of the compliance assurance agency until applied by the manufacturer to buildings that comply fully with these regulations. The manufacturer shall place its order for labels with the compliance assurance agency. The manufacturer is not permitted to acquire labels from any other source. Each compliance assurance agency shall keep a list of the serial numbers of labels issued to each manufacturer's plant in such manner that a copy of the record can be submitted to the administrator upon request.

SECTION 501.0. REGISTRATION OF LABELED UNITS.

501.1. Industrialized buildings eligible for registration: Any industrialized building must meet the following requirements to be registered and eligible for a Virginia Registration Seal:

1. The design of the building has been found by a compliance assurance agency to be in full compliance with these regulations; and
2. The compliance assurance agency has conducted any necessary testing and evaluation of the building and its component parts; and
3. The compliance assurance agency has provided the required inspections and other quality assurance follow-up services at the point of manufacture to assure the building complies with these regulations; and
4. The building has been provided with appropriate evidence of such compliance with a label, seal or similar device permanently affixed by the compliance assurance agency.

501.2. Registration seal for industrialized buildings: Registered industrialized buildings shall be marked with an approved registration seal issued by the department. The seal shall be applied by the manufacturer to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture.

501.2.1. Number of seals required: Registered industrialized buildings shall bear a registration seal for each dwelling unit in residential occupancies. For nonresidential occupancies, a registration seal is required for each registered building of a single occupancy and use group.

501.3. Issue Purchase of registration seals and fees : Approved registration seals may be purchased from the

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Department of Housing and Community Development in advance of use. The fee for each registration seal shall be set by the board. Checks shall be made payable to "Treasurer of Virginia." *Payment for the seals shall (must) be received by the administrator before the seals can be sent to the user.*

501.4. Mounting of registration seal: To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. It shall be installed near the label applied by the compliance assurance agency.

ARTICLE 6. INSTALLATION REQUIREMENTS.

SECTION 600.0. MANUFACTURER'S INSTRUCTIONS.

600.1. *General: The manufacturer of each industrialized building shall provide with each building, specifications or instructions, or both, for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.*

600.2. *Installations: Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.*

PART TWO. MANUFACTURED HOMES SUBJECT TO FEDERAL REGULATIONS.

ARTICLE 11. ADMINISTRATION.

SECTION 1100.0. GENERAL.

1100.1. Title: Articles 11 through 14 shall be known as the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part Two. Part Two shall mean the Virginia Industrialized Building and Manufactured Home Safety Regulations - Part Two.

1100.2. Authority: These regulations are adopted according to the authority granted the Board of Housing and Community Development by the Virginia Manufactured Housing Construction and Safety Standards Law, Chapter 4.1, Title 36 of the Code of Virginia.

1100.3. Application: Part Two shall apply to manufactured homes as defined in Section 1200.0.

1100.4. Effective date: The effective date of Part Two of these regulations is ~~March 1, 1988~~ [~~DATE TO BE INSERTED~~] *March 1, 1991*.

SECTION 1101.0. ENFORCEMENT GENERALLY.

1101.1. Federal regulation: Enforcement of Part Two shall be in accordance with the Federal Manufactured Home Procedural and Enforcement Regulations, enacted May 13, 1976, under authority granted by Section 625 of the Act, and designated as Part 3282, *Chapter XX, Title 24 of the department's regulations.* (Part 3282 consists of subparts A through L, with Sections numbered 3282.1 through 3282.554, and has an effective date of June 15, 1976.)

1101.2. Delegation of authority: The Department of Housing and Community Development is delegated all lawful authority for the enforcement of the federal standards pertaining to manufactured homes by the administrator according to § 36-85.5 of the Code of Virginia. The Division of Building Regulatory Services of the Department of Housing and Community Development is designated as a state administrative agency in the HUD enforcement program, and shall act as an agent of HUD. The administrator is authorized to perform the activities required of an SAA by the HUD enforcement plan, including (but not limited to) investigation, citation of violations, handling of complaints, conducting hearings, supervising remedial actions, monitoring, and making such reports as may be required.

SECTION 1102.0. ENFORCEMENT IN LOCALITIES.

1102.1. Responsibility of local building officials: All local building officials are authorized by § 36-85.11 of the Code of Virginia to enforce the provisions of Part Two within the limits of their jurisdiction. Such local building officials shall enforce Part Two, subject to the general oversight of the division, and shall not permit the use of any manufactured home containing a serious defect or imminent safety hazard within their jurisdiction.

1102.2. Effect of label: Manufactured homes displaying the HUD label shall be accepted in all localities as meeting the requirements of this Law, which supersede the building codes of the counties, municipalities and state agencies. Notwithstanding this provision, local building officials are authorized to carry out the following functions with respect to manufactured homes displaying the HUD label, provided such functions do not involve disassembly of the units or parts of the units, change of design, or result in the imposition of more stringent conditions than those required by the federal regulations:

1. They shall verify that it has not been damaged in transit to a degree that would render it unsafe. Where indicated, tests may be made for tightness of plumbing systems and gas piping, and electrical short circuits at meter connections.
2. They shall verify that supplemental components required by the label or Part Two are properly provided.
3. They shall verify that installation or erection

instructions are observed.

4. They shall verify that any special conditions or limitations of use stipulated by the label in accordance with the standards or Part Two are observed.

5. They shall enforce applicable requirements of Part Two and the USBC - Volume I for alterations and additions to manufactured homes, and may enforce the USBC - Volume II for maintenance of the homes.

6. They shall enforce the requirements of the Uniform Statewide Building Code applicable to utility connections, site preparation, fire limits, building permits, *skirting*, certificates of use and occupancy, and all other applicable requirements, except those governing the design and construction of the labeled units.

7. They may verify that a manufactured home displays the required HUD label.

8. They may verify that nonconforming items have been corrected.

1102.3. Action upon noncompliance: Whenever any local building official finds that a manufactured home delivered for use in his jurisdiction is in violation of Part Two, he shall initiate the corrective procedure required, in accordance with Part Two.

1102.4. Report to the department: Whenever any manufactured home is moved from a local jurisdiction before a noted violation has been corrected, the building official shall make a prompt report of the circumstances to the administrator. The report shall include a list of uncorrected violations, all information pertinent to identification and manufacture of the home contained on the label and the data plate, the destination of the home if known, and the name of the party responsible for moving it.

SECTION 1103.0. DISTRIBUTORS AND DEALERS.

1103.1. Alterations: No distributor or dealer shall perform or cause to be performed any alteration affecting one or more requirements set forth in the federal standards, except those alterations approved by the administrator.

1103.1.1. Assistance from local building officials: In handling and approving dealer requests for alterations, the administrator may be assisted by local building officials. The building officials shall report violations of this section and failures to conform to the terms of their approval to the administrator.

1103.2. Installations: Distributors or dealers installing or setting up a manufactured home shall perform such installation in accordance with the manufacturer's installation instructions or other support and anchoring system approved by the building official in accordance

with Section ~~621.0~~ 620.0 of the USBC - Addendum I 1 .

1103.3. Prohibited resale: No distributor or dealer shall offer for resale any manufactured home possessing a serious defect or imminent safety hazard.

SECTION 1104.0. CONTINUING ENFORCEMENT.

1104.1. Inspections: At any time during regular business hours when a manufactured home is located on a dealer's or distributor's lot and offered for sale, the administrator shall have authority to inspect such home for transit damages, seal tampering, violations of the federal standards and the dealer's or distributor's compliance with applicable state and federal laws and regulations.

The administrator shall give written notice to the dealer or distributor when any home inspected does not comply with the federal standards.

SECTION 1105.0. CONSUMER COMPLAINTS.

1105.1. Reports: The administrator shall receive all consumer complaints on manufactured homes reported to the department by owners, dealers, distributors, code officials, and other state or federal agencies. The administrator may request such reports to be submitted by letter or on a report form supplied by the department.

1105.2. Inspections: The administrator may conduct, or cause to be conducted, an on-site inspection of a manufactured home at the request of the owner reporting a complaint with the home or under the following conditions with the permission of the owner of the home.

1. The dealer, distributor or manufacturer requests an on-site inspection; or
2. The reported complaint indicates extensive and serious noncompliances; or
3. Consumer complaints lead the SAA to suspect that classes of homes may be similarly affected; or
4. Review of manufacturer's records, corrective action, and consumer complaint records leads the administrator to suspect secondary or associated noncompliances may also exist in a class of homes.

1105.2.1. Coordination of inspections: When conducting an on-site inspection of a home involving a consumer complaint, the administrator may request the dealer, distributor, and manufacturer of the home to have a representative present to coordinate the inspection and investigation of the consumer complaint.

1105.3. Determination: After reviewing the complaint report or the on-site inspection of the home involved, the administrator shall, where possible, indicate the cause of any nonconformance and, where possible, indicate the responsibility of the manufacturer, dealer, distributor or

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owner for the noncompliance and any corrective action necessary.

1105.4. Referral: The administrator shall refer to the manufacturer of the home, in writing, any consumer complaint concerning that home reported to the administrator. The administrator may refer any such reported complaint to HUD, to the SAA in the state where the manufacturer is located and to the inspection agency involved with certifying the home.

1105.4.1. Referral to the Virginia Department of Motor Vehicles: When a review of the reported complaint or the on-site investigation of the complaint indicates a dealer or distributor is in violation of or has violated these regulations, the administrator shall refer the complaint to the DMV and shall provide such assistance and reports as requested by DMV in their handling of the complaint.

1105.5. Follow-up: The administrator shall assist the owner, dealer, distributor and manufacturer in resolving consumer complaints. The administrator shall monitor the manufacturer's performance to assure compliance with Subpart I of the federal regulations for consumer complaint handling and shall take such actions as are necessary to assure compliance of all involved parties with applicable state and federal regulations.

ARTICLE 12. DEFINITIONS.

SECTION 1200.0. DEFINITIONS.

1200.1. Definitions from Part One: Terms defined in Part One (Article 2) shall have the same meaning in Part Two, unless otherwise specifically indicated. Terms defined within the Federal Manufactured Home Construction and Safety Standards and the Federal Manufactured Home Procedural and Enforcement Regulations, as adopted by the United States Department of Housing and Urban Development, shall have the same meanings in these regulations.

1200.2. Additional definitions:

"Act" or "The Act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401, et seq.).

"Administrator" means the Director of the Department of Housing and Community Development or his designee.

"Dealer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.

"Defect" means a failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part

of the home unfit for the ordinary use of which it was intended, but does not result in an imminent risk of death or severe personal injury to occupants of the affected home.

"Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.

"HUD" means the United States Department of Housing and Urban Development.

"Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable federal manufactured home construction or safety standard.

"Label" or "certification label" means the approved form of certification by the manufacturer that, under Section 3282.362(c)(2)(i) of the *Act Manufactured Homes Procedural and Enforcement Regulations*, is permanently affixed to each transportable section of each manufactured home manufactured for sale to a purchaser in the United States.

"Manufactured home" means a structure subject to federal regulation which is transportable in one or more sections; is eight ~~bodyfeet~~ *body feet* or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

"Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes.

"Noncompliance" means a failure of a manufactured home to comply with a federal manufactured home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard.

"Purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

"Secretary" means the Secretary of the United States Department of Housing and Urban Development.

"Serious defect" means any failure to comply with an applicable federal manufactured home construction and safety standard that renders the manufactured home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected manufactured home.

"Standards" or "federal standards" means the Federal Manufactured Home Construction and Safety Standards adopted by HUD, in accordance with authority in the Act. Said standards were enacted December 18, 1975, and amended May 11, 1976, to become effective June 15, 1976.

"State administrative agency" or "SAA" means the Department of Housing and Community Development which is responsible for the administration and enforcement of this law throughout Virginia and of the plan authorized by § 36-85.5 of the Code of Virginia.

ARTICLE 13. SAFETY STANDARDS.

SECTION 1300.0. FEDERAL STANDARDS.

1300.1. Compliance required: Manufactured homes produced on or after June 15, 1976, shall conform to all the requirements of the federal standards, as amended.

SECTION 1301.0. MOUNTING AND ANCHORING.

1301.1. Reference to Uniform Statewide Building Code: Mounting and anchoring of manufactured homes shall be in accordance with the applicable requirements of the 1987 1990 Edition of the Virginia Uniform Statewide Building Code.

ARTICLE 14. VIOLATIONS.

SECTION 1400.0. VIOLATIONS.

1400.1. Notice of violation: Where the administrator finds any violation of the provisions of these regulations, a notice of violation shall be issued. This notice of violation shall order the party responsible to bring the unit into compliance, within a reasonable time.

1400.2. Appeals to notice of violation: Parties aggrieved by the findings of the notice of violation may appeal to the State Building Code Technical Review Board, which shall act on the appeal in accordance with the provisions of the USBC - Volume I. The aggrieved party shall file the appeal within 10 days of the receipt of the notice of violation. Unless, the notice of violation is revoked by the review board, the aggrieved party shall comply with the stipulations of the notice of violation.

1400.3. Penalty: Any person, firm or corporation violating any provisions of these regulations shall, upon conviction, be considered guilty of a misdemeanor in accordance with § 36-85.12 of the Code of Virginia.

1987 1990 EDITION.

VIRGINIA INDUSTRIALIZED BUILDING AND MANUFACTURED HOME SAFETY REGULATIONS. ADDENDA.

ADDENDUM 1.

REQUIREMENTS FOR MOUNTING AND ANCHORING MOBILE UNITS AND MANUFACTURED HOMES.

The following requirements are from the 1987 1990 Edition of the Virginia Uniform Statewide Building Code:

SECTION ~~621.0~~ 620.0 . MOBILE UNITS AND MANUFACTURED HOMES.

~~621.1.~~ 620.1. General: Mobile units, as defined in Section 201.0 shall be designed and constructed to be transported from one location to another and not mounted on a permanent foundation. Manufactured homes shall be designed and constructed to comply with the Federal Manufactured Housing Construction and Safety Standards and used with or without a permanent foundation.

~~621.2.~~ 620.2. Support and anchorage of mobile units: The manufacturer of each mobile unit shall provide with each unit specifications for the support and anchorage of the mobile unit. The manufacturer shall not be required to provide the support and anchoring equipment with the unit. Mobile units shall be supported and anchored according to the manufacturer's specifications. The anchorage shall be adequate to withstand wind forces and uplift as required in Article 11 for buildings and structures, based upon the size and weight of the mobile unit.

~~621.3.~~ 620.3. Support and anchorage of manufactured homes: The manufacturer of the home shall provide with each manufactured home printed instructions specifying the location, required capacity and other details of the stabilizing devices to be used with or without a permanent foundation (i.e., tiedowns, piers, blocking, footings, etc.) based upon the design of the manufactured homes. Manufactured homes shall be supported and anchored according to the manufacturer's printed instructions or supported and anchored by a system conforming to accepted engineering practices designed and engineered specifically for the manufactured home. Footings or foundations on which piers or other stabilizing devices are mounted shall be carried down to the established frost lines. The anchorage system shall be adequate to resist wind forces, sliding and uplift as imposed by the design loads.

~~621.3.1.~~ 620.3.1. Hurricane zone: Manufactured homes installed or relocated in the hurricane zone shall be of hurricane and windstorm resistive design in accordance with Federal Manufactured Housing Construction and Safety Standards and shall be anchored according to the manufacturer's specifications for the hurricane zone.

The hurricane zone includes the following counties and all cities located therein, contiguous thereto, or to the east thereof:

Accomack, King William, Richmond, Charles City,
Lancaster, Surry, Essex, Mathews, Sussex, Gloucester,

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Middlesex, Southampton, Greensville, Northumberland, Westmoreland, Isle of Wight, Northampton, York, James City, New Kent, King & Queen, Prince George.

621.4. Anchorage of used mobile units and manufactured homes: When used mobile units or used manufactured homes are being installed or relocated and the manufacturer's original installation instructions are not available, the anchoring system, including ground anchors, shall be designed by a professional engineer or architect or shall be as follows:

1. Hurricane zone: Tiedowns shall be not more than eight feet on center and not more than two feet from the end of the unit.
2. Nonhurricane zone: Tiedowns shall be not more than 12 feet on center and not more than two feet from the end of the unit.
3. Ground anchor load capacity: Each ground anchor shall be capable of resisting without failure an allowable working load equal to or exceeding 3,150 pounds plus a 50% overload factor.
4. Weather resistance: Ground anchors shall be resistant to weathering deterioration at least equivalent to that provided by a coating of zinc on steel strapping of not less than 0.30 ounces per square foot of surface coated.

620.4. Used mobile/manufactured homes: When used manufactured homes or used mobile homes are being installed or relocated and the manufacturer's original installation instructions are not available, installations complying with the applicable portions of NCSBCS/ANSI A225.1 listed in Appendix A shall be accepted as meeting the USBC.

620.5. Skirting: Manufactured homes installed or relocated after July 1, 1990, shall have skirting installed within 60 days of occupancy of the home. Skirting materials shall be durable, suitable for exterior exposures, and installed in accordance with the manufacturer's installation instructions. Skirting shall be secured as necessary to ensure stability, to minimize vibrations, to minimize susceptibility to wind damage, and to compensate for possible frost heave. Each manufactured home shall have a minimum of one opening in the skirting providing access to any water supply or sewer drain connections under the home. Such openings shall be a minimum of 18 inches in any dimension and not less than three square feet in area. The access panel or door shall not be fastened in a manner requiring the use of special tool to open or remove the panel or door. On-site fabrication of the skirting by the owner or installer of the home shall be acceptable, provided that the material meets the requirements of the USBC.

* * * * *

Title of Regulations: VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations/ 1987 1990 .

Statutory Authority: §§ 27-87 of the Code of Virginia.

Effective Date: March 1, 1991.

Summary:

The Virginia Liquefied Petroleum Gas Regulations, 1990 edition, is a mandatory, statewide, uniform regulation that must be complied with in the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and utilizing L-P gases for fuel purposes, and for the odorization of L-P gases in order to protect individuals and property from fire and explosion hazards. All law-enforcement officers are empowered to enforce the regulations.

The 1990 edition of the Virginia Liquefied Petroleum Gas Regulations has been updated to reference the 1989 edition of the Standard for Storage and Handling of Liquefied Petroleum Gases - NFPA 58, and the 1988 edition of the National Fuel Gas Code - NFPA 54/ANSI Z223.1.

VR 394-01-42. Virginia Liquefied Petroleum Gas Regulations/1990.

SECTION 100.0. GENERAL.

100.1. Title: The title of these regulations shall be the Virginia Liquefied Petroleum Gas Regulations. Except as otherwise indicated, regulations shall mean the 1987 1990 Edition of the Virginia Liquefied Petroleum Gas Regulations.

100.2. Authority: These regulations are adopted according to authority granted the Board of Housing and Community Development by the Liquefied Petroleum Gases Law, Chapter 7, Title 27, of the Code of Virginia.

100.3. Adoption: These The 1990 edition of these regulations were adopted by order of the Board of Housing and Community Development on November 14, 1987 [~~(DATE TO BE INSERTED~~ November 19, 1990]. 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 1987 1990 Edition of the Virginia Liquefied Petroleum Gas Regulations shall become effective on March 1, 1988 [~~(DATE TO BE INSERTED)~~ March 1, 1991].

100.5. Minimum standards for equipment: The design, construction, location, installation and operation of equipment for the storage, handling, odorization,

transportation and use of liquefied petroleum gases shall conform to the minimum standards established by these regulations.

100.6. Model codes: The following model codes, and all portions of other model codes and standards that are referenced therein, are adopted and incorporated in these regulations:

A. Standard for Storage and Handling of Liquefied Petroleum Gases - NFPA 58 (~~1986~~ 1989 Edition)

B. National Fuel Gas Code - NFPA 54 (~~1984~~ 1988 Edition) (ANSI Z223.1 ~~1984~~ 1988)

100.7. Exception: Where the Uniform Statewide Building Code is applicable, it shall take precedence over these regulations.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-04-8.11. Home and Community-Based Services for Individuals with Acquired Immunodeficiency Syndrome (AIDS) and AIDS Related Complex.

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

Effective Date: February 1, 1991.

Summary:

Virginia has received approval from the Health Care Financing Administration (HCFA) for a model waiver for an initial three-year period under § 1915(c) of the Social Security Act. Under the waiver, Virginia will provide home and community-based services to individuals with HIV infection, who have either been diagnosed and are experiencing symptoms associated with AIDS or who are experiencing symptoms related to the HIV infection but are not diagnosed as AIDS, and who would otherwise require the level of care provided in a hospital or nursing facility, the cost of which would be reimbursed under the State Plan for Medical Assistance.

All waiver services must be furnished pursuant to written plans of care which have been approved by DMAS. The plans of care will be routinely reviewed and updated at least once every three months by the individuals' primary case managers. The plans of care will be revised as indicated by the individuals' changing needs and will be subject to ongoing approval by DMAS.

DMAS will contract with any service provider which meets the departments' provider standards and is willing to adhere to DMAS' policies and procedures. DMAS expects that the providers of personal care,

respite care, and skilled nursing will be those already enrolled to provide those services for other populations. DMAS does not currently contract with case management providers so these will be new providers.

VR 460-04-8.11. Home and Community-Based Services for Individuals with Acquired Immunodeficiency Syndrome (AIDS) and AIDS Related Complex.

§ 1. Definitions.

"Activities of daily living" means assistance with personal care tasks (i.e., bathing, dressing, toileting, etc.).

"Acquired immune deficiency syndrome (AIDS)" means the set of symptoms related to specific opportunistic diseases indicative of an immune deficiency state in the absence of any other cause of reduced resistance reported to be associated with at least one of those opportunistic diseases. Individuals diagnosed with AIDS may experience symptoms associated with severe dementia, HIV encephalopathy, HIV wasting syndrome and rare forms of pneumonia (pneumocystic carinii (PCP)) and cancer (Kaposi's Sarcoma (KS)).

"AIDS-Related Complex (ARC)" means the lesser disease response to the HIV infection which may, nonetheless, have many of the devastating effects of the AIDS virus, but not the specific conditions used to define a case of AIDS. [This term shall be applied to those individuals with HIV infection experiencing symptoms related to the infection.]

"Aids Service Organizations (ASOs)" means the regional and local service organizations developed to provide education, prevention and health and social services to individuals infected with the HIV virus.

"Case management" means continuous reevaluation of need, monitoring of service delivery, revisions to the Plan of Care and coordination of services for AIDS individuals receiving home and community-based services in order to assure effective and efficient delivery of direct services.

"Current functional status" means the individual's degree of dependency in performing activities of daily living.

"DMAS" means the Department of Medical Assistance Services.

"DSS" means the Department of Social Services.

"Episodic respite care" means in-home services specifically designed to provide relief to the caregiver for a nonroutine, short-term period of time for a specified reason (e.g., respite care offered for 7 days, 24 hours a day while the caregiver takes a vacation).

"Home and community-based care" means a variety of in-home services reimbursed by DMAS (case management,

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personal care, skilled nursing, respite care and nutritional supplements) designed to offer individuals an alternative to hospital or nursing facility care. Individuals may be preauthorized to receive one or more of these services either solely or in combination, based on the documented need for the service(s) to avoid inpatient hospital placement. An individual may only receive home and community-based services up to the amount which would be equal to or less than the cost of hospital care. The preadmission screening team or DMAS shall give prior authorization for any Medicaid-reimbursed home and community-based care.

“Human Immunodeficiency Virus (HIV)” means the virus which leads to acquired immune deficiency syndrome (AIDS). The virus weakens the body’s immune system and, in doing so, allows “opportunistic” infections and diseases to attack the body.

“Nutritional supplements” means nonlegend drug nutritional supplements covered under this waiver which are deemed by a physician to be necessary as the primary source of nutrition for the AIDS/ARC individual’s health care plan (due to the prevalence of conditions of wasting, malnutrition and dehydration) and not available through any other food program.

“Preadmission screening” means the process to: (i) evaluate the medical, nursing, and social needs of individuals referred for prescreening, (ii) analyze what specific services the individuals need, (iii) evaluate whether a service or a combination of existing community services are available to meet the individuals’ needs, and (iv) authorize Medicaid funded community-based care for those individuals who meet hospital or nursing facility level of care and require such care.

“Preadmission screening team” means the multidisciplinary team contracted with DMAS to perform preadmission screening. DMAS will contract with regional and local AIDS Service Organizations (ASO) to perform the prescreening assessment, level of care determination and Plan of Care development for Medicaid-eligible individuals with AIDS/ARC. Preadmission screening teams for individuals with AIDS/ARC may also be the nursing home preadmission screening teams contracted with DMAS to perform preadmission screening for Medicaid-eligible individuals at risk of placement in a nursing facility. At a minimum, the preadmission screening team must be comprised of the recipient, nursing and social work staff and a physician.

“Program” means medical assistance services as administered by the Department of Medical Assistance Services.

“Participating provider” means an institution, facility, agency, partnership, corporation, or association that has a valid contract with DMAS and meets the standards and requirements set forth by DMAS.

“Personal care services” means long-term maintenance or support services necessary to enable the individual to remain at or return home rather than enter a hospital or nursing facility. Personal care services include assistance with personal hygiene, nutritional support, and the environmental maintenance necessary for recipients to remain in their homes.

“Plan of Care” means the written plan of services certified by the screening team physician as needed by the individual to ensure optimal health and safety for the delivery of home and community-based care.

“Respite care” means in-home services specifically designed to provide a temporary, periodic relief to the primary caregiver of an individual who is incapacitated or dependent due to AIDS or ARC. Respite care services include assistance with personal hygiene, nutritional support and environmental maintenance authorized as either episodic relief or as a routine relief of the caregiver.

“Routine respite care” means in-home services specifically designed to provide relief from continuous care to the caregiver on a periodic basis over an extended period of time (i.e., respite care offered regularly one day a week for six hours).

“Skilled nursing” means professional nursing care provided by a registered nurse or licensed practical nurse in the individual’s home or other community setting and necessary to avoid institutionalization of the individual with AIDS by assessment and monitoring of the medical condition, providing interventions, and communicating with the physician regarding changes in the patient’s status.

“State Plan for Medical Assistance” or “the Plan” or “the State Plan” means the document containing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

§ 2. General coverage and requirements for home and community-based care services for individuals with AIDS [/ARC] .

A. Coverage statement.

1. Coverage shall be provided under the administration of the Department of Medical Assistance Services for individuals with HIV infection, who have been diagnosed and are experiencing the symptoms associated with AIDS or ARC, who would otherwise require the level of care provided in a hospital or nursing facility.

2. These services shall be medically appropriate, cost-effective and necessary to maintain these individuals in the community.

B. Patient eligibility requirements.

1. DMAS will apply the financial eligibility criteria contained in the State Plan for the categorically needy and the medically needy. Virginia has elected to cover the optional categorically needy group under 42 CFR 435.211, 435.231 and 435.217. The income level used for 435.211, 435.231 and 435.217 is 300% of the current Supplemental Security Income payment standard for one person.

Under this waiver, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act will be considered as if they were institutionalized for the purpose of applying institutional deeming rules. The medically needy individuals participating in the waiver will also be considered as if they were institutionalized for the purpose of applying the institutional deeming rules.

2. Virginia will reduce its payment for home and community-based service provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income (including amounts disregarded in determining eligibility) that remains after allowable deductions for personal maintenance needs, deductions for other dependents and medical needs have been made, according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986. DMAS will reduce its payment for home and community-based services provided to an individual eligible for home and community-based waiver services by the amount that remains after deducting the following amounts in the following order from the individual's income:

a. For individuals to whom § 1924(d) applies:

(1) An amount for the maintenance needs of the individual which is equal to 300% of the categorically needy income standard for a noninstitutionalized individual.

(2) For an individual with only a spouse living at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act, the same as that applied for the institutionalized patient.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act, the same as that applied for the institutionalized patient.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including:

(a) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(b) Necessary medical or remedial care recognized under state law, but not covered under the state's Medicaid Plan.

b. For all other individuals:

(1) An amount for the maintenance needs of the individual which is equal to 300% of the categorically needy income standard for a noninstitutionalized individual.

[(2) For an individual with a family at home, an additional amount for the maintenance needs of the family which shall be equal to the medically needy income standard for a family of the same size.]

[(2) (3)] Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including:

(a) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(b) Necessary medical or remedial care recognized under state law, but not covered under the state's Medicaid Plan.

C. Assessment and authorization of home and community-based care services for individuals with AIDS/ARC.

1. The individual's status as an AIDS/ARC individual in need of home and community-based care services shall be determined by the preadmission screening team after completion of a thorough assessment of the individual's needs and available support. Screening by the preadmission screening team and preauthorization of home and community-based care services by DMAS staff is mandatory before Medicaid will assume payment responsibility of home and community-based care services.

2. An essential part of the preadmission screening team's assessment process is determining the level of care required by applying existing criteria for hospital or nursing facility care according to the Virginia Medicaid Hospital Criteria or the Virginia Medicaid Nursing Facility Criteria, or both.

3. The team shall explore alternative settings and services to provide the care needed by the individual. If hospital placement or a combination of other services are determined to be appropriate, the screening team shall initiate referrals for service. If Medicaid-funded home and community-based care services are determined to be the critical service to delay or avoid hospital or nursing facility placement, the screening team shall develop an appropriate Plan of Care, compute cost-effectiveness and make a recommendation for waiver services.

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4. Virginia's home and community-based care services for individuals with AIDS/ARC may only be recommended by the preadmission screening team if:

a. The physician who is part of the designated preadmission screening team specifically states the individual has a diagnosis of AIDS or ARC,

b. The preadmission screening team can document that the individual is experiencing medical and functional symptoms associated with AIDS or ARC which would, in the absence of waiver services, require the level of care provided in a hospital, or nursing facility, the cost of which would be reimbursed under the State Medicaid Plan,

c. The individual requesting waiver services is not an inpatient of a nursing facility or hospital,

d. Waiver services can reasonably be expected to cost equal to or less than institutional services and ensure the individual's safety and welfare in the home and community.

5. The preadmission screening team must submit all preadmission screening information and a recommendation to DMAS for final determination of level of care and authorization for home and community-based care services. DMAS authorization must be obtained prior to referral and Medicaid reimbursement for waiver services.

§ 3. General conditions and requirements for all participating providers for home and community-based services for individuals with AIDS/ARC.

All providers must meet the general requirements and conditions for provider participation. In addition, there are specific requirements for each of the service providers (case management, personal care, respite care and skilled nursing) which are set forth in §§ 4 through 7.

A. General requirements.

All providers approved for participation shall, at a minimum, perform the following activities:

1. Immediately notify DMAS, in writing, of any change in the information which the provider previously submitted to DMAS.

2. Assure freedom of choice to recipients in seeking medical care from any institution, pharmacy, practitioner, or other provider qualified to perform the service(s) required and participating in the Medicaid Program at the time the service was performed.

3. Assure the recipient's freedom to reject medical care and treatment.

4. Accept referrals for services only when staff is

available to initiate services.

5. Provide services and supplies to recipients in full compliance with Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the grounds of race, color, religion, or national origin and of § 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of a handicap.

6. Provide services and supplies to recipients in the same quality and mode of delivery as provided to the general public.

7. Charge DMAS for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges to the general public.

8. Accept Medicaid payment from the first day of eligibility.

9. Accept as payment in full the amount established by the DMAS.

10. Use program-designated billing forms for submission of charges.

11. Maintain and retain business and professional records sufficient to document fully and accurately the nature, scope and details of the health care provided.

a. Such records shall be retained for at least five years from the last date of service or as provided by applicable state laws, whichever period is longer. If an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception resolved. Records of minors shall be kept for at least five years after such minor has reached the age of 18 years.

b. Policies regarding retention of records shall apply even if the provider discontinues operation. DMAS shall be notified in writing of storage, location, and procedures for obtaining records for review should the need arise. The location, agent, or trustee shall be within the Commonwealth of Virginia.

12. Furnish to authorized state and federal personnel, in the form and manner requested, access to records and facilities.

13. Disclose, as requested by DMAS, all financial, beneficial ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to recipients of Medicaid.

14. Hold confidential and use for authorized DMAS purposes only all medical assistance information

regarding recipients.

15. Change of ownership. When ownership of the provider agency changes, DMAS shall be notified within 15 calendar days.

B. Requests for participation.

Requests will be screened to determine whether the provider applicant meets the basic requirements for participation.

C. Provider participation standards.

For DMAS to approve contracts with home and community-based care providers the following standards as defined in the provider manuals shall be met:

1. Staffing requirements;
2. Financial solvency;
3. Disclosure of ownership; and
4. Assurance of comparability of services.

D. Adherence to provider contract and special participation conditions.

In addition to compliance with the general conditions and requirements, all providers enrolled by the Department of Medical Assistance Services shall adhere to the conditions of participation outlined in their individual provider contracts and in the applicable DMAS provider service manual.

E. Recipient choice of provider agencies.

If there is more than one approved provider agency in the community, the individual will have the option of selecting the provider agency of his choice.

F. Termination of provider participation.

DMAS may administratively terminate a provider from participation upon 60 days' written notification. DMAS may also cancel a contract immediately or may give notification in the event of a breach of the contract by the provider as specified in the DMAS contract. Such action precludes further payment by DMAS for services provided recipients subsequent to the date specified in the termination notice.

G. Reconsideration of adverse actions.

Adverse actions may include, but are not limited to disallowed payment of claims for services rendered which are not in accordance with DMAS policies and procedures, caseload restrictions, and contract limitation or termination. The following procedures will be available to all providers when DMAS takes adverse action which

includes termination or suspension of the provider agreement.

1. The reconsideration process shall consist of three phases:

- a. A written response and reconsideration to the preliminary findings.
- b. An informal conference.
- c. A formal evidentiary hearing.

2. The provider shall have 30 days to submit information for written reconsideration, 15 days from the date of the notice to request an informal conference, and 15 days from the date of the initial agency decision to request a formal evidentiary hearing.

3. An appeal of adverse actions shall be heard in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) and the State Plan. Judicial review of the final agency determination shall be made in accordance with the Administrative Process Act.

H. Participating provider agency's responsibility for the Recipient Information Form (DMAS-122).

It is the responsibility of the provider agency to notify DMAS and the DSS, in writing, when any of the following circumstances occur:

1. Home and community-based care services are implemented.
2. A recipient dies.
3. A recipient is discharged or terminated from services.
4. Any other circumstances (including hospitalization) which cause home and community-based care services to cease or be interrupted for more than 30 days.

I. Changes or termination of care.

Agencies providing direct service are responsible for revisions to their individual service plan but must have any change which increases the amount of service or any change not agreed to by the recipient authorized by the case manager (refer to § 4 of these regulations).

1. Decreases in amount of authorized care by the provider agency.

- a. The provider agency may decrease the amount of authorized care only if the recipient agrees with the provider that a decrease in care is needed and that the amount of care in the revised Plan of Care is

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appropriate.

b. The provider is responsible for devising the new Plan of Care and calculating the new hours of service delivery.

c. The provider shall discuss the decrease in care with the recipient or family, document the conversation in the recipient's record, and shall notify the recipient or family and the recipient's case manager of the change by letter. The participating provider shall give the recipient or family 10 days written notification of the intent to decrease services. The letter shall provide the reasons for and effective date of the decrease. The effective date of the decrease in service shall be at least five days from the date of the decrease notification letter.

d. If the recipient disagrees with the decrease proposed, the provider shall contact the case manager to review the recipient's service needs and authorize the needed level of service.

2. Increases in amount of authorized care. If a change in the recipient's condition (physical, mental, or social) necessitates an increase in care, the provider shall develop a Plan of Care for services to meet the changed needs and contact the case manager assigned to the recipient who will, if appropriate, authorize the increase in service. The provider may implement the increase in hours once approval from the case manager is obtained.

3. Nonemergency termination of home and community-based care services by the provider. The provider shall give the recipient or family five days' written notification of the intent to terminate services. The letter shall provide the reasons for and effective date of the termination. The effective date of services termination shall be at least five days from the date of the termination notification letter.

4. Emergency termination of home and community-based care services by the participating provider. In an emergency situation when the health and safety of the recipient or provider agency personnel is endangered the DMAS must be notified prior to termination. The five-day written notification period shall not be required.

5. Termination of home and community-based care services for a recipient by the case manager. The effective date of termination shall be at least 10 days from the date of the termination notification letter. The case manager has the responsibility and the authority to terminate home and community-based care services to the recipient for any of these reasons:

a. Home and community-based care services are no longer the critical alternative to prevent or delay

institutional placement.

b. The recipient no longer meets the level-of-care criteria.

c. The recipient's environment does not provide for his health, safety, and welfare.

d. An appropriate and cost-effective Plan of Care cannot be developed.

J. Suspected abuse or neglect.

Pursuant to § 63.1-55.3 of the Code of Virginia, if a participating provider agency knows or suspects that a home and community-based care recipient is being abused, neglected, or exploited, the party having knowledge or suspicion of the abuse/neglect/exploitation shall report this to the local DSS.

K. DMAS is responsible for assuring continued adherence to provider participation standards. DMAS shall conduct ongoing monitoring of compliance with provider participation standards and DMAS policies and annually recertify each provider for contract renewal with DMAS to provide home and community-based services. A provider's noncompliance with DMAS policies and procedures, as required in the provider's contract, may result in a written request from DMAS for a corrective action plan which details the steps the provider will take and the length of time required to achieve full compliance with deficiencies which have been cited.

§ 4. Case management services.

The following are specific requirements governing the provision of case management services. Case management is one of five services covered under the home and community based care program for individuals with AIDS/ARC.

A. General.

Case management services are offered to enable continuous assessment, coordination and monitoring of the needs of the persons diagnosed with AIDS or ARC throughout the term of the individual's receipt of waiver services. Every AIDS/ARC individual authorized for home and community-based services shall be offered case management services as an adjunct to other offered services. A Medicaid-eligible individual may not be authorized for home and community-based services unless that individual is both diagnosed with AIDS or ARC and is experiencing symptoms which require delivery of a home and community-based service other than case management. An individual authorized for home and community-based services for conditions of AIDS/ARC may continue to receive case management services during periods when other home and community-based services are not being utilized as long as receipt of case management services can be shown to continue to prevent the individual's

institutionalization.

B. Special provider participation conditions.

To be a participating case management provider the following conditions shall be met:

1. The provider shall employ case management staff responsible for the reevaluation of need, monitoring of service delivery, revisions to the Plan of Care and coordination of services. This staff shall possess, at a minimum:

a. A baccalaureate degree in human services (i.e., social work, psychology, sociology, counseling, or a related field) or nursing;

b. Knowledge of the infectious disease process (specifically HIV) and the needs of the terminally-ill population, knowledge of the community service network and eligibility requirements and application procedures for applicable assistance programs;

c. Ability to access other health and social work professionals in the community to serve as members of a multidisciplinary team for reevaluation and coordination of services activities, ability to organize and monitor an integrated service plan for individuals with multiple problems and limited resources, ability to access (or have expertise in) medical and clinical expertise related to HIV infection and ability to demonstrate liaisons with clinical facilities providing diagnostic evaluation or treatment for persons with HIV; and

d. Skills in communication, service plan development, client advocacy and monitoring of a continuum of managed care.

Documentation of all staffs' credentials shall be maintained in the provider agency's personnel file for review by DMAS staff. Providers of case management may utilize the services of volunteers or employees who do not meet this criteria to perform the day-to-day interactions with recipients commonly included in the case management process. There shall be, however, a case manager responsible for supervision of these volunteers or employees to include at a minimum weekly case consultations, decision-making related to the individual's Plan of Care and appropriateness for waiver services and training of the volunteers or employees interacting with the waiver recipient. The use of volunteers or other employees to perform the day-to-day interactions does not relieve the case manager from responsibility for direct contact (as defined below) with the recipient and overall responsibility for care management.

2. Designate a qualified staff person as case manager who shall:

a. Contact the waiver recipient, at a minimum, once every 30 days. If the waiver recipient has a volunteer(s) or other staff assigned for regular face-to face contact, this contact by the case manager may be a telephone contact. Otherwise, the contact by the case manager shall be a face-to-face interaction.

b. Contact the providers of direct waiver service(s), at a minimum, once every 30 days. Collateral contacts with other supports shall be made periodically, as determined by the needs of the recipient and extent of the support system.

c. Maintain a file for each recipient which includes:

(1) An ongoing progress report which documents all communications between the case manager and recipient, providers, and other contacts. If the case manager is supervising a volunteer or employee who is assigned to provide day-to-day case management interactions with the recipient, the volunteer or employee must submit to the case manager a monthly summary of all interactions between the volunteer or employee and the recipient,

(2) The recipient's assessment documentation and documentation of reassessments of level of care and need for services conducted quarterly by the case manager and the individual's case management team,

(3) The initial Plan of Care and all subsequent revisions,

(4) Communication from DMAS, physician, service providers, and any other parties.

d. Reviews of the Plan of Care every three months, or more frequently if necessary, and continue any revisions indicated by the changed needs or support of the recipient. These reviews shall be documented in the recipient's file. The documentation shall note all members of the case management team who provided input to the Plan of Care.

3. Maintain a ratio of case manager staff to recipient caseload which allows optimum monitoring and reevaluation ability. The caseload ability of the case manager may vary according to other duties, availability of resources, stage of recipients in caseload, and utilization of volunteers. A ratio of one case manager to a caseload size of 25 waiver recipients is deemed desirable, but can be exceeded as long as quality of case management services are not affected.

C. Nutritional supplement authorization.

Nutritional supplements which do not contain a legend drug may be purchased for the recipient of waiver

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services for conditions of AIDS/ARC when the nutritional supplements are certified by the physician as the primary source of nutrition and necessary for the successful implementation of the individual's health care plan and the individual is not able to purchase these food supplements through other available means. The amount of nutritional supplements shall be limited by medical necessity and cost effectiveness. Case management providers shall authorize the purchase of physician-ordered nutritional supplements through the Plan of Care approved by DMAS. The case management provider shall complete an invoice authorizing the purchase which the recipient can use to purchase the nonlegend drug nutritional supplements from an approved Medicaid provider.

§ 5. Personal care services.

The following requirements govern the provision of personal care services:

A. General.

Personal care services are offered to individuals in their homes as long-term maintenance or support services which are necessary in order to enable the individual to remain at or return home rather than enter a hospital or nursing facility. Personal care services provide eligible individuals with personal care aides who perform basic health-related services, such as helping with activities of daily living, assisting with ambulation, exercises, assisting with normally self-administered medications, reporting changes in recipient's conditions and needs, or providing household services essential to health in the home. Generally, personal care services include assistance with personal hygiene, nutritional support, and the environmental maintenance necessary for recipients to remain in their homes.

B. Special provider participation conditions.

The personal care provider shall:

1. Demonstrate a prior successful delivery of health care services.
2. Operate from a business office.
3. Employ (or subcontract with) and directly supervise at least a registered nurse (RN) who will provide ongoing supervision of all personal care aides.
 - a. The RN shall be currently licensed to practice in the Commonwealth of Virginia and have at least two years of related clinical nursing experience (which may include work in a acute care hospital, public health clinic, home health agency, or nursing home).
 - b. The RN supervisor shall make an initial assessment home visit prior to the start of care for all new recipients admitted to personal care.

c. The RN shall make supervisory visits as often as needed to ensure both quality and appropriateness of services. A minimum frequency of these visits is every 30 days.

d. During visits to the recipient's home, the RN shall observe, evaluate, and document the adequacy and appropriateness of personal care services with regard to the recipient's current functioning status, medical, and social needs. The personal care aide's record shall be reviewed and the recipient's (or family's) satisfaction with the type and amount of service discussed. The RN summary shall note:

- (1) Whether personal care services continue to be appropriate.
- (2) Whether the plan is adequate to meet the need or changes are indicated in the plan.
- (3) Any special tasks performed by the aide and the aide's qualifications to perform these tasks.
- (4) Recipient's satisfaction with the service.
- (5) Hospitalization or change in medical condition or functioning status.
- (6) Other services received and their amount.
- (7) The presence or absence of the aide in the home during the RN's visit.

e. The registered nurse shall be available to the personal care aide for conference pertaining to individuals being served by the aide and shall be available to aide by telephone at all times that the aide is providing services to personal care recipients.

f. The RN supervisor shall evaluate the aide's performance and the recipient's individual needs to identify any gaps in the aide's abilities to function competently and shall provide training as indicated.

4. Employ and directly supervise personal care aides who will provide direct care to personal care recipients. Each aide hired by the provider agency shall be evaluated by the provider agency to ensure compliance with minimum qualifications as required by DMAS. Each aide:

- a. Shall be able to read and write.
- b. Shall complete 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency shall ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.
- c. Shall be physically able to do the work.

d. Shall have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse, neglect or exploitation of incapacitated or older adults and children.

e. Shall not be a member of the recipient's family (e.g., family is defined as parents, spouses, children, siblings, grandparents, and grandchildren).

C. Provider inability to render services and substitution of aides.

1. When a personal care aide is absent and the agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients. The agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient to another agency. If no other provider agency is available, the provider agency shall notify the recipient or family so they may contact the local health department to request a nursing home preadmission screening if nursing home placement is desired.

2. During temporary, short-term lapses in coverage (not to exceed two weeks in duration), the following procedure shall apply:

a. The personal care agency having recipient responsibility shall provide the registered nurse supervision for the substitute aide.

b. The agency providing the substitute aide shall send to the personal care agency having recipient care responsibility a copy of the aide's signed daily records signed by the recipient.

c. The provider agency having recipient responsibility shall bill DMAS for services rendered by the substitute aide. The two agencies involved shall negotiate the financial arrangements of paying the substitute aide.

3. If a provider agency secures a substitute aide, the provider agency shall be responsible for ensuring that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation in recipients' records.

The provider agency shall maintain all records of each personal care recipient. At a minimum these records shall contain:

1. The most recently updated Long Term Care Assessment Instrument, the Prescreening Authorization, the Screening Team Plan of Care, all provider agency

plans of care, and all DMAS-122s.

2. All DMAS Utilization Review forms and plans of care.

3. Initial assessment by the RN supervisory nurse completed prior to or on the date services are initiated.

4. Nurses' notes recorded and dated during any contacts with the personal care aide and during supervisory visits to the recipient's home.

5. All correspondence to the recipient and to DMAS.

6. Reassessments made during the provision of services.

7. Contacts made with family, physicians, DMAS, formal, informal service providers and all professionals concerning the recipient.

8. All personal care aide records. The personal care aide record shall contain:

a. The specific services delivered to the recipient by the aide and the recipient's responses.

b. The aide's arrival and departure times.

c. The aide's weekly comments or observations about the recipient to include observations of the recipient's physical and emotional condition, daily activities, and responses to services rendered.

d. The aide's and recipient's weekly signature to verify that personal care services during that week have been rendered.

e. Signatures, times and dates shall not be placed on the aide record prior to the last date of the week that the services are delivered.

§ 6. Respite care services.

These requirements govern the provision of respite care services.

A. General.

Respite care services may be offered to individuals in their homes as an alternative to more costly institutional care. Respite care is distinguished from other services in the continuum of long-term care because it is specifically designed to focus on the need of the caregiver for temporary relief. Respite care may only be offered to individuals who have a primary caregiver living in the home who requires temporary relief to avoid institutionalization of the individual. The authorization of respite care is limited to 30 24-hour days over a 12-month period. Reimbursement shall be made on an hourly basis.

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B. Special provider participation conditions.

To be approved for respite care contracts with DMAS, the respite care provider shall:

1. Demonstrate prior successful health care delivery.
2. Operate from a business office.
3. Employ or subcontract with and directly supervise a registered nurse (RN) who will provide ongoing supervision of all respite care aides.

a. The RN shall be currently licensed to practice in the Commonwealth and have at least two years of related clinical nursing experience which may include work in an acute care hospital, public health clinic, home health agency, or nursing home.

b. Based on continuing evaluations of the aides' performance and the recipients' individual needs, the RN supervisor shall identify any gaps in the aides' abilities to function competently and shall provide training as indicated.

c. The RN supervisor shall make an initial assessment visit prior to the start of care for any recipient admitted to respite care.

d. The RN supervisor shall make supervisory visits as often as needed to ensure both quality and appropriateness of services.

(1) When respite care services are received on a routine basis, the minimum acceptable frequency of these visits shall be every 30 days.

(2) When respite care services are not received on a routine basis, but are episodic in nature, the RN supervisor shall not be required to conduct a supervisory visit every 30 days. Instead, the RN supervisor shall conduct the initial home visit with the respite care aide immediately preceding the start of care and make a second home visit within the respite care period.

(3) When respite care services are routine in nature and offered in conjunction with personal care, the 30-day supervisory visit conducted for personal care may serve as the RN visit for respite care. However, the RN supervisor shall document supervision of respite care separately. For this purpose, the same recipient record can be used with a separate section for respite care documentation.

e. During visits to the recipient's home, the RN shall observe, evaluate, and document the adequacy and appropriateness of respite care services with regard to the recipient's current functioning status, medical, and social needs. The respite care aide's record shall be reviewed and the recipient's or

family's satisfaction with the type and amount of service discussed. The RN shall document in a summary note:

(1) Whether respite care services continue to be appropriate.

(2) Whether the Plan of Care is adequate to meet the recipient's needs or if changes need to be made in it.

(3) The recipient's satisfaction with the service.

(4) Any hospitalization or change in medical condition or functioning status.

(5) Other services received and their amount.

(6) The presence or absence of the aide in the home during the visit.

f. In all cases, the RN shall be available to the respite care aide to discuss the recipients being served by the aide.

g. The RN providing supervision to respite care aides shall be available to them by telephone at all times that services are being provided to respite care recipients. Any lapse in RN coverage shall be reported immediately to DMAS.

4. Employ and directly supervise respite care aides who provide direct care to respite care recipients. Each aide hired by the provider agency shall be evaluated by the provider agency to ensure compliance with minimum qualifications. Each aide:

a. Shall be able to read and write.

b. Shall have completed 40 hours of training consistent with DMAS standards. Prior to assigning an aide to a recipient, the provider agency shall ensure that the aide has satisfactorily completed a training program consistent with DMAS standards.

c. Shall be evaluated in job performance by the RN supervisor.

d. Shall have the physical ability to do the work.

e. Shall have a satisfactory work record, as evidenced by references from prior job experience, including no evidence of possible abuse or neglect of incompetent or incapacitated individuals.

f. Shall not be a member of a recipient's family (e.g., family is defined as parents, spouses, siblings, grandparents, and grandchildren).

5. The respite care agency may employ a licensed practical nurse (LPN) to deliver respite care services

which shall be reimbursed by DMAS under the following circumstances:

- a. The individual receiving care has a need for routine skilled care which cannot be provided by unlicensed personnel. These individuals would typically require a skilled level of care if in a nursing home (i.e., recipients on a ventilator, recipients requiring nasogastric or gastrostomy feedings).
- b. No other individual in the recipient's support system is able to supply the skilled component of the recipient's care during the caregiver's absence.
- c. The recipient is unable to receive skilled nursing visits from any other source which could provide the skilled care usually given by the caregiver.
- d. The agency can document the circumstances which require the provision of services by an LPN.

C. Inability to provide services and substitution of aides.

When a respite care aide is absent and the respite care provider agency has no other aide available to provide services, the provider agency is responsible for ensuring that services continue to recipients.

1. If a provider agency cannot supply a respite care aide to render authorized services, the agency may either obtain a substitute aide from another agency, if the lapse in coverage is to be less than two weeks in duration, or may transfer the recipient's care to another agency.
2. If no other provider agency is available who can supply an aide, the provider agency shall notify the recipient or family and case manager.
3. If a substitute aide is secured from another respite care provider agency or other home care agency, the following procedures apply:
 - a. The respite care agency having recipient responsibility shall be responsible for providing the RN supervision for the substitute aide.
 - b. The agency providing the substitute aide shall send to the respite care agency having recipient care responsibility a copy of the aide's daily records signed by the recipient, and the substitute aide. All documentation of services rendered by the substitute aide shall be in the recipient's record. The documentation of the substitute aide's qualifications shall also be obtained and recorded in the personnel files of the agency having recipient care responsibility.
 - c. The provider agency having recipient responsibility shall bill DMAS for services rendered

by the substitute aide. The two agencies involved shall negotiate the financial arrangements of paying the substitute aide.

4. Substitute aides obtained from other agencies may be used only in cases where no other arrangements can be made for recipient respite care services coverage and may be used only on a temporary basis. If a substitute aide is needed for more than two weeks, the case shall be transferred to another respite care provider agency that has the aide capability to serve recipients.

5. If a provider agency secures a substitute aide it is the responsibility of the provider agency having recipient care responsibility to ensure that all DMAS requirements continue to be met, including documentation of services rendered by the substitute aide and documentation that the substitute aide's qualifications meet DMAS requirements.

D. Required documentation for recipients records.

The provider agency shall maintain all records of each respite care recipient. These records shall be separated from those of other nonhome and community-based care services, such as companion services or home health. These records shall be reviewed periodically by the DMAS staff. At a minimum these records shall contain:

1. Long Term Care Assessment Instrument, the Prescreening Authorization, all Respite Care Assessment and Plans of Care, and all DMAS-122s.
2. All DMAS Utilization Review Forms and Plans of Care.
3. Initial assessment by the RN supervisor completed prior to or on the date services are initiated.
4. Registered nurse's notes recorded and dated during contacts with the respite care aide and during supervisory visits to the recipient's home.
5. All correspondence to the recipient and to DMAS.
6. Reassessments made during the provision of services.
7. Significant contacts made with family, physicians, DMAS, and all professionals concerning the recipient.
8. Respite care aide record of services rendered and recipient's responses. The aide record shall contain:
 - a. The specific services delivered to the recipient by the respite care aide, or LPN, and the recipient's response.
 - b. The arrival and departure time of the aide for respite care services only.

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c. Comments or observations recorded weekly about the recipient. Aide comments shall include but not be limited to observation of the recipient's physical and emotional condition, daily activities, and the recipient's response to services rendered.

d. The signature by the aide, or LPN, and the recipient once each week to verify that respite care services have been rendered.

e. Signature, times, and dates shall not be placed on the aide record prior to the last date of the week that the services are delivered.

9. Copies of all aide records shall be subject to review by state and federal Medicaid representatives.

10. If a respite care recipient is also receiving any other service (meals on wheels, companion, home health services, etc.), the respite care record shall indicate that these services are also being received by the recipient.

§ 7. Skilled nursing services.

These requirements govern the provision of skilled nursing services.

A. General.

Skilled nursing services may be offered to individuals with AIDS/ARC when such services are deemed necessary by the physician to avoid institutionalization by assessment and monitoring of the medical condition, providing interventions, and communicating with the physician regarding changes in the patient's status. The hours of private duty nursing shall be limited by medical necessity and cost effectiveness.

B. Special provider participation conditions.

To be approved for skilled nursing contracts with DMAS, the skilled nursing provider shall:

1. Be a home health agency certified by the Virginia Department of Health for Medicaid participation, with which DMAS has a contract for private duty nursing.
2. Demonstrate a prior successful health care delivery.
3. Operate from a business office.
4. Employ or subcontract with and directly supervise a registered nurse (RN) or a licensed practical nurse with a current and valid license issued by the Virginia State Board of Nursing.

The RN shall be currently licensed to practice in the Commonwealth and have at least two years of related clinical nursing experience which may include work in an acute care hospital, public health clinic, home

health agency, or nursing home.

ASSESSMENT PROCESS

NAME		ROLE		SUMMARY OF PROVIDERS			TELEPHONE NUMBER
ADDRESS	ADDRESS	ADDRESS	ADDRESS	NUMBER	SCALE	DAYS OF OCCURRENCE	
BIRTHDATE BIRTHPLACE SEX MARRIAL STATUS <input type="checkbox"/> MONTH <input type="checkbox"/> YEAR <input type="checkbox"/> USA <input type="checkbox"/> OTHER 1, 2 <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> SINGLE <input type="checkbox"/> DIVORCED <input type="checkbox"/> UNKNOWN 3							
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ADDITIONAL COMMENTS, JUSTIFICATIONS, RECOMMENDATIONS, DECISIONS		
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NAME OR NUMBER	ADDITIONAL INFORMATION/PLAN	HPCA CODE DATE																																																															
	<p>TRANSLATION TO SERVICE NEEDS</p> <p>1. RECORD THE DATES OF SERVICE NEEDS AS 6, 8, OR ON IN THE QUARTERED ASSESSMENT WITH THE SAME ITEMS IN THE ASSESSED STATUS.</p> <p>2. STATUS COLUMN RECORD CHECKS THE SERVICES WENT TO EACH MATCHED ITEM UNDER THE DATE OF ASSESSMENT.</p> <p>3. IF THE ASSESSED STATUS IS "1," FOR BEHAVIOR AND ONE WITH 3ON, NO SURFACE IS CHECKED AS NEEDED.</p>																																																																
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MEDICAID HIV WAIVER SERVICES PLAN OF CARE

MEDICAID HIV SERVICES PRE-SCREENING

PRE-ADMISSION SCREENING AGENCY: _____ PROVIDER NUMBER: _____

CLIENT NAME: _____ MEDICAID NUMBER: _____

If no Medicaid number now, has the individual formally applied for Medicaid? _____
 0 - Yes 1 - No

REFERRAL SOURCE: Circle appropriate response.

- | | | |
|---------------------|--|-------------------------------|
| 0 - self | 4 - home health agency | 7 - community organization |
| 1 - family/friend | 5 - local social service/health agency | 8 - AIDS service organization |
| 2 - physician | 6 - social security office | 9 - Other (_____) |
| 3 - hospital/clinic | | |

REASON FOR APPLICATION: Circle appropriate response.

- | | |
|--|------------------------------------|
| 0 - Recent deterioration of Medical Status | 2 - Primary caregiver needs relief |
| 1 - Other funding sources depleted | 3 - Other (_____) |

RISK GROUP: Circle appropriate response.

STAGE OF DISEASE AT SCREENING:

- | | | |
|---------------------------|-----------------------------------|----------------------------|
| 0 - IVDU-Heterosexual | 4 - Hemophilic/ Blood transfusion | 1 - Level I Diagnosis |
| 1 - IVDU-Homosexual | 5 - Pediatric | 2 - Level II Early Chronic |
| 2 - Heterosexual (M or F) | 6 - Other (_____) | 3 - Level III Late Chronic |
| 3 - Homosexual | 9 - Unknown | 4 - Level IV Terminal |

IF THE CLIENT:

- Is currently Medicaid eligible or has formally applied
- AND
- Is at Level II or greater in the stage of the disease process

THEN CONTINUE ASSESSING THE CLIENTS NEEDS BY COMPLETING:

- The DMAS-95 assessment document
- The client's plan of care
- Determine whether the client meets the criteria for skilled hospital level of care
- Recommend whether an appropriate and cost-effective plan of care can be authorized

AND

- Send the pre-admission screening forms to: Dept. of Medical Assistance Services
 Community Based Care, HIV Waiver
 600 East Broad Street, Suite 1100
 Richmond, Virginia 23219

DMAS-#
6/90

CLIENT: _____ MEDICAID NUMBER: _____

INFORMAL SUPPORT NETWORK

Name	Address	Work Phone	Home Phone
------	---------	------------	------------

PRIMARY: _____

OTHERS: _____

RELATIONSHIP OF PRIMARY CAREGIVER(S): _____ LIVING SITUATION OF PRIMARY CAREGIVER: _____

- | | |
|--------------------|---|
| 0 - no caregiver | 0 - no caregiver |
| 1 - parent | 1 - with client |
| 2 - other relative | 2 - separate residence but close in proximity |
| 3 - spouse | 3 - separate residence, over an hour away |
| 4 - partner/lover | |
| 5 - friend | |
| 6 - Other (_____) | |

SERVICE NEEDS:

A. SERVICES INFORMAL SUPPORTS ARE HILLING AND ABLE TO PROVIDE

Needs	Check Those That Apply	Support Available (Use Codes Provided Below)	Frequency (Use Codes Provided)
ADLs	_____	_____	_____
Housekeeping	_____	_____	_____
Living space	_____	_____	_____
Meals	_____	_____	_____
Shopping	_____	_____	_____
Transportation	_____	_____	_____
Supervision	_____	_____	_____
Medicine	_____	_____	_____
Financial	_____	_____	_____
Other: _____	_____	_____	_____

SUPPORT:

FREQUENCY:

- | | |
|--|-------------------------|
| 0 - no caregiver | 0 - daily |
| 1 - fully capable and willing | 1 - 4-6 times a week |
| 2 - able but limited by outside employment | 2 - 2-3 times a week |
| 3 - able but limited by attitudes | 3 - once a week or less |
| 4 - client does not want help | 9 - Unknown |
| 5 - client does not need this help | |
| 9 - Unknown | |

B. MEDICAID NON-WAIVERED SERVICES

Type	Currently Receives - Y or N	Frequency Unit	Start of Care	Provider Name
Home Health	_____	_____	_____	_____
Rehabilitation (Specify type: _____)	_____	_____	_____	_____
Medications	_____	_____	_____	_____
Outpatient Clinic	_____	_____	_____	_____
DME/Supplies	_____	_____	_____	_____
Physician	_____	_____	_____	_____
Transportation	_____	_____	_____	_____
Hospice	_____	_____	_____	_____
EPSDT	_____	_____	_____	_____
Laboratory Services	_____	_____	_____	_____
Other: (_____)	_____	_____	_____	_____
Other: (_____)	_____	_____	_____	_____

COMMENTS: _____

C. OTHER NON-MEDICAID SERVICES

Type	Currently Receives - Y or N	Frequency/ Unit	Start of Care	Provider Name
Health Education	_____	_____	_____	_____
Support Groups	_____	_____	_____	_____
Buddies/Companions	_____	_____	_____	_____
Psychological/Counseling	_____	_____	_____	_____
Drug Abuse Treatment	_____	_____	_____	_____
Dental	_____	_____	_____	_____
Housing	_____	_____	_____	_____
Home Delivered Meals	_____	_____	_____	_____
Entitlements/benefits assistance	_____	_____	_____	_____
Legal	_____	_____	_____	_____
Child care	_____	_____	_____	_____
Foster care	_____	_____	_____	_____
Other: (_____)	_____	_____	_____	_____
Other: (_____)	_____	_____	_____	_____

COMMENTS: _____

D. MEDICAID HIV WAIVER SERVICES

Type	Frequency/Unit Authorized	Start of Care	Provider Chosen
Case Management	_____	_____	_____
Skilled Nursing Care	_____	_____	_____
Respite:			
-Routine	_____	_____	_____
-Episodic	_____	_____	_____
Personal Care	_____	_____	_____
Nutritional Supplements	_____	_____	_____

COMMENTS: _____

_____ (name of client) requires the level of care which can only be received in either a hospital, nursing facility or at home with home and community based care services and other appropriate care as indicated on this Plan of Care to meet the identified medical/functional/nursing needs of the individual.

_____ Home Care is Recommended - Home care for this individual is appropriate to adequately meet the client's needs and assures that all other resources have been explored prior to seeking Medicaid authorization for this client.

_____ Home environment is found to be safe and therapeutic.

_____ Community resources are available to support the non-waiver service needs of the client.

_____ Home Care is Not Recommended

_____ Appropriate Plan of Care could not be developed. Reason _____

_____ Family/Caregiver decided Home Care was not a viable option.

_____ No provider agency available.

_____ Other _____

I certify that this patient is experiencing symptoms that meet the Center for Disease Control's definition of ARC or AIDS. The patient is under care and the established plan of care will be reviewed by me at least every three months.

Physician's signature _____ Date _____

FREEDOM OF CHOICE

In accordance with the policies and procedures of the Department of Medical Assistance Services, I have been informed of the Medicaid-funded long-term care options available and have chosen:

- | | |
|-------------------------------|------------------|
| _____ Case Management | PROVIDERS CHOSEN |
| _____ Personal Care | _____ |
| _____ Respite Care | _____ |
| _____ Nutritional Supplements | _____ |
| _____ Private Duty Nursing | _____ |

Client _____ Date _____

ASO Pre-Admission Screening Staff _____ Date _____

IDENTIFY OTHER MEMBERS OF THE PRE-ADMISSION SCREENING TEAM:

DMAS-#
6/90

Final Regulations

BOARD OF MEDICINE

Title of Regulation: VR 465-08-01. Regulations for Certification of Occupational Therapists.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: January 31, 1991.

Summary:

The regulations establish requirements for educational training and examination for an occupational therapist to be eligible for certification to assure safe delivery of occupational therapy to the citizens of the Commonwealth.

VR 465-08-01. Regulations for Certification of Occupational Therapists.

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:

"Advisory board" means the Advisory Board of Occupational Therapy.

"AOTA" means the American Occupational Therapy Association, Inc.

"AOTCB" means the American Occupational Therapy Certification Board, Inc., under which the national examination for certification is developed and implemented.

"AMA" means the American Medical Association.

["Board" means the Virginia Board of Medicine.]

"Certification examination" means the national examination approved and prescribed by AOTCB for certification as an occupational therapist.

"Occupational therapist" means a person who is qualified by education and training to administer an occupational therapy program and who holds current and valid certification [issued] by the board.

"Occupational therapy [~~assistant~~ personnel] " means a person [who provides occupational therapy services] under the supervision of a certified occupational therapist.

"World Federation of Occupational Therapists" means the association of member nations outside of the United States, its possessions or territories whose academic and clinical fieldwork requirements are in accordance with the

American Occupational Therapy Association Essentials of an accredited educational program for an occupational therapist.

§ 1.2. A separate regulation, VR 465-01-01, Public Participation Guidelines, which provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine, is incorporated by reference in these regulations.

PART II. REQUIREMENTS OF CERTIFICATION AS AN OCCUPATIONAL THERAPIST.

§ 2.1. Requirements, general.

A. No person shall practice as an occupational therapist in the Commonwealth of Virginia except as provided in these regulations.

B. Certification by the board to practice as an occupational therapist shall be by examination as prescribed in these regulations.

§ 2.2. Educational requirements.

A. An applicant for certification who has received his professional education in the United States, its possessions or territories, must successfully complete all academic and fieldwork requirements of an AMA/AOTA accredited educational program as verified by the candidate's program director.

B. An applicant who has received his professional education outside the United States, its possessions or territories, must successfully complete all academic and clinical fieldwork requirements of a program approved by a member association of the World Federation of Occupational Therapists as verified by the candidate's occupational therapy program director and approved by the AOTCB.

C. An applicant who does not meet the educational requirements as prescribed [~~above~~ in subsection B of this section] but who holds certification by the AOTCB as an occupational therapist shall provide verification of his education, training and work experience acceptable to the board.

§ 2.3. Certification by examination.

A. An applicant for certification to practice as an occupational therapist must submit to the board a score report from the certification examination indicating a minimum passing score as established and verified by the AOTCB.

B. Persons who hold current and valid certification from the AOTCB may submit with their application to the board verification of that AOTCB Certification in lieu of the score report of the certification examination as required in

§ 2.3 A of these regulations.

C. An applicant must submit the application, credentials and prescribed fees as required by the board for certification.

D. An applicant who has graduated from a duly accredited educational program in occupational therapy shall be allowed to practice as an occupational therapist for one year from the date of graduation or until he has taken and received a passing grade of the certification examination, whichever occurs sooner.

E. An applicant who fails to successfully pass the examination within one year after graduation may practice [~~as an~~] occupational therapy [~~assistant~~] under the supervision of a certified occupational therapist until successful completion of the certification examination and the filing of the required application, credentials, and fee.

F. An applicant who does not qualify by education for the AOTCB Certification Examination and who does not hold valid certification from the AOTCB but who is currently practicing occupational therapy may submit for review and recommendation of the advisory board and the approval by the board evidence of his education, training, and experience along with a request to take the certification examination for certification as an occupational therapist in Virginia. A person who does not take the certification examination may continue to practice [~~as an~~] occupational therapy [~~assistant~~] under the supervision of an occupational therapist.

[§ 2.4. Practice requirements.

An applicant who has met education and examination requirements but who has not practiced occupational therapy for a period of six years shall serve a board approved supervised practice of 160 hours which is to be completed in two consecutive months.]

PART III. RENEWAL OF CERTIFICATION: REINSTATEMENT.

§ 3.1. Biennial renewal of certification.

A. An occupational therapist shall renew his certification biennially during his birth month in each even numbered year [~~and pay to the board the renewal fee prescribed in § 5.1 of these regulations.~~] by:

1. Paying to the board the renewal fee prescribed in § 5.1 of these regulations; and
2. Indicating whether or not he has been professionally active during each biennial renewal cycle.]

B. An occupational therapist whose certification has not been renewed by the first day of the month following the month in which renewal is required shall be dropped from

the certification roll.

C. An additional fee to cover administrative costs for processing a late application shall be imposed by the board as prescribed in § 5.1.

§ 3.2. Reinstatement.

A. An occupational therapist who allows his certification to lapse for a period of two years or more and chooses to resume his practice shall make a new application to the board and payment of the fee for reinstatement of his certification as prescribed in § 5.1 B of these regulations.

[B. An occupational therapist who has allowed his certification to lapse for six years or more, must serve a board approved, supervised practice of 160 hours to be completed in two consecutive months.

~~B. C.]~~ An occupational therapist whose certification has been revoked by the board and who wishes to be reinstated must make a new application to the board and payment of the fee for reinstatement of his certification as prescribed in § 5.1 F of these regulations.

PART IV. PRACTICE OF OCCUPATIONAL THERAPY.

§ 4.1. General responsibilities.

An occupational therapist renders his services of assessment, program planning, and therapeutic treatment upon request for such service.

§ 4.2. Individual responsibilities.

A. An occupational therapist provides assessment by determining the need for, the appropriate areas of, and the estimated extent and time of treatment. His responsibilities include an initial screening of the patient to determine need for services and the collection, evaluation and interpretation of data necessary for treatment.

B. An occupational therapist provides program planning by identifying the goals and the methods necessary to achieve those goals for the patient. [~~He~~ The therapist] analyzes the tasks and activities of the program, documents the progress, and coordinates the plan with other health [, community or educational] services, the family and the patient. The services may include but are not limited to education and training in activities of daily living (ADL); the design, fabrication, and application of orthoses (splints); guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped.

C. An occupational therapist provides the specific activities or therapeutic methods to improve or restore

Final Regulations

optimum functioning, to compensate for dysfunction, or to minimize disability of patients impaired by physical illness or injury, emotional, congenital or developmental disorders, or by the aging process.

§ 4.3. Supervisory responsibilities.

A. An occupational therapist shall be responsible for supervision of occupational therapy [~~assistants~~ personnel] who work under his direction.

B. [~~An~~ The supervising] occupational therapist shall meet with the occupational therapy [~~assistant~~ personnel] to review and evaluate treatment and progress of the individual patients at least once every [~~14~~ fifth treatment session or 21] calendar days [, whichever occurs first] .

C. An occupational therapist shall not supervise more than [~~four~~ six] occupational therapy [~~assistants at any one time~~ personnel] .

D. An occupational therapist shall be responsible for any action of persons [~~performing~~ providing] occupational therapy under his supervision.

PART V. FEES.

§ 5.1. The following fees have been established by the board:

1. The initial fee for the occupational therapist certification shall be \$150.
2. The fee for reinstatement of the occupational therapist certification shall be \$150.
3. The fee for certification renewal shall be \$85 and shall be due in the birth month of the certified therapist in each even numbered year.
4. The additional fee to cover administrative costs for processing a late application shall be \$25 for each renewal cycle.
5. The fee for a letter of good standing/verification to another state for a license or certification shall be \$10.
6. The fee for reinstatement of revoked certification shall be \$500.

INSTRUCTIONS FOR COMPLETING AN APPLICATION FOR CERTIFICATION AS AN OCCUPATIONAL THERAPIST

REQUIREMENTS FOR CERTIFICATION AS AN OCCUPATIONAL THERAPIST

The Board may accept for certification a candidate as an Occupational Therapist who has submitted evidence that he/she has successfully completed all academic and fieldwork requirements of an AMA/AOTA accredited educational program as prescribed by the Board. Each applicant must submit the completed four-page application to the Virginia Board of Medicine.

THE FEE - The application must be accompanied by a fee of ONE HUNDRED FIFTY DOLLARS (\$150). APPLICATIONS WILL NOT BE PROCESSED UNLESS THE FEE IS ATTACHED. FEES SENT PRIOR TO THE RECEIPT OF AN APPLICATION WILL BE RETURNED. CHECK OR MONEY ORDER MUST BE MADE PAYABLE TO: TREASURER OF VIRGINIA.

CERTIFICATE OF PROFESSIONAL EDUCATION - This section of the application form (on page 4) must be completed by your occupational therapy school. The entire application form must be forwarded to the school. WE WILL NOT ACCEPT A SEPARATE SECTION OF THE FORM.

OTHER DOCUMENTS REQUIRED:

CERTIFICATION OF CREDENTIALS FROM AOTCB - Certification should be requested from the American Occupational Therapy Certification Board, Inc., 1383 Piccard Drive, P. O. Box 1725, Rockville, Maryland 20850-4375, Phone (301) 990-7879, on the enclosed form. This should be mailed directly from the AOTCB to the Board office. (A TEN DOLLAR FEE IS REQUIRED BY THE AOTCB).

EMPLOYMENT QUESTIONNAIRE - Forward one questionnaire to each place of employment in the last ten (10) years. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE FRONT SIDE OF EACH QUESTIONNAIRE.

STATE LICENSURE/CERTIFICATION QUESTIONNAIRE - Forward one questionnaire to those states in which you have held or currently hold a license/certificate. PLEASE NOTE THAT YOUR SIGNATURE MUST BE ON THE FRONT SIDE OF EACH QUESTIONNAIRE.

NOTE: ONE EMPLOYMENT AND ONE STATE LICENSURE/CERTIFICATION QUESTIONNAIRE IS ENCLOSED. YOU MAY DUPLICATE THESE FORMS FOR YOUR CONVENIENCE.

DHP-030-080 Rev. 10/90

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HEALTH PROFESSIONS BOARD OF MEDICINE 1601 ROLLING HILLS DRIVE RICHMOND, VA 23229-5005 (804) 662-9908 APPLICATION FOR CERTIFICATION TO PRACTICE OCCUPATIONAL THERAPY

SECURELY PASTE A PASSPORT SIZE PHOTOGRAPH

TO THE BOARD OF MEDICINE OF VIRGINIA: I HEREBY MAKE APPLICATION FOR CERTIFICATION TO PRACTICE OCCUPATIONAL THERAPY IN THE COMMONWEALTH OF VIRGINIA AND SUBMIT THE FOLLOWING STATEMENTS:

1. NAME IN FULL (PLEASE PRINT OR TYPE)

Form with fields for (LAST), (FIRST), (MIDDLE/MAIDEN), (JR./SR.), (STREET), (CITY), (STATE), (ZIP CODE), (DATE OF BIRTH), (PLACE OF BIRTH), (SOCIAL SECURITY NUMBER), (GRADUATION DATE), (PROF. SCH. DEGREE), (SCHOOL, CITY, STATE).

*PLEASE SUBMIT ADDRESS CHANGES IN WRITING IMMEDIATELY!

*PLEASE ATTACH CHECK OR MONEY ORDER. APPLICATIONS WILL NOT BE PROCESSED WITHOUT THE APPROPRIATE FEE. DO NOT SUBMIT FEE WITHOUT AN APPLICATION. IT WILL BE RETURNED.

APPLICANTS DO NOT USE SPACES BELOW THIS LINE - FOR OFFICE USE ONLY

XX

APPROVED BY: _____ Date _____

Form with fields for (CLASS), (LICENSE NO.), (SUFFIX), (SCH. CODE), (FEE), (HOW REG.), (BASE STATE), (LICENSE NO.), (EXPIRATION DATE), (DATE ISSUED).

(ADDRESS CHANGE)

Form with fields for (STREET), (CITY), (STATE), (ZIP CODE).

2. List in chronological order all professional practice since graduation (e.g. hospital department, outpatient centers, etc.). Also list all periods of absences from work and non-professional activity/employment of more than three months. Please account for all time. If engaged in private practice, list hospital or other professional practice.

From	To	Location and Complete Address	Position Held

ALL QUESTIONS MUST BE ANSWERED. If any of the following questions is answered YES, explain and substantiate with documentation.

3. List all jurisdictions in which you have been issued a license or certificate to practice Occupational Therapy—active, inactive, or expired: _____

4. Have you ever been denied the privilege of taking an Occupational Therapy licensure or certification examination? Yes No
5. Have you ever taken the American Occupational Therapy Certification examination? If so, provide date: _____ Yes No
6. Have you ever been denied an Occupational Therapy license or certificate? Yes No
7. Have you ever been convicted of a violation of, or pled Nolo Contendere to any Federal, State, or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence). Yes No
8. Have you ever been censured, warned, requested to withdraw from or otherwise disciplined by any hospital, nursing home, or other health care facility? Yes No
9. Have you ever had any of the following disciplinary actions taken against your license or certificate to practice Occupational Therapy, or are any such actions pending? (a) suspension or revocation (b) probation (c) reprimand or cease and desist (d) have your practice monitored. Yes No
10. Have you ever had any membership in a state or local professional society revoked, suspended, or involuntarily withdrawn? Yes No
11. Have you had any malpractice suits brought against you in the last ten years? If so, how many? _____ Provide a letter from your attorney explaining each case. Yes No
12. Have you ever been treated by, consulted with, or been under care of a professional for substance abuse? If so, provide a letter from the treating professional which includes diagnosis, treatment, and prognosis. Yes No
13. Have you ever received treatment or been hospitalized for a nervous, emotional or mental disorder? If so, provide a letter from your treating professional summarizing diagnosis, treatment, and prognosis. Yes No
14. Have you ever had a physical disease or diagnosis that may affect your performance of professional duties? If so, provide a letter from the treating professional which includes diagnosis, treatment, and prognosis. Yes No
15. Have you ever been adjudged mentally incompetent or been voluntarily or involuntarily committed to a mental institution? Provide details. Yes No

Occupational Therapy

16. AFFIDAVIT OF APPLICANT:

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Medicine any information, files, or records requested by the Board in connection with the processing of individuals and groups listed above, any information which is material to me and my application.

I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension or revocation of my certificate to practice Occupational Therapy in the Commonwealth of Virginia.

RIGHT THUMB PRINT

THIS MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC

IF RIGHT THUMB IS MISSING, USE LEFT AND SO INDICATE.

SIGNATURE OF APPLICANT

NOTARY: City/County of _____ State of _____

Subscribed and Sworn to before me this _____ day of _____ 19__

My Commission Expires _____ NOTARY PUBLIC

(NOTARY SEAL)

CERTIFICATE OF PROFESSIONAL EDUCATION

It is hereby certified that _____ NAME OF APPLICANT

matriculated in _____ COURSE OF STUDY ON _____ DATE

and received/will receive a diploma from _____ INSTITUTION

conferring the degree of _____ DEGREE

on _____ DATE

SCHOOL SEAL _____ (DEPT. PROGRAM DIRECTOR OR CHAIRMAN)

PLEASE COMPLETE THE TOP PORTION OF THIS FORM AND FORWARD IT AND A CHECK FOR \$10.00 PER REQUEST (PAYABLE TO AOTCB) TO:

The American Occupational Therapy Certification Board, Inc. 1383 Piccard Drive, P.O. Box 1725 Rockville, Maryland 20850-4375 (301) 990-7979

* * * *

I am applying for a certificate to practice occupational therapy in the Commonwealth of Virginia. The Board of Medicine requires that a letter be sent directly to the Board office verifying my certification. Please forward to the address below. Thank you.

Department of Health Professions Board of Medicine 1601 Rolling Hills Drive Richmond, Virginia 23229-5005

Name _____ First Middle Last

Address _____

Daytime phone number _____

AOTCB I.D. Number _____

Name of Certification examination records, if different from above: _____

Month/Year of Examination _____

Applicant's Signature

Occupational Therapy

VIRGINIA BOARD OF MEDICINE
1601 Rolling Hills Drive
Richmond, VA 23229-5005

Please print or type name of hospital or place of employment:

(Name of Applicant - Please Print)

The Virginia Board of Medicine, in its consideration of a candidate for certification, depends on information from persons and institutions regarding the candidate's employment, training, attainments and staff privileges. Please complete this form to the best of your ability and return it to the Board so the information you provide can be given consideration in the processing of this candidate's application in a timely manner.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present) and governmental agencies and instrumentalities (local, state, federal or foreign) to release to the Virginia Board of Medicine any information, files or records requested by the Board in connection with the processing of my application.

Signature of Applicant

1. Date and type of service: This individual served with us as _____ from (month) _____ (year) _____ to (month) _____ (year) _____

2. Please evaluate: (Please indicate with check mark)

	Poor	Fair	Good	Superior
Professional knowledge _____				
Clinical judgement _____				
Relationship with patients _____				
Ethical/professional conduct _____				
Interest in work _____				
Ability to communicate _____				

3. Recommendation: (Please indicate with check mark) 1. Recommend highly and without reservation _____
2. Recommend as qualified and competent _____
3. Recommend with some reservation (explain) _____
4. Do not recommend (explain) _____

4. Of particular value to us in evaluating any candidate are comments regarding any notable strengths and weaknesses (including personal demeanor). We would appreciate such comments from you.

5. The above report is based on: (Please indicate with check mark) 1. Close personal observation _____
2. General impression _____
3. A composite of evaluations _____
4. Other _____

Date: _____ Signed: _____

(This report will become a part of the applicant's file and may be reviewed by the applicant upon demand)

(Please print or type name)

Title: _____

Occupational Therapy

Please complete top portion and forward one form to each state Board or regulatory authority where you hold or have held an occupational therapy certification and/or license. Extra copies may be xeroxed if needed.

NOTE: Some states or jurisdictions require a fee, paid in advance, for providing clearance information. To expedite, you may wish to contact the applicable agencies.

CLEARANCE FROM OTHER STATE BOARD OR REGULATORY AUTHORITY

I was granted license and/or certificate # _____ on _____ by the state or regulatory authority of _____. The Virginia Board of medicine requests that I submit evidence that my license and/or certification to practice in _____ is in good standing. You are hereby authorized to release any information in your files, favorable, or otherwise, directly to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005. Your earliest attention is appreciated.

Signature

(Please print or type name)

Executive Office of State Board or Other Regulatory Authority:

Please complete and return this form to the Virginia Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia 23229-5005.

Name of Jurisdiction _____ Name of Licensee _____

License and/or Certificate No. _____ Date Issued _____

Licensed and/or Certified through (Check one)

AOTCB Examination State Board Examination

Reciprocity from _____ Name of State

License and/or Certificate is: Current Lapsed

Has applicant's License and/or Certificate ever been suspended or revoked? YES NO. if so, for what reason?

Derogatory Information, if any _____

Signature

Name

Name of Regulatory Authority

CERT

Commonwealth of Virginia
Department of Health Professions
Board of Medicine
1601 Rolling Hills Drive
Richmond, Virginia 23229-5005

When my Virginia certificate is issued I would like to have my Certificate of Registration engrossed with my name as follows:

NAME: _____

Upon issuance of certification, a wall certificate will be mailed as soon as engrossing is complete. Certificates of Registration are renewable biennially during your birth month in each even numbered year. The renewal fee is \$85.00 for Occupational Therapist. Renewal notices are mailed sixty (60) days prior to the last day of your birth month to the address on record in this office.

FOR OFFICE USE ONLY

CERTIFICATE NUMBER _____

DATE ISSUED

CERT

VIRGINIA BOARD OF MEDICINE
1601 ROLLING HILLS DRIVE
RICHMOND, VIRGINIA 23229-5005

SUPERVISED PRACTICE APPLICATION

This form approved by the Virginia Board of Medicine is an authorization to work in an approved supervised practice setting for the dates indicated. Unforeseen circumstances that require interruption or prevent successful completion of the Supervised Practice must be brought to the attention of the Board.

This supervised practice may only be served under an Occupational Therapist certified by the Virginia Board of Medicine.

Supervised practice will begin on _____ and will end on _____.

(Please print or type)

Name of Applicant _____

Name and Title of Supervisor _____

Supervisor Certification No. _____

Name and address of institution _____

We, the undersigned, have read and understand Regulation VR465-08-01, Part II, Section 2.4.(A) which pertains to new applicants who have not practiced occupational therapy for a period of six years and who must serve a Board approved supervised practice of 160 hours under the direct supervision of a certified Occupational Therapist and agree to abide by the conditions contained therein.

Signature of Applicant

Signature of Supervisor

FOR OFFICE USE ONLY

Approved by _____

Date

Final Regulations

DEPARTMENT OF TAXATION

Title of Regulation: Corporation Income Tax.
VR 630-3-302. Definitions - Sales.
VR 630-3-414. Sales Factor.

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

Effective Date: January 30, 1991.

Summary:

These regulations implement HB 916 (1990 Acts of Assembly, Chapter 294). The act changes the definition of "sales" for purposes of the sales apportionment factor to include only the net gain from the disposition of intangible property instead of the gross proceeds. The act is effective for taxable years beginning on or after January 1, 1990.

VR 630-3-302 amends the definition of "sales" to include only net gain on the sale of intangibles. Other nonsubstantive changes are made to update code references and to conform to the style of the Virginia Register.

VR 630-3-414 is amended to define "net gain" for purposes of the sales apportionment factor.

VR 630-3-302. Corporation Income Tax: Definitions - Sales.

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

"Affiliated : " 1. For the purpose of Va. Code § 58.1-442 means a group of corporations ~~may not file a consolidated or combined return unless each corporation~~ each of which is itself subject to Virginia income tax and in which (a) (i) one corporation owns at least ~~eighty percent~~ 80% of the voting stock of the other or others, or (b) (ii) [if] at least ~~eighty percent~~ 80% of the voting stock of two or more corporations is owned by the same interests.

For the purpose of § 58.1-442 of the Code of Virginia, 2. ~~It~~ it is not necessary for all members of a controlled group to be subject to Virginia income tax in order for some of the members, otherwise eligible, to file a consolidated or combined return. For example, two or more corporations subject to Virginia income tax may be 80% owned by a foreign corporation not subject to Virginia income tax. All of the subsidiaries subject to Virginia income tax may file a consolidated or combined return without the foreign parent corporation.

"Compensation : " 1. For means, for the purpose of allocation and apportionment under § 58.1-406 of the Code of Virginia the term "compensation," as used in computing the payroll factor under Va. Code § 58.1-412 of the Code of Virginia, means all remuneration or wages for

employment as defined in I.R.C. § 3121(a) except that compensation includes the excess wages over the contribution base defined in I.R.C. § 3121(a)(1).

2. 1. Generally compensation will be the gross wages, salaries, tips, commissions and other remuneration paid to employees and reported to the Internal Revenue Service. The department will accept the gross amounts reported to the IRS on Forms W-2/W-3, Form 940 or the accounting records of the corporation provided that all of the employees of the corporation are included in such reports or records.

3. 2. If the corporation has any employees who are not subject to the F.I.C.A. and F.U.T.A. payroll taxes or are not subject to U.S. income tax because they are nonresident aliens, compensation includes all wages, salaries, tips, commissions and other remuneration paid to or for such employees in addition to the compensation in (2) (A) subdivision 1 above.

4. 3. The corporation shall determine compensation on a consistent basis so as not to distort the compensation paid to employees located within and without Virginia. In the event the corporation is not consistent in its reporting, it shall disclose in its return to Virginia the nature and extent of such inconsistency.

5. 4. The terms "employees" and "personal services" shall have the same meaning as used in the context of employment in I.R.C. § 3121(b).

6. 5. The term "paid or accrued" shall mean either (a) means either (i) cash or property paid to employees and reported to the I.R.S. as in (A) subdivision 1 above, or (b) (ii) amounts properly accrued on the books of the corporation under its accounting method for federal income tax purposes, but not both.

"Corporation : " 1. The term "corporation" means any entity created as such under the laws of the United States, any state, territory or possession thereof, the District of Columbia, or any foreign country or any political subdivision of any of the foregoing, or any association, joint stock company, partnership or any other entity subject to corporation income taxes under the United States Internal Revenue Code. See I.R.C. § 7701.

2. A "Domestic corporation : " means a corporation, as defined in (1) above, is a "domestic corporation" if it is organized, created or existing under the applicable laws of the State Commonwealth of Virginia. Compare I.R.C. § 7701(a)(4).

3. "Foreign corporation : " The term "foreign corporation" means a corporation, as defined in (1) above, which is not a domestic corporation, as defined in (2) above. Registration of a foreign corporation with the State Corporation Commission for the privilege of doing business

in Virginia shall not make a corporation a domestic corporation.

"Foreign source income" means income computed in accordance with the following principles:

1. The federal taxable income of corporations organized under the laws of the United States, any of the fifty 50 states or the District of Columbia (U.S. domestic corporations) includes their worldwide income. Virginia law provides a subtraction for "foreign source income" if any is included in federal taxable income. Corporations that are not U.S. domestic corporations include in federal taxable income only income from U.S. sources or income effectively connected with a U.S. trade or business. Such corporations will not have any "foreign source income" included in federal taxable income.

2. Foreign source income does not include all income from sources without the United States but is limited to specified types of income and is also limited by the federal definitions source rules in I.R.C. §§ 861 through 864 et seq. and the regulations thereunder in determining the source of a particular item of income.

3. Corporations having foreign source income determine the amount of the subtraction by the following procedure:

a. The specified types of gross income included in federal taxable income are segregated. The types of income are: interest, dividends, rents, royalties, license and technical fees, also gains, profits and other income from the sale of intangible or real property.

b. The federal definitions source rules are applied to determine the source of each item, particularly whether or not the item is effectively connected with the conduct of a U.S. trade or business.

c. The federal procedure in Treasury Reg. § 1.861-8 is applied to allocate and apportion expenses to income derived from U.S. and foreign sources.

d. The gross income from sources without the U.S. from ~~(2)~~ subdivision [2 3 b] less the expenses allocated and apportioned to such income in ~~(3)~~ subdivision 3 [c] is the foreign source income for purposes of the Virginia subtraction.

4. All income and expenses included in foreign source income and property or other activity associated with such income and expenses shall be excluded from the factors in the Virginia formula for allocating and apportioning Virginia taxable income to sources within and without Virginia.

"Income and deductions from Virginia sources : " 1. The term "income and deductions from Virginia sources"

includes means items of income, gain, loss and deduction attributable to the ownership, sale, exchange or other disposition of any interest in real or tangible personal property in Virginia or attributable to a business, trade, profession or occupation carried on in Virginia or attributable to intangible personal property employed in a business, trade, profession or occupation carried on in Virginia.

2. A. If the entire business of a corporation is not deemed to have been transacted or conducted within this State Commonwealth by Va. Code § 58.1-405 of the Code of Virginia, then the "income from Virginia sources" means that portion of the corporation's Virginia taxable income resulting from the allocation and apportionment formulas set forth in Va. Code §§ 58.1-406 through 58.1-421 of the Code of Virginia .

a. 1. Allocable income is limited to certain dividends. See Va. Code § 58.1-407 of the Code of Virginia .

b. 2. Apportionable income is Virginia taxable income less allocable income. Apportionment formulas are then applied to determine the part of apportionable income that is income from Virginia sources. Generally, a corporation will have income from Virginia sources if there is sufficient business activity within Virginia to make any one or more of the following apportionment factors positive: (i) vehicle miles (for motor carriers); (ii) cost of performance (for financial corporations); (iii) completed contracts (for certain construction corporations); (iv) revenue car miles (for railway companies); and (v) property, payroll or sales (for all other corporations).

3. See Va. Code §§ 58.1-408 through 58.1-421 of the Code of Virginia and the regulations thereunder for details. Accordingly, a foreign corporation may be subject to Virginia income tax on the portion of its income deemed to be derived from Virginia sources under apportionment formulas even though no specific portion of its gross or net income may be separately identified as being derived directly from Virginia.

3. B. Certificate of authority.

a. 1. Va. Code §§ ~~13.1-102.1~~ and ~~13.1-265.1~~ §§ 13.1-757 and 13.1-919 of the Code of Virginia provide that if a corporation's only activity in Virginia is limited to certain activity in connection with investment in notes, bonds or other instruments secured by the deeds of trust on property located in Virginia, such corporations shall not be deemed to be transacting business in Virginia for purposes of Va. Code §§ ~~13.1-102~~ and ~~13.1-265~~ §§ 13.1-757 and 13.1-919 of the Code of Virginia which require foreign corporations to obtain a certificate of authority from the State Corporation Commission before transacting business in Virginia. All corporations having income from Virginia sources are subject to Virginia income tax regardless of whether or not they are required to obtain a certificate of

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authority.

b. 2. A foreign corporation whose only connection with Virginia is the receipt of interest on notes, bonds or other instruments secured by deeds of trust on property located in Virginia will have no payroll or real or tangible personal property located in Virginia. Although the interest may be paid by a Virginia resident, for purposes of the sales factor the gross receipts will not be assigned to Virginia because there is no income producing activity in Virginia. See Va-Code § 58.1-416 of the Code of Virginia . If the corporation is a financial corporation as defined in Va-Code § 58.1-418 of the Code of Virginia there would be no costs of performance in Virginia. Therefore, such a corporation would have no income from Virginia sources and, since such a corporation is not required to obtain a certificate of authority, it would not be required to file a Virginia income tax return. See Reg. § 630-3-441. However, if such a corporation acquires real or tangible personal property in Virginia by foreclosure or any other means the corporation will have property (or cost of performance) in Virginia. Therefore the corporation will have income from Virginia sources and be required to file a Virginia income tax return.

4. C. In the course of computing income from Virginia sources a corporation may be required to make computations solely for that purpose or maintain records used only for that purpose. The effects on tax liability of a method used to determine any components of income from Virginia sources and the burden of maintaining records not otherwise maintained and of making computations not otherwise made shall be taken into consideration in determining whether such method is sufficiently precise.

5. D. Example. Corporation A is a manufacturer of paper products conducting all of its manufacturing, selling and shipping operations outside Virginia. It makes no sales to customers in Virginia. It therefore has no gross income which may be identified as being derived directly from Virginia. However, the corporation does operate a facility in Virginia solely for the purchase of pulpwood for shipment to its manufacturing plants in other states.

While corporation A has no gross income derived directly from Virginia, it has property and payroll in this state. Accordingly, Corporation A has income from Virginia sources based on apportionment factors.

"Sales" - "1. The term "sales" means the gross receipts of the corporation from all sources not allocated under Va-Code § 58.1-407 of the Code of Virginia (dividends) whether or not such gross receipts are generally considered as sales ; [; except in . In] the case of the sale or other disposition of intangible property, gross receipts shall be disregarded and only the net gain from the transaction shall be included.

2. A. Manufacturing sales.

In the case of a taxpayer whose business activity consists of manufacturing and selling, or purchasing and reselling goods or other property of a kind which would properly be included in the inventory of the taxpayer primarily for sale to customers in the ordinary course of its trade or business, gross receipts means gross sales, less returns and allowances, and includes service charges, carrying charges, or time-price differential charges incidental to such sales.

3. B. Sales made in other types of business activity:

a. 1. If the business activity consists of providing services such as the operation of an advertising agency, or the performance of equipment service contracts, "sales" includes the receipts from performance of such service including fees, commissions, and similar items.

b. 2. In the case of cost plus fixed fee contracts, such as the operation of a government owned plant for a fee, "sales" include the entire reimbursed cost, plus the fee.

e. 3. In the case of the sale, assignment, or licensing of intangible property such as patents and copyrights, "sales" includes the gross proceeds from such sales, ~~assignment or licensing,~~ only the net gain from the sale or disposition.

d. 4. In the case of the sale of real or personal property, "sales" includes the gross proceeds from such sales.

e. 5. The term "sales" does not include amounts required by federal law to be included in federal taxable income as recapture of items deducted in prior years.

"State" - "The term "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, and any foreign country. Note that this definition applies only within the allocation and apportionment section of this chapter. When used elsewhere in the chapter the term "state" may or may not include foreign countries and U.S. possessions, depending on the context.

VR 630-3-414. Corporation Income Tax: Sales Factor.

1. § 1. In general.

The sales factor is a fraction, the numerator of which is the total sales in Virginia during the taxable year, and the denominator of which is the total sales of the corporation everywhere during the taxable year.

§ 2. Sales.

2. "Sales is defined in Va. Code § 58.1-302 of the Code of Virginia and means all gross receipts of the corporation except dividends allocated under Va. Code § 58.1-407 of the Code of Virginia : [; except in . In] the case of the sale or disposition of intangible property (including, but not limited to patents, copyrights, bonds, stocks and other securities) gross receipts shall be disregarded and only the net gain from the transaction shall be included. Sales shall be included in the sales factor if the gross receipts or net gain are included in Virginia taxable income and are connected with the conduct of taxpayer's trade or business within the United States. See Va. Reg. § 630-3-408.

1. Net gain is computed on a per transaction basis. A sale or disposition of intangible property is included in the sales factor only to the extent that it results in a net gain.

2. A disposition of intangible property resulting in a loss is ignored in computing the sales factor. A loss is not used to offset gains from the sale or other disposition of intangible property, and a loss is not used to reduce other gross receipts.

3. The net gain from the transaction must be recognized, i.e., includable in federal taxable income, in order to be included in the Virginia sales factor.

4. "Sale or other disposition" includes the sale, exchange, redemption, maturity or other disposition of intangible property.

§ 3. Example.

In 1990, Corporation C, a calendar year taxpayer, redeems bonds with an adjusted basis of \$46 million for \$50 million, recognizing a net gain of \$4 million. C also sells stock with an adjusted basis of \$98 million for \$95 million, recognizing a net loss of \$3 million. Only the \$4 million dollar net gain is reflected in C's sales factor; the \$3 million loss from the sale of stock is ignored and is not used to offset the \$4 million net gain in computing C's sales factor. Likewise, the loss is not used to reduce C's other gross receipts in 1990.



STATE BOARD OF YOUTH AND FAMILY SERVICES

Title of Regulation: VR 690-01-001. Public Participation Guidelines.

Statutory Authority: § 66-10 of the Code of Virginia.

Effective Date: January 31, 1991.

Summary:

The regulation defines agency procedures for soliciting public participation in the formulation and development of regulations. It discusses procedures for notifying and soliciting interested parties and, after development, submitting the regulation for public comment.

VR 690-01-001. Public Participation Guidelines.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

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

"Agency" means any authority, instrumentality, officers of the Virginia Department of Youth and Family Services, and members of the Virginia Board of Youth and Family Services, or other unit of the state government empowered by the basic laws to make regulations or decide cases.

"Agency regulatory coordinator" means the individual appointed by the director to provide technical assistance to the operating units and to coordinate regulations.

"Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia authorizing an agency to make regulations or decide cases or containing procedural requirements thereof.

"Board" means the State Board of Youth and Family Services.

"Department" means the Department of Youth and Family Services.

"Director" means the Director of the Department of Youth and Family Services.

"Operating unit" means the offices of the director, deputy directors, administrators or other offices within the department that will develop or draft a regulation. Only the board may promulgate a regulation.

"Rule or regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws. Exemptions to this requirement are those listed in § 9-6.14:4.1 of the Code of Virginia as determined by the Attorney General's Office.

§ 1.2. Authority.

Chapter 1.1:1 of Title 9 of the Code of Virginia deals with the promulgation of rules and regulations.

Final Regulations

Specifically, § 9-6.14:7.1 directs agencies of the Commonwealth to develop public participation guidelines for soliciting the input of interested parties in the formation and development of regulations. Section 66-10 of the Code empowers the Board of Youth and Family Services to make, adopt and promulgate rules and regulations.

§ 1.3. Purpose.

These guidelines are designed to provide consistent, written procedures that will ensure input from interested parties during the development, review and final stages of the regulatory process.

§ 1.4. Administration.

A. The board has the responsibility for promulgating regulations pertaining to public input in the regulatory process.

B. The director is the chief executive officer of the Department of Youth and Family Services and is responsible for implementing the standards and goals of the board.

§ 1.5. Application of regulations.

These regulations have general application throughout the Commonwealth.

§ 1.6. [Proposed Effective date: January [± 31], 1991.

§ 1.7. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings and appeals. All hearings on such regulations shall be conducted in accordance with § 9-6.14:7.1.

PART II. PUBLIC PARTICIPATION.

§ 2.1. Identification of interested parties.

Each operating unit within the department which is responsible for rule making shall develop and maintain a current list of those persons, organizations, and agencies that have demonstrated an interest in specific program regulations in the past, through written comments or attendance at public hearings.

§ 2.2. Notification of interested parties.

A. Individual mailings.

When an operating unit of the department determines that specific regulations need to be developed or

substantially modified, the operating unit shall so notify by mail the individuals, organizations, and agencies identified as interested parties in § 2.1 of these regulations. This notice shall invite those interested in providing input to notify the agency of their interest. The notice shall include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, telephone number; and the date by which a notice of a desire to comment must be received. In addition, known parties having interest and expertise will be advised, through a special mailing, of the agency's desire to develop a regulation and will be invited to assist the operating unit in developing the regulation or in providing input.

B. Notice of intent.

When an operating unit of the department determines that specific regulations that are covered by the Administrative Process Act need to be developed or substantially modified, the operating unit shall publish a notice of intent in the Virginia Register of Regulations. This notice will invite those interested in providing input to notify the operating unit of their interest. The notice will include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, telephone number; and the date by which a notice of a desire to comment must be received. All notices shall be coordinated through the agency regulatory coordinator who will forward them for publication.

§ 2.3. Solicitation of input from interested parties.

A. Advisory panels.

Whenever an operating unit proposes to develop or substantially modify a regulation, it may create an advisory panel to assist in this development or modification. Advisory panels shall be established on an ad hoc basis.

1. Members of advisory panels shall consist of a balanced representation of individuals and representatives of organizations and agencies identified in § 2.1 of these regulations as interested and who have expressed a desire to comment on new or modified regulations in the developmental process. Each panel shall consist of no less than three members.

2. Individual panels shall establish their own operating procedure, but in no case will a panel meet less than twice. All comments on proposed regulations shall be documented by the operating unit and a response developed for each comment.

B. Other comments.

All persons, organizations, and agencies that respond to the individual mailings and the Notice of Intent shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on

these regulations to the operating unit. The operating unit shall document the receipt of these comments and respond to each commentor. The operating unit shall consider all input received, as a result of responses to notifications mailed to interested parties as listed in § 2.2 of these regulations, in formulating and drafting proposed regulations.

§ 2.4. Administrative Process Act procedures.

After regulations have been developed according to these guidelines, they shall be submitted for public comment under § 9-6.14:7.1.

EMERGENCY REGULATIONS

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Title of Regulation: VR 173-02-01.1. Emergency Chesapeake Bay Preservation Area Designation and Management Regulations.

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

Effective Dates: December 10, 1990 through December 9, 1991, unless sooner superseded by permanent regulations adopted pursuant to the APA.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
NOVEMBER 15, 1990
RESOLUTION NO. 1

EMERGENCY CHESAPEAKE BAY PRESERVATION AREA DESIGNATION AND MANAGEMENT REGULATIONS

WHEREAS readoption of Chesapeake Bay Preservation Area Designation and Management Regulations previously adopted by the Chesapeake Bay Local Assistance Board on September 13, 1989, and subsequently ruled invalid by the Ninth Circuit Court of Virginia, will result in an extension of regulatory deadlines for local government compliance with their provisions; and

WHEREAS the Board, in recognition of progress toward compliance already achieved by local governments, finds it unnecessary to extend those deadlines for a total of 24 months as stipulated in the original Regulations; and

WHEREAS the Board finds no equitable reason to extend the date by which certain lots and parcels may avoid full compliance with the Regulations; and

WHEREAS the Board has grave concerns that such extensions may result in needless damage to the quality of state waters; and

WHEREAS the timely continuation of this regulatory adoption process is vital to the protection of the Chesapeake Bay and other state waters;

BE IT THEREFORE RESOLVED that the Chesapeake Bay Local Assistance Board hereby adopt Emergency Chesapeake Bay Preservation Area Designation and Management Regulations to ensure that Regulations are legally in force to direct implementation of the goals and objectives of the Chesapeake Bay Preservation Act subject to the same time deadlines as originally specified; and

BE IT FURTHERMORE RESOLVED that these Emergency Regulations will become effective immediately upon filing with the Virginia Registrar of Regulations, pursuant to § 9-6.14:9 of the Code of Virginia, and shall expire not later than twelve months thereafter, unless sooner superseded by permanent Regulations adopted pursuant to the Administrative Process Act.

/s/ George Mason, III
Chairman
Chesapeake Bay Local Assistance Board
November 15, 1990

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
DECEMBER 3, 1990
RESOLUTION

AMENDMENTS OF EMERGENCY CHESAPEAKE BAY PRESERVATION AREA DESIGNATION AND MANAGEMENT REGULATIONS

WHEREAS readoption of Chesapeake Bay Preservation Area Designation and Management Regulations previously adopted by the Chesapeake Bay Local Assistance Board on September 13, 1989, and subsequently ruled invalid by the Ninth Circuit Court of Virginia, will result in an extension of regulatory deadlines for local government compliance with their provisions; and

WHEREAS the Board, in recognition of progress toward compliance already achieved by local governments, finds it unnecessary to extend those deadlines for a total of 24 months as stipulated in the original Regulations, and finds no equitable reason to extend the date by which certain lots and parcels may avoid full compliance with the Regulations; and

WHEREAS the Board has grave concerns that such extensions may result in needless damage to the quality of state waters; and

WHEREAS the timely continuation of this regulatory adoption process is vital to the protection of the Chesapeake Bay and other state waters; and

WHEREAS the Board has discovered one additional deadline correction that must be made to ensure consistency within the Regulations;

BE IT THEREFORE RESOLVED that the Chesapeake Bay Local Assistance Board hereby amends Emergency Chesapeake Bay Preservation Area Designation and Management Regulations previously adopted on November 15, 1990, by replacing "24" on line 4 of page 39 with "12", and readopts such Regulations as amended; and

BE IT FURTHERMORE RESOLVED that these Emergency Regulations will become effective immediately upon filing with the Virginia Registrar of Regulations, pursuant to § 9-6.14:9 of the Code of Virginia, and shall expire not later than twelve months thereafter, unless sooner superseded by permanent Regulations adopted pursuant to the Administrative Process Act.

/s/ George Mason, III
Chairman
Chesapeake Bay Local Assistance Board
Date: December 3, 1990

PREAMBLE

The Chesapeake Bay Local Assistance Board adopted final Chesapeake Bay Preservation Area Designation and Management Regulations (VR 173-02-01) June 28, 1989, meeting the legislative deadline of July 1, 1989 established in the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq., Code of Virginia). However, on August 16, 1989, Governor Ballies suspended the regulatory process for 30 days, directing the Board to receive additional public comment on two specific issues: measures of equivalency, and septic system criteria. The Board complied with the Governor's directive. An additional public hearing was held, and additional oral and written comments were received and considered. The Board met again on September 13, 1989 to amend the regulations in view of those comments and again adopted them as final regulations.

On September 19 and November 7, 1990, the York County Circuit Court conducted hearings for summary judgement regarding lawsuits challenging the validity of the Regulations. The Court rejected five counts of the plaintiffs, but found procedural errors in the Board's adoption of the Regulations on June 28 and on September 13, 1989, making them invalid. This will necessitate the Board having to meet to adopt the Regulations anew. The Attorney General's Office has advised that local programs that have already been adopted are still valid pursuant to general authority provided by the Act and other Virginia enabling legislation.

Finding of Emergency

The Chesapeake Bay Local Assistance Board finds that delays in adoption and implementation of local Chesapeake Bay Preservation Act programs likely to occur as a result of readopting final Chesapeake Bay Preservation Area Designation and Management Regulations, which extend new 12- and 24-month deadlines for local compliance, constitute an emergency, and that action must be taken to prevent any unreasonable delays in such local programs becoming effective. The Board also finds that in order to effectively protect the water quality of the Bay and its tributaries, and because there is no equitable reason for an extension, the date by which certain lots or parcels may avoid full compliance with the Regulations must be as originally specified rather than the new effective date.

Nature of the Emergency

The effect of adopting the regulations anew will be that local governments will again have 12 months from the adoption date of the Regulations to designate Chesapeake Bay Preservation Areas and employ performance criteria applicable to those areas (first year program). In recognition of the work involved, the Regulations also allow local governments an additional 12 months (24 months from the adoption date) to make appropriate amendments of their other land use plans and ordinances (second year program).

However, the intent of the General Assembly was to have the protections of the Act in effect as soon as possible. Localities have been pursuing Preservation Area designation and performance criteria adoption during the past year, and have prepared to adopt other necessary plan and ordinance amendments during the next 12 months (by September 20, 1991). To prevent any further unnecessary delays, the Board proposes that in addition to readopting the Regulations, it also adopt an Emergency Regulation requiring the second year program mentioned above (accessory plan/ordinance amendments) to be completed within 12 months of the adoption date, overlapping with the first year program requirement. This action somewhat compensates for the time already elapsed in developing local Preservation Act programs, resulting in completion of the entire local program development process near the date originally envisioned by the Board (November rather than September 1991). Also, because there is no equitable reason for extending the date by which certain subdivisions may avoid full compliance, the Regulations must be as originally specified in order to prevent needless damage to water quality.

Necessity for Adoption of Emergency Regulations

The timely continuation of this regulatory adoption process is vital to the protection of the Chesapeake Bay and other state waters. The Chesapeake Bay Preservation Act required the Board to adopt regulations within one year and required local governments to designate Chesapeake Bay Preservation Areas within one year thereafter. Local governments need to expedite the process of developing programs to designate Chesapeake Bay Preservation Areas and to manage the use and development of land in such areas.

A delay of 12 months in the date by which local governments are required to designate Chesapeake Bay Preservation Areas and employ enforceable performance criteria applicable within those areas – and by extension an additional 12 months for local governments to amend existing land use plans and ordinances to incorporate applicable provisions of the Chesapeake Bay Preservation Area Designation and Management Regulations – will potentially result in a significant quantity of shoreline property being developed without application of the Regulations, preventing the attendant improvements in runoff water quality and potentially resulting in additional degradation of the water quality of the Chesapeake Bay and its tributaries.

Therefore, in order to meet the intent of the Act that the Chesapeake Bay and its tributaries be protected as soon as possible and to minimize further delay of implementation of the Chesapeake Bay Preservation Area Designation and Management Regulations, the enactment of an emergency amendment to those Regulations is both vital and appropriate. Furthermore, due to local efforts conducted thus far in time, this action will not cause undue hardship for local governments.

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The Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this emergency regulation.

This regulation will become effective upon its filing with the Registrar of Regulations, pursuant to § 9-6.14:9 of the Code of Virginia, and shall expire not later than twelve months thereafter, unless sooner superseded by permanent regulations adopted pursuant to the Administrative Process Act.

VR 173-02-01.1. Emergency Chesapeake Bay Preservation Area Designation and Management Regulations.

PART I. INTRODUCTION

§ 1.1. Application.

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

§ 1.2. Authority for regulations.

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

§ 1.3. Purpose of regulations.

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

These regulations establish the criteria that counties, cities, and towns (hereinafter "local governments") shall use to determine the extent of the Chesapeake Bay Preservation Areas within their jurisdictions. These regulations establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use and develop land in Chesapeake Bay Preservation Areas. These regulations identify the requirements for changes which local governments shall incorporate into their comprehensive plans, zoning ordinances, and subdivision ordinances to protect the quality of state waters pursuant to §§ 10.1-2109 and

10.1-2111 of the Act.

§ 1.4. Definitions.

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

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

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

"Board" means the Chesapeake Bay Local Assistance Board.

"Buffer area" means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances.

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

"Department" means the Chesapeake Bay Local Assistance Department.

"Development" means the construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

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

"Floodplain" means all lands that would be inundated by flood water as a result of a storm event of a 100-year return interval.

"Highly erodible soils" means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

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

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

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

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

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

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

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

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

"Plan of development" means any process for site plan review in local zoning and land development regulations designed to ensure compliance with § 10.1-2109 of the Act and these regulations, prior to issuance of a building permit.

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

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

"Resource Protection Area" means that component of

the Chesapeake Bay Preservation Area comprised of lands at or near the shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

"Substantial alteration" means expansion or modification of a building or development which would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

"Tidal shore" or *"shore"* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

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

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

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

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

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

PART II. LOCAL GOVERNMENT PROGRAMS.

§ 2.1. Local program development.

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

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and future citizens of the Commonwealth.

§ 2.2. Elements of program.

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

A. A map delineating Chesapeake Bay Preservation Areas.

B. Performance criteria applying in Chesapeake Bay Preservation Areas that employ the requirements in Part IV.

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

D. A zoning ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, and (ii) requires compliance with all criteria set forth in Part IV.

E. A subdivision ordinance or revision that (i) incorporates measures to protect the quality of state waters in Chesapeake Bay Preservation Areas, and (ii) assures that all subdivisions in Chesapeake Bay Preservation Areas comply with the criteria set forth in Part IV.

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

G. A plan of development process prior to the issuance of a building permit to assure that use and development of land in Chesapeake Bay Preservation Areas is accomplished in a manner that protects the quality of state waters.

PART III. CHESAPEAKE BAY PRESERVATION AREA DESIGNATION CRITERIA.

§ 3.1. Purpose.

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

§ 3.2. Resource Protection Areas.

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

B. The Resource Protection Area shall include:

1. Tidal wetlands;
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;
3. Tidal shores;
4. Such other lands under the provisions of subsection A of § 3.2 of this part necessary to protect the quality of state waters;
5. A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions 1 through 4 above, and along both sides of any tributary stream.

The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses or equivalent measures in compliance with Part IV of these regulations. Designation of this area shall not be subject to reduction unless based on reliable site-specific information as provided in subsection B of § 4.1, and subsections C and E of § 5.6 of these regulations.

§ 3.3. Resource Management Areas.

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

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

1. Floodplains;
2. Highly erodible soils, including steep slopes;
3. Highly permeable soils;

4. Nontidal wetlands not included in the Resource Protection Area;

5. Such other lands under the provisions of subsection A of § 3.3 of this part necessary to protect the quality of state waters.

C. Resource Management Areas shall encompass a land area large enough to provide significant water quality protection through the employment of the criteria in Part IV and the requirements in Parts II and V.

§ 3.4. Intensely Developed Areas.

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

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

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

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

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

PART IV. LAND USE AND DEVELOPMENT PERFORMANCE CRITERIA.

§ 4.1. Purpose.

The purpose of this part is to achieve the goals of the Act and § 2.1 of these regulations by establishing criteria to implement the following objectives: prevent a net increase in nonpoint source pollution from new development, achieve a 10% reduction in nonpoint source pollution from redevelopment, and achieve a 40% reduction in nonpoint source pollution from agricultural and silvicultural uses.

In order to achieve these goals and objectives, these criteria establish performance standards to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, maximize rainwater

infiltration, and ensure the long-term performance of the measures employed.

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

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

§ 4.2. General performance criteria.

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

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

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

3. Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured by the local government through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective;

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

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

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

7. On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:

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

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b. For new construction, provide a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site. This reserve sewage disposal site requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, and which lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building shall be prohibited on the area of all sewage disposal sites until the structure is served by public sewer or an on-site sewage treatment system which operates under a permit issued by the State Water Control Board. All sewage disposal site records shall be administered to provide adequate notice and enforcement.

8. Stormwater management criteria which accomplish the goals and objectives of these regulations shall apply.

For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load based upon average land cover conditions.

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

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

(1) Incorporation on the site of best management practices that achieve the required control;

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

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

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

b. Any maintenance, alteration, use, or improvement to an existing structure which does not degrade the

quality of surface water discharge, as determined by the local government, may be exempted from the requirements of this subsection.

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

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

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

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

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

§ 4.3. Performance criteria for Resource Protection Areas.

The following criteria shall apply specifically within

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Resource Protection Areas and supplement the general performance criteria in § 4.2 of this part.

A. Allowable development.

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

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

- a. It does not conflict with the comprehensive plan;
- b. It complies with the performance criteria set forth in this part;
- c. Any non-water-dependent component is located outside of Resource Protection Areas;
- d. Access will be provided with the minimum disturbance necessary. Where possible, a single point of access will be provided.

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

B. Buffer area requirements.

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

1. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, as follows:

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

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

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

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

2. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, modifications to the width of the buffer area may be allowed in accordance with the following criteria:

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

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

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

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

4. On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. The agricultural buffer area may be reduced as follows:

- a. To a minimum width of 50 feet when the adjacent land is enrolled in a federal, state, or locally-funded agricultural best management practices program, and the program is being implemented, provided that the combination of the reduced buffer area and the best management practices achieve water quality protection, pollutant removal, and water resource conservation at least

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the equivalent of the 100 foot buffer area;

b. To a minimum width of 25 feet when a soil and water quality conservation plan, as approved by the local Soil and Water Conservation District, has been implemented on the adjacent land, provided that the portion of the plan being implemented for the Chesapeake Bay Preservation Area achieves water quality protection at least the equivalent of that provided by the 100 foot buffer area in the opinion of the local Soil and Water Conservation District Board. Such plan shall be based upon the Field Office Technical Guide of the U.S. Department of Agriculture Soil Conservation Service and accomplish water quality protection consistent with the Act and these regulations;

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

§ 4.4. Local program development.

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

§ 4.5. Administrative waivers and exemptions.

A. Nonconforming use and development waivers.

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

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

b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

2. It is not the intent of these regulations to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by local government ordinances.

B. Public utilities, railroads, and facilities exemptions.

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

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

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

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

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

d. Any land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

C. Exemptions in Resource Protection Areas.

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

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

2. Any land disturbance exceeding an area of 2,500 square feet shall comply with the erosion and sediment control requirements of this part.

§ 4.6. Exceptions to the criteria.

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

PART V. IMPLEMENTATION, ASSISTANCE, AND

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DETERMINATION OF CONSISTENCY.

§ 5.1. Purpose.

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

§ 5.2. Local assistance manual.

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

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

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

§ 5.3. Board to establish liaison.

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

§ 5.4. Planning district comments.

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

§ 5.5. Designation of Chesapeake Bay Preservation Areas.

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

1. Utilizing existing data and mapping resources, identify and describe tidal wetlands, nontidal wetlands, tidal shores, tributary streams, flood plains, highly erodible soils including steep slopes, highly permeable areas, and other sensitive environmental resources as necessary to comply with Part III.

2. Determine, based upon the identification and description, the extent of Chesapeake Bay Preservation

Areas within the local jurisdiction;

3. Prepare an appropriate map or maps delineating Chesapeake Bay Preservation Areas;

4. Prepare amendments to local ordinances which incorporate the performance criteria of Part IV or the model ordinance prepared by the board.

B. Review by the board.

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

C. Adoption of first year program.

After being advised of program consistency, local governments shall hold a public hearing, delineate Chesapeake Bay Preservation Areas on an appropriate map or maps, and adopt the performance criteria. Copies of the adopted program documents and subsequent changes thereto, shall be provided to the board.

§ 5.6. Preparation and submission of management program.

Local governments must adopt the full management program, including any revisions to comprehensive plans, zoning ordinances, subdivision ordinances, and other local authorities necessary to implement the Act, within 12 months of the adoption date of these regulations. Prior to adoption, local governments may submit any proposed revisions to the board for comments. Guidelines are provided below for local government use in preparing local programs and the board's use in determining local program consistency.

A. Comprehensive plans.

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

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

a. Information used to designate Chesapeake Bay Preservation Areas;

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b. Other marine resources;

c. Shoreline erosion problems and location of erosion control structures;

d. Conflicts between existing and proposed land uses and water quality protection;

e. A map or map series, accurately representing the above information.

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

a. Local governments should discuss each component of Chesapeake Bay Preservation Areas in relation to the types of land uses considered appropriate and consistent with the goals and objectives of the Act, these regulations, and their local programs.

b. As a minimum, local governments should prepare policy statements for inclusion in the plan on the following issues:

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

(2) Protection of potable water supply, including groundwater resources;

(3) Relationship of land use to commercial and recreational fisheries;

(4) Appropriate density for docks and piers;

(5) Public and private access to waterfront areas and effect on water quality;

(6) Existing pollution sources;

(7) Potential water quality improvement through the redevelopment of intensely developed areas.

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

d. Within the policy discussion, local governments should address consistency between the plan and all adopted land use, public services, land use value taxation ordinances and policies, and capital improvement plans and budgets.

B. Zoning ordinances.

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

1. Make provisions for the protection of the quality of state waters;

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

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

C. Plan of development review.

Local governments shall make provisions as necessary to ensure that any development of land within Chesapeake Bay Preservation Areas must be accomplished through a plan of development procedure pursuant to § 15.1-491(h) of the Code of Virginia to ensure compliance with the Act and regulations. Any exemptions from those review requirements shall be established and administered in a manner that ensures compliance with these regulations.

D. Subdivision ordinances.

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

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

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

E. Water quality impact assessment.

A water quality impact assessment shall be required for any proposed development within the Resource Protection Area consistent with Part IV and for any other development in Chesapeake Bay Preservation Areas that may warrant such assessment because of the unique characteristics of the site or intensity of the proposed use or development.

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

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

F. Review by the board.

The board will review any proposed management program within 90 days. If it is consistent with the Act, the board will schedule a conference with the local government to determine what additional technical and financial assistance may be needed and available to accomplish the long-term aspects of the local program. If the program or any part thereof is not consistent, the board will notify the local government in writing stating the reasons for a determination of inconsistency and recommending specific changes. Copies of the adopted program documents and subsequent changes thereto shall be provided to the board.

§ 5.7. Certification of local program.

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

PART VI. ENFORCEMENT.

§ 6.1. Applicability.

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

§ 6.2. Administrative proceedings.

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

§ 6.3. Legal proceedings.

Section 10.1-2103.10 of the Act provides that the board shall take administrative and legal actions to ensure compliance by local governments with the provisions of the Act. Before taking legal action against a local

government to ensure compliance, the board shall, unless it finds extraordinary circumstances, give the local government at least 15 days notice of the time and place at which it will decide whether or not to take legal action. If it finds extraordinary circumstances, the board may proceed directly to request the Attorney General to enforce compliance with the Act and regulations. Administrative actions will be taken pursuant to § 6.2.

§ 6.4. Adoption date.

The adoption date of these regulations shall be November 15, 1990.

§ 6.5. Effective date.

The effective date of these regulations shall be December 10, 1990.

Adopted November 15, 1990, and amended and readopted December 3, 1990.

/s/ George Mason, III
Chairman
Chesapeake Bay Local Assistance Board

I attest this 3rd day of December, 1990, that the above is the Regulation adopted by the Chesapeake Bay Local Assistance Board on November 15, 1990, and amended and readopted December 3, 1990.

/s/ R. Keith Bull
Executive Director
Chesapeake Bay Local Assistance Dept.

Approved this 5th day of December, 1990.

/s/ Elizabeth H. Haskell
Secretary of Natural Resources

Approved this 7th day of December, 1990.

/s/ Lawrence Douglas Wilder
Governor

Filed with the Registrar of Regulations on this 10th day of December, 1990.

/s/ Joan W. Smith
Registrar of Regulations

BOARD OF NURSING HOME ADMINISTRATORS

Title of Regulation: VR 500-01-3. Emergency Endorsement Regulations.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Dates: December 5, 1990 through December 4, 1991.

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REQUEST FOR APPROVAL OF EMERGENCY REGULATION OF THE VIRGINIA BOARD OF NURSING HOME ADMINISTRATORS

Regulation VR 500-01-3, Sec. 5.1 Providing Requirements for Licensure by Endorsement

I recommend approval of the proposed emergency regulation cited above. The regulation is necessary to implement current statutory authority of boards in this Department to provide for licensure by endorsement.

The emergency regulation will expire one year from the effective date, or upon the promulgation of new regulations under the normal procedures of the Administrative Process Act, whichever date is sooner.

/s/ Bernard L. Henderson, Jr.
Director, Department of Health Professions
Date: October 31, 1990

I recommend approval of the above regulation.

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: November 2, 1990

I approve the proposed regulation.

/s/ Lawrence Douglas Wilder
Governor
Date: December 3, 1990

I acknowledge receipt of the attached emergency regulation to be effective on this date.

/s/ Joan W. Smith
Registrar of Regulations
Date: December 5, 1990

Preamble:

The Board of Nursing Home Administrators promulgated regulations through the Administrative Process Act during 1989-90. The regulations were effective August 15, 1990.

The proposed regulation contained three alternate avenues by which an individual could seek licensure: (1) Education, (2) participation in the administrator-in-training program, and (3) endorsement.

Counsel to the Board determined that at the time of publication of the proposed regulation, the Board did not have authority for endorsement. The provision was deleted from the regulations. Subsequent legislation which was effective in May, 1990 provided the authority for endorsement. Through error, the provision was never re-included in the regulations.

Endorsement provides the out-of-state candidate the opportunity for licensure by documenting that he holds, from the state of original licensure, equivalent qualifications as required by the Virginia Board or qualifications which exceed those required by this Board. An inability to license by endorsement would substantially restrict out-of-state candidates from licensure. Due to the shortage of qualified licensed nursing home administrators in the industry, such a penalty would be considered a hardship.

In order to grant endorsement authority to the Board, this regulation is considered essential, necessary, and an emergency.

VR 500-01-3. Emergency Endorsement Regulations.

§ 5.1. One of the following sets of qualifications is required for licensure:

OR

3. Endorsement.

The Board may issue a Virginia license to any person by endorsement when the person:

a. Holds a current unencumbered license from any state or the District of Columbia;

b. Has practiced nursing home administration for one year or has met the requirements of the Board or has equivalent qualifications acceptable to the Board and has provided sufficient written evidence of those qualifications at the time of application for licensure; and

c. Has successfully completed the State examination.

STATE CORPORATION COMMISSION

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 30, 1990

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUC880042

Ex Parte, in re: Investigation of pricing methodologies for intrastate access service

ORDER SUSPENDING TARIFF AND PRESCRIBING NOTICE

On November 2, 1990, United Inter-Mountain Telephone Company ("United") filed a revised access service tariff with a proposed effective date of December 1, 1990. The purpose of the revised tariff is to restructure United's local switching rate elements.

Heretofore, on October 30, 1990, the Commission entered an order suspending similar tariff filings by the Chesapeake & Potomac Telephone Company of Virginia ("C&P"), Central Telephone Company of Virginia ("Centel") and Contel of Virginia, Inc. ("Contel"). The tariff filing of United should likewise be suspended 150 days pursuant to the provisions of § 56-238 of the Code of Virginia. Moreover, pursuant to the provisions of the Commission's Final Order of May 18, 1988 in Case No. PUC870012, and the provisions of Paragraph 25 of the Commission's Experimental Plan for Alternative Regulation of Virginia Telephone Companies, notice must be provided to interested parties, and they must be allowed an opportunity to comment on the filings of all four companies.

On October 31, the Commission received the Protest of C&P Telephone Company concerning a portion of Centel's aforementioned tariff filing that, it claims, would change the method of compensation under the IntraLATA Toll Originating Responsibility Plan (ITORP). Parties must also be allowed to comment on this issue. Accordingly,

IT IS THEREFORE ORDERED:

(1) That United's proposed revisions to the local switching rate elements of its access tariff are hereby suspended for a period of 150 days beyond December 1, 1990, pursuant to § 56-238 of the Code of Virginia, in order to provide the Commission an opportunity to investigate whether the proposed changes are just and reasonable;

(2) That any interested party may file any responsive pleading or comments addressing the proposed changes to local switching rate elements and any other associated tariff changes of the four companies on or before December 31, 1990. C&P, Centel, Contel and United shall furnish a copy of this order to those customers who purchase intrastate switched access service and would be

affected by these changes. The companies need not send copies to certificated intrastate interexchange carriers. The Commission is forwarding a copy to those carriers and to each of Virginia's certificated local exchange companies; and

(3) That this matter is continued generally until further order of the Commission.

AN ATTESTED COPY of this order shall be sent by the Clerk of the Commission to Virginia's local exchange companies as set out in Appendix A; Virginia's certificated interexchange carriers as set out in Appendix B; Warner F. Brundage, Jr., Esquire, C&P Telephone Company of Virginia, 600 E. Main Street, P.O. Box 27241, Richmond, Virginia 23261; Jacquelyn E. Stone, Esquire, McGuire, Woods, Battle & Boothe, One James Center, Richmond, Virginia 23219; Richard D. Gary, Esquire, Hunton & Williams, P.O. Box 1535, Richmond, Virginia 23212; to the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; to the Commission's Office of General Counsel; and to the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

* * * * *

AT RICHMOND, NOVEMBER 27, 1990

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUE900004

Ex Parte, In re: Investigation for Evaluating Fuel Cost Projections of Electric Utilities

FINAL ORDER

The 1989 Session of the General Assembly adopted Senate Joint Resolution No. 156 ("Resolution") requesting the State Corporation Commission to establish standards for evaluating the reasonableness of the fuel cost projections of electric utilities. The Resolution stated that "such standards need to be established in order to ensure that payments for power purchased by electric utilities from cogenerators are fair, reasonable, and appropriate." Pursuant to that Resolution, the Commission, by an order dated January 10, 1990, directed its Staff to complete an investigation and submit its findings and recommendations in a report. On February 15, 1990, Staff submitted its Report on the Development of Standards for Fuel Cost Projections ("Staff Report").

By Order dated March 16, 1990, the Commission directed its Division of Energy Regulation to provide notice of the proposed standards contained in the Staff Report and invited interested persons to comment and to request a hearing. Pursuant to that March 16, 1990, Order, the Commission received comments from CRSS Capital,

State Corporation Commission

Inc.; Chesapeake Corporation, Stone Container Corporation, and Westvaco Corporation ("Industrial Protestants"); and Delmarva Power ("Delmarva").

Fuel cost projections have several interrelated applications and, accordingly, the accuracy of those projections is very important. First, an electric utility must make fuel cost projections to facilitate optimal resource planning. The more accurate the fuel cost projections, the better the utility can anticipate and plan for its future needs.

As emphasized in the Resolution, fuel cost projections are also essential to ensure payments for power purchased from cogenerators and small power producers are fair and reasonable. Administratively determined payments to such qualifying facilities are based upon an electric utility's avoided costs, which are necessarily calculated by projecting the utility's system costs, but for the purchases from the qualifying facilities. The assumptions underlying that calculation clearly must include fuel cost projections. Again, to ensure payments that are fair to the qualifying facility and to the ratepayer, those projections must be as accurate as possible.

Finally, fuel cost projections must be made to develop the fuel factor which an electric utility adds to its base rates for all electricity sold. Each fuel factor is designed to recover the fuel costs the utility expects to incur during the subsequent twelve months. It also includes a correction factor designed to correct any over or under recovery of prior period fuel expenses. Although the fuel factor includes a true-up mechanism, it is still important for the utility to base the factor on accurate fuel cost projections to minimize extreme fluctuations or variances in customers' bills.

Staff recommends, and we agree, that standards for fuel cost projections should be broad and flexible. Such a framework will allow the standards to be readily applied to each individual utility in differing circumstances. General parameters, however, must be established.

Staff recommends the following minimum standards for fuel cost projections:

1. A sophisticated "state-of-the-art" production costing model should be utilized for projecting fuel expenses.
2. Key input data and assumptions should reflect historic data. Any significant deviation from historic trends should be adequately explained and evaluated for reasonableness.
3. Key input data such as load forecasts, generating unit characteristics, fuel data, and system parameters should be developed in the same relative time frame and reflect consistent assumptions.
4. Demand forecasts should be current and reflect economic growth, normal weather, the price of

electricity, elasticity assumptions, appliance saturations, income and population changes in the utility's service area. They should also reflect projections of energy, peak demand and the effects of demand-side options.

5. Expected fuel prices should reflect historic fuel costs adjusted for any known dynamics of the projection: i.e., labor contracts, expected operation of the spot market, current fuel contracts, the world fuel market, inventory levels and fuel availabilities, purchasing volumes, coal severance taxes, etc.

6. Unit operations should consider planned maintenance, forced outages, expected dispatch levels, historical performance levels, seasonal capabilities, as well as ongoing enhancements or unit deterioration.

7. Dispatch orders should reflect such variables as system economics, unit availabilities, minimum operating levels, heat rates, and terms and conditions of purchased power contracts.

8. Purchase power levels should consider need, system economics, power availability and transmission constraints.

9. Projections supporting the development of cogeneration rates should include a comparison of key input data and assumptions from the last fuel projection filed with the Commission. Major changes should be adequately explained.

The comments generally support the adoption of the standards recommended in the Staff Report and we also find them to be reasonable. A sophisticated production costing model should be used to provide a means to accurately simulate system operations. Key input data and assumptions should reflect current historic data adjusted for known changes. Although certain assumptions may not be supported by actual commitments or contracts, use of historic data as a basis will appropriately capture likely system operations. Emergency and economy purchases are good examples. They are made every year and a reasonable level of such purchases should be assumed in anticipating system operations. Similarly, a reasonable level of short-term purchases should be assumed when making fuel cost projections. Such purchase levels need not be backed by a signed contract but should reflect historic availability of short term power as well as projected short term capacity excesses on neighboring systems.

Demand forecasts and other key data also should be developed in the same relative time frame to provide consistent assumptions and data. Those major changes must be documented and explained to the extent assumptions vary with the several different applications of the fuel cost projections.

Two commentors proposed several changes which will not be incorporated into the standards. The Industrial Protestants assert that fuel factors should not be

predicated on goals and objectives and propose "benchmarking" fuel cost projections. Benchmarking is essentially a comparison of actual data with the estimates that had been made for that same period. Barring unusual circumstances, extreme variances between the actual data and the estimates might indicate that the utility did not properly derive the underlying assumptions and input data. Benchmarking might be used in an individual proceeding to test the accuracy of specific assumptions or data, but we do not believe that the standards need to be revised to require it.

The Industrial Protestants also suggested that Staff's proposed guidelines be implemented on an interim basis. As Staff suggested in its report, the standards implemented in this proceeding may require modifications to reflect changing conditions. Clearly the standards can be changed if modifications are determined to be necessary in the future whether the standards are implemented on an interim basis or not. Accordingly, we see no need to implement these standards on an interim basis.

Delmarva recommended that projections of demand-side impacts be clearly separate and distinct from the underlying growth projections. The standards proposed by Staff are minimum standards and require only that the effects of demand-side options be reflected. The standards would not preclude Delmarva from explicitly and separately identifying the effects of its demand-side programs.

Delmarva also suggested modification to the requirement that key input data and assumptions and expected fuel prices reflect adjusted historic data. Again, Delmarva's comment is not inconsistent with the standards proposed by Staff. The proposed standards require that key input data, assumptions and expected fuel prices reflect historic data, but allow for adjustments for any known changes or for the dynamics of the projection period. Any changes, however, should be identified appropriately and explained.

Finally, Delmarva expressed concern regarding the proposed requirement that demand forecasts and production costing data be developed in the same relative time frame. The standards do not require that a new load forecast be developed every time a fuel factor is adjusted, but it is critical that the demand forecasts and production costing data used in the model for a specific application be based on the same relative time frame to provide accurate and consistent fuel cost projections.

NOW THE COMMISSION, having considered the Staff Report and the comments thereon, is of the opinion and finds that the standards recommended by the Staff should be adopted. Accordingly,

IT IS ORDERED:

(1) That the standards recommended in Staff Report on the Development for Fuel Cost Projections dated February 15, 1990, be adopted as minimum "Standards for Fuel Cost

Projects of Electric Utilities"; and

(2) That there being nothing further to come before the Commission, this matter shall be removed from the docket and the papers placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Edward L. Flippen, Esquire, and Charles H. Tenser, III, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, VA 23208-9970; Edward C. Minor, Esquire, Union Camp Corporation, Franklin, VA 23851; J. J. Carrara, Esquire, Westvaco, 299 Park Avenue, New York, NY 10171; Mr. Don Dowling, Cogentrix, 9405 Arrow Point Boulevard, Charlotte, NC 28217; Stephen H. Watts, II, Esquire, Hopewell Cogeneration Limited, One James Center, Richmond, VA 23219; Mr. Joseph H. Vipperman, Appalachian Power Company, P.O. Box 2021, Roanoke, VA 24009; Mr. James R. Wittine, Delmarva Power & Light Company, 800 King Street, Wilmington, DE 19899; Mr. Harold E. Armsey, P.O. Drawer 658, Norton, VA 24273; Mr. Elmer B. Kaelin, President, Potomac Edison Company, Downsville Pike, Hagerstown, MD 21740; Dr. James T. Rhodes, President, Virginia Power Company, P.O. Box 26666, Richmond, VA 23261; Christopher Lagow, Esquire, 1700 Bayberry Court #300, Richmond, VA 23226; Louis R. Monacell, Virginia Committee for Fair Utility Rates, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, 909 East Main Street, Richmond, VA 23219-3093; and to the Commission's Office of General Counsel and Divisions of Energy Regulation and Economics and Finance.

AT RICHMOND, NOVEMBER 28, 1990

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE900029

Ex Parte: In the matter of adopting Commission rules for electric capacity bidding programs

FINAL ORDER

By Order dated April 25, 1990, the Commission initiated this proceeding to clarify the relationships among utility construction of power plants, bidding programs for capacity purchases, and Commission arbitration of qualifying facilities and utility purchase agreements under the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 USC §§ 824a-3 et seq.

The Commission first established policy guidelines for bidding programs in 1988. Ex Parte: In the matter of adopting Commission policy regarding the purchase of electricity by public utilities from qualifying facilities when there is a surplus of power available, 1988 S.C.C. Ann.

State Corporation Commission

Rept. 297 ("January 1988 Order"). In that proceeding, we determined that a properly conceived and implemented bidding procedure was lawful. We further identified several nonprice factors which might be used to evaluate proposed projects in conjunction with pricing considerations. Subsequent to the issuance of the January 1988 Order at least one electric utility subject to our jurisdiction has contracted for a significant amount of capacity through the bidding process. Other utilities are interested in implementing similar procedures for prospective capacity acquisitions.

Further, issues relative to the bidding process, including the propriety of an exclusive bidding program and the proper weighting of utility construction compared to purchase options, have arisen in a number of recent certificate and arbitration proceedings filed with this Commission. The growing use of bidding programs and the questions raised in those several proceedings resulted in our determination that it was necessary to initiate this investigation to revisit the principles discussed in the January 1988 Order and to adopt clear rules to delineate a framework for the contracting process between utilities and other power suppliers, both qualifying facilities under PURPA and non-PURPA independent power producers.

In response to our directive in the April 25, 1990 Order establishing this investigation, Staff filed a report in which it set forth its recommendations for proposed rules. By order dated July 19, 1990, we directed our Staff to publish notice of those proposed rules and invited comments from interested parties. Extensive written comments were received from a number of parties including utilities, customers and customer groups, cogenerators and independent power producers. Staff reviewed all of those comments and on October 12, 1990, filed revised proposed rules which incorporated a number of the suggestions offered by the commentors. On October 25, 1990, oral argument was heard from those parties who wished to provide additional comment.

In addition to its written comments, Delmarva Power filed a motion for an exemption. That motion is premature and should be denied. Delmarva should evaluate the Rules promulgated in this order, determine which provisions cause conflicts with the approvals received from other jurisdictions it is subject to, and at that point, if appropriate, renew its motion for exemption from those specific and conflicting provisions.

The Commission has carefully considered the Staff reports and the written and oral comments. The high quality of the comments had aided us in establishing rules which best balance all of the several interests. After reviewing this record, we are of the opinion that bidding programs continue to provide electric utilities with an excellent option for acquiring necessary capacity in an orderly and reasonable manner.

We agree with the Staff recommendation that the rules should provide a broad and flexible framework. There are

obvious differences between investor-owned utilities and the cooperatives which must be accommodated in the rules. Each utility has a different customer mix and different existing resources which make their needs widely varied. Electric utilities should be free to establish bidding programs, at their option, if such a process best meets their resource acquisition needs.

A utility which implements a bidding program should start with a well developed resource plan as a foundation. At this time, however, we will not establish a formal approval process within which to review that plan or any bidding program. Our Staff should continue to carefully review and monitor both the resource plans and any bidding programs as they are developed.

A utility with an active bidding program should be free to refuse offers of capacity that have been received outside of its bidding process, although, in accordance with PURPA, offers of energy must continue to be accepted from any qualifying facility. We agree with the Staff's recommendations for exemptions to this general rule, however. Purchases under tariffs from small power producers and cogenerators, short term, economy and emergency purchases and extensions of existing contracts should be made outside of the bidding process. The rules should not bar a utility from entering into a purchase of extraordinary advantage to it. Under special circumstances a utility and a potential provider may jointly file a petition with the Commission and demonstrate that the opportunity cannot be accommodated in the utility's bidding process and that the terms of the purchase are extraordinarily advantageous. We would expect most contract modifications necessitated by a plant expansion to be accommodated in this manner, unless of course, the expansion is so significant as to warrant treatment as a new and separate project.

A bidding program also must include some mechanism to compare utility build options with purchase options. We believe this can be accomplished by requiring the utility to establish a benchmark based on detailed construction cost estimates for each solicitation. A utility is free to publish its benchmark in its request for proposals. If the utility uses a sealed benchmark it must be submitted to the Commission prior to receipt of any bids to ensure a fair process.

Finally, the Commission will no longer entertain arbitration proceedings when a utility has an active bidding process in place. It is important that the process not be undermined by allowing a developer to file an arbitration petition which might serve to displace capacity offers made in an established bidding program. We, of course, will resolve any disputes between a utility and an unsuccessful bidder that may arise as a result of implementation of the bidding process.

Significant attention was devoted in oral arguments to the suggestion that the rules be modified to incorporate some type of mechanism to allow developers to pass any

unexpected environmental costs through to the utility and subsequently to the utility ratepayer. We believe an automatic pass-through is inappropriate. It would be extremely difficult, if not impossible, to identify the types of costs eligible for such a pass-through mechanism. It was apparent in oral argument that, although more stringent air emission standards are a current and overriding concern, unexpected environmental costs could arise with regard to wetlands and Chesapeake Bay preservation issues, Superfund exposure or a whole variety of other environmental concerns. The developers have elected to operate in an unregulated environment and accordingly, the developer, not the ratepayer, must shoulder the majority of risks associated with the project. To some extent the changes in environmental requirements are a risk which must be factored into the decision to build a power plant. To the extent an extreme circumstance arises, the parties are always free to re-evaluate the existing contract. If the project is still viable, the parties may negotiate appropriate amendments to the contract.

NOW THE COMMISSION, having reviewed the June 15, 1990 and October 12, 1990 Staff reports, the written comments, the oral argument and the applicable law is of the opinion and finds that the revised proposed rules contained in the October 12, 1990 Staff report are reasonable and should be adopted with only one substantive modification and several editorial changes. In our opinion Rule 2 should be revised to allow a utility to solicit proposals from all sources of capacity or to limit its bidding program to PURPA qualifying facilities. Although we believe that in most circumstances all source bidding will optimize the resources available to the utility we will not impose a mandatory requirement to include all sources. The rules are attached hereto as Appendix A. Accordingly,

IT IS ORDERED:

- (1) That Delmarva's Motion for an Exemption is denied without prejudice;
- (2) That the rules set forth in Appendix A be and hereby are adopted; and
- (3) That there be nothing further to come before the Commission, this matter shall be closed and removed from the docket and the papers placed in the file for ended causes.

AN ATTESTED copy hereof shall be sent by the Clerk of the Commission to Edward L. Flippen, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-9970, Evans B. Brasfield, Esquire, Hunton & Williams, P.O. Box 1535, Richmond, Virginia 23212; John Sachs, Esquire, 1701 Pennsylvania Avenue, N.W., Washington, D.C. 20006; Mark J. LaFratta, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-9970; Louis Monacell, Esquire, Christian, Barton & Epps, 1200 Mutual Building, Richmond, Virginia 23219; Office of the Attorney General, Division of Consumer Counsel, 101 North 8th Street, 6th Floor,

Richmond, Virginia 23219; Edward Key, Charles River Associates, 555 13th Street, N.W., Washington D.C. 20004; George A. Beadles, Jr., 9401 Deer Range Road, Moseley, Virginia 23120-1432; James R. Bacha, American Electric Power, One Riverside Plaza, Columbus, Ohio 43215; Gerard M. Waites, Esquire, 4748 Wisconsin Avenue, N.W., Washington, D.C. 20016; Robert B. Murdock, Vice President, Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; Philip F. Abraham, Coastal Power Production, P.O. Box 3-K, Richmond, Virginia 23206; Peter F. Clark, Delmarva Power & Light Company, P.O. Box 231, Wilmington, Delaware 19899; G. Philip Nowak, Esquire, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20036; Robert Hewett, Old Dominion Power Company, One Quality Street, Lexington, Kentucky 40507; Stephen H. Watts, II, Esquire, McGuire, Woods, Battle & Boothe, One James Center, Richmond, Virginia 23219; Micheal L. Hern, Esquire, Miller & Hern, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Laurence Hamric, Esquire, Williams, Mullen & Christian, P.O. Box 1320, Richmond, Virginia 23210; Wallace N. Davis, Executive Director, Department of Air Pollution Control, Commonwealth of Virginia, Room 801, Ninth Street Office Building, P.O. 10089 Richmond, Virginia 23240; A. Hays Butler, Delmarva, P.O. Box 231, Wilmington, DE 19899; Stephen A. Herman, PG & E Bechtel Generating Company, 7475 Wisconsin Avenue, Bethesda, Maryland 20814-3422; Harry E. Gregori, Jr., Department of Waste Management, 101 North 14th Street, 11th Floor, Richmond, Virginia 23219; to the Commission's Divisions of Economics and Finance and Energy Regulation.

VIRGINIA STATE CORPORATION COMMISSION

RULES GOVERNING THE USE OF BIDDING PROGRAMS TO PURCHASE ELECTRICITY FROM OTHER POWER SUPPLIERS

I. Purpose and Scope

The purpose of these rules is to establish minimum requirements for any electric utility bidding program that is used to purchase electric capacity and energy from other power suppliers. The rules apply to any investor owned electric utility or cooperative operating in Virginia that chooses to establish a bidding program. Although these rules are equally applicable to cooperatives, the differences between investor owned electric utilities and cooperatives are recognized. Those differences, including size, needs, control and the relationship with Old Dominion Electric Cooperative for centralized planning and power acquisition functions, can be readily accommodated within the parameters of these rules.

Electric utilities maintain the right to establish a bidding program or secure electric capacity and energy through other means. If a bidding program is developed, the responsibilities of developing requests for proposals, evaluating bids and negotiating and enforcing contracts lies with the utility.

State Corporation Commission

A utility may file for exemptions from any or all of these bidding program requirements. In making its decision regarding exemptions, the Commission will consider the size of the utility's operations in Virginia and the requirements of other regulatory bodies having jurisdiction over the utility.

II. Sources of Capacity

With the exception noted below, a utility may allow all sources of capacity to submit offers in a bidding program. This could include other electric utilities, independent power producers, cogenerators and small power producers.

A host utility may not allow directly affiliated companies to participate in its capacity solicitation. Parties offering capacity reductions through load management may participate at the discretion of the host utility.

III. Development of Resource Plan

If a utility chooses to establish a bidding program, that program must be an integral part of the utility's long term resource plan. The information in a utility's resource plan should determine the size of solicitations, the timing of the need and many of the evaluation criteria.

An electric utility's need for capacity as identified in its Request for Proposal (RFP) should be consistent with its long-term resource plans. The capacity need identified by an investor owned electric utility should be consistent with the resource plans filed most recently with the Commission. If the RFP is not consistent with the resource plan, the company must justify any differences before an RFP is issued.

IV. Request for Proposal

The utility's request for proposals should provide accurate information about the company's need for capacity. Such information should, at a minimum, include the following:

- a. The size, type and timing of capacity for which the company anticipates contracting
- b. Any minimum thresholds that must be met by respondents
- c. Major assumptions to be used by the utility in the bid evaluation process, including environmental emission standards
- d. Explicit instructions for preparing bids so that bids can be evaluated on a consistent basis
- e. Preferred general location of additional capacity
- f. A standard power purchase and operating agreement

g. Specific information concerning the factors involved in determining price and non-price criteria used for selecting winning bids

The electric utility should provide all information that would reasonably be expected to have a bearing on the viability of a proposed project. Potential bidders should have the opportunity to meet with the utility to discuss the RFP and the utility's capacity needs. Advance notice of the issuance of an RFP must be provided to the Commission Staff.

V. Evaluation of Bids

The evaluation of bids submitted in a bidding program must be based on the criteria identified in the utility's request for proposal. Bids should compete not only with other bids but also with the company's own build options, including plant life extensions.

While a company's build option need not be treated as a sealed bid, the utility must be able to demonstrate that it has objectively evaluated its build option against the bids received.

It should be recognized that the utility's evaluation will be under close scrutiny by the Commission Staff and other interested parties. Unsuccessful bidders should have an opportunity to meet with the utility to discuss the evaluation of their bids.

VI. Company Cost Benchmark

An electric utility conducting a bidding program must develop detailed cost estimates of its own build options. Those options may include units jointly planned with other companies. Cost estimates must be current and based on the prices likely to be actually quoted by manufacturers and vendors of power plant equipment. These estimates need not be divulged to potential bidders. However, if detailed cost estimates are not identified in the company's RFP such estimates must be submitted to the Commission prior to the company receiving competitive bids. The Commission will treat utility cost estimates as confidential during the bid evaluation and contracting period.

VII. Price and Non-Price Factors

The price and non-price factors selected for evaluation and the weightings attached to each can reasonably vary from utility to utility. However, the following factors must be considered for each project.

- a. Level and schedule of required capacity and energy payments
- b. Status of project development
- c. Demonstrated financial viability of the project and the developer

- d. A developer's prior experience in the field
- e. System fuel diversity
- f. Dispatchability
- g. Project location and effect on the transmission grid
- h. Efficiencies of joint production of electricity and steam inherent in the cogeneration process
- i. Use of Virginia fuels, manpower and other state resources
- j. Benefits to be derived by the industries and communities associated with particular projects
- k. Environmental impact

VIII. Contract Negotiations

Any contract negotiations between the utility and a potential supplier of electricity should be in strict accordance with what is stated in the company's RFP. In fairness to all bidding participants, contract negotiations should not be extensive. Fundamental changes in the nature of the project or capacity and purchase payments must not be negotiated. Any contract signed must include provisions that assure a facility's performance and continued availability under the agreement.

IX. Purchases Outside of the Bidding Process

A utility with an active competitive bid program may refuse offers of capacity that have been received outside of a bidding process. Energy, however, must be purchased from an offering QF in accordance with PURPA requirements.

Electricity purchases outside of the bidding process could include purchases under tariffs from small power producers and cogenerators, short term, economy and emergency purchases. The extension of an existing contract could also normally be accomplished outside of the bidding process. If a utility and a potential provider of capacity want to negotiate a purchased power contract outside of the bidding process under other circumstances, they must jointly file a petition with the Commission. The parties must demonstrate that the opportunity cannot be accommodated in a bidding process and that the terms of the purchase are favorable from both a cost and reliability standpoint.

X. Commission Role in Complaint Resolution

The Commission will provide a forum to resolve disputes between a utility and a bidder that may arise as a result of implementation of the bidding process. If a utility does not elect to implement an exclusive bidding process, the Commission will continue its traditional role of arbitrating

price, terms, and conditions of purchased power contracts when the parties reach an impasse.

XI. Utility Reporting Requirements

An electric utility conducting a competitive bid solicitation must submit a written report to the Commission Staff within 45 days of the completion of its evaluation of bids. This report shall describe in detail the evaluation of bids and the company's comparison of the bids received to its own construction options. A second report, similar to the report submitted to the Staff but without information considered to be proprietary, must be prepared as a public document. The company shall cooperate fully with the Staff in its review of the solicitation and evaluation process.

GOVERNOR

EXECUTIVE ORDER NUMBER TWENTY-ONE (90)

DEVELOPMENT AND IMPLEMENTATION OF OPTIONAL RETIREMENT PLANS FOR FACULTY OF INSTITUTIONS OF HIGHER EDUCATION

By virtue of the authority vested in me by Sections 2.1-41.1, 2.1-423 and 2.1-451 of the Code of Virginia and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby assign responsibilities for the development and implementation of optional retirement plans for faculty of institutions of higher education to the following:

- The Department of General Services, through its Division of Purchases and Supply, shall develop and issue a Request for Proposal (RFP) for optional retirement plans for faculty of institutions of higher education that meet the criteria for qualification under Section 401(a) of the Internal Revenue Service Code. The Department of General Services shall select qualified providers of such plans no later than August 6, 1990.

(a) The Department, in developing the RFP, shall be assisted by an advisory committee which shall include representatives from the Department of Personnel and Training, Department of Accounts, Virginia Retirement System, and selected universities. The RFP shall consider and address the elements in Appendix 1 of this executive order.

(b) The Department, in evaluating the proposals received, shall use the advisory committee, as mentioned above, to evaluate and determine qualified providers of optional retirement plans.

(c) Not later than August 6, 1990, the Department shall notify the institutions of higher education on the selection of qualified providers of any optional retirement plans.

- The Department of Personnel and Training (DPT) shall be designated as the depository for the official records of service of employees with the Commonwealth. DPT shall be vested with the responsibility for determining length of state service for the purpose of receipt of benefits by faculty of institutions of higher education.
- The institutions of higher education shall be designated the plan administrators for all optional retirement plans for their respective faculty.
- The Virginia Retirement System (VRS) shall be designated as an information clearinghouse for all retirement plans available to state government employees, including faculty of institutions of higher education, and shall make recommendations to the Secretaries of Education and Administration concerning state policy for administering optional

retirement programs.

(a) Prior to September 30, 1990, VRS, in conjunction with the institutions of higher education, shall develop an implementation program for the retirement plans available.

(b) The program shall include, but not be limited to, decisions on: announcement of programs; verification and approval of literature and marketing strategies; scheduling of information sessions; determination of actual enrollment periods; determination of actual implementation date; and participation.

- Boards of Visitors of institutions of higher education shall determine which of the qualified providers of the optional retirement plans should be made available to their respective faculty prior to February 1, 1991.

This Executive Order shall be in effect from 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 this 27th day of November, 1990.

/s/ Lawrence Douglas Wilder
Governor

APPENDIX 1 OF EXECUTIVE ORDER NUMBER TWENTY-ONE (90)

The Request for Proposal (RFP) developed by the ad hoc advisory committee formed by the Department of General Services to develop optional retirement plans for faculty of institutions of higher education, shall consider and address the following:

a. Statutory Eligibility Standard

- teaching faculty (salaried)
- administrative faculty (salaried)
- research faculty (salaried)

b. Participation by Individuals

- mandatory choice of only one plan
- new faculty must choose a plan within 90 days or be placed with VRS

c. Portability

- move contributions among defined contribution plans

- move plan from state to state
 - move plan between Virginia institutions
 - permit "grandfathering" when plan is rebid to allow continuity under prior plan at choice of employee
- d. Retirement Age
- 55 permitted
 - no mandatory age
 - contributions continued while full-time employee
- e. Disability
- treatment of contributions if disabled
 - benefit payout if disabled
- f. Plan Contribution
- equity of employer payment to chosen plan
 - what schedule is used for contributions
 - contributions with before or after tax dollars
 - frequency of payment/credit to accounts
- g. Leave of Absence
- on partial salary - proportional or full payments
 - on no salary - proportional or no payments
- h. Retirement Benefits
- merged gender tables determine payout
 - loan provisions
 - lump sum withdrawals
 - tax free exchanges
- i. Death Benefits
- lump sum
 - survivor options
 - minimum benefit payment
- j. Plan Year
- beginning dates
 - ending dates
- consistency among plans
- k. Plan Administrator
- duties of institutional representatives
 - who tracks service
 - duties of central agencies (VRS, DPT, DOA)
- l. Investment and Repurchase Options
- buy years of service
 - costs and penalties
 - roll money from prior plan
 - options on termination of employment
 - options if plan is terminated at institution
- m. Relationship to Retirement Health Insurance
- tracking of service responsibility
 - 15 years under one, two, or more plans
 - coordination of premium billing and application of health benefit credits
- n. Minimum Asset Requirement
- o. Stability of the Organization
- p. Transfer Flexibility (geographic dispersion, portability)
- q. Performance of funding vehicles
- r. Experience (knowledge, number and availability of representatives)
- s. Investment and movement of funds among accounts, products, frequency, cost, and interest crediting
- t. Adherence to Virginia Rules and Regulations
- u. Contract features (direct and indirect charges, costs, and penalties)
- fees
 - interest rates
 - duration of contract
 - service capability
 - toll-free telephone transfer services

Governor

- designated service agent
- v. Administrative Services and Support
- frequency of benefit statements
 - transmittal of funds
 - other products sold in conjunction with retirement (life insurance or tax shelters)
 - recordkeeping and reporting system
- w. Available disability retirement
- x. Participation
- minimum number of contributions and employees
 - IRS application of rules on maximum amounts
- y. Distribution
- form of settlements: annuities, lump sums, or rollovers

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD OF CORRECTIONS

Title of Regulation: **VR 230-30-007. Supervision Fee - Rules, Regulations and Procedures.**

Governor's Comment:

I recommend promulgation of these regulations with the understanding that the State Board of Corrections make minor technical changes suggested by the Department of Planning and Budget.

/s/ Lawrence Douglas Wilder
Governor
Date: December 4, 1990

* * * * *

Title of Regulation: **VR 230-30-008. Regulations for State Reimbursement of Local Correctional Facility Construction Costs.**

Governor's Comment:

The promulgation of this regulation will ensure the fair and equitable distribution of state funds provided to reimburse local facility construction costs. I recommend that the State Board of Corrections, prior to its final

approval of this regulation, carefully consider and address the comments submitted by the Department of Planning and Budget and any which may be received from the public during the public comment period.

/s/ Lawrence Douglas Wilder
Governor
Date: November 27, 1990

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: **VR 320-01-03. Regulations for Preneed Funeral Planning.**

Governor's Comment:

I concur with the form and the content of this proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: December 7, 1990

DEPARTMENT OF HEALTH

Title of Regulation: **VR 355-18-01. Waterworks Regulations.**

Governor's Comment:

I concur with the form and the content of this proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: December 7, 1990

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 5, 1990

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-04-8.11. Home and Community Based Services to Individuals with AIDS/ARC.**

Governor's Comment:

I concur with the form and content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 5, 1990

Pending public comment, I concur with the substance of these regulations. However, I recommend that the Department of Taxation consider the suggestions made by the Department of Planning and Budget to clarify language in the proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: November 27, 1990

BOARD OF MEDICINE

Title of Regulation: VR 465-08-01. Regulations for Certification of Occupational Therapists.

Governor's Comment:

I approve of the form and the content of these regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: December 19, 1990

Title of Regulation: VR 630-3-302. Corporate Income Tax: Definitions-Sales.
VR 630-3-414. Corporate Income Tax: Sales Factor.

Governor's Comment:

Pending public comment, I concur with the substance of these regulations.

/s/ Lawrence Douglas Wilder
Governor
Date: December 7, 1990

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: VR 615-01-28. Aid to Dependent Children (ADC) Program - Entitlement Date.

Governor's Comment:

I concur with the form and the content of this proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: December 7, 1990

DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-322.01. Individual Income Tax: Self-employment Tax Addback and Subtraction.

Governor's Comment:

Pending public comment, I concur with the substance of these regulations. However, I recommend that the Department of Taxation consider the suggestions made by the Department of Planning and Budget to clarify language in the proposal.

/s/ Lawrence Douglas Wilder
Governor
Date: December 7, 1990

Title of Regulation: VR 630-2-322.02. Individual Income Tax: Age Subtraction.

Governor's Comment:

GENERAL NOTICES/ERRATA

Symbol Key †
† Indicates entries since last publication of the Virginia Register

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to change the contents of the regulations to accommodate reporting requirements and other changes as needed.

Statutory Authority: § 54.1-404 of the Code of Virginia.

Written comments may be submitted until February 8, 1991.

Contact: Bonnie S. Salzman, Assistant Director, 3600 W. Broad St., Department of Commerce, Richmond, VA 23230, telephone (804) 367-8514.

AUCTIONEERS BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Auctioneers Board intends to consider amending regulations entitled: **VR 150-01-2. Auctioneers Board.** The purpose of the proposed action is to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with its Public Participation Guidelines.

Statutory Authority: §§ 54.1-100, 54.1-201 and 54.1-602 of the Code of Virginia.

Written comments may be submitted until January 31, 1991.

Contact: Geralde W. Morgan, Administrator, 3600 W. Broad St., Department of Commerce, Richmond, VA 23230-4917, telephone (804) 367-8534.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

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: **VR 230-30-004. Adult Community Residential Services Standards.** The purpose of the proposed action is to establish minimum standards for Adult Community Residential Programs.

Statutory Authority: § 53.1-178 of the Code of Virginia.

Written comments may be submitted until January 21, 1991.

Contact: R. M. Woodard, Regional Manager, Adult Community Alternatives, 302 Turner Road, Richmond, VA 23225, telephone (804) 674-3729.

BOARD OF DENTISTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Dentistry intends to consider amending regulations entitled: **VR 255-01-1. Board of Dentistry Regulations.** The purpose of the proposed action is to amend the regulations to require the name of the dental assistant providing service. Currently, the only names required for providing service are the dentist and the dental hygienist in § 4.1(B) (7) of the existing regulation.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until March 4, 1991.

Contact: Nancy Taylor Feldman, Executive Director, Virginia Board of Dentistry, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9906.

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 promulgating regulations entitled: **Curriculum for Resident Trainee Program.** The purpose of the proposed action is to provide consistency and accountability in the resident trainee program of the funeral profession.

Statutory Authority: §§ 54.1-2803 of the Code of Virginia.

Written comments may be submitted until February 15, 1991.

Contact: Meredyth P. Partridge, Board Administrator, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7390 or toll-free 1-800-533-1560.

DEPARTMENT OF GENERAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of General Services intends to consider promulgating regulations entitled: **Aggressive Air Sampling Standards to be Utilized in Final Clearance Inspections for Asbestos Projects in Local Education Agencies, Public Colleges and Universities and State-owned Buildings in the Commonwealth of Virginia.** The purpose of the proposed regulation is to establish aggressive air sampling standards.

Statutory Authority: § 2.1-526.14:1 of the Code of Virginia.

Written comments may be submitted until January 18, 1991.

Contact: Sharon D. Gay, State Asbestos Coordinator, 9th Floor, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-4446.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The purpose of the proposed action is to clarify that health care institutions as defined by § 9-156 of the Code of Virginia that are part of continuing care retirement centers must segregate the patient care activities provided in its nursing home component from its nonpatient care activities when completing the report forms required by council.

Statutory Authority: §§ 9-158 and 9-164 of the Code of Virginia.

Written comments may be submitted until January 21, 1991.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

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 440-01-137.1 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.

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 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

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Capitol Square, Richmond, VA 23219, telephone (804) 786-5579. 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)

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 promulgating regulations entitled: **VR 440-01-137.8. Standards for Paper for Permanent Circuit Court Records.** The purpose of the proposed action is to ensure the preservation of the permanent records of the Commonwealth by establishing minimum requirements for the paper used in creating or storing the record.

Statutory Authority: § 42.1-82 of the Code of Virginia.

Written comments may be submitted until January 2, 1991.

Contact: Dr. Louis Manarin, State Archivist, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-5579.

BOARD OF NURSING HOME ADMINISTRATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **VR 500-01-2:1. Regulations of the Board of Nursing Home Administrators.** The purpose of the proposed action is to amend existing regulations to establish standards for the practice of nursing home administration including training programs and examination for licensure.

Statutory Authority: § 54.1-3101 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Meredyth P. Partridge, Board Administrator, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-7390 or toll-free 1-800-533-1560.

BOARD OF OPTOMETRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Optometry intends to consider amending regulations entitled: **VR 510-01-1. Regulations of the Board of Optometry.** The purpose of the proposed action is to solicit public comments on all existing regulations as to the assessment of their effectiveness, efficiency, necessity, clarity and cost of compliance in accordance with Executive Order 5 (86). This notice replaces the Notice of Intent published in

July, 1990.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until January 8, 1991.

Contact: Lisa J. Russell, Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9915 or toll-free 1-800-533-1560.

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 - Appeal Hearings**. The purpose of the proposed action is to establish the procedures to be followed by the commission and appellants in appealing rulings made by the stewards.

Statutory Authority: §§ 59.1-364 and 59.1-369 of the Code of Virginia.

Written comments may be submitted until January 16, 1991, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia.

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 - Commission Veterinarian**. The purpose of the proposed action is to establish qualifications, duties and responsibilities of the Commission Veterinarian.

Statutory Authority: §§ 59.1-364 and 59.1-369 of the Code of Virginia.

Written comments may be submitted until January 16, 1991, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia.

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 - Stewards**. The purpose of the proposed action is to establish qualifications and duties of stewards.

Statutory Authority: §§ 59.1-364 and 59.1-369 of the Code of Virginia.

Written comments may be submitted until January 16, 1991, to Donald R. Price, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia.

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 - Horsemen's Representative**. The purpose of the proposed action is to establish procedure under which the commission will recognize the representative of the horsemen.

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

Written comments may be submitted until January 15, 1991, to Donald Price, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia.

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 - Prohibited Acts**. The purpose of the proposed action is to establish those actions by permit holders that will compromise the integrity of horse racing in the Commonwealth.

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

Written comments may be submitted until January 15, 1991, to Donald Price, Virginia Racing Commission, P.O. Box 1123, Richmond, Virginia.

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Contact: William H. Anderson, Senior Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23208, telephone (804) 371-7363.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Water Control Board intends to consider amending regulations entitled: **VR 680-165-05. York River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the York River Basin Water Quality Management Plan by removing American Oil from the listing of wasteload allocations in Table 3.

Water quality management plans set forth measures for the board to implement in order to reach and maintain applicable water quality goals in general terms and also by establishing waste load allocations for industrial and municipal dischargers in critical water quality segments. Since American Oil does not discharge to a critical (water quality limited) segment, inclusion of American Oil in the original table was inappropriate and unnecessary.

Federal and state laws require that Virginia Pollutant Discharge Elimination System permits comply with appropriate area or basin wide water quality management plans. The proposed removal of American Oil will have no adverse impact on the company or water quality. The quality and quantity of American Oil's discharge will continue to be regulated by federal and state laws and the board's Permit Regulation (VR 680-14-01).

The proposed action is authorized by the statutes cited and is governed by the State Water Control Law; Permit Regulation (VR 680-14-01); Water Quality Standards (VR 680-21-00); the Clean Water Act, 33 USCA Sections 1251 et seq.; and 40 CFR Parts 35 and 130. A copy of these documents may be reviewed or obtained by contacting Mr. Robert F. Jackson, Jr., at the address below.

Statutory Authority: § 62.1-344.15 of the Code of Virginia.

Written comments may be submitted until January 17, 1991.

Contact: Mr. Robert F. Jackson, Jr., State Water Control Board, Tidewater Regional Office, 287 Pembroke Office Park, Pembroke Two, Suite 310, Virginia Beach, VA 23462, telephone (804) 552-1840.

GENERAL NOTICES

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

† Notice

In accord with the Anti-Drug Abuse Act of 1988 (Public Law 100-690, Title VI, Subtitle C) the Department of Criminal Justice Services announces its intention to submit an application for federal funds to the Bureau of Justice Assistance, U.S. Department of Justice.

The application will be submitted no later than January 4, 1991, and will request \$9,892,000 in federal funds, which is Virginia's allocation for federal fiscal year 1991 under the Drug Control and System Improvement Formula Grant Program. The funds are to be used by the department to make grants to localities and state agencies to support drug control and criminal justice system improvement projects.

In addition to the Standard Form 424, "Application For Federal Assistance," the submission to the Bureau of Justice Assistance contains a statewide drug and violent crime strategy which analyzes the state's drug and violent crime problems, identifies needs and priorities, and indicates ways the department proposes to use the federal funds to address the needs and priorities.

Public review of the application and comment on it are invited. Single copies may be obtained by contacting Joseph R. Marshall, Programs Coordinator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

DEPARTMENT OF LABOR AND INDUSTRY

† Notice to the Public

Notice is hereby given in accordance with this agency's Public Participation Guidelines that the Department of Labor and Industry and the Apprenticeship Council intend to study the need for requesting elimination of the requirement that apprenticeship related instruction funds be prioritized to construction and basic industry before being distributed to other industries.

Written comments may be submitted until February 1, 1991.

Contact: Tom Butler, Assistant Commissioner, Training and Public Services, Department of Labor and Industry, P. O., Box 12064, Richmond, VA 23241, telephone: (804) 786-4300.

Oral comments will be accepted at the Open Meetings listed below:

January 9, 1991 - 7 p.m. - Open Meeting Roanoke County

Administration Building, 3738 Brambleton Avenue, S.W.,
Roanoke, Virginia

January 10, 1991 - 7 p.m. - Open Meeting Fairfax City
Council Chambers, Room 305, 10455 Armstrong Street,
Fairfax, Virginia

January 15, 1991 - 7 p.m. - Open Meeting State Capitol
Building, House Room 1, Richmond, Virginia

January 17, 1991 - 7 p.m. - Open Meeting Department of
Motor Vehicles, Military Circle Branch Office, 5745 Poplar
Hall Drive, Norfolk, Virginia

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† Notice to the Public

Notice is hereby given in accordance with this agency's
Public Participation Guidelines that the Department of
Labor and Industry and the Apprenticeship Council intend
to study the adoption of policy regarding the evaluation
and selection of related instruction administrative agents.

Written comments on the proposed policy may be
submitted until April 1, 1991.

Oral comments will be accepted at the Open Meetings
listed below:

January 9, 1991 - 7 p.m. - Open Meeting Roanoke County
Administration Building, 3738 Brambleton Avenue, S.W.,
Roanoke, Virginia

January 10, 1991 - 7 p.m. - Open Meeting Fairfax City
Council Chambers, Room 305, 10455 Armstrong Street,
Fairfax, Virginia

January 15, 1991 - 7 p.m. - Open Meeting State Capitol
Building, House Room 1, Richmond, Virginia

January 17, 1991 - 7 p.m. - Open Meeting Department of
Motor Vehicles, Military Circle Branch Office, 5745 Poplar
Hall Drive, Norfolk, Virginia

Contact: Tom Butler, Assistant Commissioner, Training and
Public Services, Department of Labor and Industry, P. O.
Box 12064, Richmond, VA 23241, telephone: (804) 786-4300.

The proposed policy reads as follows:

POLICY FOR THE SELECTION AND EVALUATION OF ADMINISTRATIVE AGENTS OF APPRENTICESHIP RELATED INSTRUCTION FUNDS

Revised November 30, 1990

I. Definitions

The following words and terms, when used in these
regulations, shall have the following meaning unless the

context clearly indicates otherwise.

Ad hoc selection team

A group of sponsors representing both labor and
management who are charged with review and
recommendation on a one time basis without consideration
of wider application.

Administrative agent

A public education agency approved and under contract
with the Department of Labor and Industry to act on
behalf of the Commonwealth to provide for the
administration and supervision of related instruction for
registered apprentices, the coordination of instruction with
job experiences, the selection and training of teachers, and
the management of state and federal funds for such
services within a region of the state prescribed by the
Department of Labor and Industry.

Apprenticeship related instruction (ARI)

Classes that provide specific information and knowledge
essential to the apprentice for the full trade mastery.
Related instruction often includes training in reading
blueprints, trade science, trade math, some trade physics,
safe work habits, and human relations.

Apprenticeship sponsor An employer, an association of
employers, a joint apprenticeship committee or an
organization of employees that has an approved
apprenticeship program registered with the Virginia
Apprenticeship Council.

ARI coordinator

An individual employed by the Apprenticeship Related
Instruction Agent to organize, administer, and supervise the
provision of related instruction for apprentices in a
specific region of the state as prescribed by the
Department of Labor and Industry.

Curriculum

A set of courses offered by an educational institution or
one of its branches, constituting an area of specialization.

Evaluation team

A group of sponsors comprising the regional advisory
committee which is responsible for the annual review of
existing ARI agents.

Labor

Any organization or person representing groups of workers.

Management

The collective body of those who manage or direct an

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enterprise.

Public education agency

A local public school system or community college approved by the Commonwealth of Virginia to provide secondary and/or post secondary education, respectively, within prescribed boundaries.

Special Populations

Individuals who:

1. Are Handicapped
2. Are Economically Disadvantaged
3. Have limited English proficiency
4. Are Adults in need of training or retraining
5. Are Single parents and homemakers
6. Are Criminal offenders who are in correctional institutions.

Virginia Apprenticeship Council

A regulatory body appointed by the Governor for the purpose of formulating policies for the effective administration of the Voluntary Apprenticeship Act.

POLICY FOR THE SELECTION AND EVALUATION OF ADMINISTRATIVE AGENTS OF APPRENTICESHIP RELATED INSTRUCTION FUNDS

Revised November 30, 1990

I. Purpose

The purpose of this policy is to provide a process for the selection of apprenticeship related instruction (ARI) administrative agents within the Commonwealth of Virginia.

II. Background

On July 1, 1990, monies provided by the General Assembly of the Commonwealth of Virginia to offset a portion of the apprenticeship related instruction costs were allocated to the Department of Labor and Industry for the purpose of administration. Prior to July 1, 1990, these funds were administered by the Virginia Department of Education.

As the new administrative agency, the Department of Labor and Industry has developed procedures designed to ensure a fair and equitable process for selecting ARI administrative agents regionally, and for continued funding of them.

The position of the Department of Labor and Industry is

that there must be procedures that can be applied universally when determining if a public education agency is qualified to administer ARI funds on a regional basis.

III. Statement of Policy

There is currently an established related instruction delivery system in the Commonwealth. This system is comprised of secondary and post secondary public education administrative agents that administer the delivery of apprenticeship related instruction on a regional basis under contract with the Department of Labor and Industry. Alternate systems for delivering related instruction may be approved by the Apprenticeship Council. Continued funding of ARI administrative agents is contingent on the availability of funding and will be based on the administrative agents' demonstrated ability to perform satisfactorily in accordance with pre-established program evaluation criteria. Selection of new ARI administrative agents will be through an open and competitive process, also using the same program evaluation criteria.

A. Evaluating Apprenticeship Related Instruction Administrative Agents

1. Related instruction administrative agents will be required to demonstrate to the satisfaction of apprenticeship sponsors and the Department of Labor and Industry that each ARI agent can meet the standards outlined in Section III B. of this policy as measured by an evaluation instrument approved by the Department of Labor and Industry.

2. Those administrative agents meeting the standards will receive funding annually and on a continuing basis subject to budget availability and satisfactory biennial program evaluations. The Apprenticeship Council will determine the number of agents to be funded and the locations to be served.

3. Program evaluations will be conducted by regional advisory committees using data gathered from all appropriate sources which may include craft committees, the ARI coordinator, sponsors or Department of Labor and Industry staff. To ensure impartiality all committees will use an evaluation instrument approved by the Department of Labor and Industry. The committees will be evaluation teams when acting in this capacity.

4. Regional advisory committees will be comprised of apprenticeship sponsors representing both labor and management. The existing ARI administrative agent will issue invitations to all sponsors in the region to participate on the ARI advisory committee. Those sponsors who indicate a willingness to serve on the committee will become part of a pool from which names will be randomly drawn and in such a manner that ensures labor and management representation. The committee will maintain a membership of not

fewer than 7 individuals who will serve staggered 3 year terms. (Craft advisory committees may also be formed by the ARI administrative agent for the purpose of assisting the ARI agent in determining curriculum relevance and appropriateness for the trade, and also for providing the regional advisory committee with an assessment of the effectiveness of their craft's program.)

5. The findings of the regional advisory committees and their recommendations will be forwarded to the Commissioner of Labor and Industry. A committee may recommend that funding be continued, or that corrections need to be made, or that funding be discontinued. The Commissioner of Labor and Industry, using the committee's recommendations and any other evidence available, will decide the course of action to be taken and will notify the ARI agent of the decision in writing.

6. Those agencies recommended for continuance subject to corrective action will be advised by the Commissioner of Labor and Industry of the deficiencies identified by the evaluation committee and by the Department and given a specific time frame in which to correct the deficiencies. As deficiencies are corrected, a brief written account of what these corrections entail and the date the corrections were completed will be forwarded by the ARI agent to the committee chairperson. When all corrections have been made, the committee may choose to revisit the agent or accept the written account and recommend the agent or funding.

7. In the event an administrative agent does not receive funding, that agent will be so advised in writing by the Commissioner. The Department of Labor and Industry will open negotiations with all other local public education agencies interested in becoming the regional ARI Administrative Agent. Within 30 days of being notified the administrative agent may appeal the decision of the Commissioner in writing to the Apprenticeship Council. The decision of the Council will be final.

8. In the event that more than one public education agency applies to be the ARI administrative agent in a region where the existing provider does not meet the standards, an ad hoc selection team will be formed to review each applicant's plan and visit each site, using the standards outlined in this policy and an evaluation instrument approved by the Department of Labor and Industry. This team will forward its findings and its recommendation of an ARI administrative agent to the Commissioner of Labor and Industry. The Commissioner, using the committee's recommendation and any other evidence available, will select an ARI administrative agent, advising the applicant agencies in writing of the agent selected.

9. The team will be co-chaired by the Director of

Apprenticeship and the Director of Related Instruction of the Department of Labor and Industry and comprised of an ARI coordinator and sponsors representing labor and management. All sponsors will be from the region in question. The ARI coordinator will be from outside the region. Invitations to serve on this team will be issued by the Commissioner of Labor and Industry. Selection will be made on a random basis from those willing to serve.

10. Should there be no acceptable ARI administrative agent after all have been invited to open negotiations, the geographical area will be reapportioned among the surrounding regions. This reapportionment will be made by the Director of Related Instruction with the approval of the Commissioner after consultation with the affected regions.

11. In cases where local education agencies other than the current ARI administrative agent express an interest in becoming the replacement ARI administrative agent for a region, the Commissioner of Labor and Industry will evaluate the request and, if judged to have merit, will form an ad hoc selection team as in Part III. A. 8-9. of this policy. The team will evaluate all interested parties using the same standards as stated in Part III. B. of this policy and using an evaluation instrument approved by the Department of Labor and Industry. The team's evaluation will occur in place of the regular biennial program evaluation.

The findings of the evaluation team and their recommendations will be forwarded to the Commissioner of the Department of Labor and Industry who will make the final selection. Any new ARI administrative agent selected through the application of this policy will assume the ARI responsibilities at the beginning of the next fiscal year.

The applicant not selected will be notified in writing and may appeal the decision in writing to the Apprenticeship Council within 30 days of being notified. The decision of Council will be final.

B. Evaluation Standards

1. Evaluation or selection of ARI administrative agents will be based on the performance of the ARI administrative agent in the following areas:

- a. program and records management
- b. program promotion
- c. sponsor involvement and input
- d. curriculum and instructional planning
- e. quality of instruction and courses

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f. facilities and equipment

g. services provided to special populations

2. Using a process which solicits sponsor input, an evaluation instrument will be adopted by the Department of Labor and Industry which assesses an RI administrative agent's capabilities in each of the areas above.

C. Establishing Regions for the Purpose of Delivering Apprenticeship Related Instruction

1. For the purpose of administering and delivering related instruction, the Apprenticeship Council will designate geographic regions to be served by an ARI administrative agent. As the Council determines to be feasible, each region will have a full-time ARI coordinator.

2. Regions will be established by the Council based on the following considerations:

- highways and road systems for commuting
- concentration of apprentices
- accessibility of training sites
- population concentration (industrial base)
- willingness of local public education agencies to network with each other
- existing ARI providers' geographic locations (not more than one administrative entity to a region)
- natural barriers
- territory of the Department of Labor and Industry apprenticeship representatives
- community college service regions

D. Related Instruction funds

1. The Apprenticeship Council will set policy regarding the expenditure of related instruction funds.

2. The Apprenticeship Council will be provided annually a copy of the audit of the department's funds.

IV. Recision

None

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Notice to the Public

The Virginia Safety and Health Codes Board held an emergency meeting by teleconference on November 20, 1990. The purpose of this meeting was to address the November 19, 1990 objection of the Governor to the amendments to the General Industry Standard for Lockout/Tagout (1910.147) and the Construction Industry Standard for Sanitation (1926.51) approved by the Board at its September 18, 1990 meeting. The Governor has requested that the Board withdraw both amendments.

At this emergency meeting, the Board voted to postpone the November 21, 1990 scheduled date of implementation for both of the above amended standards until January 9, 1990. This postponement will allow the Board to address the Governor's objections and request that the amended regulations be withdrawn at its next public meeting scheduled for January 8, 1990.

Contact: John J. Crisanti, Director of Enforcement Policy, Department of Labor and Industry, P.O. Box 12064, Richmond, Virginia 23241, telephone (804) 786-2384.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

State Plan for Medical Assistance

† Notice of Significant Change in Statewide Authorization for Services and Utilization Review.

Regulation Title: Home Health Services

Description: This amendment to the State Plan for Medical Assistance will provide DMAS with the regulatory authority to require authorization of home health services and conduct utilization review of rendered home health services.

The development of an authorization process for services beyond established limitations and implementation of utilization review of these services is expected to ensure that Medicaid recipients receive necessary and appropriate services and to prevent unnecessary expenditures. Home health agency reporting requirements will not be significantly affected because detailed recordkeeping is already required by Medicare.

In FY 90, DMAS reimbursed home health agencies \$10,401,738 for the care of 6,013 recipients (unduplicated). Assuming a 10 percent savings when the planned utilization review process is implemented, DMAS projects a cost savings of \$1.0 M (\$500,000 General Funds; \$500,000 Non-general Funds). For FY 91, General Fund savings are projected to be \$250,000 (one-half of the total projected General Fund savings for the second half of FY 91).

Why the Agency is Changing its Methods and Standards: The authorization and utilization review processes will ensure that Medicaid recipients are receiving necessary

and appropriate home health services.

Availability of Proposed Changes and Address for Comments: Please request a copy of the regulations from and direct your written comments to: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219. Questions regarding the implementation of this policy may be directed to Mary Chiles, Manager, Long Term Care section at (804) 225-4220.

DEPARTMENT OF SOCIAL SERVICES

Notice of Demonstration Project

The Department of Social Services as the single state agency is inviting comments on an Aid to Dependent Children - Emergency Assistance (ADC-EA) Demonstration Project that is being developed by the Department of Housing and Community Development (HCD) for submission to the Department of Health and Human Services for approval. The ADC-EA Demonstration Project is for a Comprehensive Homeless Intervention Program (CHIP) that will be administered by HCD in 10 demonstration sites throughout the Commonwealth during fiscal year 1992.

The objectives of CHIP are to prevent homelessness and the necessity of receiving ADC, to help those who are homeless secure permanent housing, and to help those who are eligible for CHIP, including ADC families, to become economically self-sufficient. These objectives will be accomplished by providing a comprehensive array of services and financial assistance including rental, mortgage, and security deposit assistance, financial and budget counseling, employment counseling and training, housing counseling and mediation training, and other services necessary to enable the family to become self-sufficient and permanently housed. CHIP will be provided to eligible families experiencing a temporary crisis resulting from circumstances beyond their control.

Written comments may be submitted until January 17, 1991, to: Alice Fascitelli, Division of Housing, Department of Housing and Community Development, 205 N. 4th St., Richmond, VA 23219, telephone (804) 786-7891.

DEPARTMENT OF WASTE MANAGEMENT

Notice of Tentative Decision to Grant a Variance from Regulation, Notice of Availability of Draft Amended Solid Waste Permit, Scheduled Public Hearing on the Draft Amended Permit (No. 314) for the Hanover County Landfill, Hanover, Virginia.

Pursuant to the requirements of Part VII of the Solid Waste Management Regulations (Sec 7.14, VR 672-20-10), the draft amendment for the Hanover County Landfill Permit (No. 314), proposed by Hanover County, is

available for public review and comment.

The Department of Waste Management will hold a public hearing on the draft permit amendment on Thursday, January 17, 1991, at 7:00 p.m. in Hanover County Board Room, Wickham Building, Hanover, Virginia. The public comment period shall extend until 5:00 p.m. on Monday, January 28, 1991. During this period, the Department of Waste Management is soliciting comments on the technical merits of the draft permit amendment as it pertains to installation of a lined disposal unit and modification of final disposal contours as contained in the amendment. Comments on this draft should be in writing and addressed to Hassan Vakili, Director Field Operations, Department of Waste Management, Division of Regulation, Eleventh Floor, Monroe Building, 101 N. Fourteenth St., Richmond VA 23219. For more information, call Scott B. Alexander at (804) 371-0516.

Pursuant to the requirements of Part IX of the Solid Waste Management Regulations (Sec. 9.4.B, VR 672-20-10), the director tentatively proposes to grant a variance to Hanover County for installation of a liner on a section of Hanover County Landfill (Permit No. 314). Specifically the County desires to install a clay liner with leachate collection for that portion of the landfill between currently permitted disposal cells. Comments on the tentative decision will be accepted until 5:00 p.m. on Friday, January 18, 1991. After evaluating the comments, the department will make its final decision on the tentative proposal to grant the requested variance within 15 days of the close of the comment period. All comments should be in writing and directed to William F. Gilley, Department of Waste Management, Division of Regulation, Eleventh Floor, Monroe Building, 101 N. Fourteenth St., Richmond, VA 23219, telephone (804) 225-2667.

* * * * *

† Notice to the Public

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the City of Fredericksburg and the County of Stafford. The Rappahannock Regional Solid Waste Management Board will be designated legal entity for development and/or implementation of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments and the Rappahannock Regional Solid Waste Management Board.

General Notices/Errata

Anyone wishing to comment on the designation of this region should respond in writing by 5:00 p.m. on Thursday, January 31, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3573. TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075 or (804) 225-2667.

* * * * *

† Notice to the Public

Designation of Regional Solid Waste Management Planning Area

In accordance with the provision of Section 10.1-1411 of the Code of Virginia, and Part V, Regulations for the Development of Solid Waste Management Plans, VR 672-50-01, the Director of the Department of Waste Management intends to designate a solid waste management region for the local governments of the Cities of Chesapeake, Franklin, Norfolk, Portsmouth, Suffolk and Virginia Beach, the Counties of Isle of Wight and Southampton, and the Towns of Boykins, Branchville, Capron, Courtland, Ivor, Newsoms, Smithfield, and Windsor. The Hampton Roads PDC will be designated legal entity for development of a regional solid waste management plan and programs for the recycling of solid waste generated within the designated region and the Southeastern Public Services Authority of Virginia will implement the plan.

A petition has been received by the Department of Waste Management for the designation on behalf of the local governments, the Hampton Roads PDC and the Southeastern Public Service Authority of Virginia.

Anyone wishing to comment on the designation of this region should respond in writing by 5:00 p.m. on Thursday, January 31, 1991 to Ms. Cheryl Cashman, Legislative Liaison, Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, VA 23219. FAX 804-225-3573. TDD 804-371-8737.

Immediately following the closing date for comments, the Director of the Department of Waste Management will notify the affected local governments of its approval as a region or of the need to hold a public hearing on the designation.

Any questions concerning this notice should be directed to Ms. Cheryl Cashman, Legislative Liaison, at 1-800-552-2075

or (804) 225-2667.

NOTICES TO STATE AGENCIES

CHANGE OF ADDRESS: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

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 AGRICULTURE AND CONSUMER SERVICES

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

Publication: 7:5 VA.R. 687-698 December 3, 1990.

Correction to the Summary of the Final Regulation:

Page 687, summary, fourth paragraph, add the following sentence to the end of the paragraph:

"The board believes that language in the regulation regarding bulk pesticide storage facilities only dilutes the business license requirements, and anticipates that the topic warrants promulgation of separate regulations governing pesticide storage and disposal."

DEPARTMENT OF COMMERCE

Title of Regulation: VR 190-05-01. Virginia Asbestos Licensing Regulations.

Publication: 7:5 VA.R. 712-758 December 3, 1990

Correction to the Final Regulation:

Page 712, § 1.1, line 2 should read:

"...regulations, shall have the following meaning, unless the..."

Page 718, § 4.3 C, lines 11 and 12 should read:

"...the building owner with the Virginia Asbestos Licensing Consumer Information Sheet and the Virginia Asbestos Licensing Inspector/Project Designer/Contractor Disclosure Form as..."

Page 722, § 6.5 B, line 9 should read:

"...requirement of eight hours of instruction and an examination has been successfully..."

Page 722, § 7.1 C, line 1 should read:

"A. Each individual applying to the..."

Page 723, § 7.2 A 2, line 2 should read:

"...asbestos inspector training course and examination approved..."

Page 723, § 7.3 A, line 1 should read:

"A. The fee for an asbestos inspector license shall be \$35."

Page 728, § 11.1 C, line 7 should read:

....testing results might lack credibility or reliability or both."

Page 732, § 12.3, lines 7 through 9 should read:

"...closed book examination shall be included in the refresher course. The examination will consist of no..."

Page 738, § 12.13, line 4 should read:

"...supervisor's training course as outlined in..."

Page 748, § 14.4, lines 2 and 3 should read:

"...length for supervisors, workers, project designers, and project monitors and one-half day (four hours) in length for inspectors and management planners. The refresher course shall..."

Page 748, Appendix A, the fees for an Asbestos RFS Inspector License and Renewal were stricken through and should not have been deleted. They should read as follows:

Asbestos RFS Inspector License\$ 35
Renewal\$ 35

STATE LOTTERY DEPARTMENT

Title of Regulation: VR 447-01-2. Administration Regulations.

Publication: 7:5 VA.R. 769-788 December 3, 1990.

Correction to the Proposed Regulation:

Page 784, second column, 5th line from the bottom, subdivision 4 should read:

"...procured for the department; or"

Title of Regulation: VR 447-02-1. Instant Game Regulations.

Publication: 7:5 VA.R. 788-801 December 3, 1990.

Correction to the Proposed Regulation:

Page 799, first column, § 3.29, 4th line should read:

"...office will pay cash prizes by check, after..."

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ☒ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

- † January 28, 1991 - 10 a.m. - Open Meeting
 - † January 29, 1991 - 8 a.m. - Open Meeting
- Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; (iv) conduct regulatory review; and (v) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Title of Regulations: VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law.

NOTICE: The Board of Agriculture and Consumer Services has decided to hold the record open until 5 p.m., January 22, 1991, on the referenced proposed regulation published July 16, 1990, for the purpose of receiving further public comment. See General Notices in 7:2 V.A.R. 321-322 October 22, 1990, for details.

STATE AIR POLLUTION CONTROL BOARD

January 18, 1991 - 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 Air Pollution Control Board intends to amend regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.** The purpose of the proposed regulation amendments concerns emission standards for noncriteria pollutants and the amendments are being made in response to problems discovered during the first five years of implementation of these rules. The amendments include changes to the Significant Ambient Air Concentration guidelines and to the method used to determine exemptions. Other changes are made and new provisions are added.

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

Written comments may be submitted until January 18, 1991, to Director of Program Development, Department of Air Pollution Control, P.O. Box 10089, Richmond, VA 23240.

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.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

March 14, 1991 - 10 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, Room 395, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to amend regulations entitled: **VR 130-01-2. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The proposed amendment will adjust fees contained in current regulations.

STATEMENT

Pursuant to §§ 54.1-404 and 54.1-113 of the Code of

Virginia, the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects proposes to amend its regulations to adjust fees for application, examination and renewal. These regulations apply directly to approximately 24,000 licensed or registered architects, professional engineers, land surveyors and landscape architects and the professional corporations and business entities that offer those services.

The purpose of the proposed amendments is to adjust application, examination and renewal fees in order to assure that the variance between revenues and expenditures for the board does not exceed 10% in any biennium as required by § 54.1-113 of the Code.

Statutory Authority: §§ 54.1-113 and 54.1-404 of the Code of Virginia.

Written comments may be submitted until March 4, 1991.

Contact: Bonnie S. Salzman, Assistant Director, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514.

ASAP POLICY BOARD - VALLEY

† January 14, 1991 - 8:30 a.m. - Open Meeting
Augusta County School Board Office, Fishersville, 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: Rhoda G. York, Executive Director, 2 Holiday Court, Staunton, VA 24401, telephone (703) 886-5616 or 943-4405 (Waynesboro).

AUCTIONEERS BOARD

January 18, 1991 - 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 Auctioneers Board intends to amend regulations entitled: **VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board.** The proposed amendments will adjust fee structure of the board and bring its application in line with these adjustments for auctioneers in the Commonwealth of Virginia.

Statutory Authority: §§ 54.1-113 and 54.1-602 of the Code of Virginia.

Written comments may be submitted until January 18, 1991.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 West Broad Street, Richmond, Virginia 23230-4917, telephone (804) 367-8534.

BOARD FOR BARBERS

† February 11, 1991 - 11 a.m. - Public Hearing
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Barbers intends to repeal regulations entitled: **VR 170-01-1. Board for Barbers Regulations,** and promulgate new regulations entitled: **VR 170-01-1.1. Board for Barbers Regulations.** The Board for Barbers proposes to repeal existing regulations and promulgate new regulations to establish the requirements for licensure of barbers, barber instructors and barber shops and barber schools.

STATEMENT

Pursuant to § 54.1-201(5) of the Code of Virginia and in accordance with § 9-6.14:7.1, the Board of Barbers proposes to repeal its existing regulations and adopt new regulations.

The regulations apply directly to approximately 3,415 licensed barbers, 8 licensed barber schools, 1,055 licensed barber shops and 66 licensed barber instructors.

The board is repealing its current regulations as a result of a reorganization of the regulations which includes an Entry, Renewal/Reinstatement, Barber Schools, Standards of Practice Sections. The document will outline the substantive changes from the text which the board is repealing to the text the board is proposing and the estimated impact of such changes.

1. The board is proposing to amend in § 1.1 D the requirement from training to experience in the armed services. The board determined there was no formal training provided by all services of the armed forces, therefore, it has amended the regulation to allow for individuals with experience to be eligible to sit for the examination.

2. The board is proposing § 1.4 A which allows for cosmetologists with two years of work experience to be eligible for the examination. This will eliminate licensed cosmetologists from having to obtain additional training in order to be eligible to obtain a barber license. Currently the Code of Virginia allows for a licensed cosmetologist to practice barbering without obtaining a barber license, therefore this amendment is consistent with the intent of the Code.

3. The board is proposing in § 1.5 C a fee adjustment to the examination fee. The current fee is \$50. The

Calendar of Events

proposed fee is \$100 and is the result of the costs for developing the new examination to be administrated by the board.

4. The board is proposing in § 1.6 B a fee adjustment to the reexamination fee. The current fee of \$5.00 does not presently cover the cost to administer the reexamination. The proposed fee is \$100 and is the result of the new examination developed by the board.

5. In § 1.8 the board has eliminated the cost of a barber temporary permit.

6. The board is amending § 1.9 B to require as a prerequisite for taking the barber teacher examination that an individual be a currently licensed barber for two years. The board feels that this will improve the quality of barber teachers as a result of two years of prior experience the barber teacher can bring to the classroom.

7. The board is amending § 1.9 C to allow for barber teachers to maintain a barber license. Little impact is anticipated from this amendment. This will allow regulants to go from one license category to another.

8. The board is propsing in § 1.10 A to provide licensed barbers or individuals holding a barber temporary permit to obtain a student teacher temporary permit. It is anticipated that this will assist individuals wishing to become a barber teacher and will not affect the quality of instruction since student teacher temporary permit holders are supervised by a licensed barber teacher.

9. The board is proposing in § 1.10 B the fee for the student teacher temporary permit of \$50 to cover the cost of the department for the new license category.

10. The board is proposing in § 1.12 language which clarifies that shop licenses are not to be transferred to other individuals and shall bear the name and address in which the shop operates. A shop owner will be required to notify the board of any changes in the name of the shop, address or owners within 30 days of such changes. The proposed regulations should result in more accurate licensing records and a clearer understanding of the responsibilities of the shop owner.

11. The board is proposing in § 1.12 l a fee decrease for the shop license from \$25 to \$20. The fee adjustment proposed by the board will bring it into compliance with § 54.1-113 of the Code of Virginia.

12. The board is proposing in § 1.13 the same requirement for a school owner to notify the board of any changes in ownership, name or location of the school as proposed in § 1.12 for shop owners.

13. The board is proposing in § 2.1 B an increase in

the renewal fees as follows to comply with § 54.1-113 of the Code of Virginia:

	Current fee	Proposed fee
Barber license	\$30	\$45
Teacher license	\$50	\$55
Shop license	\$25	\$35
School license	\$100	\$110

14. The board is proposing in § 2.3 an increase in the late renewal penalty fees as follows to comply with § 54.1-113 of the Code of Virginia:

	Current fee	Proposed fee
Barber license	\$30	\$45
Teacher license	\$50	\$55
Shop license	\$25	\$35
School license	\$100	\$110

15. The board is proposing in § 3.2 A that an inspection be completed of the facility which will serve as a barber school prior to approval of the license by the board. Additionally, in § 3.2 A 1 the board has proposed that the school must have separate classroom and clinic area. It is anticipated that this regulation will enhance the quality of instruction provided by the schools and improve the environment for learning.

16. The board is proposing in § 3.3 that the following subjects be included in the barber curriculum in addition to the subjects in the existing curriculum:

School policies

State law, regulations and professional ethics

Business and shop management

Client consultation

Personal hygiene

The board feels these additions will have a positive impact on the barber training received by the students and will aid them in establishing their barber shop as a successful business.

The board has eliminated the requirement of instructing students on the use of infra-red lights because it is an outdated practice.

17. The board is proposing in § 3.4 the specific number of practical and classroom hours of instruction to be taught by the barber school. The board anticipates this proposed regulation will have a positive impact because it will ensure that students

receive the appropriate level of training in each area to ensure minimal competence in all areas.

18. The board is proposing in § 3.6 to place a time period of five years that a school must maintain the records of a former student. The impact of the proposed regulation will allow school owners to destroy records after five years rather than having to maintain the records indefinitely as required by the existing regulations.

19. The board is proposing in § 3.7 to require schools to provide its students with a written report of the hours completed upon 25%, 50%, 75% of the required 1,500 hours. In addition, the school is to report to the state board the number of hours completed upon termination of a student for any reason. It is anticipated that this regulation will have a positive impact on the students.

20. The board has eliminated § 4.4.2 in its existing regulations as a result of new regulations being proposed which require the information be maintained, reported and made available to the board upon request.

In addition to these substantive changes, the proposed regulations contain minor language revisions to improve clarity without altering the requirements.

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

Written comments may be submitted until March 4, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.

CHESAPEAKE BAY COMMISSION

January 3, 1991 - 1 p.m. - Open Meeting
January 4, 1991 - 9 a.m. - Open Meeting
Calvert House, Historic Inns of Annapolis, Annapolis, Maryland.

Quarterly meeting. The topics will include (i) election of commission officers, (ii) proposed state legislation for 1991, (iii) dredged material management, (iv) report of the Nutrient Evaluation Committee, (v) pesticide management, and (vi) shad conservation and management.

Contact: Ann Pesiri Swanson, 60 W. Street, Suite 200, Annapolis, MD 21401, telephone (301) 263-3420.

CHILD DAY-CARE COUNCIL

† January 10, 1991 - 9 a.m. - Open Meeting
Koger Executive Center, West End, Blair Building,

Conference Rooms A and B, 8007 Discovery Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns, and programs that impact licensed child care centers.

† January 18, 1991 - 9 a.m. - Open Meeting
† January 25, 1991 - 9 a.m. - Open Meeting
† February 1, 1991 - 9 a.m. - Open Meeting
† February 8, 1991 - 9 a.m. - Open Meeting
Memorial Guidance Clinic, 5001 West Broad Street, Suite 217, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Officers of the Child Day-Care Council will meet during the 1991 General Assembly Session to discuss proposed legislation.

Contact: Peggy Friedenber, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

† January 10, 1991 - 10 a.m. - Open Meeting
Virginia Housing Development Authority, First Floor, 601 South Belvidere, Richmond, Virginia.

A regular business meeting. Public comment will not be received at the meeting.

Contact: Linda Sawyers, Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 371-8603.

BOARD OF COMMERCE

January 10, 1991 - 1 p.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

This meeting is scheduled to coincide with convening of the General Assembly short session. Members will meet in the morning with legislators; the afternoon meeting will address legislation expected to have an impact upon the department.

Contact: Alvin D. Whitley, Staff Assistant to the Board of Commerce, Department of Commerce, 3600 W. Broad St., Fifth Floor, Richmond, VA 23230, telephone (804) 367-8564, SCATS 367-8519 or toll-free 1-800-552-3016.

Calendar of Events

DEPARTMENT OF COMMERCE

February 3, 1991 - 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 Commerce intends to amend regulations entitled: **VR 190-03-1. Regulations Governing Polygraph Examiners.** The proposed regulation will adjust the fee structure of the board and bring its application in line with these adjustments for polygraph examiners in the Commonwealth of Virginia.

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-1802 of the Code of Virginia.

Written comments may be submitted until February 3, 1991.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

COMPENSATION BOARD

† **January 25, 1991 - 5 p.m.** - Open Meeting
† **March 14, 1991 - 5 p.m.** - Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A routine meeting to conduct business of the board.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 3-F, Richmond, VA 23206-0686, telephone (804) 786-3886 or (804) 786-3886/TDD ☒

STATE BOARD FOR COMMUNITY COLLEGES

† **January 22, 1991 - 1 p.m.** - Open Meeting
Monroe Building, Board Room, 15th Floor, 101 North 14th Street, Richmond, Virginia.

The State Board meeting will convene at 1 p.m. Committee meetings will be held prior to the State Board meeting. The agenda will be available by January 7, 1991.

Contact: Joy Graham, Monroe Building, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2126.

DEPARTMENT OF CONSERVATION AND RECREATION

Virginia Cave Board

† **January 26, 1991 - 1 p.m.** - Open Meeting
Radford University, Porterfield Building, Room 180,

Radford, Virginia. ☒

A regularly scheduled meeting. The board will discuss matters relating to cave and karst protection, cave inventory, cave management, and cave ecology.

Contact: Larry Smith, Natural Area Program, Division of Natural Heritage, Department of Conservation and Recreation, 203 Governor Street, Suite 326, Richmond, VA 23219, telephone (804) 371-6205

Virginia Soil and Water Conservation Board

January 17, 1991 - 9 a.m. - Open Meeting
Colonial Farm Credit, 6525 Mechanicsville Turnpike, Williamsburg, Virginia.

Bimonthly board meeting.

Contact: Donald L. Wells, Deputy Director, Department of Conservation and Recreation, Division of Soil and Water Conservation, 203 Governor St., Suite 206, Richmond, VA 23210, telephone (804) 786-2064.

BOARD FOR CONTRACTORS

† **January 16, 1991 - 9 a.m.** - Open Meeting
3600 W. Broad St., Conference Room 5, Richmond, Virginia. ☒

A regular quarterly meeting of the board to address policy and procedural issues as well as other routine business matters. The meeting is open to the public; however, a portion of the board's discussions may be conducted in executive session.

Contact: Kelly G. Ragsdale, Assistant Director, 3600 W. Broad St., Richmond, VA 23230 telephone (804) 367-8557.

BOARD OF CORRECTIONS

January 16, 1991 - 10 a.m. - Open Meeting
February 13, 1991 - 10 a.m. - Open Meeting
March 13, 1991 - 10 a.m. - Open Meeting
6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia ☒

A regular monthly meeting to consider such matters as may be presented.

Contact: Ms. Vivian Toler, Secretary to the Board, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235.

BOARD FOR COSMETOLOGY

† **January 7, 1991 - 9 a.m.** - Open Meeting
Department of Commerce, 3600 West Broad Street, 5th

Floor, Richmond, Virginia. ☒

A meeting to review responses from Request for Proposal for examination services for cosmetology and proposed nail technician licensing program.

† January 14, 1991 - 9 a.m. - Open Meeting
Holiday Inn-Midtown, 3200 West Broad Street, Suite 240,
Richmond, Virginia. ☒

A meeting to (i) review applications; (ii) review correspondence; (iii) review enforcement cases; (iv) conduct regulatory review; and (v) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

* * * * *

January 18, 1991 - 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 Cosmetology intends to amend regulations entitled: **VR 235-01-02. Board for Cosmetology Regulations.** The proposed amendments change the fees charged by the board to ensure compliance with § 54.1-113 of the Code of Virginia.

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

Written comments may be submitted until January 18, 1991.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590 or toll-free 1-800-552-3016 (VA only).

COURT APPOINTED SPECIAL ADVOCATE PROGRAM ADVISORY COMMITTEE

† January 30, 1991 - 10 a.m. - Open Meeting
Virginia Housing Development Authority Building, 601
South Belvidere Street, Richmond, Virginia. ☒

A business meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

CRIMINAL JUSTICE SERVICES BOARD

† January 9, 1991 - 11 a.m. - Open Meeting
James Monroe Building, Conference Room B, 101 North
14th Street, Richmond, Virginia. ☒

A meeting to consider matters related to the board's responsibilities for criminal justice training and improvement of the criminal justice system.

Public comments will be heard before adjournment of the meeting.

Committee on Training

† January 9, 1991 - 9 a.m. - Open Meeting
James Monroe Building, Conference Room B, 101 North
14th Street, Richmond, Virginia. ☒

A meeting to discuss matters related to training for criminal justice personnel.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

BOARD OF EDUCATION

January 24, 1991 - 9 a.m. - Open Meeting
January 25, 1991 - 9 a.m. - Open Meeting
Conference Rooms D and E, James Monroe Building, 101
North Fourteenth Street, Richmond, Virginia. ☒
(Interpreter for deaf provided if requested)

February 28, 1991 - 9 a.m. - Open Meeting
March 1, 1991 - 9 a.m. - Open Meeting
Berkeley Hotel, 12th and Cary Streets, Richmond, Virginia.
☒ (Interpreter for deaf provided if requested)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available upon request. Public comment will not be received at the meeting.

Contact: Margaret Roberts, Executive Director, State Department of Education, P.O. Box 6-Q, Richmond, VA 23216, telephone (804) 225-2540.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

† February 7, 1991 - 5:30 p.m. - Open Meeting
† March 7, 1991 - 5:30 p.m. - Open Meeting
Chesterfield County Administration Building, 10,001
Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Lynda G. Furr, Assistant Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

Calendar of Events

LOCAL EMERGENCY PLANNING COMMITTEE - GLOUCESTER

January 23, 1991 - 6:30 p.m. - Open Meeting
Gloucester County Administration Building, Conference Room, corner of Duval and Main Street, Gloucester, Virginia. ☒

The winter quarterly meeting of the LEPC will be held and matters on the agenda to be addressed include: (i) selection of officers for 1991, (ii) a status report on the public information campaign and (iii) appointment of a committee to review and update the County Hazardous Materials Plan.

Contact: Georgette N. Hurley, Assistant County Administrator, Gloucester County Administrator's Office, Box 329, Gloucester, VA 23061, telephone (804) 693-4042.

LOCAL EMERGENCY PLANNING COMMITTEE - COUNTY OF PRINCE WILLIAM, CITY OF MANASSAS, AND CITY OF MANASSAS PARK

† **January 21, 1991 - 1:30 p.m. - Open Meeting**
† **February 18, 1991 - 1:30 p.m. - Open Meeting**
† **March 18, 1991 - 1:30 p.m. - Open Meeting**
1 County Complex Court, Prince William, Virginia. ☒

Local Emergency Planning Committee to discharge the provisions of SARA Title III.

Contact: Thomas J. Hajduk, Information Coordinator, 1 County Complex Court, Prince William, VA 22192-9201, telephone (703) 335-6800.

BOARD OF FORESTRY

January 10, 1991 - 9:30 a.m. - Open Meeting
Marriott Hotel, 500 East Broad Street, Richmond, Virginia ☒

A general business meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) SCATS 487-1230 or (804) 977-6555/TDD ☎

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **January 7, 1991 - 10 a.m. - Open Meeting**
1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A regularly scheduled meeting of the board.

Public comment will be received during last 30 minutes of meeting.

† **January 8, 1991 - 9 a.m. - Open Meeting**
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

FDE informals hearings.

Public comment will be received during last 30 minutes of meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23219-5005, telephone (804) 662-9907.

BOARD OF GAME AND INLAND FISHERIES

† **January 17, 1991 - 10 a.m. - Open Meeting**
4010 West Broad Street, Richmond, Virginia. ☒

The Planning Committee will meet to discuss the agency's long-range strategic planning, followed by the Finance Committee, then Wildlife and Boat Committee, Law and Education Committee and Legislative Committee. These committees will discuss and prepare recommendations for board action at the January 18, 1991, meeting. Legislation resulting from the HJR 76 subcommittee will be discussed, as well as other general and administrative matters, as necessary.

† **January 18, 1991 - 9:30 a.m. - Open Meeting**
4010 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss possible legislation resulting from the HJR 76 subcommittee studying the Game Protection Fund. In addition the William Dixon Morgan Memorial Award will be presented to the outstanding volunteer hunter education instructor for the year 1989-90.

Other administrative matters, as necessary, will be discussed and acted on.

Contact: Belle Harding, Secretary to the Director, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, toll-free 1-800-252-7717 or (804) 367-1000/TDD ☎

BOARD FOR GEOLOGY

January 18, 1991 - 10 a.m. - Open Meeting
Department of Commerce, Conference Room 1, 3600 W. Broad Street, Richmond, Virginia.

A meeting to discuss the adjustment of fees.

* * * * *

January 18, 1991 - 10 a.m. - Public Hearing
Conference Room 1, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Geology intends to amend regulations entitled: **VR 335-01-2. Board for Geology Regulations.** The proposed amendments will amend fees in order to assure the board's compliance with § 54.1-113 of the Code of Virginia.

Written comments may be submitted until February 15, 1991.

Contact: Nelle P. Hotchkiss, Acting Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

January 18, 1991 - 11 a.m. - Open Meeting
Department of Commerce, Conference Room 1, 3600 W. Broad Street, Richmond, Virginia.

A meeting to (i) approve minutes of the November 16, 1990, meeting, (ii) review applications, and (iii) discuss examination and fees.

Contact: Nelle P. Hotchkiss, Acting Assistant Director, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595.

GOVERNOR'S ADVISORY BOARD ON MEDICARE AND MEDICAID

† **January 8, 1991 - 2 p.m. - Open Meeting**
Hyatt Hotel, I-64 and West Broad Street, Richmond, Virginia.

Further refinement of the board's mission and direction through prioritization of goals and objectives.

Contact: Sue Jowdy, Administrative Staff Specialist, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or toll-free 1-800-343-0634/TDD ☎

HAZARDOUS MATERIALS TRAINING COMMITTEE

† **January 29, 1991 - 10 a.m. - Open Meeting**
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia.

The purpose of this meeting will be to discuss curriculum, course development, and review existing hazardous materials courses.

Contact: Larry L. Logan, Fire and Emergency Services, 3568 Peters Creek Road, NW, Roanoke, VA 24019.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 22, 1991 - 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

† **January 14, 1991 - 8:30 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

An open meeting to (i) administer examinations to eligible candidates; (ii) review enforcement cases; (iii) conduct regulatory review; (iv) sign certificates; and (v) consider other matters which require board action.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

* * * * *

February 3, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Hearing Aid Specialists intends to amend regulations entitled: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.** The proposed regulation will adjust the fee structure of the board and bring its application in line with these adjustments for hearing aid specialists in the Commonwealth of Virginia.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until February 3, 1991.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

January 8, 1991 - 9 a.m. - Open Meeting
February 5, 1991 - 9 a.m. - Open Meeting
March 5, 1991 - 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 Committee meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 N. Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

January 3, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-01-0001. Rules and Regulations - General Provisions for Programs of the Virginia Housing Development Authority.**

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

Written comments may be submitted until January 3, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 786-1986.

* * * * *

January 3, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0003. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income.**

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

Written comments may be submitted until January 3, 1991.

Contact: J. Judson McKellar, Jr., General Counsel, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 786-1986.

† **January 15, 1991 - 10 a.m.** - Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; (iv) consider and, if appropriate, approve proposed amendments to the Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income; and (v) consider such

other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

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.

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January 8, 1991 - 10 a.m. - Public Hearing
Virginia Housing Development Authority, Conference Center #1, 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 Safety and Health Codes Board intends to amend regulations entitled: **VR 425-01-75. Boiler and Pressure Vessel Rules and Regulations.** Included in these proposed amendments are changes due to required departmental regulatory review and a requirement for the National Board "R" Stamp for organizations performing repairs and alterations to boilers and pressure vessels.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Written comments may be submitted until December 28, 1990, to Anna Bradley, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241.

Contact: Jim Hicks, Director of Boiler and Pressure Vessel Safety, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-3262.

January 8, 1991 - Following 10 a.m. Public Hearing -- Open Meeting
Virginia Housing Center, 601 South Belvidere Street, Richmond, Virginia. ☐

A public meeting of the board. The following items are scheduled to be on the agenda:

- 1) Licensed Asbestos Contractor Notification, Asbestos Project Permits and Permit Fees
- 2) Electrical Safety-Related Work Practices and Technical Corrections
- 3) Lockout/Tagout Standard
- 4) Construction Sanitation Standard
- 5) Administrative Stay Regarding Occupational Exposure to Acetone
- 6) Concrete and Masonry Lift Slab Construction Standard

Contact: John J. Crisanti, Director, Policy Enforcement Office, Department of Labor and Industry, P.O. Box 12064, Richmond, VA 23241, telephone (804) 786-2384.

LIBRARY BOARD

January 16, 1991 - 9:30 a.m. -- Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☐

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

VIRGINIA STATE LIBRARY AND ARCHIVES (LIBRARY BOARD)

January 4, 1991 - 2 p.m. -- Public Hearing
Virginia State Library and Archives, Supreme Court Room, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Library Board intends to amend regulations entitled: **VR 440-02-02. Requirements Which Must Be Met in Order to Receive Grants-In-Aid.** The proposed action will amend local minimum expenditure requirements libraries must meet to receive grants.

Statutory Authority: § 42.1-52 of the Code of Virginia.

Written comments may be submitted until February 3, 1991.

Contact: Anthony Yankus, Director, PLDD, 11th St. at Capitol Square, Richmond, VA 23219, telephone (804) 786-2320 or toll-free 1-800-336-5266.

COMMISSION ON LOCAL GOVERNMENT

† January 14, 1991 - 10 a.m. -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 2nd Floor, Board Room, 1100 Bank Street, Richmond, Virginia.

A regular meeting to consider such matters as may be presented.

Persons desiring to participate in the commission's regular meeting and requiring special accommodations or interpreter services should contact the commission's offices at (804) 786-6508 (804-786-1860 TDD) by January 7, 1991.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY DEPARTMENT (STATE LOTTERY BOARD)

January 23, 1991 - 10 a.m. -- Open Meeting
February 27, 1991 - 10 a.m. -- Open Meeting
March 27, 1991 - 10 a.m. -- Open Meeting
State Lottery Department, Conference Room, 2201 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting of the board. Business will be conducted 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 West Broad Street, Richmond, Virginia 23220, telephone (804) 367-9433.

* * * * *

February 27, 1991 - 10 a.m. -- Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-01-2. Administration Regulations.** These amendments clarify department procurement procedures and conform to amendments in the Code of Virginia.

Calendar of Events

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 West Broad Street, Richmond, Virginia 23220, telephone (804) 367-9433.

* * * * *

February 27, 1991 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-1. Instant Game Regulations.** These amendments clarify standards for licensing; authorize issuance of lottery retailer license on a perpetual basis; establish annual license review process instead of license renewal; under certain circumstances, authorize prize payment based on photocopy of lottery ticket; clarify when prizes are payable over time and conform to amendments in the Code.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

Written comments may be submitted until February 1, 1991.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 West Broad Street, Richmond, Virginia 23220, telephone (804) 367-9433.

* * * * *

February 27, 1991 - 10 a.m. – Public Hearing
State Lottery Department, 2201 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Lottery Board intends to amend regulations entitled: **VR 447-02-2. On-Line Game Regulations.** These amendments clarify standards for licensing; authorize issuance of lottery retailer license on a perpetual basis; reduce prize redemption period for free tickets from 180 to 60 days; under certain circumstances, authorize prize payment based on photocopy of lottery ticket; clarify when prizes are payable over time and conform to amendments in the Code.

Statutory Authority: § 58.1-4007 of the Code of Virginia.

NOTE: CORRECTION TO WRITTEN COMMENT DATE

Written comments may be submitted until February 1, 1991.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 West Broad Street, Richmond, Virginia 23220, telephone (804) 367-9433.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

† **January 10, 1991 - 1 p.m. – Open Meeting**
600 East Broad Street, Suite 1300, Richmond, Virginia. ☒

The Medicaid New Drug Review Committee will review new chemical entities for recommendations to the Board.

Contact: David B. Shepherd, R.P.H., Pharmacy Supervisory, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-3820 or toll-free 1-800-552-8627.

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January 18, 1991 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-02-2.6100, Eligibility Conditions and Requirements; VR 460-03-2.6113, § 1924 Provisions; and VR 460-04-8.6, Spousal Impoverishment.** This proposed regulation intends to promulgate permanent regulations consistent with the Medicare Catastrophic Coverage Act of 1988 re-eligibility rules for persons institutionalized for a continuous period.

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

Written comments may be submitted until 4:30 p.m., January 18, 1991, to Ann E. Cook, Regulatory and Eligibility Consultant, Division of Policy and Research, 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.

BOARD OF MEDICINE

† **January 8, 1991 - 8:30 a.m. – Open Meeting**
† **January 22, 1991 - 9:30 a.m. – Open Meeting**
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

A meeting to 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 of the Code of

Calendar of Events

Virginia.

Public comment will not be received.

† **January 9, 1991 - 9 a.m. - Open Meeting**
Roanoke Airport Marriott, 2801 Hershberger Road, N.W.,
Roanoke, Virginia. ☐

A meeting to 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 of the Code of Virginia.

Public comment will not be received.

Contact: Karen D. Waldron, Deputy Executive Director, Disc., 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9908 or (804) 662-9943/TDD ☐

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January 19, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-01-01. Public Participation Guidelines.** The amendments to this regulation establish requirements for filing a re-petition for proposed amendments by the public on specific issues previously acted on by the Board of Medicine.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until January 19, 1991, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Richmond, Virginia.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9925.

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February 7, 1991 - 8 a.m. - Open Meeting
February 8, 1991 - 8 a.m. - Open Meeting
February 9, 1991 - 8 a.m. - Open Meeting
February 10, 1991 - 8 a.m. - Open Meeting
Department of Health Professions, Board Room 1, 1601 Rolling Hills Drive, Richmond, Virginia.

The full board will meet on February 7 in open session to conduct general board business and discuss any other items which may come before the board. The board will also meet on Friday, Saturday, and Sunday, to review reports, interview licensees and make decisions on discipline matters.

Public comment will be received at the conclusion of the meeting.

Advisory Board on Occupational Therapy

January 22, 1991 - 10 a.m. - Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review the bylaws and the application process, and any other business which may come before it.

Public comments will be entertained at the conclusion of the meeting.

Advisory Board on Physical Therapy

January 18, 1991 - 9 a.m. - Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to review and discuss regulations, bylaws, procedural manuals, receive reports, and other items which may come before the Advisory Board.

Public comment will not be received.

Advisory Board on Respiratory Therapy

January 25, 1991 - 2 p.m. - Open Meeting
Embassy Suites Hotel, Suite 200, 2925 Emerywood Parkway, Richmond, Virginia. ☐

A meeting to review current bylaws, regulations (VR 465-04-01), and to consider any other matters which may come before it.

Public comments will be received at the conclusion of the business meeting.

Credentials Committee

January 12, 1991 - 8:15 a.m. - Open Meeting
Department of Health Professions, Board Room 3, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting 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 comment.

Executive Committee

January 11, 1991 - 9 a.m. - Open Meeting
Board Room 1 and 3, Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

Calendar of Events

The Executive Committee will meet in open session to review closed cases, cases/files requiring administrative action, and consider any other items which may come before the committee.

Public comment will not be received.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, VA 23229-5005, telephone (804) 662-9925.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education

March 7, 1991 - 9 a.m. - Open Meeting

March 8, 1991 - 9 a.m. - Open Meeting

Richmond Marriott Hotel, Richmond, Virginia. ☒

Fourteenth Annual Symposium on Mental Health and the Law. An annual symposium addressing issues related to mental health and the law. Approximately 9 hours in Category 1 CME, 9 CEU and 9 CLE credits applied for.

Contact: Carolyn Engelhard, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, VA 22901, telephone (804) 924-5435.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

January 4, 1991 - 1 p.m. - Open Meeting

Division's AML Conference Room, 622 Powell Avenue, Big Stone Gap, Virginia. ☒

The purpose of this public meeting is to give interested persons an opportunity to be heard in regard to the FY 1991 Virginia Abandoned Mine Land Administrative Grant application to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mines Manager, P.O. Drawer U, 622 Powell Ave., Big Stone Gap, VA 24219-5005, telephone (703) 523-8208.

MOTOR VEHICLE DEALERS' ADVISORY BOARD

† January 18, 1991 - 9:30 a.m. - Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Virginia Department of Motor Vehicles will host a quarterly meeting of the Motor Vehicle Dealers' Advisory Board. The board will discuss issues and plans concerning the administration of the Motor Vehicle Dealer Licensing Act.

Contact: Jerome L. Stein, Manager, Dealer and Records, 2300 W. Broad St., Room 521, Richmond, VA 23220, telephone (804) 367-0455 or 367-1752/TDD ☒

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

† January 17, 1991 - 9 a.m. - Open Meeting

Jefferson-Sheraton Hotel, Franklin and Adams Streets, Richmond, Virginia. ☒

The meeting will include reports from the executive, finance, education and exhibits, marketing, personnel, planning/facilities, and research and collections committees.

Public comment will be received following approval of the minutes of the October meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8616, SCATS 857-6950 or (703) 666-8638/TDD ☒

NORFOLK STATE UNIVERSITY

Board of Visitors

January 8, 1991 - 10 a.m. - Open Meeting

Harrison B. Wilson Administration Building, Board Room, Norfolk, Virginia.

Two of the board's subcommittees will meet prior to the regular board meeting.

The Student Affairs Subcommittee will meet on Monday, January 7 at 7 at 3 p.m. and the Audit and Finance Subcommittee will meet on Tuesday, January 8, at 9 a.m. Both subcommittee meetings will take place in the board room on the 5th floor of Wilson Hall.

Contact: Gerald D. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson Hall-S340, Norfolk, VA 23504, telephone (804) 683-8373.

BOARD OF NURSING

† January 28, 1991 - 9 a.m. - Open Meeting

† January 29, 1991 - 9 a.m. - Open Meeting

† January 30, 1991 - 9 a.m. - Open Meeting

Calendar of Events

Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Regular meeting of the Virginia Board of Nursing to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, January 28, 1991.

† February 22, 1991 - 1 p.m. - Open Meeting
† February 23, 1991 - 8:30 a.m. - Open Meeting
Holiday Inn on the Ocean, 39th and Atlantic Avenue, Virginia Beach, Virginia. ☒ (Interpreter for deaf provided upon request)

The board will meet in a work-study session to review its operations, organization and responsibilities for the purpose of improving its effectiveness and efficiency in fulfilling the statutory duties assigned to the board.

No public comment will be received.

Examination Committee

† February 15, 1991 - noon - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The Board of Nursing Examination Committee will convene in open session and go into Executive Session for the purpose of reviewing the National Council Licensing Examination for Registered Nurses. The meeting will reconvene in open session prior to adjournment.

No public comment will be received.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

† January 11, 1991 - 1:30 p.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A regular meeting to consider matters related to the regulation of nurse practitioners in the Commonwealth.

Public comment will be received at 2 p.m.

Contact: Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

January 8, 1991 - 9 a.m. - Open Meeting
Conference Room 1, 1601 Rolling Hills Drive, Richmond, Virginia.

A regular board meeting.

Contact: Lisa J. Russell, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9942.

VIRGINIA PESTICIDE CONTROL BOARD

January 10, 1991 - 1 p.m. - Open Meeting
January 11, 1991 - 9 a.m. - Open Meeting
Sheraton Park South, Moorefield Office Park, 9901 Midlothian Turnpike, Richmond, Virginia. ☒

Pesticide Control Board Committee meeting and general business meeting.

The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda at 9 a.m. January 11, 1991.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Room 403, Richmond, VA 23209, telephone (804) 371-6558.

BOARD OF PROFESSIONAL COUNSELORS

January 14, 1991 - 9 a.m. - Public Hearing
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors intends to adopt regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The proposed regulations establish standards of practice for professional counseling, including education, supervised experience and examination for licensure.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until February 4, 1991.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9912.

Calendar of Events

January 14, 1991 - 9 a.m. - Public Hearing
1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors intends to adopt regulations entitled: **VR 560-01-03. Regulations Governing the Certification of Substance Abuse Counselors.** The proposed regulations establish standards of practice for substance abuse counseling, including education, supervised experience and examination for certification.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Written comments may be submitted until February 4, 1991.

Contact: Evelyn B. Brown, Executive Director, Board of Professional Counselors, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229, telephone (804) 662-9912.

† **January 31, 1991 - 9 a.m. - Open Meeting**
† **February 1, 1991 - 9 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences.

Contact: Evelyn B. Brown, Executive Director, or Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9912.

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

† **January 10, 1991 - 1 p.m. - Open Meeting**
Radisson Hotel, 555 East Canal Street, Richmond, Virginia.

At the regularly scheduled quarterly meeting, the Virginia Public Telecommunication Board will consider the Planning Committee's recommendations on the revised Master Plan for public telecommunications. Other agenda items include the 1991 legislative update, review of budget reductions, and updates on other items of interest.

Planning Committee

† **January 10, 1991 - 9:30 a.m. - Open Meeting**
Department of Information Technology, 4th Floor Auditorium, Richmond, Virginia.

The Planning Committee will be reviewing the draft of the Master Plan, results of the Comment Session held on December 10 and comments from other interested parties.

Contact: Mamie White, Administrative Assistant to the

VPTB, 110 S. Seventh St., 1st Floor, Richmond, VA 23219, telephone (804) 344-5522.

PRIVATE SECURITY SERVICES ADVISORY COMMITTEE

† **January 30, 1991 - 10 a.m. - Open Meeting**
Department of Criminal Justice Services, 805 East Broad Street, 11th Floor Conference Room, Richmond, Virginia. ☒

A business meeting.

Contact: Paula J. Scott, Staff Executive, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4000.

REAL ESTATE APPRAISER BOARD

† **January 8, 1991 - 11 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

A subcommittee of the board will meet to review appraiser examinations. A majority of the meeting will be held in executive session as provided by § 2.1-344 A 11 of the Code of Virginia.

† **January 9, 1991 - 9 a.m. - Open Meeting**
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting to approve appraiser examinations and organizational planning and to consider changes to emergency regulations.

Contact: Demetra Y. Kontos, Assistant Director, Appraiser Board, 3600 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 367-2175 or (804) 367-9753/TDD ☎

VIRGINIA RESOURCES AUTHORITY

† **January 8, 1991 - 10 a.m. - Open Meeting**
The Mutual Building, 909 East Main Street, Suite 707, Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of the meeting of December 11, 1990; (ii) review the authority's operations for the prior months; and (iii) consider other matters and take other actions as they may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., 909 E. Main St., Suite 707, Mutual Bldg., Richmond, VA 23219, telephone (804)

Calendar of Events

664-3100 or FAX Number (804) 664-3109.

BOARD OF SOCIAL WORK

January 11, 1991 - 9 a.m. - Open Meeting
Conference Room 2, 1601 Rolling Hills Drive, Richmond, Virginia.

A meeting to (i) conduct general board business; (ii) certify oral examination results; and (iii) respond to correspondence.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9914.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

January 3, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-01-35. Monthly Reporting in the Food Stamp Program.** This regulation requires monthly reports from all Food Stamp households that are required to file them for the Aid to Dependent Children Program or which contain at least one person with earnings.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until January 3, 1991, to Burt Richman, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, VA 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

January 18, 1991 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-01-34. Aid to Dependent Children-Unemployed Parent (ADC-UP) Program.** The purpose of the proposed amendments is to limit 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 January 18, 1991, to Guy Lusk, Director, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Virginia.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

January 9, 1991 - 10 a.m. - Public Hearing
Commonwealth Building, Room 101, 210 Church Avenue, SW Roanoke, Virginia.

January 11, 1991 - 10 a.m. - Public Hearing
Department of Social Service, 8007 Discovery Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-22-02. Standards and Regulations for Licensed Homes for Adults.** The purpose of the proposed regulation regulate homes that provide maintenance, care, and supervision for adults who are aged, infirm or disabled.

Statutory Authority: §§ 63.1-174 and 63.1-182.1 of the Code of Virginia.

Written comments may be submitted until March 12, 1991, to Cheryl Latney, Program Development Supervisor, 8007 Discovery Dr., Richmond, VA 23229-8699.

Contact: Peggy Friedenber, Legislative Analyst, 8007 Discovery Dr., Richmond, VA 23229-8699, telephone (804) 662-9217.

DEPARTMENT OF TAXATION

January 4, 1991 - 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 Taxation intends to adopt regulations entitled: **VR 630-2-322.01. Virginia Individual Income Tax: Self-employment Tax Addback and Subtraction.** The purpose of this regulation is to establish the requirements for the addback and subsequent subtraction of self-employment tax for taxable years 1990-1993.

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

Written comments may be submitted until January 4, 1991.

Contact: Janie E. Bowen, Director, Tax Policy Division, P.O. Box 6-L, Department of Taxation, Richmond, VA 23282, telephone (804) 367-8010.

Calendar of Events

COMMONWEALTH TRANSPORTATION BOARD

January 16, 1990 - 2 p.m. - Open Meeting
Virginia Department of Transportation, Board Room, 1401
E. Broad Street, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

A work session of the Commonwealth Transportation
Board and the Department of Transportation staff.

January 17, 1990 - 10 a.m. - Open Meeting
Virginia Department of Transportation, Board Room, 1401
E. Broad Street, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

A monthly meeting of the Commonwealth
Transportation 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: John G. Milliken, Secretary of Transportation,
1401 E. Broad Street, Richmond, VA 23219, telephone
(804) 786-6670.

BOARD FOR THE VISUALLY HANDICAPPED

January 17, 1991 - 2 p.m. - Open Meeting
Virginia Department for the Visually Handicapped, 397
Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for
deaf provided upon request)

A quarterly meeting to review policy and procedures
of the Department for the Visually Handicapped. The
board will review and comment on the department's
budget.

Contact: Joseph A. Bowman, Executive Assistant, 397
Azalea Avenue, Richmond, VA 23227, telephone (804)
371-3140 or toll-free 1-800-662-2155.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

January 12, 1991 - 11 a.m. - Open Meeting
Administrative Headquarters, 397 Azalea Avenue,
Richmond, Virginia. ☒ (Interpreter for deaf provided upon
request)

The committee meets quarterly to advise the Virginia

Board for the Visually Handicapped on matters related
to serves for blind and visually handicapped citizens
of the Commonwealth.

Contact: Barbara G. Tyson, Executive Secretary, 397
Azalea Avenue, Richmond, VA 23227, telephone (804)
371-3350, toll-free 1-800-662-2155 or (804) 371-3340/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

January 17, 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., Richmond, VA 23219,
telephone (804) 786-4326 or (804) 786-3596 (SCATS).

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

January 8, 1991 - 10 a.m. - Open Meeting
Monroe Building, Conference Room B, 101 North 14th
Street, Richmond, Virginia. ☒

The public will be acquainted with the contents of the
proposed Amendment 11 to the Virginia Hazardous
Waste Management Regulations. This amendment will
contain revisions and additions equivalent to those
promulgated by the United States Environmental
Agency during the period from January 31, 1989, to
June 30, 1990.

Contact: W. Gulevich, Director, Division of Technical
Services, Department of Waste Management, 11th Floor,
Monroe Bldg., 101 N. 14th St., Richmond, VA 23219,
telephone (804) 225-2975, (SCATS) 225-2667, toll-free
1-800-552-2075 or (804) 371-8737/TD ☎

* * * * *

January 8, 1991 - 11 a.m. - Public Hearing
Monroe Building, Conference Room B, 101 North 14th
Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Virginia Waste
Management Board intends to amend regulations
entitled: VR 627-10-1. Virginia Hazardous Waste
Management Regulations. Since the adoption of
Amendment 10 to the Virginia Hazardous Waste
Management Regulations on December 18, 1989, with
the effective date of February 1, 1990, the United
States Environmental Protection Agency made a large
number of changes in its regulations mainly dealing

with land disposal restrictions. During the period from January 31, 1989, and June 30, 1990, EPA also revised the method for determination of the toxicity characteristic and promulgated new requirements for air emissions from certain process equipment at the hazardous waste management facilities. These and other less far-reaching changes require prompt regulatory adoption by the Commonwealth.

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

Written comments may be submitted until February 1, 1991.

Contact: W. Gulevich, Director, Division of Technical Services, Department of Waste Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2975, (SCATS) 225-2667 or toll-free 1-800-552-2075.

January 17, 1991 - 7 p.m. -- Open Meeting
Hanover County Board Room, Wickham Building, Hanover, Virginia.

Pursuant to the requirements of Part IX of the Solid Waste Management Regulations (VR 672-20-10, § 9.4 B), the director tentatively proposes to grant a variance to Hanover County for installation of a liner on a section of Hanover County Landfill (Permit No. 314). Public comments will be received until January 17, 1991. Pursuant to the requirements of Part VII of the Solid Waste Management Regulations (VR 672-20-10, § 7.14), the director proposes to amend Hanover County Landfill Permit (No. 314) and conduct a public hearing. The amendment is available for public review and comment.

Contact: William F. Gilley, P.E., Director, Division of Regulation, 11th Floor, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2667 or (804) 371-8737/TD ☎

STATE WATER CONTROL BOARD

January 7, 1991 - 9 a.m. -- Open Meeting
Henrico County Board of Supervisors Room, Parham and Hungry Spring Roads, Richmond, Virginia.

A regularly scheduled meeting.

Contact: Doneva A. Dalton, Office of Policy Analysis, State Water Control Board, 2111 N. Hamilton St., P.O. Box 11143, Richmond, VA 23230, telephone (804) 367-6829.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **February 13, 1991 - 10 a.m. -- Public Hearing**
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Waterworks and Wastewater Works Operators intends to amend regulations entitled: **VR 675-01-02. Board for Waterworks and Wastewater Works Operators Regulations.** The proposed regulation will adjust the fee structure of the board and bring its application in line with these adjustments for waterworks/wastewater works operators in the Commonwealth.

STATEMENT

Pursuant to §§ 54.1-113 and 54.1-201 of the Code of Virginia, the Board for Waterworks and Wastewater Works Operators proposes to amend its regulations to adjust fees for original applications, reexaminations, renewals and late renewals. These regulations apply to approximately 4,500 licensed waterworks and wastewater works operators in Virginia.

The purpose of the proposed amendments is to adjust original application, reexamination, renewal, and late renewal fees in order to assure that the variance between revenues and expenditures for the Board does not exceed 10% in any biennium as required by § 54.1-113 of the Code.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Written comments may be submitted until March 4, 1991.

Contact: Gerald W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8534.

VIRGINIA WINEGROWERS ADVISORY BOARD

† **January 9, 1991 - 1 p.m. -- Open Meeting**
Washington Building, 10th Floor Conference Room, Richmond, Virginia. ☎

The board will (i) hear committee and project monitor reports, (ii) review old and new business, and (iii) discuss possible proposal solicitations for FY 91-92.

Contact: Annette C. Ringwood, Secretary, 1100 Bank St., Suite 1010, Richmond, VA 23219, telephone (804) 371-7685.

Calendar of Events

LEGISLATIVE

VIRGINIA COAL AND ENERGY COMMISSION

† **January 7, 1991 - 7:30 p.m.** – Open Meeting
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia.

The Commission will receive an update on the status of regulations being developed under the new Virginia Gas and Oil Act. Other matters within the Commission's jurisdiction may also be discussed.

Contact: John T. Heard, Staff Attorney, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

SENATE EDUCATION AND HEALTH SUBCOMMITTEE

† **January 8, 1991 - 2 p.m.** – Public Hearing
General Assembly Building, Senate Room B, 910 Capitol Street, Richmond, Virginia.

A public hearing on SB 151 which relates to requirements for minors seeking abortions.

Contact: Brenda H. Edwards, Research Associate, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591. Persons wishing to speak should contact John Allen, Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869.

JOINT SUBCOMMITTEE STUDYING TRANSPORTATION NEEDS OF THE HAMPTON ROADS AREA

January 2, 1991 - 7 p.m. – Open Meeting
Christopher Newport College, Cafeteria of the Campus Center, 50 Shoe Lane, Newport News, Virginia.

Open meeting. SJR 94.

Contact: Alan B. Wambold, Research Associate, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591. Persons wishing to speak should contact Tommy Gilman, Chief Committee Clerk, Senate of Virginia, P.O. Box 396, Richmond, VA 23203, telephone (804) 786-7869.

STATE WATER COMMISSION

† **January 9, 1991 - 9:30 a.m.** – Open Meeting
Capitol Building, House Room 4, Richmond, Virginia.

A meeting to discuss recommendations on financial

responsibility requirements for above ground storage tanks (SJR 114), and drinking water permit fees/water protection charge.

Contact: Martin Farber, Research Associate, Division of Legislative Services, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 2, 1991

Transportation Needs of the Hampton Roads Area, Joint Subcommittee Studying

January 3

Chesapeake Bay Commission

January 4

Chesapeake Bay Commission
Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation

January 7

† Coal and Energy Commission, Virginia
† Cosmetology, Board For
† Funeral Directors and Embalmers, Board of
Water Control Board, State

January 8

† Funeral Directors and Embalmers, Board of
† Governor's Advisory Board on Medicare and Medicaid
Hopewell Industrial Safety Council
Labor and Industry, Department of
- Safety and Health Codes Board
† Medicine, Board of
Norfolk State University
- Board of Visitors
Optometry, Board of
† Real Estate Appraiser Board
† Resources Authority, Virginia
Waste Management, Department of

January 9

† Criminal Justice Services Board
- Committee on Training
† Medicine, Board of
† Real Estate Appraiser Board
† Water Commission, State
† Winegrowers Advisory Board, Virginia

January 10

† Child Day-Care Council
† Child Day Care and Early Childhood Programs, Council

Calendar of Events

Commerce, Board of
Forestry, Board of
† Medical Assistance Services, Department of
Pesticide Control Board, Virginia
† Public Telecommunications Board, Virginia
- Planning Committee

January 11

Medicine, Board of
- Executive Committee
† Nursing and Medicine, Committee of the Joint
Boards of
Pesticide Control Board, Virginia
Social Work, Board of

January 12

Medicine, Board of
- Credentials Committee
Visually Handicapped, Department for the
- Advisory Committee on Services

January 14

† ASAP Policy Board - Valley
† Cosmetology, Board For
† Hearing Aid Specialists, Board For
† Local Government, Commission on

January 15

† Housing Development Authority, Virginia

January 16

† Contractors, Board For
Corrections, Board of
Library Board
Transportation Board, Commonwealth

January 17

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Museum of Natural History, Virginia
- Board of Trustees
† Game and Inland Fisheries, Board of
Transportation Board, Commonwealth
Visually Handicapped, Board for the
Voluntary Formulary Board, Virginia

January 18

† Child Day-Care Council
† Game and Inland Fisheries, Board of
Geology, Board for
Medicine, Board of
- Advisory Board on Physical Therapy
† Motor Vehicle Dealers' Advisory Board

January 21

† Local Emergency Planning Committee, County of
Prince William, City of Manassas, and City of
Manassas Park

January 22

† Community Colleges, State Board For

Health Services Cost Review Council, Virginia

† Medicine, Board of
- Advisory Board on Occupational Therapy

January 23

Emergency Planning Committee, Local - Gloucester
Lottery Board, State

January 24

Education, Board of

January 25

† Child Day-Care Council
† Compensation Board
Education, Board of
Medicine, Board of
- Advisory Board on Respiratory Therapy

January 26

† Conservation and Recreation, Department of
- Virginia Cave Board

January 28

† Accountancy, Board For
† Nursing, Board of

January 29

† Accountancy, Board For
† Hazardous Materials Training Committee
† Nursing, Board of

January 30

† Court Appointed Special Advocate Program Advisory
Committee
† Nursing, Board of
† Private Security Services Advisory Committee

January 31

† Professional Counselors, Board of

February 1

† Child Day-Care Council
† Professional Counselors, Board of

February 5

Hopewell Industrial Safety Council

February 7

† Local Emergency Planning Committee, Chesterfield
County
Medicine, Board of

February 8

† Child Day-Care Council
Medicine, Board of

February 9

Medicine, Board of

February 10

Medicine, Board of

Calendar of Events

February 13
Corrections, Board of

February 15
† Nursing, Board of
- Examination Committee

February 18
† Local Emergency Planning Committee, County of Prince William, City of Manassas, and City of Manassas Park

February 22
† Nursing, Board of

February 23
† Nursing, Board of

February 27
Lottery Board, State

February 28
Education, Board of

March 1
Education, Board of

March 5
Hopewell Industrial Safety Council

March 7
† Local Emergency Planning Committee, Chesterfield County
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education

March 8
Mental Health, Mental Retardation and Substance Abuse Services, Department of
- University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education

March 13
Corrections, Board of

March 14
† Compensation Board

March 18
† Local Emergency Planning Committee, County of Prince William, City of Manassas, and City of Manassas Park

March 27
Lottery Board, State

PUBLIC HEARINGS

January 4
Library and Archives, Virginia State

January 8
† Senate Education and Health Subcommittee
Labor and Industry, Department of
- Safety and Health Codes Board
Waste Management, Department of

January 9
Social Services, Department of

January 11
Social Services, Department of

January 14
Professional Counselors, Board of
Waste Management, Department of

January 18
Geology, Board for

February 11
† Barbers, Board For

February 13
† Waterworks and Wastewater Works Operators, Board for

February 27
Lottery Department, State

March 14
† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for